

P-104 PPP Controls, Corruption, Conflicts and Arbitration



Course Description

In today's business and political environment, developing a well-structured PPP contract can be a challenge. Many PPP projects run into problems and even fail due to a lack of knowledge and advance thinking about the potential pitfalls, renegotiation opportunities, and anti-corruption practices.

This course discusses how to avoid the common pitfalls in the selection of candidate PPP projects, i.e., structuring the project; designing, managing, and adjudicating the contract; managing and implementing the project; and identifying the drivers of renegotiation. The course focuses on how to address corruption and dissuade its use, and how to resolve conflicts and renegotiate contracts. This course provides a platform for learning that will significantly increase the chances for success of PPP programs.

The PPP Controls, Corruption, Conflicts, and Arbitration course examines several real case studies where these problems existed and emphasizes how those situations could have been avoided with a well-designed contract, proper oversight, and appropriate controls.

Who Will Benefit

- National, regional and local government officials
- Contract officers/regulatory commissioners
- Senior officials from PPP or privatization units
- Public service, utility managers, executives and legal experts
- Staff of bilateral and multilateral international organizations
- Legal offices that structure/evaluate PPP contracts

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Learning Objectives

Upon successful completion of this course, participants will be able to:

- Describe a process for choosing PPP candidate projects that can help avoid future pitfalls
- Describe how to avoid the common pitfalls in structuring PPP projects by properly designing and adjudicating the contract
- Evaluate key contract clauses to determine the best fit for the project
- Understand best practices for conflict resolution
- Design a process for project management and implementation that can help avoid future contractual issues
- Identify areas of potential corruption and develop methods to discourage its use
- Identify the drivers of renegotiation and how to provide a platform to discourage and address contract renegotiation
- Employ corruption and control practices and evaluate contract modifications
- Recognize new trends and innovations in PPP programs and projects

Course Offering

Dates September 13-24, 2021
Location Washington, DC Metro Area
Reg. Code P104-210913-I1
CEUs 6.0 | **Tuition** \$5,500

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International Experience in PPPs: Best Practices and Lessons Learned

- Outcomes of PPPs around the world
- New trends and innovations
- PPP case studies and models

Main PPP Contract Pitfalls and Mistakes, and How to Avoid Them:

In Selecting and Evaluating PPP Projects

- Project and portfolio selection
- Evaluation of projects, including risk analysis
- Processes and PPP instruments
- Procurement
- Financing structure
- Renegotiation framework
- Termination issues
- Oversight and regulation
- Unsolicited proposals

In Designing the Contract

- Project procurement plan
- Evaluation of potential bidders
- Technical and financial evaluation criteria
- Performance bonds
- Step-in rights and early termination compensation
- Force majeure
- Economic and other consequences

In Adjudicating the Contract and in the Fiscalization/Regulation of the Project

- Using the concept economic/financial equilibrium
- On-demand traffic/revenues estimates
- Handling needs/request for additional investment in project structure of oversight/regulatory entity
- Project implementation processes, instruments and manuals for overseen project implementation
- Tariff and price cap regulation modalities
- Conflict resolution mechanisms
- Arbitration conflicts
- Unsolicited proposals

Failed Projects and PPP Contract Renegotiation: Evidence, Typology and Tendencies 1995-2018

- Cancellation vs. renegotiation
- Main drivers/causes for canceled (failed) projects
- Renegotiation causes and triggers
- Aggressive bidding
- Renegotiation drivers: faulty contract design
- Costs associated with disputes, conflicts and renegotiations

Evidence, Typology and Tendencies 1995-2018: DRIVERS

- Government actions leading to renegotiation
- Direct/bilateral negotiated concessions
- Price caps and performance standards
- Renegotiation probability
- Renegotiated contract outcomes
- Bypassing investment due diligence

Evidence, Typology and Tendencies 1995-2018: PLATFORM TO ADDRESS THE ISSUE

- How to minimize cancellation & renegotiation
- Effects of renegotiation: the good and the bad
- Platform to control renegotiations: case studies

Corruption and Control Practices: Guidelines for Ex-Ante Controls and Evaluation of PPP Contract Modifications

- Framework and control processes
- Control of the socio-economic and financial evaluation
- Control of the risk and value for money
- Control ex-post: evaluation of contract modifications

New Trends and Innovations in PPP Programs

- Project selection
- Procurement
- Financing and credit enhancements
- New funding sources

Efficient & Effective Framework for Conflict Resolution

- Post-contract award management: managing change
- Types of disputes
- Typical issues leading to disputes
- Cost of conflicts
- Framework for conflict resolution
- Mechanisms for conflict resolution
 - Mediation
 - Conciliation
 - Arbitration
- Contract and final close
- Issues on termination payments
- Issues on compensation
- Dissuading frivolous conflicts
- Expropriation legislation best practices

Become a Certified PPP Specialist

IP3's *PPP Specialist Certification* program provides a core body of knowledge in public-private partnerships, creating a world-class standard in PPP skills development.

Certification requirements include 24 CEUs and successful completion of a PPP Specialist exam.

IP3 is an accredited provider of Continuing Education Units (CEUs) as sponsored by the International Association for Continuing Education and Training (IACET).

