

# Labor / Labour Law & Employment Issues

Full Description

## **Existing Employees of Awarding Authority**

- Are existing employees of the public entity to continue working on the facility that is being outsourced to the PPP company?
- Is it possible to transfer employees to another entity/ contracting party? If not, is it possible to second them to the PPP company? If so, is it possible to establish a clear management command that is workable by the PPP company?
- Is there a legal requirement for consultation with trade unions representing such employees?
- Are existing employees subject to civil service pay and promotion limits? Are there limits on payment of bonuses/ incentives to existing employees? Can such restrictions be removed for the purposes of the project?
- What are pay and benefit arrangements of existing employees?
- Can pension arrangements be transferred to new employee?
- Are there restrictions on making existing employees redundant?
- What happens to these employees on handback of the project? Are there provisions in the law dealing with these issues (for examples of legal provisions covering this, go to Labor Laws).

## **General Labor Law and Employment Issues**

- Do labor laws require employers to provide employees with minimum wage, benefits for social security, medical insurance, vacation and housing and clothing allowances?
- What happens at the end of the contract or if the contract is terminated – will any employees be transferred back (if so, is there a distinction between those employees that were formally with the awarding authority and those that have been employed during the course of the PPP arrangement)?
- Can the contractor release employees/ make them redundant? If not, how is it going to achieve efficiency targets/ get its costs down? If so, what sort of compensation is required by law/ if any? What happens to pensions and other benefits on termination of employment?

- Can employers remove dishonest or bad workers? Is it possible to impose disciplinary procedures?
- Is it possible to introduce bonuses/ incentives that are enjoyed by some but not all workers?
- Are there legal minimum quotas for the numbers of employees that are hired locally/ local residents?
- Do employees have a legal right to join a trade union? What are the rights of the trade unions to strike – is there a possibility of cross-picketing from other sectors? What influence has the trade union have over politicians/ public?
- Should a government consider introducing legislation to protect workers rights in the case of transfers to the private sector? For examples, see Labor Laws.
- Visas for foreign workers – the private sector will often wish to bring in management personnel from overseas. They will need to determine what the best form of entity for representing them will be in order to get through the requirements in relation to personnel, obtaining visas etc. This is key as projects can be delayed if the personnel are not in place at commencement.

## **Further Reading and Resources**

[Contrat de partenariat et gestion des personnels](#), Institut de la Gestion Deleguee, May 2012

For more click on [World Bank/PPIAF Toolkit on Labor Issues in Infrastructure Reform](#).

## **Sample Laws**

England and Wales - [article on Transfer of Undertakings Regulations \(TUPE\)](#).

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