

## **The German PPP effect**

**Hans Wilhelm Alfen and Anke Schwanck from Bauhaus Universität Weimar explain the impact of Public Private Partnerships on higher education in Germany<sup>1</sup>**

The quality of education has a great impact on the social and economic development of a country. In recent years, the investment demand in the higher education sector in Germany increased. This is due to the increasing number of students from today's 1.97m students<sup>2</sup> to a projected 2.7m in 2012/14<sup>3</sup>, the implementation of bachelor and master's studies, and the changing demand for space over a long period of time. In addition, higher education sector suffers from an investment backlog of necessary maintenance and reconstruction works, as well as intended new projects. The competition for financial resources is increasing, while the allocation of resources remained with its inefficient procedures.

In particular, the growing demand for necessary maintenance, reconstruction and new projects led to the awareness that value-oriented life-cycle management has to be applied to this sector. With the PPP approach, there is a procurement method for universities – as for the total public real estate portfolio – to establish real estate life-cycle management procedures. With PPP, a private partner adds value to a project by taking over the tasks of the design, financing, construction, maintenance and operation, and in some cases even utilisation of the project. PPP usually represents a 20 to 30 years agreement between a private enterprise and the state. Because of the long-term bundling of responsibilities, there are sufficient incentives to optimise whole life-cycle costing. Until now, there were almost no practical experiences involving PPP in the higher education sector in Germany, but a few PPP model projects are currently in preparation.

### **Specifics for PPP of German universities**

The higher education sector is regulated by a number of state and federal laws. In general, the federal states are responsible for the education sector – including universities. As a result, laws and regulations differ from state to state. Every federal state has its own laws and regulations for the higher education sector. Even within one federal state exceptional law for some universities exist. Nevertheless, a close co-operation between the federal and the state governments is also in power. The German Higher Education Framework Act (Hochschulrahmengesetz) as a federal law provides the basic legal framework for state's legislations. Furthermore, an intensive co-operation between the state and federal government ruling budget financing of universities persists, although the legal framework changed during the reform of the German federal system (Föderalismusreform). As a result, the national government withdrew from higher education policy and now, apart from other sources, the federal states finance and determine the budget of universities, including maintenance and refurbishment budgets, or investments for new buildings.

Not only are the legal frameworks different from state to state, but the organisation of real estate management is also different.

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Anke Schwanck studied architecture in Weimar and Stockholm and Economics in Berlin. After finishing her studies she worked in several architectural offices and gained practical knowledge in design, construction and real estate management. Since 2007, her scientific research emphasis is PPP at the higher education sector.

<sup>2</sup> Statistisches Bundesamt: 'Bildung und Kultur, Studierende an Hochschulen – Vorbericht – Wintersemester 2006/2007'; Fachserie 11, Reihe 4.1; Statistisches Bundesamt, Wiesbaden 2007.

<sup>3</sup> Kultusministerkonferenz (2005): 'Prognose der Studienanfänger, Studierenden und Hochschulabsolventen bis 2020'; Statistische Veröffentlichungen der Kultusministerkonferenz, Dokumentation Nr. 176, Bonn, October 2005.

However, the withdrawal of the federal government from higher education policy, introduced a transformation process to the German higher education sector. In consequence, a small number of higher education institutions have been granted more or less extensive autonomy. The degree of economic and legal autonomy depends on the regulatory changes, which vary from transfer of owner responsibilities to – in a few cases – the shift of property ownership to universities and colleges combined with the transfer of related construction staff and budgets. Merely four states have allowed higher education institutions full autonomy over their estates' life-cycle. But even in these temporary pilot schemes, the institutions remain dependent on state funding. Furthermore, the universities have to ask for permission, if they want to take out a loan or sell their property. Still, more autonomous universities are assumed to be more eligible for alternative procurement models like PPP.

### **Current PPP project development at German universities**

The 2005 PPP acceleration law (ÖPP-Beschleunigungsgesetz) improves the legal framework for alternative procurement processes. The PPP simplification law (PPP – Vereinfachungsgesetz), which is under preparation, should support the distribution of PPP realisation models even more. In recent years, PPP has been established worldwide as an alternative procurement route in many different sectors. In Germany, PPP has been realised in several sectors so far, even in the education sector a lot of successful PPP projects are currently in operation, while the higher education sector is still almost excluded from these developments.

Due to laws and regulations in the higher education sector in Germany, it is very difficult for universities to initiate an alternative procurement route such as PPP, because in most cases they are not the landowners. In particular, the universities' budgets, received from the federal state, do not include building investments. If universities need new buildings or if they want to refurbish buildings, they have to apply to the federal state. In contradiction to the new autonomies gained named above, the universities are not free to act and decide autonomously in this respect. This fact alone slows the development of PPP projects at German universities. Still, a few projects are in preparation, but contracts are not signed yet.

### **Prospective PPP development at German universities**

As in other sectors of public real estate (ie. schools or administration buildings), PPP is one possible life-cycle oriented approach for the procurement of university buildings and research institutes to attain economic benefit.

At the moment, there are only a few projects in Germany in an advanced state of PPP project development. Nevertheless, this shows that the interest for the procurement through PPP is growing, although difficulties due to the legal framework are slowing this development down. After all, the legal framework, including financing, needs to be improved to establish PPP as a real procurement alternative for university or college buildings or research facilities, since the PPP approach would also provide feasibility and value for money in the higher education sector.