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VIEW ON THE DRAFT UNECE PPP STANDARD IN SUSTAINABLE PROCUREMENT

30 March 2016

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INTRODUCTION

The Standard provides a unified '**feature set**' to procurement of PPP projects whilst maintaining flexibility based on the best procurement practice worldwide to try to overcome known issues which hinder selection of investors which are best fit to handle PPP projects in a way that promotes economy and best available technologies

Specifically tailored to UNECE requirements. Aims to work in parallel with other standards currently in development (including anti-corruption standard)

The Standard covers the following key topics:

- Procurement principles
- Recommendations on governance structure
- Pre-procurement
- Procurement and award
- Remedies and dispute resolution

PRINCIPLES

The Standard's focal principles
(among others) are:

Transparency

Value for Money

Competition and non-discrimination

RAISON D'ETRE

1) Unfair award

2) Bid rigging

3) High costs

4) High
prequalification
requirements

5) Inefficient
mechanism for
protection of
rights

KEY PROBLEMS AND PROPOSED SOLUTIONS

Unfair award

- **Evaluation methodology** should be evident from RFPs and must be disclosed to all prospective Bidders from the outset of the procurement process
- Evaluation criteria should aim at assessing bids to ensure that **technical and financial parts of proposals satisfy the Value for Money test**. Emphasis should be on **technology**
- All bidders should provide a **concise description of their respective technical proposal** (retaining confidential information if bidders so prefer) as a component of their Bids
- This brief description to be reviewed **by a technical expert**. The expert should publish descriptions received along with the expert's evaluation report based on the full content of technical proposals
- **Identity of preferred bidder and excerpts from bidders' financial proposals** shall be disclosed too
- With exception to confidential technical sections, the draft PPP agreement shall be made available for non-winning bidders review

KEY PROBLEMS AND PROPOSED SOLUTIONS

Bid rigging

- It is advisable that national legislation treats **“bid rigging” as a criminal offence**
- Companies **affiliated with procurement authorities shall not participate** in tenders

High costs

- Security requirements shall not exceed **a threshold established by local law**
- Bidding documents should **enable Bidders to choose from a set of two or more types of security**
- A set **proportion of non-winning Bidders' reasonable costs** associated with presentation of their Bids must be compensated by preferred bidder or by bidding authority (in the latter event if a procurement is terminated)
- For high profile / cost PPPs the Standard provides instruments for authorities to limit competition to a minimum of 4 bidders selected from a range of best qualified candidates ready to participate in a bid

KEY PROBLEMS AND PROPOSED SOLUTIONS

High prequalification requirements

- Procurement rules shall not in any way discriminate **foreign companies** and individuals: foreign bidders shall not be required to set **up a local branch or subsidiary or to have local tax residence to participate in tender**
- **Deadlines for Bid submission** shall be reasonable
- For lower profile Projects, the **PQ stage shall be avoided to enable newcomers to win and 'earn experience points'**

Inefficient mechanism of rights protection

- Establishment of **special fast track dispute resolution procedure** (e.g. in a form of mediation)
- Special **independent PPP adjudication** board to be formed (formed of experts from the national PPP unit)
- Decisions taken in the course of fast track dispute resolution process **shall be binding** but may be challenged in courts

WHY THE PPP PROCUREMENT STANDARD IS IMPORTANT

The Standard will target **developing and newly developed countries**, giving them **important legislative guidance for a more transparent and investor-friendly** approach to PPP procurement

Particularly, the Standard can become a great tool for **unifying the best PPP procurement principles in Russia, CIS- and Former Soviet Union countries** which currently face economic problems

The PPP Procurement Standard will provide a set of such recommended instruments which will help to maintain **atmosphere of trust** between governments and investors

In many countries there is **strong political will to support infrastructure projects**, the PPP legislation is under active development and there is a **high potential for private investments**

The bottom line is to facilitate economic growth through PPPs



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