

# Negotiating and Managing PPP Contracts

## INTRODUCTION

- In this Negotiating and Managing PPP Contracts training seminar, we examine PPP from first principles to real-world examples, learning from the success and failure of PPP projects around the world. We introduce, demonstrate and test best practice recommendations for project evaluation, contractual drafting, procurement and contract management. In this training seminar, we dispel some common myths and misconceptions concerning PPP, and we address crucial practical issues such as community and stakeholder engagement, incentivizing or compelling contractual performance and dealing with requests for variation or renegotiation of contract terms.
- PPP can mobilize private sector investment and expertise to provide much-needed infrastructure and public services. It can transform government departments and contracting authorities from being owners and operators of assets into knowledgeable purchasers of services from the private sector. However, with more than 110 countries competing for PPP funding and expertise, success depends on the development of public and private sector capacity and understanding of PPP.

This training seminar will highlight:

- Best Practice for Project Evaluation and Procurement
- What makes a "bankable" PPP?
- How to use Payment Mechanisms to incentivize or enforce Contractual Performance?
- The Lessons we can learn from PPP Successes and Failures
- The Essential Role of Good Contract Management – from beginning to end

## OBJECTIVES

- This training course will enhance your ability to determine whether PPP is the best vehicle for your projects, and to ensure that you have in place the contract terms and contract management techniques to ensure long-term success.

At the end of this training course, you will learn to:

- Analyze and evaluate project proposals to decide whether they are suitable for PPP
- Apply best practice in procurement, promoting transparency, fairness and "bankability"
- Understand where contractual disputes are most likely to arise, and how to deal with them

- Decide how best to respond to problems, and how to rescue a PPP

## **TRAINING METHODOLOGY**

- In this Contracts Management training course, our expert presenter draws on practical experience and extensive discussion with policy makers, Ministers, Law Officers, PPP Units, private sector contractors and funders in Africa and around the world. This training course blends presentations with practical case studies and interactive exercises to ensure that participants have ample opportunity to discuss, challenge and understand the key principles of PPP.

## **ORGANISATIONAL IMPACT**

- Success can be learned, and failures avoided, by examining others' experience. Throughout this training course, we draw on practical examples of best practice and well-documented failures to maximize your team's chances of success. Through practical examples, open discussion and interactive exercises, your team can gain the skills and confidence to deliver successful PPP.

## **PERSONAL IMPACT**

Your team members will learn and have the opportunity to practice techniques for:

- Evaluating project proposals, whether invited or unsolicited
- Managing or mitigating demand risk
- Drafting, negotiating and managing performance of high quality PPP contracts
- Accurately and confidently deciding how best to respond to delays, problems or unforeseen events
- Communicating the social value and economic benefits of PPP

## **WHO SHOULD ATTEND?**

- This training programme is specifically designed for central government bodies and contracting authorities considering PPP to address infrastructure or public service requirements.

This training programme is suitable to a wide range of professionals but will greatly benefit:

- PPP Unit Officials and Advisors
- Transactional Advisors
- Procurement Specialists
- Contract Management Specialists
- Legal Advisors
- Project Management Professionals

## Course Outline

### PPP in a Globally Competitive Market

- PPP and the "infrastructure gap"
- Global Competition for Funds and Expertise
- PPP vs. Privatization – dispelling the myths and misconceptions
- PPP Models and Structures
- What makes a "bankable" PPP?
- Using PPP for Social Benefit and Economic Empowerment
- Lessons from around the world - What can we learn from successful and failed PPPs?

### The Benefits of a Strong PPP Unit

- PPP is one approach, not the only approach
- Feasibility and Project Evaluation
- Assessing and Managing demand risks
- Community and Stakeholder Engagement - dispute avoidance, not dispute resolution
- Principles of Good PPP Procurement
- Dealing with unsolicited Project Proposals

### Drafting and Negotiating PPP Contracts

- The Anatomy of a PPP
- Parties, Roles and Structures
- Regulating Assignment and Change of Control
- Governing Law and Jurisdiction
- Insurance and Guarantees
- Specifications, Deliverables, Service Levels and KPIs
- Using Payment Mechanisms to Incentivize and Enforce Performance

### Managing Critical Events in PPP

- Termination for Cause
- Termination for Convenience or National Interest
- Compensation and Orderly Termination
- Rescuing a PPP: Exercising Step-in or Substitution Rights
- Force Majeure or Relief Events - keeping your PPP on track

## Contract Management to Ensure Long-term Success

- Understanding where Disputes are most likely to arise
- Monitoring Performance and ensuring actionable data
- Understanding Dates, Deadlines and Contractual Formalities
- Understanding and Avoiding the Risk of Wrongful Termination
- Managing Contractual change Mechanisms, Variation and Renegotiation