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## IMPORTANCE OF PUBLIC-PRIVATE PARTNERSHIP IN DELIVERY OF PUBLIC SERVICES

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**Key words:** public-private partnership, public services, public sector, private sector, local development, regional development, territorial government, municipal infrastructure development.

### Abstract

The paper analyzes the concept of joint delivery of public services by the public and private sector within the frameworks of the Public-Private Partnership model (PPP). The key of the partnership (according to the Act in effect) is long-term involvement and collaboration (based on a contract) between a public entity and a private entity for implementation of capital-intensive investment projects. The analyses conducted show that thanks to the specific division of tasks, responsibility and risk, the PPP formula allows more economically effective development of transport infrastructure and supply of public services. The paper shows the influence of PPP on development of municipal infrastructure and supply of public services describing also the major barriers to and benefits from implementation of that formula.

## ZNACZENIE PARTNERSTWA PUBLICZNO-PRYWATNEGO W REALIZACJI USŁUG PUBLICZNYCH

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**Słowa kluczowe:** partnerstwo publiczno-prywatne, usługi publiczne, sektor publiczny, sektor prywatny, rozwój lokalny, rozwój regionalny, samorząd terytorialny, rozwój infrastruktury komunalnej.

### Abstrakt

W artykule przeanalizowano koncepcję wspólnego realizowania usług publicznych przez sektor publiczny i prywatny w ramach modelu partnerstwa publiczno-prywatnego (PPP). Istota partnerstwa (zgodnie z obowiązującą ustawą) polega na długotrwałym zaangażowaniu oraz współpracy

(opartej na umowie) podmiotu publicznego z podmiotem prywatnym podczas realizacji kapitałochłonnych przedsięwzięć inwestycyjnych. Z analizy wynika, że dzięki specyficznemu podziałowi zadań, odpowiedzialności i ryzyka formuła PPP umożliwi bardziej efektywnie ekonomicznie tworzenie infrastruktury komunalnej i dostarczanie usług publicznych. Ukazano wpływ PPP na rozwój infrastruktury komunalnej i dostarczanie usług publicznych oraz opisano ważniejsze bariery i korzyści związane z realizacją tej formuły.

## Introduction

Provision of public services<sup>1</sup> for the citizens is an important element in functioning of State administration and territorial governments. While the catalogue of public services to be provided is a long one, the public finance budget capacity is limited. That gap between the public needs in the area of public services and the possibilities of financing them is characteristic for economies of many countries indifferent of the level of their development. In Poland this is particularly well visible as compared to the countries of the “old” Union. That civilization gap manifests particularly strongly in the still immense infrastructural gap between them and Poland. The increasing shortage of budget funds for implementation of public tasks in our country should support the search for other, alternative to the traditional budgetary forms, mechanisms of public services financing aiming at better, more effective and cheaper provision of them. A certain opportunity for the public authorities at national and territorial government level could be offered by tighter collaboration with the private sector according to the private-public partnership formula (PPP). In the western world that mechanism is quite well known and described in literature as well as applied widely in business-investment practice<sup>2</sup>.

This paper aims at presenting the fundamental principles for that type of collaboration and the possibilities it creates for the public partners (mainly

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<sup>1</sup> Subject literature presents different definition of the “public services” notion; the fundamental issues of contradictions are the scope and method of implementation of such services (see, e.g. Dziarski, Klosowski 2003, pp. 8-9, Filipiak 2006, pp.116-119, Sochacka-Krysiak, Małkowska 2005, pp.339-344). In the following discussion we will not be interested in services related to the national defense, functioning of administration and the judiciary. We will deal only with the classic’ municipal services and health protection services. Public funds are the basic source of financing for such services.

<sup>2</sup> Polish bibliography concerning PPP is relatively limited. There are just a few significant, concise publications while the others are minor and scattered contributions. The first group includes, first of all: K. Brzozowska, *Partnerstwo publiczno-prywatne. Przesłanki, możliwości, bariery*, CeDeWu, Warszawa 2006; M. Moszoro, *Partnerstwo publiczno-prywatne w monopolach naturalnych w sferze użyteczności publicznej*, Szkoła Główna Handlowa w Warszawie, Warszawa 2005, J. Zysnarski, *Partnerstwo publiczno-prywatne. Teoria i praktyka*, ODiDK, Gdańsk 2003, J. Zysnarski, *Partnerstwo publiczno-prywatne w sferze usług komunalnych*, ODiDK, Gdańsk 2007 and the special volume of „Finanse Komunalne” (volume 2/2003 – Ekstra: *Partnerstwo Publiczno-Prywatne*), as well as Z. Jerzmanowski (editor), *Partnerstwo publiczno-prywatne a prywatyzacja*, Business Expert, Poznań 2005.

territorial governments) in obtaining new, other than budget, funds for acceleration of investment processes and improvement of effectiveness in providing public services. The paper is based on the analysis of literature, generally available sources (as press articles and Public Information Bulletin) and long years of territorial government experience of the author.

### **The nature and areas of public-private partnership implementation**

The collaboration of public and private sector for more effective implementation of a project or service traditionally carried out by the public sector is the foundation of public-private partnership. The literature stresses that the institution of public-private partnership cannot be described precisely in a single definition; specific patterns for solutions in that area also cannot be readily presented. Each application should result from local and regional conditions as well as the specifics of the problem that is being solved. Usually the implemented project aims mainly at obtaining the necessary funds, decreasing the costs of providing the services, obtaining access to new technologies and limiting the risk (JANOWSKA 2002, pp. 126-136, MOSZORO 2000, pp. 10-17, ZYSNARSKI 2003, pp. 9-14). The PPP methodology is applied most frequently for infrastructural projects requiring, as a consequence of a large number of participants, high level of complexity and significant value, significant capital outlays and involvement of experts possessing the knowledge of *know-how*, which is generally not available in the public sector (LISTKIEWICZ, NIEDZIÓŁKA, SZYMCZAK 2004, p. 94). The PPP formula is expected to improve the indicators of benefits by using the competences and experience of private sector and allocation of risk to the party that has the capacity of managing it.

From the legal point of view the PPP means entrusting the public tasks to a private sector while the public-legal responsibility for performance of those tasks is retained by the public sector. The principles and modes of collaboration between the public entity and the private partner in Poland are governed by the Act<sup>3</sup>. According to that Act, based on the European Commission guidelines, the partnership is based on long-term involvement and collaboration of a public entity with a private entity for implementation and financing of expensive and long-term investment projects. The contracts made within the frameworks of public private partnership should be written in such a way that the partners mutually complement each other dealing in the partnership with

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<sup>3</sup> Ustawa z dnia 28 lipca 2005 r. o partnerstwie publiczno-prywatnym (DzU nr 169, poz. 1420), weszła w życie 1 stycznia 2006 r.

that part of the common investment project part, which they can do better. Thanks to the division of tasks, responsibility and risk the PPP formula is to facilitate more economically effective development of municipal infrastructure and provision of public services while each of the parties should obtain from that collaboration benefit proportional to its involvement.

As a consequence, the institution of public-private partnership is a collective notion covering a wide range of various relations between the public and the private sectors. Those relations are characterized by the varied scope of private sector share in providing services traditionally provided by the public sector and the different level of economic risk assumed and division of responsibility for the quality of services rendered (ZYSNARSKI 2007, pp. 12-14, GORZĄLCZYŃSKA-KOCZKODAJ 2005, pp. 268-269).

The following goals are implemented within the frameworks of public-private partnership most frequently:

- transformation of public sector from provider of public objects to provider of services,
- increase of technical and technological innovation in the area of public services,
- distribution of investment risk,
- acceleration of infrastructure development,
- increase of infrastructural services providing effectiveness (BRZOZOWSKA 2006, p. 23).

Many different PPP models in municipal infrastructure financing have been developed in Europe and worldwide but none of them is ideal. Application of a specific type of collaboration is conditioned mainly by whether the activities undertaken are to serve services rendering effectiveness improvement or improvement of their quality. That is why it is impossible to impose any universal PPP model; on the other hand identification of individual elements of collaboration is possible. Those elements define the tasks of each partner and the method of performance of the assumed responsibilities. The diversity of solutions, depending on socio-economic conditions of the project and the wish of contract partners is the advantage of the PPP concept. In practical terms, the combinations of contract subject (areas of activity) with its contents, i.e. the division of rights and responsibilities are many (CENKIER 2006, pp. 90-91).

The PPP concept found wide application in many European Union countries as well as the United States, Canada and Japan. Examples of projects implemented there show that the PPP formula can be applied to development of infrastructure and delivery of public services mainly in such areas as transport, health services, education, penitentiary infrastructure, water and sewage management and waste management. Private capital involved in such

projects and undertakings that traditionally are within the domain of public authorities does not exempt them from the duty of satisfying the public needs and the related responsibility.

### **Polish experience in delivery of public services by the PPP against the background of other countries**

In Poland, compared to solutions applied in other countries, the PPP formula in rendering public services has not been applied widely, although examples of applying it for rendering municipal services for the local community can be presented. In most cases those are tasks concerning road infrastructure, public transport, supplying the residents with water, heating, removal and utilization of waste, wastewater treatment, management of market halls, construction of schools and public utility buildings, etc. The better-known examples of successful collaboration in those areas include, among others, water and sewage management in Gdańsk<sup>4</sup>, Bielsko-Biała and Tarnowskie Góry, revitalization of the Old Town in Wieliczka, construction of underground parking and renovation of Półwiejska Street in Poznań or finally the immense municipal project in Warsaw – construction of another underground line (JERZMANOWSKI 2005, p. 6). The completed project of city lighting system modernization in Kraków<sup>5</sup> is another interesting example of private sector involvement in performance of public tasks.

Regional railway transport and health service sector can become promising areas for collaboration based on the PPP formula. In case of railway transport the possible public-private collaboration area could cover financing of rolling stock purchases and its operation. Increasingly frequent local initiatives appearing in that area (e.g. in Jelenia Góra, Hajnówka county as well as

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<sup>4</sup> Takeover, in 1992, of management and operation of Gdańsk water supply company by Saur Neptun Gdańsk S.A., with 51% shareholding of the French company SAUR, and 49% shareholding by the city, is generally considered one of the major achievements of Gdańsk territorial government. The contract signed by Saur Neptun Gdańsk S.A. and the city for the period of 30 years the detailed scope of responsibility by both partners was defined. The City of Gdańsk as the owner of infrastructure leased the property to the Company, which undertook to manage the water and sewers system on commercial bases. The City is responsible for conducting general overhaul and investments and has the right to control activities of the Company (for more information see: Brzozowska 2006, pp. 186-188, Zysnarski 2007, pp. 114-116).

<sup>5</sup> The project was initiated at the end of 1997 according to the Energy Service Company (ESCO) system that is with participation of a private financing entity, the so-called energy saving entity. The private entity assumed financing of lighting modernization. The project was implemented by ELEKTRIM – another private entity identified through a public tender procedure; the public entity, i.e. the municipality of Kraków committed itself to allocate the reserve resulting from electricity savings for financing the costs incurred by the investor. The project was completed successfully in 2004. For more information see: W. Grzybowski, „Przegląd Komunalny” 2005, No. 3, p. 37.

Tuchola and Bytów) are interesting, particularly in view of railway lines closure by the Polish Railways – PKP. Financing of such projects should take place considering the necessary state budget subsidies. Projects of that type are, however, very complicated, as they require difficult negotiations between territorial governments and the PKP (ZYSNARSKI 2003, pp.43-46).

The area of medical services is particularly suitable for application of the PPP idea, mainly because of permanent underinvestment. That formula can be a reasonable solution for capitalization of it coupled with achievement of commercial goals of the non-public partner. The practice of applying PPP in health protection sector, as compared to other industries, such as water and sewage or transport) has been relatively short. In the western countries it has been developing for around twenty years while in other areas it has had around forty years of application. The current scope of its application in different European Union countries varies; the leaders in those applications are France, the United Kingdom and Germany. The most frequent PPP formula applied involves the design, construction and operation of hospitals as well as managing them by private entities. France has the highest (ca. 40%) share of private hospital beds in Europe. They are situated mainly in small hospitals owned by doctors working there. Public and private hospitals are included in that country in a system available to all the insured. The citizens, as a consequence, enjoy the possibility of choosing between them. In this case the idea of solidarism has been combined with the freedom of choice and coexistence of the public and the private sectors. The majority of hospitals cannot make their own pricing and they are required to apply the centrally determined rates for medical services so that the patient could have the right to reimbursement. In reality there are exceptions from that practice. Around 30% of doctors at various times and according to different procedures obtain exemption from the duty to apply set prices' and propose the community also the free market prices. This generally applies to famous doctors or doctors, who do not benefit from tax exemptions (*Prywatny sektor w medycynie. Raport. 2006, p. 17*).

During early 1980s, provision of medical services in the United Kingdom was ranked the worst in the entire European Union. There was no adequately large financial capital available for health services (similarly to the current situation in Poland). The State budget was unable to finance capital-intensive investment projects on its own; the authorities were also looking for forms of management more effective than just simple administration. Skillful application of PPP formula that was supported by consecutive British governments contributed to successful overcoming that situation of collapse and crisis. The United Kingdom has become the leader among the European Union countries in reaching for private funds to improve medical infrastructure. Numerous PPP contracts for construction or modernization of hospitals and clinics

showed that the effects could be achieved much cheaper (by ca. 20%) than in the traditional system i.e. implemented by public administration only. With time it was found out that this was amplified by other benefits for the community, doctors and local authorities resulting from better management of medical facilities.

In case of PPP application in health service sector the issue of private investors taking over the management of hospitals caused the most vivid public discussion in the United Kingdom as there were fears of a significant increase in prices of services, limitation of access to health services and exclusion of certain social groups. The fears and concerns proved to be groundless. Public-private partnership guaranties continuation of public supervision over hospitals and fulfillment of medical services tasks according to public needs (*Prywatny sektor w medycynie. Raport. 2006, pp. 17-19*).

As of early 1990 a quite significant increase in the number of non-public hospitals has been recorded in Germany. This is linked to the process of transferring management of public hospitals to private entities within the frameworks of the PPP. The territorial government retains ownership of land and walls but passes hospital buildings for long-term lease to the entity established by a private company. That company employs staff becomes the owner of mobile property and negotiates contracts for health services with the health insurance entities. The private hospital sector in that country operates currently around 23% of hospital beds (*Prywatny sektor w medycynie. Raport. 2006, p. 17*).

In Poland wider application of the PPP formula in financing of medical services is becoming increasingly real and even necessary. Several positive examples of symbiosis between a public entity and a private one in that area can already be presented, e.g. in the Upper Silesia Mother and Child Health Center in Katowice a private partner was involved in opening a highly specialist diagnostic laboratory. The public hospital found a private partner that installed and commissioned modern MR device for magnetic resonance examinations in exchange for securing a share in the contract with the hospital and the National Health Fund. In that way that Silesian hospital became one of the few pediatric hospitals in Eastern European countries with MR device representing such a high technology available. Another example of successful application of PPP elements in rendering medical services is the hospital in Nowy Sącz where private companies operate invasive cardiology and artificial kidney departments. Without private partner involvement that hospital would not be able to finance the project so important for the residents of the town (*Prywatny sektor w medycynie. Raport. 2006, pp. 12-14*).

It should be realized that performance and financing of public tasks and services under contemporary Polish conditions of public finance repair pro-

gram is not easy. Spreading in Poland the implementation of public projects with participation of private capital, as it happened in other European Union countries, should lead to a more vivid sector of investments in public services. However, because of the conditions existing in our country the risk accompanying involvement in collaboration on the PPP bases is generally seen by potential investors, both public and private, as high, which causes that the number of public-private partnership contracts number is still small.

The formula of public-private partnership can find in our country special application in rendering municipal services through creating possibilities for infrastructure development at the level of territorial government units. Budget allocation funds and funds of municipal enterprises usually operating as commercial companies are the basic sources for financing territorial government investment projects. As the current revenues usually do not suffice for financing continually increasing investment tasks, territorial governments reach out for funds in the form of credit and loans as well as, particularly after accession of our country to the European Union, increasingly often the EU funds. It should be stated here, however, that although the possibilities of territorial governments using those funds more extensively opened the problem is full and effective absorption of those funds. Inability to secure the own financial contribution by territorial government units necessary in case of projects co-financed by the European funds is becoming particularly painful (ADAMIAK 2005, pp. 284-286). Aiming at effective obtaining the European Union funds for financing capital-intensive infrastructural projects one should search for new forms of collaboration involving a certain combination of the activities of territorial government with, where possible, influences of the market and private sector activities. Implementation of municipal investments with wider involvement of various forms of public-private partnership is one of the possible forms of such collaboration. It seems that it still is an insufficiently exploited instrument, alternative to the traditional forms, through which territorial governments could finance infrastructural projects. Using private capital they could obtain funds for development or improvement of technical as well as social infrastructure and as a consequence improve the quality of municipal services provided.

It should be assumed that the experiences of over three years presence of Poland in the European Union will have a positive influence on the intensity of public sector collaboration with the private sector. The most important thing is to roll over the good, verified examples and assuming the Union solutions based on long years of practice. However, at the present time implementation and financing of municipal projects as public-private partnership is not easy and may involve certain difficulties and, as a consequence, can cause justified doubts. It cannot be hidden that building the partnership is a complex

operation in social as well as financial and legal-organizational aspects. The group of partners in such an operation is numerous: in addition to the units of territorial governments and private partners it also requires participation of banks, insurance institutions, organizational-legal advisors and financial experts. As a consequence it seems that creating the situation in which this form of collaboration could effectively develop and cause no social tensions in Poland would require satisfying numerous conditions. They include mainly the healthy financial standing of the territorial government unit and the private partner, transparency of contract related processes and financially well calculated projects. It should also be remembered that implementation of PPP solutions in our country is also difficult because of the established ways of thinking in many territorial government communities, especially among the council members who consider retaining permanent and full control of municipal assets their major mission and prefer not to enter a deal with a partner characterized by low transparency and implementation difficulties. The argument that in most cases the investment-financial situation of territorial government unit requires solutions of that type has low persuasive force for those people. This comment applies in particular to territorial governments of voivodships, which have the statutory responsibility for obtaining and combining funds, public and private, for implementation of public utility tasks. Absence of the market for services of that type in our country is a barrier hindering implementation of the PPP formula. Private enterprises offering the possibility of implementation of projects according to the public-private partnership formula are either at the stage of gathering their own experience or represent foreign entities that are not always able to find their place within Polish formal and legal frameworks. This hinders building confidence that should link the partners and focuses the collaboration on short-term commercial benefits. Foreign experience shows that the private sector gets involved most frequently in those PPP projects that generate large revenues and have strong political support. The outlays incurred must be compensated by the possibility of introducing charges related to the use of developed municipal infrastructure by the private partner (e.g. fee for water or city transport). As a consequence, it should be realized that the prices for services determined by the private investor will be based on the account of actually incurred costs, which in practical terms will result in a kind of bringing those prices to realistic levels. This situation requires the territorial government authorities to establish effective mechanisms of preventing excessive increase of prices for the public, which is also consistent with the direction of applicable European Union recommendations (ZAGOŹDŹON 2004, pp. 45-46). Fear of territorial government bodies of the accusations by the opposition that they conduct activities contrary to the best interest of the local or regional community and

stressing, without any reasonable justification, that this type of collaboration offers benefits to the private partners only is the additional cause of reluctance in treatment of the PPP in Poland. This can apply in particular to long-term contracts when the difficulties with financing municipal investments that were the base for application of that solution are forgotten with time while the only thing that is noticed are, frequently exaggerated, revenues and profits of the private partner.

As a consequence of new possibilities for municipal investments financing a change in the mentality of public officers and approach of territorial government authorities to the methods of preparation of projects must take place. Adequate funds for preparation of development projects should be reserved in the budgets of territorial governments. Those territorial government entities that so far used to act as investors should accept a change in their role in the projects where their function is limited to control and regulatory activities within the contract made with a private partner. To achieve appropriate implementation of the PPP formula, appropriate care should be taken for transparency of the subject contracts that should clearly specify the division of roles of the participating parties in the planned undertaking. This would facilitate significantly assessment of the risk that is the immanent characteristic of all investment activities. Each of the partners should also assume that part of the risk that he is better suited to cope with. The private partner, as a general rule, is ready to bear the project implementation risk on condition that the risk is predictable and, on the other hand, that he will be compensated with a higher rate of return. On the other hand, the public partner is willing to transfer the risk on the private party frequently offering little in exchange. This is the cause of quite numerous unsuccessful tenders in Poland where not even a single bid was filed. It seems that within the frameworks of managing the risk occurring in case of the PPP projects many risk factors could be minimized by appropriate selection of the private partner and specific formulation of partnership contract provisions<sup>6</sup>.

In territorial government practice including a private entity in municipal infrastructure construction and operation process the limitations, including those resulting from the traditional method of thinking about municipal asset

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<sup>6</sup> The issue of appropriate assessment as well as distribution and allocation of risk factors is of key importance for success of a PPP project and subject literature deals with it widely (Brzozowska 2006, pp. 62-27, Moszoro 2005, pp. 68-70, Zysnarski 2007, pp. 12-14). The issue of risks involved in implementation of such projects is also considered in the "Executive regulations to the Act" by the Minister of Economy and the Minister of Finance of mid-2006 (Dz. U. of 2006, No. 125, item 868). Those regulations, mutually interrelated, specify also the scope and method of conducting the risk analyses. The long list of risk types included in the regulation seems, however, as unanimously perceived by experts, to be a rather chaotic summary while the grouping of individual risk factors is of quite random nature (Zysnarski 2007, pp. 87-98).

administration should be considered. The necessity of selecting the optimal form of public private partnership and the appropriate partner as mentioned earlier is also obvious. Success of the project depends on the appropriate implementation of the selected solution and on whether the selected option of private sector participation is adjusted to the local conditions and whether its implementation will result in confidence of the local community. So far, under the conditions of the Polish system for financing and delivery of municipal services the involvement of the PPP mechanism is used mainly in the most commercial areas, that is the areas in which involvement of private companies is natural while the contracts between the public partner and the private one are relatively simple. Those contracts become increasingly complex when the collaboration is to cover the areas normally associated with activities other than commercial, containing elements of social aid. In such cases the accusation of antisocial (because market driven) behavior of business entities and corruption are formulated sometimes. Such opinions can quite easily block various economically and financially rational projects, even those well-advanced ones, in territorial government bodies. To avoid similar problems the residents should be informed in advance about the intent of implementing a public-private partnership in the system of municipal investments presenting clearly the principles and highlighting the advantages from that financing method for better delivery of services.

Development of appropriate confidence between partners is also important for development of PPP in the area of public services delivery. Development of formal-legal and institutional mechanisms securing smooth transition of the public authority from the position of the direct provider of the specific type of services to the position of the manager of the PPP process, independent supervisor monitoring the delivery of such services by the private sector is also important.

## **Conclusion**

The above considerations indicate that wider application of the public-private partnership formula for delivery of public services in Poland would be recommended, particularly after accession to the European Union structure. Acceptance of private partners advantage in the area of financing capacity and management skills is the condition for successful application of the PPP formula; at the same time the public partner as responsible for delivery of services to the public would have the right to and responsibility for supervision and control. At the same time the roles of the parties should be clearly defined, financial responsibility for liabilities resulting from projects implementation

should be adequately split and decision which of the partners manages the project should be taken. Additionally, under Polish circumstances it should be remembered that the institution of public-private partnership is seen not only in the context of economic effectiveness and organizational-legal issues but that it also has the social and political dimension. On one hand, the increasing awareness of the investment needs coupled with continuous shortage of public funds on one hand acts to the advantage of that model, on the other hand, however, everything that is associated with the private sector and, to a certain extent, privatization processes represents the activity of the highest risk for the authorities. Institutionalization of PPP in our country should allow removing psychological and social barriers that cause that projects implemented by means of that method are seen by quite wide circles of the society as corruptive. As a consequence, development of appropriate climate of confidence between partners would be immensely important for development of that form of collaboration.

Finally, it should be noticed that in the context of development of collaboration between the sector of public authorities and private sector in delivery of public services, accession of our country to the European Union, which definitely prefers the public-private partnership model (for instance conditioning allocation of certain forms of financial aid on using it in the PPP formula projects) was of special importance. It can be expected that in the nearest years the share of funds obtained within the frameworks of that model for financing of public tasks will increase. Participation of private sector in investment projects, mainly those of territorial government units, can contribute to intensification of municipal investments and as a consequence to more complete satisfaction of the needs of local communities in the area of public services.

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