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## **ECONOMIC COMMISSION FOR EUROPE**

### **COMMITTEE ON INNOVATION, COMPETITIVENESS AND PUBLIC-PRIVATE PARTNERSHIPS**

Team of Specialists on Public-Private Partnerships

Seventh session  
London (United Kingdom), 18 June 2015  
Item 3 of the provisional agenda

#### **Developing international standards and best practices in Public-Private Partnerships (PPPs)**

Conference room paper submitted by the Secretariat

#### **Mechanism for Implementation of the Charter on Zero Tolerance to Corruption in PPP Procurement**

##### **Note by the secretariat**

The following paper has been prepared by Scott Walchak, who is leading the process to develop a Mechanism for Implementation of the Charter on Zero Tolerance to Corruption in PPP Procurement and is circulated for information under Item 3 of the annotated provisional Agenda.

The paper incorporates some of the comments made by various experts, and will be further developed and aligned with the Charter on Zero Tolerance to Corruption in PPP Procurement (CRP 2) in the coming weeks.

This paper is being circulated by the secretariat as received.



By way of information, this examiner's checklist would be undertaken and managed by an agency located outside the UN in a member state. The agency would be responsible for the following:

- Hiring the evaluator
- Maintaining liaison with the Government body wanting to be evaluated
- Ensuring and overseeing that the evaluation has been undertaken correctly
- Guaranteeing that the evaluation has been done so that the award of the certificate is a genuine recognition of the achievement of compliance with the Zero Tolerance to Corruption charter

In addition, it is probably assumed but is still to be finalized that this certificate will be given in two stages:

**Stage 1:** The certificate could be seen as Category 1 compliance when the Government agency has agreed to be evaluated, the preliminary engagement has taken place, and at the outset presents no major corruption issues.

**Stage 2:** The certificate could be seen as Category 2 compliance when the government agency satisfactorily meets a sufficient number of the conditions as set out in the document below.

For the moment, we would kindly ask the reviewers to help us operationalize this tool of evaluation by answering the following questions.

This evaluator’s assessment document serves as an evaluation tool to undertake a thorough analysis of the extent to which PPP units and public entities are meeting the conditions laid down in the Charter to Zero Tolerance for Corruption in PPPs. These questions should be read in tandem with a commentary on the questions (which will be finalized in due course).

PPP units/public entities Reviewed:	Review Effective Date:
	Review Commencement Date:
	Review Completion Date:

PPP units/public entities Contact and Address:	Reviewer Name and Address:
PPP Unit Name and Address, if any:	

Resources Relied Upon:
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General Comments or Observations:

Other:

Review Scoring for each question = 0 – Not Applicable or None Demonstrated  
1 – Minimally Demonstrated  
2 – Moderately Demonstrated  
3 – Significantly Demonstrated

As a supplement to this document, evaluators will receive a guideline with information on the scoring system. Individual weights will be assigned to each category of questions, depending on their relative importance in assessing adherence to the conditions laid down in the Charter to Zero Tolerance for Corruption in PPPs.

**A. Underlying Organizational Capability and Human Resources**

General Human Resource	0-3
1. Do the PPP units/public entities have recruitment standards which reflect the broad base of the population and ensure a representative balance (physically challenged, gender, sexual orientation, and representation of minority groups)?	
2. Do the PPP units/public entities have a tracking system to ensure that minorities are given opportunities for development, promotion as well as to participate in training programs?	
3. Do the PPP units/public entities fare well in terms of justifiable and appropriate staff remuneration and working conditions?	
4. Do the PPP units/public entities have recruitment standards which examine employee candidate integrity and incidents of criminal, judicial, or administrative punishment?	
5. Do the PPP units/public entities have recruitment standards which discourage candidates with conflicting interests in the industry in which the PPP unit/public entity is concerned?	
6. Do the PPP units/public entities have in place a clear organizational structure, and separate PPP project functions by area of expertise?	
7. Do the PPP units/public entities have in place a sound set of code of conduct and/ or ethical standards as part of their organizational guideline and solicitation practice (including policy on gifts and 'facilitation payments' when dealing with the private sector or for example controls for when public or semi-public entities participate in the tendering as a proposer)?	
8. Do the PPP units/public entities promote management excellence and integrity in public service?	
9. Do the PPP units/public entities ensure proper dissemination of the code of conduct within all staff members?	
10. Do the PPP units/public entities enforce adherence to the code of conduct by having in place an effective compliance department?	
11. Do the PPP units/public entities have in place a proper grievance handling mechanism and ensure protection for whistleblowers (including a policy on bullying)?	
12. Do the PPP units/public entities use automated or computerized accounting, payroll and PPP processes (including solicitation components that reduce human error or improper influence)?	
13. Do the PPP units/public entities have controls in place to discourage PPP unit/public entity employees being employed by entities awarded PPP contracts?	
Comments:	

Qualification and Track record	0-3
1. Do the PPP units/public entities employ sufficient number of qualified PPP specialists with project transaction experience?	
2. Do the PPP units/public entities have internal technical capacity or the means to retain qualified external assistance to handle specialized PPP matters, including the use of past or current PPP project experience and approaches?	
3. Do the PPP units/public entities exhibit knowledge of International PPP experience or incorporate external international expertise?	
4. Do the PPP units/public entities undertake projects where development bank or other international financial institution standards apply?	
Comments:	

Training and Staff Appraisal System	0-3
1. Do the PPP units/public entities have programs to expand PPP training and knowledge?	
2. Do the PPP units/public entities conduct regular trainings on ethical code of conduct, conflict of interest and receiving gifts policy?	
3. Do the PPP units/public entities include components of ethical code of conduct and conflict of interest in their periodic staff evaluation system?	
Comments:	

## B. Oversight and Creation of a PPP Enabling Environment

Accountability and Transparency	0-3
1. Do the PPP units/public entities use PPP model agreements or templates and exercise clarity in language in all their contract papers and external communications?	
2. Do the PPP units/public entities use transparent and openly communicated approval mechanisms (including the use of clear authority and transparent approval and award processes)?	
3. Do the PPP units/public entities exhibit simplified administrative functions and enforce administrative accountability?	
4. Do the PPP units/public entities restrict civil servants from having interests in proposer entities?	
5. Do the PPP units/public entities ensure proper retention of public records as well as access to these records?	

6. Do the PPP units/public entities enforce a culture of open information: publicize the non-confidential terms and conditions of the contract after selection or award (including a clear articulated basis and finality of award)?	
7. Do the PPP units/public entities examine proposer integrity and require proposers to be non-biased and transparent?	
8.	
Comments:	

<b>Legal and Regulatory framework</b>	0-3
1. Do the PPP units/public entities face rigorous auditing procedures themselves?	
2. Do the PPP units/public entities actively encourage auditing of their own practices?	
3. Do the PPP units/public entities facilitate formulation of PPP laws, regulations and policies to create a more conducive and predictable business environment?	
4. Do the PPP units/public entities work within specific sectors, contracting forms, or other identified scope such that their responsibilities are well defined and they are prone to developing expertise and capacity?	
Comments:	

**C. Technical Capability**

<b>Consultation with the Market</b>	0-3
1. Do the PPP units/public entities publicize the solicitation widely and accessibly, and in a reasonable and timely manner?	
2. Do the PPP units/public entities establish a uniform communication/feedback/negotiation system?	
3. Do the PPP units/public entities ensure formal and ethical consultations with private sector?	
Comments:	



Organization of Competitive Tendering	0-3
1. Do the PPP units/ public entities ensure reduction in PPP procedural vulnerability (e.g. procedures related to unsolicited bids, not allowing for supplemental or amended demonstration of qualifications, confidentiality during the competition)	
2. Do the PPP units/public entities enforce PPP procurement conditions that foster competition (e.g. ensuring secondary competition of shortlisted proposers, using neutral specifications during the solicitation process, avoiding restrictive bid entity structures or localities, etc.)?	
3. Do the PPP units/public entities create a business case for PPPs and evaluate PPP funding opportunities and constraints?	
4. Do the PPP units/public entities have controls in place for incurring financial obligations in the pre-qualification and tendering process?	
5. Do the PPP units/public entities open, compare and evaluate proposals in an open and fair system?	
6. Do the PPP units/public entities mandate substantiated and written evaluation reports?	
7. Do the PPP units/public entities require proposers to make ethical or financial certifications or guarantees?	
8. Do the PPP units/public entities use fair, competent, and unbiased evaluators?	
9. Do the PPP units/public entities use neutral, uniform evaluation criteria, clear invalidation criteria and uniform conformity tests (including substantive evaluation of technical and financial proposals)?	
10. Do the PPP units/public entities have procedural controls in place for issues including i. Proposer negotiations after evaluation ii. Contract entry and execution, iii. Owner and proposer interaction, iv. Proposer change of control during tender	
Comments:	

Consultation with other Stakeholders	0-3
1. Do the PPP units/public entities ensure balanced stakeholder or civic involvement (i.e. public vetting of PPP decisions or approaches)?	
2. Do the PPP units/public entities ensure involvement of an attorney general, public counsel, or other probity or fairness advisor or auditor?	
3. Do the PPP units/public entities carry out consultation with other applicable government entities affected or involved with the PPP project?	
Comments:	