Study on calculation and payment of extra cost generated by government intervention of PPP projects

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Abstract: Through literature analysis, two cases were divided of the determination of additional costs caused by intervene of gov in PPP project: non-default of project company and default of project company. First, according to the relevant policy papers, the situation suitable for gov intervention is sorted out; secondly, according to the process in which the gov is involved, the additional cost is deconstructed, and the calculation methods of each part of the cost are given separately. Finally, through collating and analyzing the relevant policy papers, it is clear that the gov should intervene in the bearer of additional costs and the mode of payment under various circumstances.

1. Introduction
Since 2014 when the PPP mode was vigorously promoted in China, by the end of March 2017, more than 85% of PPP projects put into storage by the ministry of finance were public welfare projects such as municipal engineering, transportation, education and medical treatment [1]. Government as providers of public products eventually, although in the PPP project out of the role of the public product and service provider only, but fails to remove the guarantee of public interest duty [2], and the PPP project both contractual and administrative contract, the government has a responsibility to ensure that the public to enjoy the contract service continuity, when a crisis of public interests, the government is necessary in the PPP project [3]. According to relevant cases such as the Hengshan bridge sewage treatment plant project in Changzhuo and the garbage incineration power plant project in the west of Qinhuangdao, the government will incur corresponding extra costs in the process of intervention, resulting in unnecessary economic losses and unbalanced benefit distribution between public and private parties. In view of this, this paper studies the determination of additional costs caused by government intervention based on the Financial No. 156.

2. Literature analysis
Government intervention is also called "government takeover", "government takeover" and "temporary takeover". The above words are used as the "subject" to search relevant literature on CNKI and analyze it, as shown in table 1.
Can be seen from table 1, the current literature about PPP project government party intervention study, focused on the nature of the intervention, conditions, procedures and legislative status quo of several aspects, and about the government's side after the intervention to determine the extra expenses of study is less, therefore, produce additional cost to the government party intervention study to determine the need to be addressed. Therefore, this paper studies the calculation and assumption of extra costs caused by government intervention in the case of project company's non-default and project company's default respectively.

### 3. The determination of extra costs caused by the government's intervention in the case of the project company's non-default

#### 3.1 determination of government intervention when the project company is not in default

In the case that the project company is not in default, the calculation and bearing of additional costs incurred by the government's intervention shall be solved first. The problem to be solved is the appropriate time for the government to intervene. A reasonable judgment is the key to protect the interests of both parties. It can be divided into three kinds of situations: ① the involvement of the force majeure circumstances, including natural force majeure and political force majeure; ② The intervention by the government default, which is that after the government party violates the PPP project contract, it cannot be remedied within a limited period of time; ③ the government choice to terminate case intervention, the causes of this situation is that the government to take is the purpose of the PPP mode in order to better provide public products and services, when the public demand for change, the original project is no longer suitable, or will affect the public security and public interests, at this point, the government has decided to terminate unilaterally the rights of the project.

#### 3.2 calculation of additional costs incurred by government intervention when the project company is not in default

### 3.2.1 composition of additional costs

The research results of Zhiyuan Zhang [6], Mingchao Li [10] indicate that, the government intervention programs are often divided into application, hearing, decision, start, execution and termination of six links, among them, the decision, start, strong coherence performs three steps, can be
referred to as the implementation, on this basis, this article will involve additional charge after roughly classified into the following four parts:

(1) application fee

Interventional applications, including the main body of government to confirm, in case that, in case of confirmation, the four stages in application, which mainly produce cost involved in case for the government to confirm the link, to the actual situation of project investigation and consultation with stakeholders and experts, it involves the investigation fees, appraisal valuation fee, travel, communications, expert consulting fees and expenses for labor investigators.

(2) hearing expenses

The hearing is divided into three parts: the notice before the hearing, the defense in the hearing and the decision after the hearing. The main expenses include: communication fee and transportation fee at the time of the notice, site usage fee for holding the hearing, printing fee and labor cost of the hearing staff.

(3) implementation costs

After the government makes the decision of intervention, it needs to start and execute immediately, and the cost of the implementation process and each step is as follows: ① Issue a government intervention notice; ② When you set up an interim takeover committee, you pay a fee to a third party organization that provides relevant advice, technical or legal support; ③ As the government does not have professional knowledge and technology, it would usually entrust a third party with good business qualifications to take over. ④ Notification charges of taking over the project company; ⑤ When the government or the third party is involved in the project, emergency treatment fee and equipment purchase fee will be generated; ⑥ Taking the subway project as an example, the normal operation expenses include employee compensation, operation expenses, power expenses, maintenance expenses, financial expenses and other expenses; ⑦ Perform the liquidation accounting for the project, and generate the liquidation assets expense.

(4) termination fee

In project company not default case, the government intervention is no longer after the completion of the project is handed over to social capital, termination fees is mainly produced in public or private financial activities in order to balance the interests of both sides, mainly for profit: compensation for the government party no breach in the project company shall ensure that the project company will not loss or obtain additional interest due to its intervention, the government party shall compensate the project company during its intervention when normal operation can achieve the same amount of profits.

3.2.2 calculation of additional costs

(1) calculation of application fee

The application expenses incurred by the government are the sum of all the expenses, among which, the communications expense shall be calculated according to the bill issued by the telecommunications bureau; The labor costs shall be paid according to the local salary standard.

(2) calculation of hearing expenses

The site usage fee and transportation fee for the hearing shall be calculated according to the invoice value; Printing costs for the preparation of texts for printing; The communication fee is calculated according to the bill amount issued by the telecommunication bureau; The labor costs shall be paid according to the standards of personnel recruitment in various fields.

(3) calculation of implementation costs

The specific costs generated during the implementation phase and the calculation basis are shown in table 2.
Table 2 Calculation of implementation costs

| Cost division | Cost details | Cost calculation |
|---------------|--------------|------------------|
| Intervention notice | Postage fees | Invoice face amount |
| Form an interim takeover committee | Paying third party | Invoice face amount |
| Select temporary takeover subject | Expert selection | Invoice face amount |
| Take over the project company | Notice | Communication bill + Printing fee |
| For project company relief | Equipment purchase | The sum of the face amount of the voucher |
| Maintain the normal operation of the project (Take the subway project for example) | Employee compensation | Metro employee compensation standards |
| | Operating | Operating cost unit price * mileage |
| | Power | Power unit price * Power consumption |
| | Maintenance | The number * unit price |
| | Financial | Invoice face amount |
| | Other | Generally 5% ~ 12% |
| The liquidation of assets | Hire company | Invoice face amount |

(4) calculation of termination fee

The termination fee is mainly the profit compensation, which is calculated by the product of the monthly average profit obtained during the recent normal operation of social capital and the time of government intervention.

3.3 The project company shall bear the additional costs caused by the government's intervention when the project company is not in default

(1) in the force majeure circumstances, no. 156 and no. 2724 are stated explicitly force majeure risks borne by both sides, it seems to be no. 156 of breach by the regulation project company did not because of the government party intervention extra expenses are to be borne by the government, but the force majeure caused by government intervention is the spontaneous behavior, and determine whether intervention is based on public interests is damaged or is damaged, therefore, the force majeure circumstances government party intervention to produce extra expenses are to be borne by the government and the related files regulation does not conflict, is reasonable; If the government breaches the contract, the government should take remedial measures according to the provisions of chapter vii of the contract law of our country. In the case that the government chooses to terminate, the government usually intervenes in the project in order to meet the public demand and maintain the public interest, and it is the fundamental responsibility of the government to provide high-quality public products and services. Therefore, it is reasonable for the government to bear the additional costs caused by the government's intervention in the case that the government chooses to terminate.

4. Determination of additional costs caused by government intervention in case of company default

4.1 Judgment of government intervention when the project company defaults

The company's financial situation deteriorated or even went bankrupt, and it was unable to continue to fulfill the project contract. The company fails to complete the specified progress within the agreed time, and the deadline is overdue. Devos project company fails to provide public products and services in accordance with specified requirements and standards and the circumstances are serious; The company of the scene project violates the restriction of equity alteration agreed in the contract; To dispose or mortgage the property without authorization; Where there are major safety risks and there is no rectification; To carry out business activities beyond the area and scope defined by the franchise. If the project company commits any of the above breaches, the government may consider it necessary to
intervene and the project company cannot remedy itself within a certain period of time after the notification, the government may exercise its intervention right.

4.2 Calculation of extra costs caused by government intervention when the project company breaches the contract

4.2.1 composition of additional costs

(1) costs of negotiation with social capital
It mainly includes the communication fee for sending the notice to social capital and contacting social capital, the site usage fee for negotiation, the transportation fee for negotiation process, the printing fee for preparing relevant materials during negotiation, and the food and beverage fee and accommodation fee generated by the long negotiation.

(2) the expense of selecting new social capital
Selecting new social capital by means of competitive negotiation and procurement is an example, and the main expenses are as follows. To determine the cost of consultation documents; Cost of setting up a consultative group; Costs to negotiate with a single supplier; Fees for the overall score; The cost of publishing the results of the review.

(3) cost of maintaining the normal operation of the project
Take the subway project as an example, the cost constitutes the revenue article in section 3.2.1 (3).

(4) termination of government involvement

The execution content of the termination of intervention by the government party is the same as that of the application for intervention, and the costs generated are the same, except that the specific cost analysis is the same as section 3.2.1 (1).

4.2.2 calculation of additional costs

(1) cost calculation of negotiation with social capital
The transportation fee, communication fee, catering fee, accommodation fee, printing fee and site usage fee generated by the government and the social capital negotiation process are all calculated according to the relevant invoices corresponding to the negotiation events during the negotiation.

(2) cost calculation for selecting new social capital
The selection of new social capital includes six parts of expenses, and there are the same details of expenses between the parts, which will not be repeated.

(3) calculation of expenses for maintaining the normal operation of the project
This section takes metro project operation as an example. The calculation method of specific costs is the same as that of maintaining the normal operation of the project in section 3.2.2 (3).

(4) calculation of fees for termination of government involvement
The implementation content of termination of government intervention is the same as that of application intervention, and the calculation method of specific cost is the same as section 3.2.2 (1).

4.3 The government shall bear the additional costs incurred when the project company defaults

For project company default case of government intervention to produce extra expenses are to be borne the problem, no section 17 in the second section 156 regulations, in addition to using the government paid or project feasibility gap subsidy mechanism, the government intervention at the same time, still should be in accordance with the contract is not affected by default subsidies to part of the service or product, the rest any project company default case for government intervention to produce additional costs shall be borne by the project company, indicating the fees can be deducted directly from the government paid or by the project company shall be paid to the government.

5. Conclusion

Based on financial no. 156, no breach in this paper, the project company and the project company under the two circumstances of default party intervention of government produces additional cost determination are studied, mainly to the government can intervene the situation has made the specific definition of respectively, the specific form and calculation method of additional cost are analyzed,
and clear the additional costs arising under two circumstances respectively how to bear. Can refine this study of the relevant documents about the government's intervention is relatively fuzzy, in both public and private when these events provide evidence for the related solution, reduce the unnecessary loss, avoid to produce interest disputes or harm the public interests, so as to provide the public with better public products and services, is expected as a future legal documents party intervention by the government concerned or the improvement of the rules and regulations to provide some reference.

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