Operational Instruction Ref. OI.LG.2018.05
Contracts and Property Committees Members and Duties

Authority:

This Operational Instruction (OI) is promulgated by the General Counsel, Legal Group under OD.LG.2018.01– Legal, on the basis of a delegation of authority from the Executive Director.

Purpose:

The purpose of this OI is to provide instructions regarding UNOPS Contracts and Property Committees (CPCs)' members and duties.

Effective Date:

This OI shall become effective **immediately.**

Promulgation Date:

03 Apr 2018

Consequential changes:

This OI shall abolish and supersede the provisions of Organizational Directive 16 (rev.1) – Procurement Framework of 19 April 2010, regarding the CPCs.

[signature redacted]

James Provenzano
General Counsel, Legal Group, UNOPS

1. Introduction

1.1 In accordance with UNOPS Financial Regulations and Rules (FRRs), the Executive Director has created a Headquarters Contracts and Property Committee (HQCPC) and Local Contracts and Property Committee (LCPC) to render written advice to the Executive Director, the Deputy Executive Director - ~~acting as~~, the [REV. 05.05.2020] Executive Chief Executive Procurement Officer (ECPO), and Regional Directors (RDs), as applicable, with respect to those matters listed in OI.LG.2018.06: Contracts and Property Committees - Submissions and Reviews, and to perform such other functions as the Executive Director or ECPO may from time to time require.

1.2 The purpose of this OI is to provide instruction on CPCs members and duties.

2. HQCPC Membership

2.1 The Chair of HQCPC shall be appointed by the ECPO. HQCPC members shall be appointed by ECPO, on the recommendation of the HQCPC Chair or otherwise. The HQCPC Chair shall be a dedicated fixed-term position, reporting to ECPO, and is appointed in accordance with normal recruitment procedures.

2.2 HQCPC members do not need to be persons assigned to headquarters units and may be drawn from any Region or business unit of UNOPS, save that none of the following may be members of HQCPC:

a. Persons working in Internal Audit and Investigation Group (IAIG);

b. Regional Directors (RDs); and,

c. Headquarters Directors (HQ Directors).

2.3 Individual contractors (ICA-holders) may be appointed to sit as voting members of HQCPC and including as an alternate chair of HQCPC.

2.4 Individuals shall be appointed to HQCPC according to their merits and technical skills and having regard to the need to achieve a range of different professional backgrounds, including members with field experience. Further, in proposing new members to ECPO, the HQCPC Chair shall endeavour to bear in mind the desirability of achieving gender parity and geographical diversity.

3. LCPC Membership

3.1 LCPC members shall be appointed by ECPO, on the proposal of the RD to be advised by the LCPC in question, and following review of the proposal by HQCPC who shall provide a written opinion to ECPO regarding the suitability of the proposed member. In assessing the suitability of proposed new members, HQCPC shall have regard to whether the individual's technical skills have been formally recognised by the director of the relevant HQ Group, such as through being designated as a Procurement Reviewer by the Procurement Group Director or Human Resources Reviewer by the People and Change Group Director.

3.2 In the case of an LCPC established to review cases from more than one Region, any proposed changes to membership must be agreed upon by all RDs to be advised by the LCPC, in question.

3.3 LCPC members do not need to be drawn from personnel holding positions in units within the Region(s) in respect of which the LCPC is established. However, the participation in the LCPC of an individual holding a position in another Region or in an HQ unit is subject to the on-going agreement of that person's supervisor to that individual dedicating part of his/her time to the LCPC. It shall be the responsibility of the RD(s) of the LCPC to obtain such continuing agreement.

3.4 The persons listed in clause 2.2 (a), (b) and (c) above may not be appointed as members of an LCPC. Further, the HQCPC Chair may not be appointed as member of an LCPC.

3.5 Individual contractors (ICA-holders) may be appointed to sit as Chair, alternate Chair or voting member of an LCPC.

3.6 Individuals shall be appointed as members to each LCPC according to their merits and technical skills and having regard to the need to achieve a range of different professional backgrounds, including members with field experience. Further, in proposing new members to ECPO, the RD(s) shall endeavour to bear in mind the desirability of achieving gender parity and geographical diversity.

4. Membership – Common Principles

4.1 Each CPC shall have one Chair and at least one alternate Chair.

4.2 Each CPC member shall be a UNOPS personnel. There is no requirement that members hold a position of at least a minimum grade or that he/she has worked for UNOPS for a minimum period of time before being appointed to a CPC, however

- **a.** HQCPC members will normally hold specialist positions;
- **b.** LCPC Chairs will hold positions of at least ICS10 or equivalent; and
- **c.** Individual experience for membership shall be reviewed on case-by-case basis.

4.3 Appointment as a member of one CPC does not confer authority to sit as a member of another CPC.

4.4 A person may be appointed to be simultaneously a member of more than one CPC. Simultaneous membership of HQCPC and an LCPC is encouraged as it promotes consistency.

4.5 With the exception of the HQCPC Chair, a person may simultaneously be appointed as chair or alternate chair of more than one CPC.

4.6 Persons may be appointed by ECPO as members of a CPC in respect of all types of submission coming within the purview of that CPC, or for a certain category or categories of submission only (such as ICA submissions or asset disposal submissions only).

4.7 In appointing or proposing members, due regard shall be had to the ability of the persons concerned to work in the UNOPS working languages (English, French and Spanish) in use in the business units submitting to the CPC in question.

4.8 Prior to sitting as an active member of a CPC, a new member must meet a certain number of conditions:

4.8.1. These conditions shall include the requirement to observe (in person or remotely) the review by HQCPC (or, if so stated by ECPO in his decision, by LCPC) of a certain number of cases as stated in the

minutes of appointment. This condition shall be reached within six months of the date of appointment, with the membership automatically ceasing for any category of submission for which it has not been fulfilled within that period.

4.8.2. In order to review procurement submissions, it shall be a requirement that each member shall be a designated Procurement Advisor nominated by the Procurement Group Director or have received UNOPS procurement training by a Regional Procurement Advisor, by IPAS Procurement, by a certified UNOPS trainer or by another trainer recognised by the Procurement Group Director.

4.8.3. Other conditions (such as training in another subject area) shall be determined on a case by case basis.

4.9. An updated list of the current members of each CPC shall be maintained by the HQCPC Secretariat on the HQCPC intranet. It shall be the responsibility of the Chair of each LCPC to keep the HQCPC Secretariat informed of progress made by LCPC members in meeting the conditions to their becoming voting members (save where the condition is the observance of HQCPC meetings).

4.10. Any member that does not participate in any CPC meetings within a six month period shall have his/her continued membership reviewed.

5. Members – Duties

5.1 CPC members shall act in an independent capacity while performing their advisory role on HQCPC or an LCPC.

5.2 Each member is required to:

a. perform his or her role as CPC member to the best of his/her ability and in good faith.

b. prepare him or herself properly for each meeting by reading the submissions in advance, familiarising himself or herself with UNOPS policies including keeping abreast of policy changes;

c. devote adequate resources to follow-up work required after each meeting, whether by email or otherwise, including the review of the minutes;

d. participate fully in the deliberations of each case he/she reviews.

6. Conflict of interest

6.1 If a RD has a conflict of interest in respect of any submission requiring LCPC review, that is, when he/she has had material involvement in the process (such as where the RD was a member of the interview panel for an ICA recruitment), that submission shall be made to HQCPC. When reviewing such a submission, HQCPC shall make its recommendation to ECPO.

6.2 The CPC panel reviewing any submission may not include more than one CPC panel member coming from the Submitting Unit (SU) from which the submission originates. Further, the Chair may not review a submission from the SU to which he/she belongs. This is to avoid a CPC member being subject to any potential conflicts.

6.3 For members the following apply:

a. No member shall sit on a submission which he/she has submitted or which he/she pre-cleared or in which he/she has been otherwise involved to any material degree.

b. The Chair of the CPC shall have the discretion (in consultation with the HQCPC Chair if need be) to determine if there is a potential conflict or some other reason making it undesirable for a member to sit on a particular case.

c. The Chair cannot oblige a member to sit on a case where the member is of the view that he/she may have a conflict of interest such that his/her objectivity may be impaired.

d. The CPC Chair or the Secretariat shall specifically ask each panel member prior to or at the start of each meeting to indicate whether he or she has a conflict with any of the submissions on the agenda. In the event of a conflict, the CPC Chair will ask the relevant member to abstain from review of the submission in question which will be reviewed by a panel with no conflict. The CPC Chair shall include a paragraph in the minutes to each of its meetings regarding members' confirmations as to whether they had a conflict of interest.

6.4 It is acknowledged that CPC members normally carry out their role as CPC member in addition to the duties incumbent on them by reason of their normal position. A CPC member should not, when asked to perform duties in connection with his/her regular position (such as, for example, as Regional Procurement Advisor) refuse to do so on the basis that this would prevent him or her from reviewing any subsequent submissions that might be made to the CPC on which such member sits. This paragraph does not apply to any Chair (such as the HQCPC Chair) who is performing the function of CPC Chair as a standalone position.

7. Confidentiality

7.1 In the performance of their duties, CPC members and members of the Secretariats and, in some cases, specialist advisors and observers, will have access to information of a confidential nature (Confidential Information), including without limitation:

a. In respect of Human Resources; and

b. Suspected fraud, negligence or misconduct.

7.2 CPC members, members of the Secretariats, specialist advisors and observers are required to treat Confidential Information with the utmost discretion and not disclose the same to anyone. In the case of suspected fraud, suspicions should be reported to IAIG or other appropriate authority in accordance with normal procedures.

7.3 In order to avoid pre-empting the decision by the RD or ECPO and to avoid hindering free deliberation by the CPC, the CPC members and the Secretariat (and, as the case may be, any specialist advisors and observers) shall not inform the SU or other parties of the CPC's deliberations or the expected outcome of the ongoing review of a submission. The Chair shall warn the Submitting Officer (SO) that there are serious difficulties with the submission before the CPC recommends rejection.

7.4 The Secretariat shall not upload on to the intranet copies of ICA minutes or any other minutes which may contain Confidential Information.

8. Meeting - Proceedings

8.1 CPC members may attend the meeting in person or virtually. In exceptional cases only (such as where there is urgency but it is not possible to convene a panel with members available at the same time), a meeting may take place by email exchanges only. The Chair shall ensure that such occurrences are kept to the strict minimum.

8.2 At any stage of the process the Chair may request that a colleague with renowned expertise in an area provide specialist advice to the CPC. Members shall not of their own initiative refer matters to specialists without the consent of the Chair.

8.3 The CPCs are strongly encouraged during the meeting to contact the SO or contact person in respect of the submission under review, with a view to resolving any queries during the meeting. Written confirmation of responses on which the CPC will be relying in making its determination may be required through the Secretariat after the meeting.

8.4 Email follow-up may occur as follows:

a. If the CPC is unable during the meeting to resolve a query through speaking directly with the SO or Contact Person, the CPC may determine that additional information or explanation is required from the SO or Contact Person.

b. Any requests for such additional information or explanation shall be forwarded by the Secretariat to the SO or contact person via email from the dedicated CPC mailbox. The responses will be distributed to the panel members by the Secretariat and the panel will normally exchange views on the responses by email, copying the Secretariat. If any additional questions have been agreed, the Secretariat shall communicate these to the SO or contact person.

c. This process shall be repeated if necessary until the panel has concluded its review, at which point the Secretariat shall prepare draft minutes which shall be distributed to the panel members for review and comment.

d. At any stage in the process the CPC may if appropriate request a further meeting with the members or communication with the contact person/SO, although it is recognised that this may be impractical due to members' other commitments.

e. In order to meet the key performance indicator regarding processing times for procurement and ICA submissions and in case of a slow response in respect of other submission types, the CPC may notify the SO or contact person of a final date by which exchanges on a submission will cease and the CPC will make its recommendation on the basis of information received by the eighth working day from the review of the submission.

f. Any observers to the meeting will not be copied on the email discussions amongst the members unless the observer is observing in order to comply with ECPO conditions to his or her becoming a CPC member. The reason for this restriction is in order to encourage the free exchange of views of members.

8.5 The Chair, at his/her discretion, may permit observers to attend the meeting.

a. The Chair shall not permit observers to the review of ICA submissions or other submissions of a sensitive nature (such as write-off submissions or asset disposal submissions where potential negligence is to be considered) unless there is a good reason which justifies the

observer having access to the confidential information contained in such a submission. By way of example, persons having a good reason to observe an ICA submission would include, without limitation, members of a CPC Secretariat, persons nominated by the People and Change Group Director as Pre Clearance Officers for ICA submissions to CPC, persons approved by ECPO as CPC members subject to their observing the CPC review of a certain number of ICA submissions.

b. In order to maintain a clear distinction between panel members and observers, observers should refrain from participating in discussions or voicing comments until invited to do so by the Chair.

c. Observers will only be copied on post meeting email communications amongst the members regarding the case if they are observing in order to meet a condition by ECPO in order to become an active CPC member.

9. Voting

9.1 Resolutions of CPC are made by consensus or by simple majority voting of the members on the CPC panel for a particular submission. Any member has the right to dissent from the majority view. Should the votes be equally divided, the Chair shall have a casting vote.

9.2 The Chair's role shall include encouraging the exchange of views and open discussions, in a spirit of respect and collegiality, amongst the members in order to attempt to reduce any areas of disagreement. However it is stressed that each member is to fulfil his/her duties in accordance with his/her conscience and professional judgment; and members shall not be placed under pressure by other members to change their analysis.

10. Minutes

10.1. In preparing minutes to its review of submissions, each CPC shall be mindful of the three purposes of minutes:

a. minutes should be self-contained and sufficiently clear to enable the RD or ECPO to learn the salient facts in order to make an informed decision with regard to the recommendation of the CPC;

b. minutes should where appropriate serve as a learning tool for the SO, so that any flaws in the process followed are identified and advice regarding better practice for the future is clearly communicated; and

c. minutes can also be a tool for highlighting any suggestions of the CPC to be taken into account by the relevant HQ group for the continuing improvement of UNOPS policies.

10.2. The minutes templates issued by the HQCPC Chair to the LCPCs do not have to be followed religiously by the LCPC provided that the LCPCs ensure that the required information is included in their minutes.

10.3. Minutes may be prepared in any of the three UNOPS working languages provided that such language is understood by the relevant RD or by ECPO, as the case may be, and by the SU.

10.4. The minutes and recommendation shall show where there was not a consensus amongst the members. Individual members shall be at liberty to opt to be identified by name in the minutes as holding a certain opinion.

10.5. Save for complex cases, the CPC minutes in respect of a procurement submission should not exceed three A4 pages in length and the minutes for an ICA submission should not exceed two A4 pages.

11. Languages

11.1. Communications between each CPC and its SOs shall be in any of the UNOPS working languages (Spanish, English or French) commonly in use in the Region of the SU.

11.2. Each Chair, in collaboration with the Secretariat, shall ensure that each CPC is able to field a panel which shall include at least one member who is fluent in the UNOPS working languages in which the submission and/or its supporting documents are made or, alternatively, that the panel shall have in attendance a bilingual colleague acting as language advisor. Such bilingual colleague may be a member of the Secretariat.

11.3. If a submission includes attachments or communications in a language that is not one of UNOPS' three working languages, the SO shall be responsible for providing a timely translation, to be prepared in accordance with any instructions from the CPC regarding the identity or independence of the person preparing the translation.

11.4. Each CPC is free to carry out its duties using predominantly any of the three UNOPS working languages of English, French and Spanish.

11.5. Minutes may be prepared in any of the three UNOPS working languages provided that such language is understood by the relevant RD or by ECPO, as the case may be, and by the SU.

11.6. All reports made by the LCPCs to HQCPC must be prepared in the English language.

12. Secretariat

12.1. Each CPC shall have a Secretariat. Individuals shall be appointed to the Secretariat by the Chair of the relevant CPC, subject (if the individual is not to work full-time for the CPC) to the agreement of the individual's supervisor. There is no need to seek HQCPC review of changes to a Secretariat. An individual may be a member of the Secretariat of more than one CPC.

12.2. Each Secretariat shall have a dedicated email address which shall be used for email communications regarding CPC matters.

12.3. Each Secretariat shall maintain records of the CPC's proceedings in accordance with UNOPS record retention policies.

12.4. Each Secretariat shall ensure that the CPC's mailbox is organised in such a way as to permit the Secretariat easy access to records and communications regarding each submission.

12.5. The duties of each Secretariat shall include the maintenance of each CPC's intranet page to include details of the CPC's meeting schedule, the organisation of CPC meetings, drafting of minutes, the timely notification to SOs of decisions by the RD or ECPO (as the case may be), post-meeting management in the CPC online system including conditions to approvals, and the uploading of minutes and decisions regarding procurement submissions.

12.6. The CPC Chair shall be responsible for the proper performance by the Secretariat of its duties.

13. Key performance indicators

13.1. In respect of at least 90% of procurement and at least 90% of ICA submissions, each CPC will aim to communicate to each SO a decision by the RD or ECPO no more than ten working days following the date of the meeting. In considering whether this target has been met, time zones and dates will be those of headquarters (in the case of HQCPC) or the location of the regional office (in the case of an LCPC).

13.2. Performance will be assessed against the following key performance indicators:

a. For procurement submissions: measurement of the number of working days from the date of the meeting to the date of the ECPO decision (or RD decision) in respect of the submission;

b. For ICA submissions: measurement of the number of working days from the date of the meeting to the date of the ECPO decision (or RD decision) in respect of the submission;

c. For procurement submissions: where a formal method of solicitation was used, the number of times where less than three compliant offers were received;

d. For procurement submissions: where a formal method of solicitation was used, measurement of the number of calendar days from the date that the solicitation documents are issued until the date of the ECPO decision (or RD decision);

e. The timely performance of "post-meeting management" in the online system by the Secretariat of each CPC (as this directly impacts the timing of the release of statistics regarding CPC operations); and

f. For HQCPC, whether it makes a recommendation to ECPO regarding the establishment of an LCPC, within 30 calendar days of a complete request from the RD to do so.

14. HQCPC monitoring and support of LCPCs

14.1. HQCPC shall monitor the performance of LCPCs including but not limited to, observing random sessions and providing feedback, and quarterly secretariat meetings.

14.2. Review internal audit observations on procurement and ICA whenever new members are proposed.

14.3. Each year, HQCPC shall submit to ECPO, PG Director, the RD and the LCPC Chairs a report in respect of the exception cases approved by RDs following review by the LCPCs during the previous year.

14.4. HQCPC shall also provide on-going support and guidance to the LCPCs. In particular:

a. the HQCPC Chair and HQCPC Secretariat shall respond to queries from each LCPC regarding thresholds and whether particular issues have been previously encountered by HQCPC;

b. the HQCPC Chair will send advice to the LCPCs regarding issues of general interest, such as the consequences for CPCs of a new policy;

c. the HQCPC Chair will communicate authoritative interpretations to the LCPCs;

d. the HQCPC Secretariat will provide on-going support to the LCPC Secretariats regarding submissions and queries; and

e. the HQCPC Secretariat will conduct quarterly meetings with LCPC secretariats to promote knowledge sharing and consistency.