

Annex 1: Engagement context — Key information for a pillar assessment

ENTITY ASSESSMENT	SUBJECT TO	Organization for Security and Co-operation in Europe (OSCE)
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PILLAR	PILLAR SUBJECT TO ASSESSMENT ⁽¹⁾
1 INTERNAL CONTROL	NO
2 ACCOUNTING	NO
3 EXTERNAL AUDIT	NO
4 GRANTS	YES
5 PROCUREMENT	NO
6 FINANCIAL INSTRUMENTS ¹	N/A
7 EXCLUSION FROM ACCESS TO FUNDING	YES
8. PUBLICATION OF INFORMATION ON RECIPIENTS	YES
9. PROTECTION OF PERSONAL DATA	YES

(1) The entity should state here YES or NO to indicate whether the pillar is subject to assessment.

Pillars 1, 2, 3, 7, 8 and 9 are always subject to assessment².

Pillars 4 to 6 may be subject to assessment, depending on the nature of the budget implementation tasks to be entrusted.

¹ The reference to ‘financial instruments’ is deemed to also include budgetary guarantees.

² In the exceptional case that neither the rules and procedures for grants, nor for procurement nor for financial instruments are assessed (i.e. none of the pillars 4 to 6), there is no need to assess the rules and procedures for exclusion and publication (i.e. pillars 7 and 8).

- **The legal and regulatory framework**

OSCE's legal and regulatory framework is principally set forth in its Common Regulatory Management System (CRMS), including in particular – with respect to Pillar 4 – Financial and Administrative Instruction 15 Management and Administration of Implementing Partners (FAI 15), together with other financial and administrative regulations, rules, and policies as applicable.

- **Grants principles, covering in particular measures to avoid conflicts of interest throughout the grants award process**

Provisions and measures in place to prevent non-compliant use of the sub-delegated resources, fraud, or conflicts of interest in the area of IP management, include the following:

- 1) *FAI 15, Annex A Certificate of Compliance* for Potential IP..
- 2) *FAI 15, Annex A1. Certificate of Compliance for Sub-Contractors*
FAI 15, Annex B Due Diligence Check List serves to further disclose conflicts of interest as defined in FAI 14 'OSCE Fraud Prevention and Detection Policy';
The aforementioned checklists comprise a mandatory part of the Implementing Partner Agreement (IPA) approval package.
- 3) FAI 15, Annex F Declaration of Impartiality, Confidentiality and No Conflict of Interest Panelist for selection of an Implementing Partner.

- **Types of grants used**

The OSCE does not use term "grants", but it has an operation modality under which it may transfer unified budget (UB) and Extra-Budgetary (ExB) funds to an Implementing Partner (IP) to carry out a project or a component of a broader project, by undertaking the day to day management of a project or its component, including the management of funds and human resources, planning and execution of project activities, self-evaluation and monitoring of its activities. Business processes related to the IP management modality are principally regulated by Financial Administrative Instruction (FAI) 15 *Management and Administration of Implementing Partners*. The instruction provides all executive structures and relevant officials with instructions on engagements with Implementing Partners (IPs) and how to use them in a manner that promotes transparency, service quality and accountability.

The FAI is part of the OSCE Common Regulatory Management System (CRMS) established by PC.DEC/705 on 1 December 2005.

The types of entities that may qualify as IPs include:

- Ministries and other entities of the host government;
- Non-governmental (not for profit) organizations;
- Public institutions (i.e. publicly funded entities used and operated for public purposes, including educational institutions); and
- UN agencies and other public international organizations.

The aforementioned types of entities may be used to perform two major roles:

- 1) A *project implementer* under a *standard implementing partnership arrangement* where IP is engaged only for services that entail project implementation activities that the OSCE cannot do itself. In this case an IP may be used to implement a project or a component of a broader project, by undertaking the day to day management of a project or its component, including the management of funds and human resources, planning and execution of project activities, self-evaluation and monitoring of its activities.
- 2) A *primary project beneficiary* and participant of *capacity building*. Capacity building activities should be carefully designed and monitored to ensure that they are actually achieving the desired results and that they contribute to the overall achievement of the OSCE Programme objectives and outcomes.

- **Organisation (tasks and responsibilities)**

Under the CRMS, including OSCE Financial Regulations, Fund Managers have overall responsibility, authority and accountability for the management of the resources entrusted to them and implementation of their Fund's programmes. Under authority delegated by the Fund Manager, Main Programme Managers (MPM) and/or Programme Managers (PM) are responsible for managing and implementing programmes and projects.

The engagement of the IP is subject to dual approval by the PM and Chief of Fund Administration (CFA). The PM describes and approves the programmatic rationale for using an IP, for both the standard implementing partnership arrangements and capacity building, and monitors IPs' performance. The CFA confirms which administrative and financial requirements must be met if the project is to be carried out, helps identify and record the due diligence to be undertaken, ensures compliance with the CRMS, and ensures that the required administrative and financial requirements have actually been met.

To that end, PMs are responsible to ensure that IPs engaged in OSCE project implementation have sufficient capacity to achieve project objectives; they are responsible for conducting unscheduled programmatic and financial monitoring visits; for checking the expected project outputs are actually delivered and that the relevant documentary proof is obtained and retained in the IP file.

It is a joint responsibility of the PM and CFA to ensure relevant control mechanisms for mitigating the fraud risks related to the engagement of IPs are in place and working.

- **Documentation and filing of the grants process**

Documentation of the IP engagement in the OSCE is a primary responsibility of the PM. For that purpose a project file has to be maintained in the OSCE records management system.

The project file shall in general contain:

- 1) Project proposal with the justification for engaging an IP that shall be an integral part of the project proposal;
- 2) Justification for non-competitive selection (in case IPA is below EUR 10,000)
- 3) In case, IP is subject to competitive selection, all the public call or competitive process related documentation: ToR, applications, section report, Annex F Declaration of Impartiality, Confidentiality and No Conflict of Interest Panelist for the selection of an Implementing Partner;
- 4) Interim and final financial and narrative reports by the IP;
- 5) Minutes of the monitoring visits;
- 6) Post-project assessment form;
- 7) Any other relevant documentation.

In the cases where an IP is authorized to carrying out procurement, the IP shall retain all original supporting documentation, in relation to procurement, including but not limited to the Request for Quotation (RFQ), technical evaluation report (if applicable) and offers, providing the transparency and competitiveness of the procurement process.

The IP is required to retain all original supporting documentation, including invoices and receipts, for a period of seven (7) years, or longer period if required by the donor of an ExB project, and make the documentation available for legal and tax reasons and to the OSCE for audit, review or verification at any time during this time period upon request.

- **Grants procedures, including:**

- **publication of call for proposals**
- **submission of proposals**
- **security and confidentiality of proposals**
- **receipt, registration and opening of proposals**

- **selection and evaluation procedures**
- **awarding of grants**
- **notification and publication**
- **grant agreements and contracts.**

The rules and provisions for competitive selection are set forth in FAI 15 with consideration for the funding amount/value in questions as well as other factors such as the type of organization and purpose of the funding.

The competitive selection process for the selection of IPs includes the following requirements:

- Preparing by the PM appropriate general terms of reference based on the overall project goals and objectives, taking into account the executive structure mandate and assessing the risks and potential liabilities likely to be assumed by the OSCE;
- Defining selection criteria by the PM;
- An advertisement process designed by the PM and CFA to attract a variety of potential qualified partners, and include posting of the opportunities on the OSCE website and other relevant platforms (including newspapers) to ensure maximum reach and transparency and allow sufficient time for the IP to prepare a proposal;
- Short listing the top candidates by the PM and CFA;
- Detailed review of the proposals and/or interviews of the top candidates conducted by a selection panel which should consist of respective programmatic staff and shall include at least one member of the Fund Administration Unit (FAU);
- Documenting the basis for the selection panel's decision in a selection report prepared and signed by all the panel members.

The chosen candidate should be the one best able to achieve the project objectives both programmatically and in terms of cost effectiveness, and the PM and CFA shall ensure that the candidate satisfies the due diligence criteria. The ultimate decision in selecting an IP must take into account both programmatic and administrative factors.

Standard IP agreement

There is a standard IPA template in OSCE, which serves as the basis of negotiations with an IP. Any material deviation from the standard IPA require relevant internal clearances.

- **The legal and regulatory framework**

OSCE's legal and regulatory framework is principally set forth in its Common Regulatory Management System (CRMS), including in particular – with respect to Pillar 7 – Financial and Administrative Instruction 6 – Procurement (FAI 6), Financial and Administrative Instruction 15 Management and Administration of Implementing Partners (FAI 15), and the Procurement and Contracting Manual (PCM) together with other financial and administrative regulations, rules, and policies as applicable.

Financial and Administrative Instruction 6 (FAI 6) contains the OSCE's general procurement and contracting policies and procedures. It is the responsibility of the Chief, Procurement and Contracting Unit (C/PCU) to provide common interpretations and clarifications on its application. For this purpose, C/PCU issued the Procurement and Contracting Manual (PCM). The PCM not only explains the policies and procedures in detail, it also includes guidelines, examples and templates.

- **Exclusion criteria.**

All procurement and contracting using extra-budgetary funds is done according to OSCE procurement rules, which require due diligence procedures sufficient to exclude from funding recipient organizations that practice or engage in any form of terrorism, discrimination, intolerance or other human rights violations. The OSCE Financial/Administrative Instruction 6 on Procurement and Contracting further requires the OSCE to make sure that all suppliers doing business with the OSCE accept the OSCE General Conditions of Contract and the OSCE Supplier Code of Conduct. Both documents provide that OSCE suppliers not be implicated in any practices that are incompatible with the mandate of the OSCE as an international intergovernmental organization. Where donor requirements dictate that its funds are not received by entities or individuals on national or other sanctions lists, the OSCE implements such requirements by adjusting tender documentation and OSCE standard contractual terms as applicable.

Furthermore, whenever the OSCE accepts extra-budgetary contributions and a donor agreement contains any specific conditions as to their use, the OSCE implements and honors such contractual obligations. The Organization's implementation of these obligations may in certain instances include "cascading" such donor requirements down to the Organization's contractors and implementing partners.

The OSCE General Conditions of Contract and the OSCE standard Implementing Partner Agreement both contain a prohibition on sub-contracting without the OSCE's express written consent. They further place an obligation on OSCE contractors and implementing partners, whenever sub-contracting is authorized by the OSCE, to "cascade" down all contractual terms with the OSCE so that they apply to the sub-contractors. In this way, the OSCE retains control not only over sub-contractor selection, but also, where sub-contracting is authorized, ensuring that such entities are bound by the contractual terms that the OSCE has in place with the principal contractor or implementing partner.

An IP shall be selected to implement a project or project activities under the standard implementing partnership arrangement on the basis of its ability to perform activities, where OSCE staff lacks sufficient resources or expertise. In case of capacity building, where an IP is the main beneficiary of the project activities, the IP is exempt from the competitive selection process in line with the limits specified in the table below. In addition to a mandatory due diligence process aimed at providing assurance to the PM and CFA of the capacity of the IP to administer and properly account for the funds received and perform the tasks entrusted.

The types of entities that may qualify as IPs include:

- Ministries and other entities of the host government;
- Non-governmental (not for profit) organizations;
- Public institutions (i.e. publicly funded entities used and operated for public purposes, including educational institutions); and
- UN agencies and other public international organizations.

The aforementioned types of entities may be used to perform two major roles:

- 3) A *project implementer* under a *standard implementing partnership arrangement* where IP is engaged only for services that entail project implementation activities that the OSCE cannot do itself. In this case an IP may be used to implement a project or a component of a broader project, by undertaking the day to day management of a project or its component, including the management of funds and human resources, planning and execution of project activities, self-evaluation and monitoring of its activities.
- 4) A *primary project beneficiary* and participant of *capacity building*. Capacity building activities should be carefully designed and monitored to ensure that they are actually achieving the desired results and that they contribute to the overall achievement of the OSCE Programme objectives and outcomes.

The engagement of the IP is subject to dual approval by the Programme Manager (PM) and CFA. The PM describes and approves the programmatic rationale for using an IP, for both the standard implementing partnership arrangements and capacity building, and monitors IPs' performance. The CFA confirms which administrative and financial requirements must be met if the project is to be carried out, helps identify and record the due diligence to be undertaken, ensures compliance with the CRMS, and ensures that the required administrative and financial requirements have actually been met.

To that end, PMs are responsible to ensure that IPs engaged in OSCE project implementation have sufficient capacity to achieve project objectives; they are responsible for conducting unscheduled programmatic and financial monitoring visits; for checking the expected project outputs are actually delivered and that the relevant documentary proof is obtained and retained in the IP file.

It is a joint responsibility of the PM and CFA to ensure relevant control mechanisms for mitigating the fraud risks related to the engagement of IPs are in place and working.

- **Procedures. State in particular if the aspects listed above are covered in the procedures and how they are applied.**

All OSCE officials participating or involved in any aspect of the procurement and/or contracting process must adhere to the highest ethical standards at all times, and shall strictly abide by the OSCE Code of Conduct attached to the Staff Regulations and Staff Rules, FAI 14, OSCE Fraud Prevention and Detection Policy, and all other obligations stipulated in the CRMS (Common Regulatory Management System).

- **The legal and regulatory framework;**

OSCE's procurement legal and regulatory framework is included in the CRMS (Common Regulatory Management System) and includes FAI 6 (Financial and Administrative Instruction – Procurement) along with the Procurement and Contracting Manual (i.e. interpretation of the FAI6), Financial and Administrative Instruction 15 Management and Administration of Implementing Partners (FAI 15) and other financial policies and rules as applicable.

FAI 6 contains the general procurement and contracting policies and procedures which the OSCE participating States have approved. It is the responsibility of the Chief, Procurement and Contracting Unit (C/PCU) to provide common interpretations and clarifications on its application. For this purpose, C/PCU issues the Procurement and Contracting Manual (PCM). The PCM not only explains the policies and procedures in detail, it also includes guidelines, examples and templates.

- **Requirements for publication. State in particular if the following aspects are covered in the procedures and how they are applied:**

All awards of contracts above EUR 50,000 are published on the OSCE website and on the exceptional basis, lower amounts could be also published as per OSCE Procurement and Contracting Manual (PCM), Debriefing of Vendors.

For implementing partners, according to FAI 15, an advertisement process designed by the PM and CFA to attract a variety of potential qualified partners, and include posting of the opportunities on the OSCE website and other relevant platforms (including newspapers) to ensure maximum reach and transparency and allow sufficient time for the IP to prepare a proposal. For IPAs exceeding EUR 50,000 and for all high risk projects, the period of advertisement must be a minimum of three weeks.

- **name, locality, nature and purpose, amount;**

According to OSCE Procurement and Contracting Manual (PCM), Debriefing of Vendors, the name of the contractor, a short description of the goods/services, the total or aggregate award and the contract duration are posted on the OSCE website.

- **timing;**

OSCE publishes the information annually.

- **means of publication.**

Advertisement of requirements are published OSCE websites, the UN Global market website and local business portals, no restrictions to any media portal being used (as per PCM, Transparency).

- **The legal and regulatory framework**

OSCE's legal and regulatory framework is principally set forth in its Common Regulatory Management System (CRMS), including – with respect to Pillar 9 – various financial and administrative regulations, rules, and policies across areas of data and information security and records management, as applicable. Implementation of the relevant regulatory framework in the context of personal data is provided for through formal Policy Guidance on Implementation and Compliance with OSCE CRMS Provisions Governing the Protection of Personal Data.

- **Requirements for the protection of personal data. State in particular if these requirements are covered in the procedures and how they are applied.**

The OSCE collects and processes the personal data of individuals, including OSCE officials, non-OSCE officials working in OSCE executive structures, contractor personnel, beneficiaries and other persons, in the performance of its mandates. The OSCE's internal rules and regulations governing the handling of personal data are established in the OSCE's Common Regulatory Management System ("CRMS").

The OSCE undertakes to ensure that its data protection framework aligns with internationally-recognized standards in providing appropriate protection of personal data and responding effectively to the changing legal and technological landscapes in this area.

OSCE Policy Guidance, in conjunction with the CRMS generally, sets out provisions and procedures regarding fundamental principles and rules of personal data protection, including legal bases for processing, legitimate purpose, legitimate and fair processing, transparency, data quality, data security, data retention, confidentiality, access, and data transfers.

OSCE Policy Guidance further elaborates on the relevant provisions of the CRMS, and applies to the processing of personal data, whether in paper or electronic form, by the OSCE and its executive structures and, where appropriate, any third parties processing personal data on behalf of the OSCE. Compliance with such Policy Guidance is mandatory.

Currently OSCE is in the process of reviewing existing Policy Guidance. This is planned to be finalized by the end of Q3 2021 and the assessment of Pillar 9 is therefore planned for Q4 of 2021.