Partnering in Infrastructure Projects in Germany
Guideline and results of pilot projects

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Typical situation in infrastructure projects in Germany / 1

- Cost overflows
- High expenses for claim- and anti-claim-management
- Distrust between client and contractors
- Dissatisfied clients
- Growing number of disputes and litigations between client and contractor
- Decrease of know-how ("lowest price")
- Low rate of return and high risk of business failure
- No project optimization after contracting
Field study: Is the relationship between client and contractor cooperative?

![Bar chart showing the relationship between client and contractor cooperation.](chart_image)

- 80% !
Field study: Are you comfortable with the present situation?

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<tr>
<td>contractor</td>
<td>0%</td>
<td>0%</td>
<td>50%</td>
<td>0%</td>
<td>50%</td>
</tr>
<tr>
<td>client</td>
<td>0%</td>
<td>0%</td>
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Successful Project?

One party may have a „personal“ success – but no project success!

Project success needs both parties!

Win-Win
Elements of Partnering

- Trust
  - Choice of partner
  - Corporate objectives
  - Open Books
  - Fair risk distribution
  - Feedback / documentation
  - Clear decision structures
  - Corporate problem solution
  - Incentives

Client  Win-Win  Contractor
Limitations for Partnering:

- Tendering regulations for public projects (D, EU) \(\rightarrow\) public tendering, equal opportunities, no negotiations
- Budgetary regulations (Treasury) \(\rightarrow\) open competition, “Best (lowest) price”
- Legal approval process for public infrastructure projects \(\rightarrow\) public participation, “green” opposition with right of action

**BUT**

Public Infrastructure projects in Germany are limited to:

+ Regulations needs:
  - Acceptance by the Ministry of Transport
  - Acceptance by client organizations
  - Acceptance by construction companies
  - Feasible and thinkable for people (change process!)
Research → Partners

Federal Ministry of Transport

Clients

Contractors

Construction associations

Institutions and Companies:
- Bundesministerium für Verkehr, Bau und Stadtentwicklung
- HESSEN
- DB
- DEGES
- WITTELD
- OBERMEYER PLANEN + BERECHNEN
- BILFINGER BERGER
- GREINER
- KIRCHNER
- Balfour Beatty Rail

Netlipse Meeting, Vienna 25.11.2014
Guideline for partnering in infrastructure projects in Germany

- Preamble
- Element 1: Good and clear project specifications
  - Element 2: Clear and predefined processes and regulations for project changes
- Element 3: Fair risk handling
- Element 4: Joint data system for data concerning both parties
- Element 5: Clear responsibility on the client and the contractor’s side
- Element 6: Conflict management
- Element 7: Contractual incentive regulations
Preamble & Element 1

Preamble

- Client and contractor assure their willingness to cooperate → Signature

Element 1: Good and clear project specifications

- High level of design quality → project specifications
- Client: CLEARLY define the project specifications
- Bidder: ASSURE a complete offer – questioning the client as far as necessary
- Planner as consultant for the contractor
- Site visit obligatory
- Regular project reviews / workshops between client and contractor
Element 3: Fair risk handling

- Fair risk distribution:
  a) risk to the party, which can manage it best;
  b) each party must state the risks early, the other party has to bear

- Risk list, starting from the design phase up to the contract phase

- Corporate handling of new risks in the execution phase
  → Risk Committee
Element 6: Conflict management

De-Escalation model

Phase 3
Court

Phase 2
Joint Dispute Resolution
Conciliator(s) → Decision

Phase 1b
Strategic Level
Top Management

Phase 1a
Operational Level
Project Manager

Preventive Conflict Avoidance

Obligatory in Germany

Adjudication agreement in contract

Trust
Transparency
Partnership

Work
Project culture
Element 7: Contractual incentive regulations

- Project optimization in the contract phase to the client’s benefit
- Additional earning for the contractor (incentives)
- Predefined incentive regulations:
  - Reducing costs for equivalent works: sharing the benefit (50/50)
  - Shortening of the construction time: bonus
- Win-win situation reduces disputes and improves trust
Pilot Projects - Overview

- Construction of a new Motorway with 7 bridges
  - Federal project
  - 8.7 km
  - € 45 Mio.
  - Finished in 2013

- Expansion from 2 to 4 lanes of a regional road during ongoing operation
  - State project
  - 1.1 km
  - € 4 Mio.
  - Finished in 2012
What is different to „traditional“ projects in Germany

1. Site visit obligatory
2. Clarification conference in the bidding phase
3. Knowledge transfer design – realisation after contracting
4. Commitment for partnering by the management
5. Risk transparency (risk committee)
6. Regular workshops between client and contractor
7. Project optimization in the contract (incentives!)
8. Active conflict management, dispute adjudication included
9. Joint data
10. Regulations for responsibility and decisions
Pilot Projects – Results & Experiences

• Good Practice / Lessons Learned conc. client and contractor in joint WS
• Open communication
• Common risk handling
• More transparency between client and contractor → project data available
• Better solving of problems
  – Most solutions on project level
  – few solutions by joint dispute board (accepted by both parties)
  – Avoidance of litigation → cost and time saving
• High product quality
• Reduction of risks (for the client) by project optimization
• Cost savings by project optimization: € 1 Mio. (2,8%) public money
• Bonus for the contractor: € 800.000
Pilot Projects - Experiences

But also: difficulties with → “living” partnering!
→ Changing adversarial attitude
→ having trust
→ accept Win-Win
Pilot Projects - Experiences

But also:

- Problems in the beginning (change process)
- Sometimes falling back into “traditional” behaviour
- No overall use of project data on the server
- Not all people on both sides “live” partnership
- Fair risk distribution ........ To improve!
- Little progress for contract changes (time!)
- Too much claims

→ → More exercise, more piloting
Future

„Reform- Commission“ from the Ministry of Building and Transport……..

- Risk + Cost
- Design + Planning
- Tendering + Contracting
- Execution
- Partnering

Additional Pilotprojects Road & Railway

Ministry is willing to go „further“!
Partnering???

Do it better!
Thank you for your attention!
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- Corporate handling of new risks in the execution phase → risk committee

Element 4: Joint data system for data concerning both parties

- Joint data collection, treatment and documentation
- One project server for all data
- Static data (contract)
- Dynamic data (performance, time schedule, costs, workflow report)

→ Joint data = less conflicts
Objectives of the research project

A partnering approach for infrastructure projects in Germany..

- Less conflicts and avoidance of litigations
- Good working atmosphere
- Knowledge transfer
  - between planning and execution
  - between client and contractor
- Project optimization (after contracting)
- Savings of time (faster decisions, less disturbances)
- Savings of money
- Respecting the limitations in Germany
Present situation in the construction market in Germany (3)

Who is the winner of the present situation?

- 50% Contractor
- 40% Client
- 30% Both
- 20% Nobody
- 10% Other
- 0% No winner
Element 2 & 3

Element 2: Clear and predefined processes and regulations for project changes

- Project change processes with time schedule (who, when, what) as part of the contract
- Predefined requirements for documents and justifications
- Contract change as far as possible before execution
- Proactive detection of necessary changes by client and contractor

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Element 4 & 5

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Element 5: Clear responsibility on the client and the contractor’s side
- Clear project organization on clients and contractors side
- Duties and responsibilities have to be transparent on both sides
- Linking client and contractor with an open information line
→ Clear responsibility and organization and good information assures quick decisions