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## Economic Commission for Europe

### Committee on Innovation, Competitiveness and Public-Private Partnerships

#### Ninth session

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Item 6(b) of the provisional agenda

#### Implementation of the programme of work since the eighth session of the Committee on Economic Cooperation and Integration

## Process for developing international standards for Public-Private Partnerships<sup>1</sup>

### Note by the secretariat

At its sixth session on 23 and 24 June 2014, the Team of Specialists on Public-Private Partnerships (TOS PPP) agreed a document that defines the process for developing international standards for Public-Private Partnerships (PPPs), a template for project proposals, a template for PPP sectors, and the Intellectual Property Rights Policy (IPR Policy) for PPP experts working in project teams (document: ECE/CECI/PPP/2014/2)<sup>2</sup>. These documents are submitted to the Committee on Innovation, Competitiveness and Public-Private Partnerships (CICPPP) for consideration and approval.

## I. Introduction

1. The present document contains the process for developing international standards in PPPs, the project proposal template, the template for PPP sectors, and the Intellectual Property Rights policy for PPP experts working in Project Teams involved in the development of PPP standards. These documents have been discussed and endorsed by the TOS PPP at its sixth session, held in Geneva on 23 and 24 June 2014.

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<sup>1</sup> The document has been submitted on the above date because of the need to correct an error in the meeting dates in the version submitted previously.

<sup>2</sup> The documents can be found at <http://www.unece.org/index.php?id=35048>.



## **II. Process for developing international standards in PPPs**

2. This section presents the process through which PPP standards and/or recommendations are developed. This is referred to as the “Open and Transparent Standard Development Process” (OTSDP). Through this process, all stakeholders will be given opportunities to contribute throughout the UNECE PPP standard development process. The guiding principles under which PPP standards are developed are:

- (a) a process led by member States who make the final decisions for approval;
- (b) the active participation of the private sector and other stakeholders; and
- (c) support for the emerging Sustainable Development Goals (SDGs).

3. The seven stages of the Open and Transparent Standard Development Process are described below.

### **A. Project initiation**

4. A “project” (i.e. the preparation of a UNECE standard in a mandated sector or process) officially starts when the project proposal has been approved by the Bureau of the TOS PPP, and it has received explicit support (written expressions of support or oral interventions during TOS PPP sessions) of at least three Governments. The Bureau of TOS PPP can approve a project proposal in-between sessions of TOS PPP, as long as the proposal is supported by at least three Governments. The Project Proposal must include the purpose, a clearly defined scope, a list of deliverables, geographical focus (which is ‘global’ by default), a list of team members including the Project Leader (where appropriate), resource requirements, and an estimated development schedule including the final submission of the deliverable(s) for approval (see project proposal template in section III). The Bureau of TOS PPP will report regularly to the TOS PPP on projects approved and under development.

### **B. Stakeholder mobilization**

5. Once a project proposal is approved, the UNECE secretariat will start mobilizing a network of key stakeholders in order to set up a Project Team to prepare the draft of the standards. Project Leaders are also encouraged to name one or more Editors to assist the Project Leader in his or her work. If there is no Editor, the responsibility for project drafting and the recording of comments and responses to comments will fall upon the Project Leader. All participants in the Project Team must agree to the intellectual property rights policy contained in section V. The UNECE secretariat provides administrative and technical support to the Project Teams tasked with developing an initial draft of the standard.

### **C. Developing the initial draft**

6. The first project draft, using the project template in section III, will be prepared by the Project Team and it will be reviewed by the PPP Business Advisory Board (BAB). Following feedback from the BAB the draft will be circulated for a public review. Before the public review stage, the UNECE secretariat will invite key stakeholders for their feedback on the initial draft, including other UN Regional Commissions and international organizations such as the World Bank, the ADB, the EBRD, the EIB/EPEC, the OECD,

UNCITRAL, UNCTAD, IPFA, and CICA (key stakeholders). Sufficient time, not exceeding one month, will be given for input from the BAB and key stakeholders.

7. The involvement of the private sector in the process is crucial considering its vast expertise and knowledge on PPP projects in different countries.

#### **D. Public review**

8. After taking into account the feedback received from all key stakeholders the UNECE secretariat will place the draft of the standard on the UNECE website for a 60 day period. A notification that the draft is available for public review, with the deadlines and description of the public review process will be sent to all TOS PPP and CICPPP delegates as well as their networks of experts.

9. The draft standard needs to be inclusive, representing the general interests of the largest possible number of countries and stakeholders. Therefore, all the comments received during the public review stage need to be taken into account by being properly logged in and registered, with the Project Team's responses, on a public website.

10. If significant changes are made to the draft as a result of comments made during the public review, then the revised standard must be posted again for public review, for an additional 30 days. This cycle should be repeated as many times as is necessary for developing a consensus standard of high quality. The definition of "significant" is to be decided by the Project Team, in consultation with the TOS PPP Bureau and the secretariat.

#### **E. Endorsement**

11. Once the public review is over, the Project Team, through the UNECE secretariat, will submit the draft standard to the TOS PPP Bureau for review and endorsement. The TOS PPP Bureau will either endorse the draft or identify the next steps for the Project Team. If endorsed by the TOS PPP Bureau, the draft standard will be sent to the TOS PPP for its review with a recommendation for endorsement.

#### **F. Approval**

12. The final draft will be reviewed by TOS PPP and if endorsed, the draft will be submitted to CICPPP to validate that all the stages have been carried out. After this stage, the document can be published for distribution and voluntary implementation by member States.

#### **G. Maintenance and Implementation**

13. After publication, the recommendations/standards can be reviewed to take into account new developments. Guidelines for maintenance and implementation procedures will be prepared by the Bureau of TOS PPP. The UNECE PPP Business Advisory Board is mandated to assist countries, upon request, to implement the standards.

### **III. Project Proposal Template**

14. This section contains a template for a project proposal, which is a short document that describes a concept that will lead to a PPP 'standard' and will be developed by a

Project Team. The Project Proposal must include the purpose, a clearly defined scope, a list of deliverables, geographical focus (which is 'global' by default), a list of Project Team members (where appropriate), resource requirements, and an estimated schedule for developing the final deliverable.

(a) Project Name

(b) Project purpose

15. The purpose of the project is to develop a UNECE standard on... [what does the Project Team aim to achieve]

(c) Project scope

16. The scope of the project is... [what is included and what is excluded in the proposed project]

(d) Project deliverables

17. The project deliverables are:

[name of deliverable 1] – [description of deliverable 1]

[name of deliverable 2] – [description of deliverable 2]

(e) Geographical focus

18. The focus is global.

(f) Project Team membership and required functional expertise

19. Membership is open to experts with broad knowledge in the area of [...] and especially in low and middle income countries.

(g) Resource requirements

20. Participants in the project shall provide resources for their own participation. The existence and functioning of the project shall not require any additional resources from the UNECE secretariat.

(h) Timetable

21. Detailed description of key milestones with dates from project initiation to submission for approval by the intergovernmental process.

#### **IV. Template for PPP Sectors <sup>3</sup>**

22. This section contains a template to be used for all PPP sectors and sub-sectors. The Template for PPP Sectors consists of a model PPP project that has been developed on the basis of an analysis of best practices from case studies (good and bad) and experience. It contains information that public sector officials at all levels – and especially in countries that lack a track record in PPP – ask for, or need to know, when evaluating PPP options. This template was developed and used by the TOS PPP when providing advice to the United Nations Office at Geneva on the feasibility of using PPPs for the renovation of the

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<sup>3</sup> The Template only refers to PPP sectors (health, water and sanitation, renewable energy) and not to PPP processes (procurement, risk allocation, policy). This template will be adapted by the secretariat in consultation with the Project Teams and the Bureau to accommodate specific processes.

Palais des Nations (see study<sup>4</sup> prepared in May 2013 by the UNECE secretariat under the auspices of the TOS PPP Bureau).

- (a) Acknowledgements
- (b) Background and Purpose
- (c) Executive Summary
- (d) Section 1: Evaluation and Analysis of the PPP Models in [a Sector]
  - i. Recent international trends in the use of PPP in [a Sector]
  - ii. Advantages and disadvantages of the various PPP models in [a Sector]
  - iii. The PPP model chosen for [a Sector]
- (e) Section 2: Feasibility of the PPP Model within different Socio-Economic Contexts
  - i. Legal perspective
  - ii. Business case using the ‘Five-Case Models’ framework<sup>5</sup>
- (f) Section 3: Optimal Allocation of Risks
  - i. Risk matrix
- (g) Section 4: Financing Model
  - i. Sources of funding
  - ii. Payment agreements
- (h) Preliminary Recommendations and Conclusion
- (i) Annexes
  - i. Comparison table of the different PPP models
  - ii. Relevant literature

## V. Intellectual Property Rights Policy governing the development and use of UNECE PPP Standards

23. This section contains the IPR Policy agreed by the TOS PPP and cleared by the United Nations Office of Legal Affairs (OLA) in New York.

### A. Background

24. It is an important UN principal that its work must be made available for use by member States free of charge. The guiding principle under which PPP standards are developed is that the main beneficiary of the standards and recommendations are the

<sup>4</sup> The study is available at:  
[http://www.unece.org/fileadmin/DAM/ceci/documents/ICoE\\_PPP/ICoE/Report\\_PPP\\_option\\_for\\_PdN\\_FINAL.pdf](http://www.unece.org/fileadmin/DAM/ceci/documents/ICoE_PPP/ICoE/Report_PPP_option_for_PdN_FINAL.pdf).

<sup>5</sup> The Five Case Model comprises the Strategic Case, the Economic Case, the Financial Case, the Commercial Case and the Management Case. It was first developed by the United Kingdom and its use has spread to other countries.

member States. Intellectual Property Rights (IPRs), mainly copyright, are generated throughout the development of PPP standards, third party IPRs may also be used, and this IPR Policy is aimed at managing the use and ownership of this IPR.

## **B. UNECE PPP standards as public goods**

25. In order to promote the widest adoption of the PPP outputs, they can be implemented freely and without any restrictions. The Bureau of the TOS PPP will not recommend the approval of a standard if it is aware that third parties' IPRs exist in the draft standard or other output that are not freely available for use without any restrictions.

## **C. Intellectual Property Ownership and Waiver**

26. All new intellectual property generated throughout the development of the PPP standards belongs to the UNECE. As a condition for participating in the Project Teams, Project Team members agree to waive their rights to enforce any prior IPRs used in the PPP standards and other outputs against any party using the standard or output.

## **D. Transparency and Confidentiality**

27. The UNECE and the members of the Project Teams have no duty of confidentiality with respect to any information transferred between them. No information transferred that is subject to any requirement of confidentiality or any restriction on its dissemination will be considered for inclusion in any part of the PPP Open Standard Development Process, and there must be no assumption of any confidentiality obligation with respect to any contribution.

## **E. Disclaimer**

28. The following disclaimer must be included in the publication, on the website and in any other form of presentation of UNECE PPP outputs covered by the IPR Policy.

29. The UNECE draws attention to the possibility that the practice or implementation of its outputs (which include but are not limited to standards, recommendations, norms, guidelines and technical specifications) may involve the use of a claimed intellectual property right. Each output is based on the contributions of participants in the PPP standard development process, who have acknowledged that all new intellectual property rights generated belongs to the UNECE and have also agreed to waive enforcement of their existing intellectual property rights used in the PPP standards against any party using the outputs.

30. The UNECE takes no position concerning the evidence, validity or applicability of any claimed intellectual property right or any other right that might be claimed by any third parties related to the implementation of its outputs. The UNECE makes no representation that it has made any investigation or effort to evaluate any such rights.

31. Users of UNECE PPP outputs are cautioned that any third-party intellectual property rights claims related to their use of a UNECE PPP output will be their responsibility and are urged to ensure that their use of UNECE PPP outputs does not infringe on an intellectual property right of a third party.

32. The UNECE does not accept any liability for any possible infringement of a claimed intellectual property right or any other right that might be claimed to relate to the implementation of any of its outputs.

## **VI. Conclusion**

33. The Team of Specialists agreed at its sixth session to submit document that defines the process for developing international standards in PPPs, a template for project proposals, a project template for PPP sectors, and the Intellectual Property Rights Policy for PPP experts working in project teams for consideration and approval by the CICPPP.

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