

The Role of Local Financing in the Development of PPPs and Municipal Investment / Services

(The French Experience)

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Dexia Crédit Local Asia Pacific
Sydney, December 14, 2004***

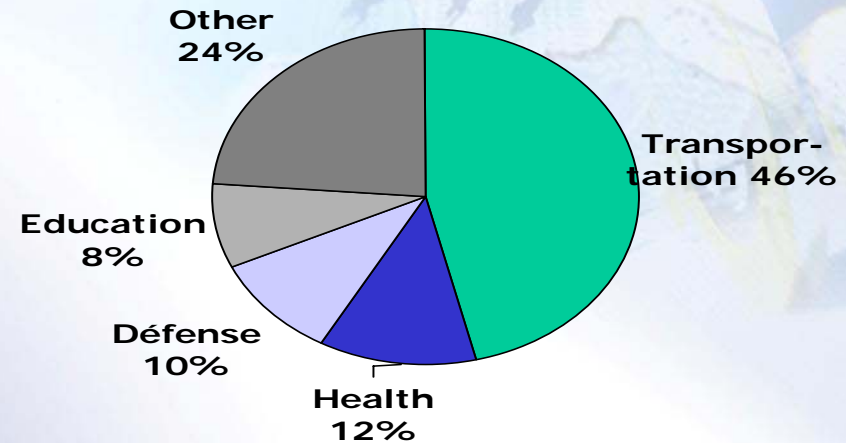
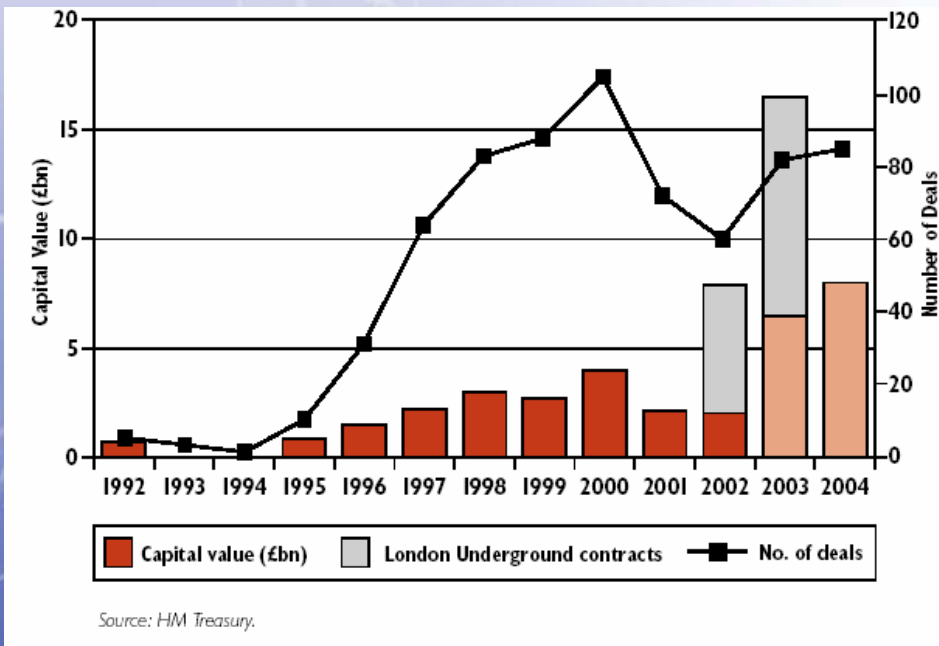
DEXIA – A STRONG FOCUS ON PUBLIC AND STRUCTURED FINANCE INCLUDING PPP's

- **Significant market share in public finance: 17% market share in Europe and 25% market share in USA;**
- **Public finance is taken to be the financing of sub-sovereign entities including municipalities, territorial and special function local authorities;**
- **Significant player in project finance – global top 10 in 2003 - and strong in PPP/PFI finance in particular, including strong position in UK market;**
- **Offers a full product suite in the public finance sector in Western Europe – including bank loan, bonds, structured finance, credit enhancement by (owned) monoline insurer, risk management;**
- **A pioneer in financing 'Delegated Management Schemes' in France**

PFI / PPP PROGRAMS HAVE SPREAD ACROSS WESTERN EUROPE OVER RECENT YEARS

- First in the U.K, where PFI has developed strongly...

Signed PFI/PPP contracts (1992-2004)



PPP: Partnership between the Public sector and the Private sector for the purpose of delivering a project/service traditionally provided by the Public sector.

... AND MORE RECENTLY IN SEVERAL WESTERN E.U. COUNTRIES⁴

Ireland

- PPP Act, 2002
- Transportation, Water / Waste, Education

Belgium

- PPP Decree, 2003
- Water, Transportation, Education, Health

Holland

- PPP Task Force, 1999
- Transportation (road, rail), Water, Accommodation

Finland

- Transportation
- Education

France

- LOPSI, LOPJI, Ordonnance Mattei, Ordonnance PPP, 2004
- Health, Security, Education

Germany

- PPP Task Force, April 2003
- Defense
- Social
- Infrastructure

Portugal

- PPP law, 2003
- Health, Prisons, Roads (real and shadow toll)

Spain

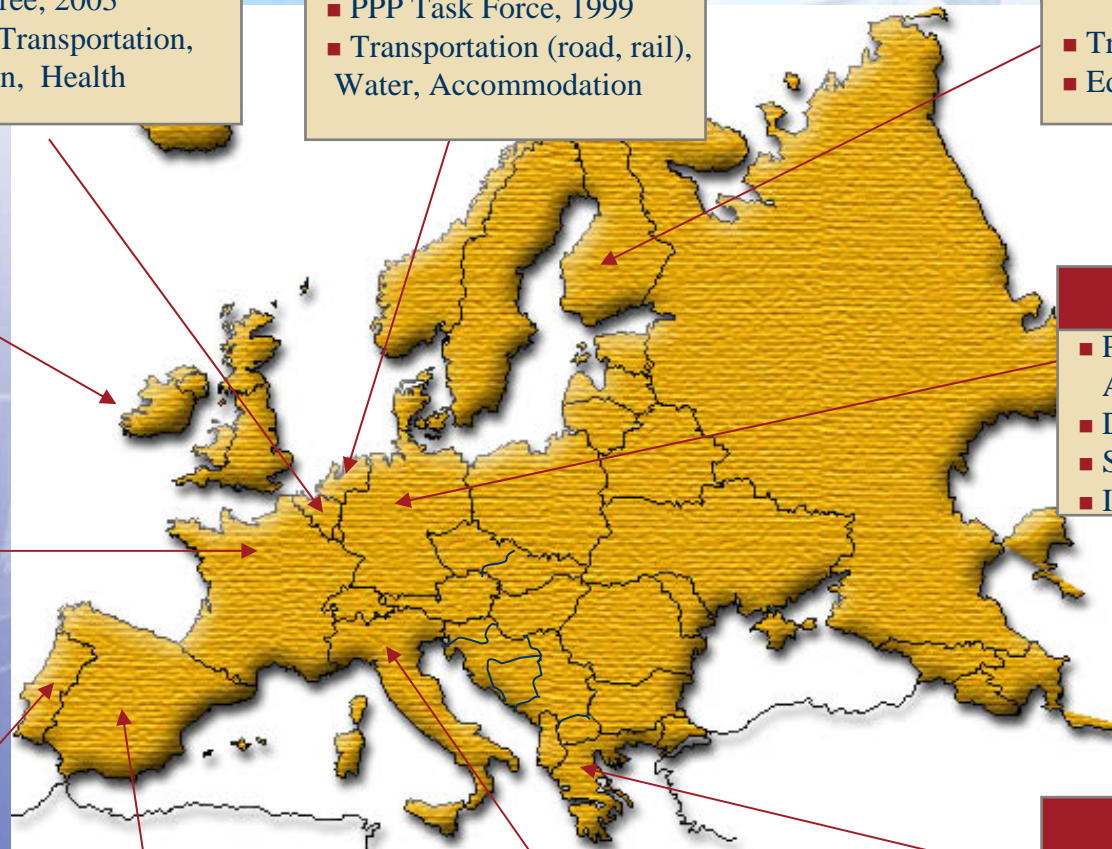
- PPP Law, 2003
- Health, Roads (real and shadow toll)

Italy

- Merloni Laws, 2001-2004
- Transportation, Health

Greece

- Transportation, Health, Education



.....WITHOUT FORGETTING THE EVOLUTION OF PPP SCHEMES IN.....

- Israel
- South Africa
- Botswana
- Canada
- Australia
- New Zealand
- South Korea
- Japan
- Singapore
- Hong Kong
- India

FRANCE'S «DELEGATED MANAGEMENT SCHEMES» - HISTORY

(Délégation de Services Publics – « DSP »)

- Preceded modern day PPP/PFI schemes.....
- A long history: the first concession (Toulouse Canal) goes back to the 17th century!
- « Golden Age »: 19th century – award of numerous concessions for railways, water, waste water, lighting, urban transportation, etc.
- Over the last 40 years, concessions awarded for highways, car parks, heating networks, cable networks, etc.
- Delegated Management Schemes in France played a key role in the development of French industrial groups, first locally and more recently, internationally:

Bouygues, Eiffage, Sodexho, Suez, Veolia Environnement, Vinci, etc.

FRANCE'S DSP: A POWERFUL INFRASTRUCTURE DEVELOPMENT TOOL

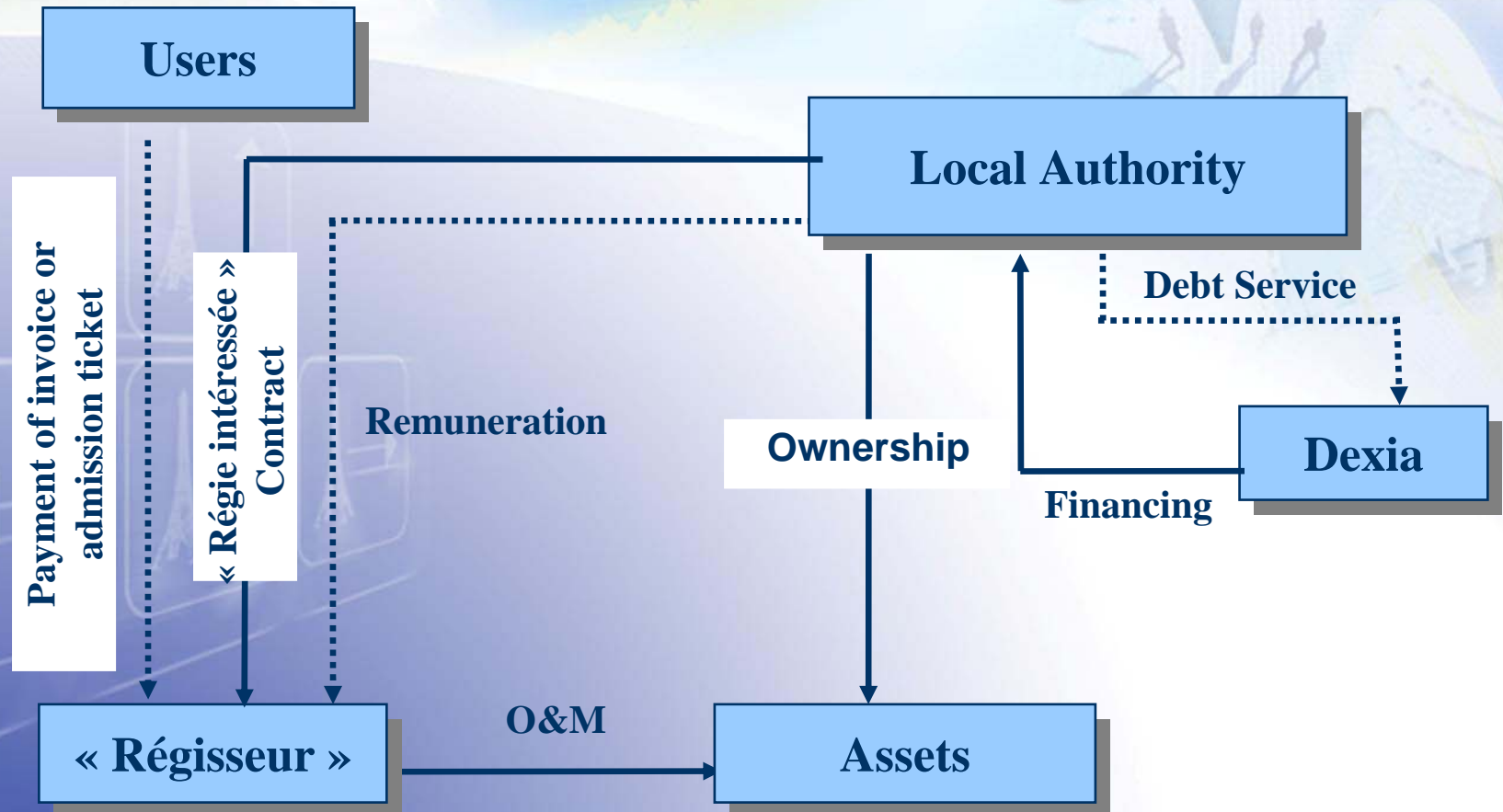
A very large portion of France's infrastructure (probably amounting To many times the size of the UK PFI Program) is delivered under various types of « Delegated Management Schemes»:

- Water Distribution: About 80% of population served through Delegated Management Schemes**
- Waste Water Treatment: About 55%**
- Waste Collection: About 60%**
- Waste Treatment: About 30%**
- District Heating: About 90%**
- Car Parks: About 60%**
- School Canteens, Swimming Pools, Ice Rinks, Etc.**
- (But Not Prisons, Hospitals, Schools)**

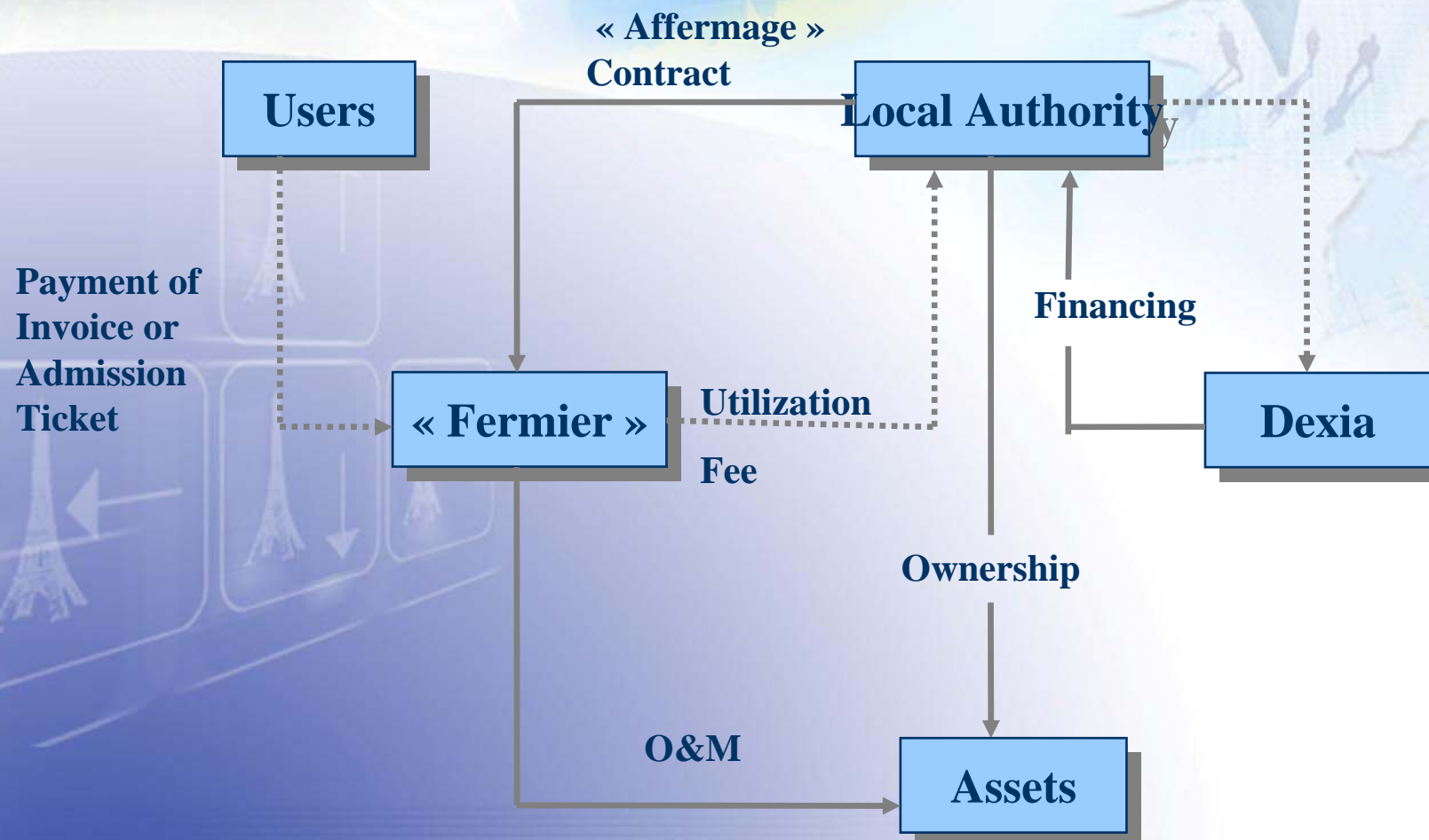
A LARGE ARRAY OF STRUCTURES ARE USED IN FRANCE

- « GERANCE » : LOCAL AUTHORITY BEARS INVESTMENT COSTS (AS WELL AS OPERATING RISKS) AND SET TARIFFS; PRIVATE PARTNER'S REMUNERATION IS FIXED.
- « REGIE INTERESSEE »: SAME AS GERANCE, BUT PRIVATE PARTNER GETS A % OF REVENUES / PROFITS.
- « AFFERMAGE »: CONSTRUCTION COSTS BORN BY LOCAL AUTHORITY; TARIFFS DETERMINED CONTRACTUALLY; PRIVATE PARTNER RESPONSIBLE FOR O&M AND LIFE CYCLE COSTS; PRIVATE PARTNER RECEIVES ALL REVENUES AND PAYS BACK A FIXED AMOUNT TO THE LOCAL AUTHORITY.
- « CONCESSION »: CONSTRUCTION COSTS BORN BY PRIVATE PARTY; TARIFFS SET CONTRACTUALLY; ALL REVENUES GO TO THE CONCESSIONAIRE (SIMILAR TO BOT).
- « BEA »: (BAIL EMPHYTEOTIQUE ADMINISTRATIF ASSORTI D'UNE CONVENTION D'EXPLOITATION NON DETACHABLE); PRIVATE PARTNER IN CHARGE OF CONSTRUCTION, FINANCING AND OPERATION ON PUBLIC LAND; APPLIES MOSTLY TO WASTE TREATMENT PLANTS.
- « METP »: (MARCHE D'ENTREPRISE DE TRAVAUX PUBLICS); SIMILAR TO UK PFI; USED FOR SCHOOLS IN THE 80S/90S; HOWEVER, STATE COUNCIL RULED IN 1999 AGAINST DEFERRED PAYMENTS BY LOCAL AUTHORITIES.

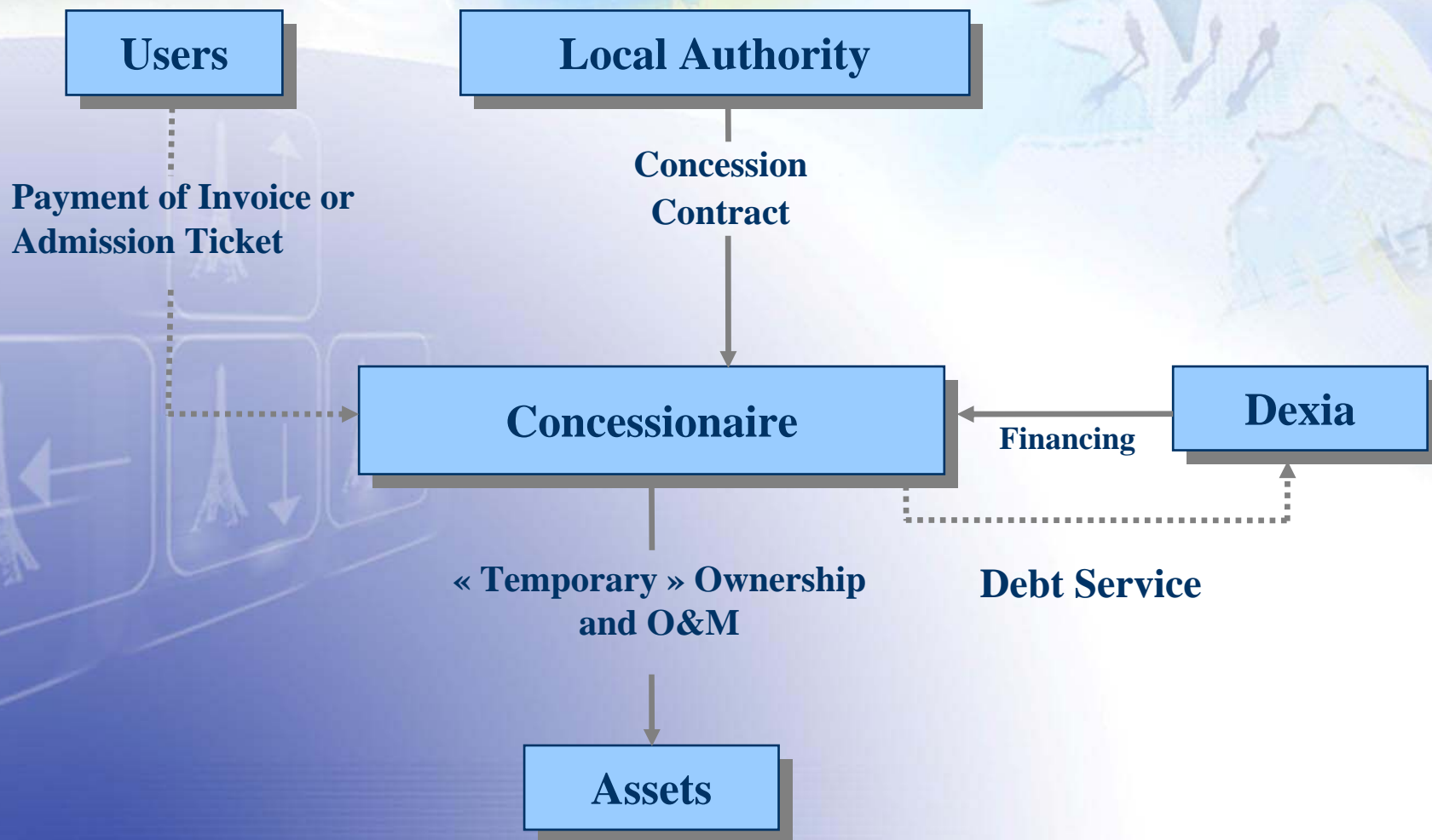
HOW DEXIA FINANCES A “REGIE INTERESSEE”



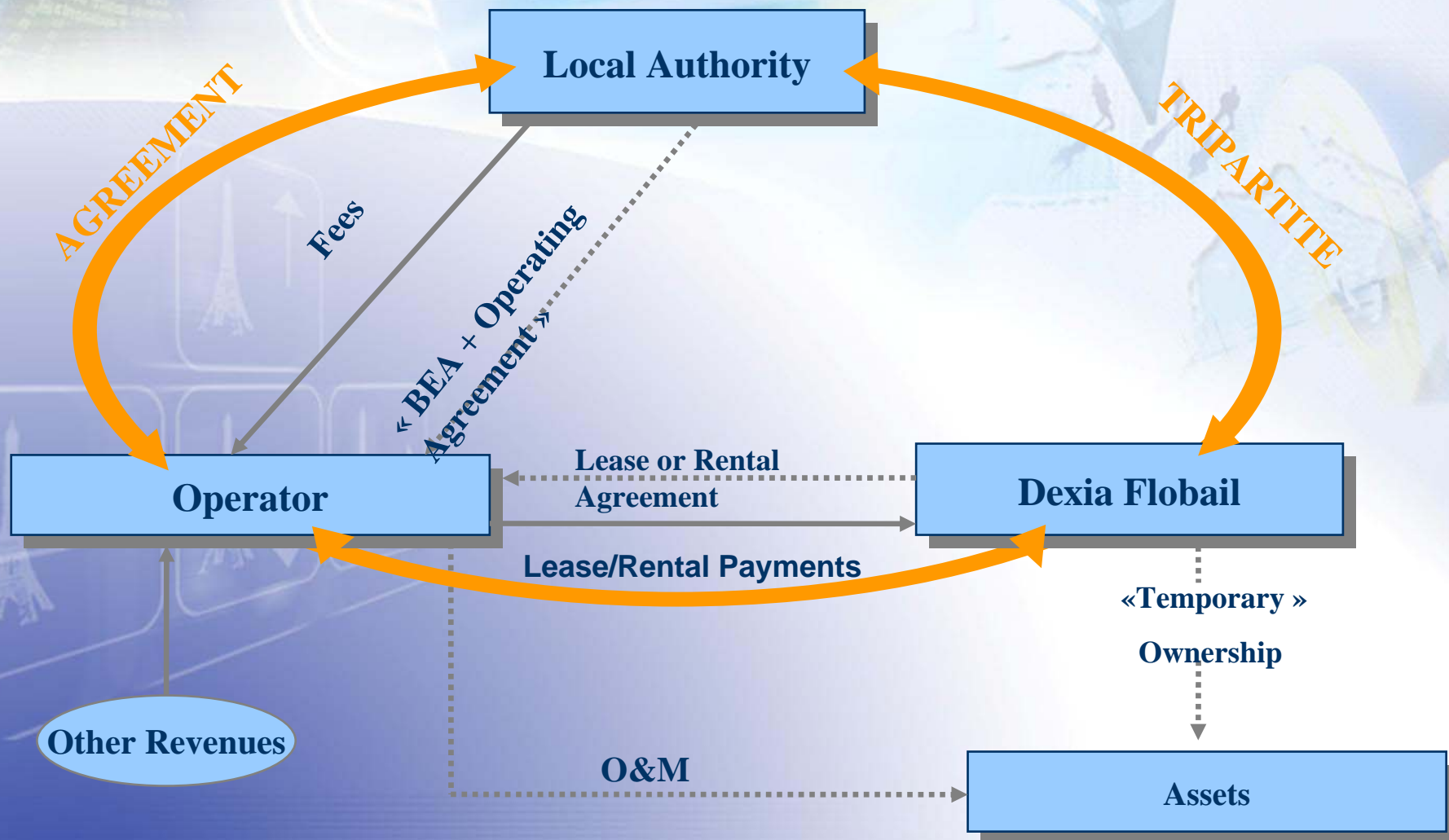
HOW DEXIA FINANCES AN “AFFERMAGE”



HOW DEXIA FINANCES A “CONCESSION”



HOW DEXIA FINANCES A “BEA”



KEY TERMS OF FRENCH CONCESSION CONTRACTS

- CONCESSIONAIRE HAS EXCLUSIVE RIGHT TO OPERATE THE CONCESSION.
- LOCAL AUTHORITY HAS NO RIGHT TO RECEIVE PAYMENTS FROM CONCESSIONAIRE (EXCEPT FOR USE OF PUBLIC DOMAIN).
- CONCESSIONAIRE GENERATES ITS REVENUES FROM END USERS, ALTHOUGH LOCAL AUTHORITY MAY PROVIDE SUBSIDIES (AND THEN OCCASIONALLY REQUIRE A PROFIT SHARING MECHANISM).
- LOCAL AUTHORITY MAINTAINS RIGHT TO CONTROL TARIFF PAID BY END USERS.
- LOCAL AUTHORITY HAS THE RIGHT TO TERMINATE THE CONTRACT UNILATERALLY, SUBJECT TO THE PAYMENT OF A COMPENSATION, DETERMINED ON A CASE BY CASE BASIS.
- PRIVATE PARTNER ENTITLED TO AN ECONOMICALLY FAIR AND BALANCED CONTRACT (“équilibre financier”).
- THE TERM OF THE CONCESSION IS SUCH THAT, IN MOST CASES, THE CONCESSIONAIRE MAY RECOUP CAPITAL EXPENDITURE (TAKING INTO ACCOUNT ASSET DEPRECIATION PERIODS) AS WELL AS OPERATING COSTS, AND EARN A PROFIT.
- NO TACIT EXTENSION OF THE CONCESSION PERIOD SINCE 1993.
- CONTROL OVER CONCESSIONAIRE’S ACTIVITIES BY LOCAL AUTHORITY.
- SPECIFIC JURISDICTIONS: “TRIBUNAL ADMINISTRATIF”, “COUR ADMINISTRATIVE D’APPEL”, AND “CONSEIL D’ETAT”.

LEGAL FRAMEWORK FOR DSP IN FRANCE

- **“DELEGATED MANAGEMENT” DOES NOT FALL UNDER “CODE DES MARCHES PUBLICS”, REGULATING PROJECTS SOURCING THEIR REVENUES FROM LOCAL AUTHORITIES.**
- **KEY PIECES OF LEGISLATION ARE:**
 - **THE “LOI SAPIN” OF 1993, WHICH BASICALLY ADDRESSES THE DELEGATION AWARD PROCESS**
 - **THE “LOI MURCEF” OF 2001, WHICH PROVIDES A LONG AWAITED DEFINITION OF “DELEGATION DE SERVICE PUBLIC”:**

“Contrat whereby a contractor manages, on behalf of a public entity and under its control, the delivery of a public service, and is remunerated substantially by its commercial revenues.”
 - **THE DECREE OF 2001, SETTING FORTH A NEW “CODE DES MARCHES PUBLICS”**
 - **MOST IMPORTANTLY, GIVEN THE LONG HISTORY AND THE ABSENCE OF A SINGLE, COMPREHENSIVE BODY OF LAW, THE VOLUMINOUS JURISPRUDENCE (ESSENTIALLY BASED ON LEGAL, RATHER THAN ECONOMIC, CONSIDERATIONS)**

THE MOVE TOWARDS ADDITIONAL FORMS OF FRENCH PUBLIC PRIVATE PARTNERSHIP

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Key Drivers:

- Delegated Management Structures cannot be used for Prisons, Hospitals, Schools, Government buildings, etc. Since such projects do not fall under the definition of Delegated Management.
- Willingness of the new Government, following the 2002 elections, to devolve new powers to local authorities (mostly regions).
- Need to increase and speed up investment programs in hospitals, prisons and other public buildings.
- Strong desire to capitalize on the long track record of Delegated Management, and offer to other countries a French alternative to the UK-style PFI.

NEW FORM OF FRENCH PPPs: IMPLEMENTATION ROAD MAP

IGD (« INSTITUT DE LA GESTION DELEGUEE ») CREATED IN 1996 TO PROMOTE DELEGATED MANAGEMENT AND, MORE RECENTLY, PPP IN FRANCE.

- « CHARTE DES SERVICES PUBLICS LOCAUX » OF JANUARY 2002.
- « EVALUATION DES CONTRATS GLOBAUX DE PARTENARIAT » OF MARCH 2004

A NEW LEGAL FRAMEWORK

- « LOI D'ORIENTATION ET DE PROGRAMMATION POUR LA SECURITE INTERIEURE » (LOPSI) OF AUGUST 2002.
- « LOI D'ORIENTATION ET DE PROGRAMMATION POUR LA JUSTICE » (LOPJ) OF SEPTEMBER 2002.
- THE COUNCIL OF MINISTERS OF MARCH 19, 2003 DISCUSSED THE BILL PRESENTED BY H. PLAGNOL (JUNIOR MINISTER FOR THE REFORM OF THE STATE). THE PURPOSE OF THE BILL IS, INTER ALIA , TO ALLOW THE GOVERNMENT TO DEVELOP, THROUGH ORDINANCES, NEW FORMS OF PUBLIC PRIVATE PARTNERSHIPS.
- LAW # 2003-591 OF JULY 2, 2003 ENABLES THE GOVERNMENT TO DEVELOP A PPP PROGRAM THROUGH THE IMPLEMENTATION OF ORDINANCES. LAW RATIFIED BY CONSTITUTIONAL COURT.
- ORDINANCE OF SEPTEMBER 4, 2003 FOR, SPECIFICALLY, HOSPITAL PROJECTS.
- MASTER PPP ORDINANCE OF JUNE 17, 2004 WHICH ALLOWS PUBLIC SECTOR ORGANIZATIONS TO ENTER INTO LONG TERM CONTRACTS WITH THE PRIVATE SECTOR FOR THE DESIGN, BUILD, IMPROVEMENT, MAINTENANCE AND FINANCING OF PUBLIC INFRASTRUCTURE AND SERVICES PROJECTS.
- DECRET # 2004-1119 OF OCTOBER 19, 2004: CREATION OF A PPP TASKFORCE
- DECRET # 2004-1145 OF OCTOBER 27, 2004: PROCUREMENT PROCEDURE

BEST PRACTICE GUIDANCE BOOK BEING PREPARED BY THE MINISTRY OF FINANCE

NEW FORM OF FRENCH PPPs: AN ALREADY ACTIVE PROJECT PIPELINE

CAEN PPP HOSPITAL PROJECT

- **DBFO 25-YEAR CONTRACT, €100 M ESTIMATED PROJECT COST**
- **LAUNCHED IN APRIL 2004, PRE-QUALIFICATION APPLICATIONS SUBMITTED IN JULY 2004**
- **INVITATION TO TENDER ISSUED IN OCTOBER 2004, BID DUE IN DECEMBER**
- **DEXIA SUPPORTING EIFFAGE AND ICADE AS FINANCIAL ADVISOR, INVESTOR & LEAD ARRANGER**

CORBEIL-ESSONNE (SUD FRANCILIEN) PPP HOSPITAL PROJECT

- **DBFO CONTRACT, €250 M ESTIMATED PROJECT COST**
- **LAUNCHED IN JULY 2004**
- **PRE-QUALIFICATION APPLICATIONS SUBMITTED IN SEPTEMBER 2004**
- **DEXIA SUPPORTING VINCI AS CO-FINANCIAL ADVISER, INVESTOR & LEAD ARRANGER**

PRISONS PPP PROGRAM

- **APPROX. €1 BILLION PROGRAM, DBFO CONTRACTS**
- **FIRST TRANCHE LAUNCHED IN AUGUST 2004**
- **PRE-QUALIFICATION APPLICATIONS SUBMITTED IN OCTOBER 2004**
- **DEXIA SUPPORTING BOUYGUES AS FINANCIAL ADVISER, INVESTOR & LEAD ARRANGER**

PPP SCHEMES FROM A FRENCH PERSPECTIVE - CONCLUSION

- A long history of evolution of schemes that broadly speaking are PPP's
- The frameworks are constantly evolving
- A significant proportion of French infrastructure has been delivered under these schemes over many decades – largely « DSP's »
- France is now actively developing and embracing its own version of the UK PFI style model
- Maybe some of these traditional French DSP structures can have application in countries like Australia

THANK YOU FOR YOUR ATTENTION