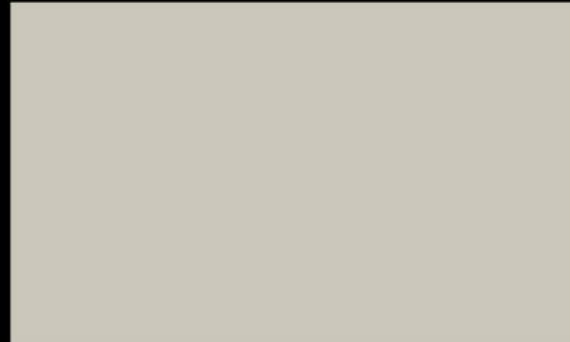


UNECE
Team of Specialists
for PPPs

PPP Contracts and Contract Management

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What Differentiates PPP Contracts from Other Infrastructure / Service Contracts?

- Length of Contract
- Whole-life Approach
- Risk Allocation
- Transfer of Assets
- Cost

Best Practices

- Open Competition
- Public Advertisement
- Negotiation
- Investors' Termination Rights
- Tender Evaluation
- Appeals
- Dispute Resolution
- Post-Award Monitoring
- Audited Project Finance

Generic PPP Contract Outline

- Recitals
- Definitions
- Agreement clauses
 - Project definition, duties of the partners
 - Performance standards, covenants and monitoring
 - Payments
 - Risk allocation
 - Security for performance

Generic PPP Contract Outline

➤ Conditions

- Occurrence of milestones in larger public planning efforts
- Environmental studies
- Economic studies
- Cross-performance studies

Generic PPP Contract Outline

- General Provisions
 - Representations and warranties
 - Insurance
 - Subcontracts
 - Confidentiality
 - Choice / conflict of laws
 - Notices

Evaluating Private Offers

➤ Past Performance

- Experience with similar projects
- References
- Comparability of contract size, complexity, technical requirements, and contract type
- Timeliness of completion
- Cost control

Evaluating Private Offers

➤ Past Performance

- Bankruptcy filings
- Fines, assessments or penalties
- Judgments or awards in contract disputes
- Contract defaults, or terminations
- License revocations, suspensions, disciplinary actions
- Prior debarments or suspensions
- Denials of prequalification, findings of non-responsibility
- Safety performance data
- Violations of criminal or civil law
- Criminal indictments or investigations
- Legal claims filed by or against the firm

Evaluating Private Offers

➤ Financial Viability

- Request financial information regarding the private entity or consortium team members that includes, if available, the most recent independently audited financial statement, demonstrating the ability to perform the work.
- Non-public firms may request confidentiality.

Performance Monitoring

- A successful monitoring system must
 - Be based on Output Specifications
 - Set unambiguous, measurable performance criteria
 - Focus on objective measurement
 - Link effectively with the payment mechanism
 - Be fair to both parties
 - Be primarily self-monitoring
 - Emphasize service delivery, not measurement
 - Use automated systems, where available

Performance Monitoring

- Monitoring and reporting should be an integrated process, where monitoring feeds into the reporting.
- Reporting at least monthly and annually
- Private Party
 - Monitors problems
 - Monitors problem resolution/failure
 - Records problems and failures
 - Calculates deductions based on the payment mechanism
 - Reports Monthly
- Public Agency
 - Monitors performance and reports problems
 - Carries out performance audits
 - Audits recording process and system
 - Imposes penalties for non-reporting of failures