



Economic Commission for Europe

Draft

UNECE Declaration on a Zero Tolerance Approach to Corruption in Public-Private Partnership Procurement

(May, 2018)

Summary Note

The following document consists of a Draft Declaration on a Zero Tolerance Approach to Corruption in PPP Procurement.

At the Working Party on PPPs held in November 2017, the Working Party requested the secretariat to work with the Bureau to review and finalise the Draft Declaration on ZTC (ECE/CECI/WP/PPP/2017/CRP.3).

The Bureau met in January 2018 and decided to set up a working group to review the Draft Declaration and make recommendations to the Bureau and the Working Party for their consideration and decision. The version was presented in March 2018 at the Committee on Innovation, Competitiveness and Public-Private Partnerships (CICPPP).

The CICPPP encouraged the Bureau of the Working Party and the secretariat to continue with their consultations with member States and other stakeholders on the draft Declaration on ZTC.

We encourage participants to the Forum to send us their comments by 31 May 2018 (ppp@un.org). The secretariat will finalise the draft and submit it to the Bureau in June 2018.

The final version will be submitted to the Working Party (November, 2018) and the Committee (March, 2019) for endorsement and adoption.

Once adopted, the Declaration will be promoted for voluntary implementation¹ in countries.

This Draft Declaration is submitted to the Forum for information.

¹ The UNECE PPP standards, guiding principles, best practices, declarations and recommendations are adopted by acclamation by the UNECE intergovernmental bodies – the Working Party on PPPs and the Committee on Innovation, Competitiveness and PPPs – and do not impose any obligations on member States as their implementation is entirely voluntary.

Fully mindful of the challenges we face as public officials and stakeholders to the provision of public services and public good, we acknowledge the:

- Magnitude of economic and social development that will be required, including the massive sum of financing and increased public sector capacity that will be needed, to meet the United Nations Sustainable Development Goals (UN SDGs);
- Unique contribution which PPPs, and ‘People-first’ PPPs specifically, can make to the achievement of these Goals;
- Risk that corruption left unchecked will demean our best efforts, compromise our officials and systems, and put in jeopardy all that we are striving for in SDG 16 and 17 and the ambitions of the SDGs as a whole;
- Importance of fully supporting a zero tolerance approach to corruption in PPP procurement as outlined in the UNECE PPP standard; and
- Wish to make publicly, openly, and solemnly 19 commitments that will guide our actions and help to put an end to corruptive practices once and for all.



We namely commit to:

Undertake a Competitive Tender

1. To Conduct wherever possible an open, transparent, and fair competitive tender for projects in accordance with applicable law.

Comply with Laws and a Code of Ethics

2. To Fully Comply with all pertinent laws and regulations, avoid conflicts of interest, ensuring that bidders and all other involved parties do the same, and encourage all bidders to have their own code of ethics and internal anti-corruption practices.

Avoid Conflicts of Interest

3. To Stop conflicts of interest and shed light on all types of ‘hidden’ relationships, connections, and personal interests throughout project identification, preparation, procurement, and implementation that may allow persons or institutions to exert improper influence or obtain improper gain from public projects.

Disclose Full Information

4. To Proactively Disclose, clear, complete and meaningful information throughout project identification preparation, procurement, and implementation; make use of relevant modern technologies to organize and disseminate project information, and be available, open and responsive to enquires by citizens, the media, auditors, and other stakeholders.

Coordinate Effectively and Improve Decision Taking within Governments

5. To Establish and Empower PPP units and other relevant administrative bodies such that clear chains of decision making are established that are independent, delineated, and complement each other, providing efficiency, sufficient oversight on approvals and other checks and balances on the PPP decision making process.

Hiring Consultants and Experts

6. To Ensure that advisors on projects are retained through a transparent process and based upon their track record for providing unbiased professional advice; committed to the principle of people first PPPs and prevented from influencing the decision making process in favour of their own commercial interests; engaged such that payment to them must not affect the advisor's independence and professional judgement with success fees not encouraged; proactive in avoiding situations that compromise their role; and required to disclose any interests that might be in conflict with their independent professional advisory role.

Whistle-blowing

7. To Protect all persons who have the courage and desire to come forward with information about abuse of power or malfeasance in the process.

Unsolicited Proposals

8. To Treat with caution all proposals that are not initiated by public authorities and go forward with the same only after using an open, transparent and fair competitive tender.

Tender Notices and Bidding Document

9. To Encourage maximum competition amongst bidders through sufficient and consistent information sharing, and require a minimum number of tenders to be received.

Pre-Qualification Process

10. To Create fair and non-onerous conditions that encourage participation amongst potential bidders being mindful of the risks to the competitive process arising from complicated or costly procedures that would create barriers to entry.

Dialogue-based PPP Procurement

11. To Maximise the benefits from available procurement procedures to achieve the best possible deal for the public, while protecting against opportunities for abuse of the process, corruption, and/or collusion arising from those approaches.

Confidentiality and Maintenance of Information

12. To Protect and Preserve the competitive environment of the tender including the confidentiality, integrity and safe custody of information and documents related to the proprietary interests of individual bidders.

Tender Evaluation Committee

13. To Appoint the right people to evaluate submissions, commit each and every member to a code of ethics and standard of behaviour in the carrying out of their responsibilities, and remove those that do not comply.

Integrity and Fairness Mechanisms

14. To Establish and Strengthen systems of checks and balances including auditing functions such that the process from project identification through implementation is fair and transparent and demonstrates that the Government is carrying out its responsibilities according to the highest standards of integrity.

Bonus (Premium):

15. To cautiously Regulate the use of bonuses or providing other incentives that increase the risk of corruption, e.g. during the financial closure of the contract.

Embed ZTC in PPP Contracts

16. To Develop standard clauses on disclosure, transparency, accountability and anti-corruption arising from the UNECE ZTC standards and encourage contracting authorities to include the same in all PPP related contracts.

Concluding remarks and follow-up

Our support for these commitments is strong and ongoing and we wish to pursue the following actions that will demonstrate, mobilize, and further our support for this Declaration and its intents.

Demonstrating Support

17. To Adhere to this Declaration by sending a communication to the UNECE that will list all adherents to the Declaration on its website. This is open to all governmental entities responsible for PPP activity at national, regional and sub-regional levels.

Contributing Materials to Increase our Knowledge

18. To Send to the UNECE information on experiences of corruption and the areas where there are special risks of corruption in PPP and contribute to the collection and incorporation of this information into a “typology of corruption in PPPs” that can be used, *inter alia*, as a training module for further capacity building in this area.

Training and Capacity Building

19. To Undertake the necessary training and capacity building within our systems to successfully implement our intentions expressed herein and the UNECE Standard on a Zero Tolerance Approach to Corruption in PPP Procurement.

Implementation

20. To Consult with stakeholders on how best to implement the Declaration and UNECE ZTC Standards.

21. To Organize informal meetings for government officials, including from different countries to discuss corruption issues and how to overcome them effectively.
