

# CoST Operational Policies and Procedures

## Introduction

This work in progress document aims to provide guidance for the Interim Board, International Secretariat and Multi-Stakeholder Groups (MSG) on key operational matters such as country reporting requirements, human resources, expenses and procurement. The current contents were approved by the Interim Board on 10<sup>th</sup> April 2012.

## National programme reporting

- a. Where the International Secretariat is disbursing funds, countries will be expected to report on the majority of activities, outputs and impacts and their financial expenditure on a quarterly basis. In due course there will also be a need to report on a number of indices on an annual basis for the Construction Transparency Index. The reporting structure will be based on an agreed implementation plan indicating administrative arrangements, a schedule for key activities and a budget and financing plan. Failure to submit a satisfactory report will lead to a delay in the disbursement of funds.
- b. Where the International Secretariat is not disbursing funds, countries will be expected to report activity based on an agreed implementation plan on an annual basis. This is to ensure that country activity reflects the CoST Global Programme and that the CoST brand is protected. The International Secretariat will be flexible regarding the reporting format as the programme in questions will also need to report to its financial supporters.
- c. Countries will provide updated list of key country contacts including MSG Members.

## Human resources

- a. International Secretariat
  - i. The International Secretariat includes EAP staff members and contracted consultants. EAP staff members will be subject to the policies and procedures in the current version of the Engineers Against Poverty Staff Handbook. Consultants will be subject to the details of their individual contracts.
- b. National Secretariat
  - i. The MSGs will recruit a National Management and Coordination Unit to establish country operations. The number of employees hired by the MSG to provide the Secretariat function will increase as CoST operations grown within a country.
  - ii. Where the national programme is managed by an independent legal entity, it is recommended that it follows the guidelines set out below in establishing its HR procedures. Where a host organisation is employing the national secretariat, its own human resource guidelines will apply. In this situation it is still recommended that the MSG gives consideration to the following guidelines and that informs the IS of potential conflicts.
  - iii. The MSG will ensure that individuals are recruited, selected and promoted using objective criteria having regard to relevant aptitudes, potential, skills and abilities and on an equal opportunities basis.
  - iv. Job Descriptions and Person Specifications will be approved by the MSG before advertising. These will be used throughout the recruitment process and used as objective tools to measure applicants' skills and experience. If a recruitment agency is used, it will be selected carefully to ensure equality of access to jobs.

- v. Short listing and interview will depend solely on suitability for the post in question and Interview assessment forms based on the person specification will be completed and retained by the National Management and Coordination Units.
- vi. On commencement of employment all new staff will be put through an induction programme which includes use of facilities.
- vii. Salaries of employees who are funded by the International Secretariat should be based on the market rate for similar role and professional background within the country. Other employee benefits such as pensions, sick leave, compassionate leave, maternity leave, paternity and annual leave will also be based on national standards. Employees will be subject to national and local taxation.
- viii. CoST National Management and Coordination Units should treat any deliberate act of discrimination, harassment or victimisation against fellow employees as a serious disciplinary offence. They should ensure that individual employees or groups of employees, who believe they have been discriminated against, or harassed, will be taken seriously and complaints handled sensitively.
- ix. MSG's should agree a policy and procedure is put in place to ensure that everyone who works for CoST is treated impartially and fairly. The purpose of the procedure is first to allow an employee freely to express a complaint or matter of concern and then, where appropriate, to try and resolve the issues raised by means of a discussion and negotiation or, if necessary, counselling or training.

## **Expenses, allowances & per diems**

- a. International
  - i. CoST will reimburse the expenses of International Secretariat and Interim Board members to attend CoST activities such as country visits, meetings with donors, Interim Board meetings etc. Such activities could be reimbursed at a maximum expense of \$40 without receipt. Hotel accommodation (3 star preferred or 4 star where reasonable 3 star accommodations is not available), subsistence and travel expenses (economy class air fares and 2nd class rail fares only) will be reimbursed provided they are supported by receipts.
- b. National
  - i. Funds received through the CoST International Secretariat can be used towards expenses, allowances and per diems, within the parameters described below. The use of funds secured directly into a national programme is the responsibility of the MSG. They should not be disbursed in a way that could damage the CoST brand and reputation.
  - ii. CoST will reimburse the expenses of MSG members to attend CoST activities such as MSG Meetings, stakeholder engagement meetings, disclosure events etc. Such activities could be reimbursed at a maximum expense of \$25 without receipt. Hotel accommodation, subsistence and travel expenses will be repaid at the rate agreed in an approved country funding application form provided they are supported by receipts.

## **Procurement**

- a. Transparent, efficient and competitive process
  - i. The most significant expenditure for CoST is the procurement of consultancy services such as the M&E team, baseline study team and the assurance team.

- ii. It's essential that CoST is seen to 'practice what it preaches'. Thus, all consultancy services should be disclosed using the standard CoST project information format. Prospective bidders should be informed of this in the invitation to tender.
  - iii. Funds received by a national programme through the CoST IS can be used towards consultancy services, within the parameters described below. The use of funds secured directly into a national programme is the responsibility of the MSG. They should not be disbursed in a way that could damage the CoST brand and reputation.
  - iv. It is important that the selection criteria for the consultant are clear and that the consultant is accepted by the MSG and key stakeholders. Any challenges to the consultant's credibility or impartiality need to be addressed in a satisfactory manner before the consultant is appointed.
  - v. Given the significant expenditure, where the International Secretariat is funding the consultancy service, it reserves the right to approve the contract award on a no objection basis.
  - vi. Countries are encouraged to contact the International Secretariat timely during the evaluation stage for advice/ quality review as the evidence so far is that it has been helpful in the occasions where it has happened.
  - vii. The tender process for consultancy services needs to ensure:
    - Open advertising or a clear written rationale for an invitation only process
    - Clear Terms of Reference
    - Clear quality led evaluation criteria including consideration
    - Clear timetable that is updated as appropriate
  - viii. Where appropriate the evaluation criteria should consider
    - Health safety arrangements
    - Insurance
    - Quality assurance systems
  - ix. It is recommended that there are minimum number of 2 quotations for consultancy services under \$25,000, a minimum of 3 quotations between \$25,000 and \$60,000 and more than 3 quotations for over \$60,000.
  - x. The process of short-listing candidates and contract award along with the reasons for selecting the preferred consultant should be recorded in case of future disputes.
  - xi. During the planning and development of the terms of reference, it is important that CoST ensures the market will be able to deliver the consultancy services. As well as the obvious requirements in terms of resources and supplier capacity, CoST should also be sure that they understand whether the consultants have the technical ability to meet the demands of the project, and that there is sufficient interest from consultants to ensure reasonable competition for the services.
  - xii. Where it is recognised there are shortfalls in any particular skill or resource, the National Secretariat must make a decision on how they intend to address this, either by amending their proposal to all for this shortfall, looking to encourage suppliers to develop new capabilities, looking at the international market to provide the service or, in worst case scenario, consider whether this shortfall means a project can no longer go ahead.
- b. Contracting

- i. Contracts for consultancy services for the international programme will be with the International Secretariat.
  - ii. There are three options available for contracting consultancy services for a National Secretariat and MSG.
    - *The contract is directly with the MSG.* This is the preferred option but is only applicable where the MSGs have decided to become legal entities. The MSGs need to be very clear about who will be responsible for taking this forward as the work will involve help in drafting a new and tailored contract template.
    - *The contract is with the host agency.* This is only applicable where there is no conflict of interest (see 5c). In this case, the contract to be used need to be reviewed by the MSG and the International Secretariat to ensure that all the relevant agreements (schedule for payment, supervision and reporting arrangements, deliverables, etc) are acceptable to all parties.
    - *The contract is with the International Secretariat.* This option should only apply where a contract with the host agency or the MSG is not feasible. It would be mean that all negotiations related to the contract (schedule of payment, quality assurance, reporting, etc) are led by the International Secretariat in collaboration with the MSG point person and the MSG coordinator.
  - iii. All other cases/ aspects of contracting and overseeing should be discussed with the International Secretariat on a case by case basis.
- c. Taxation
- iv. The appointed consultant will be responsible for all taxation matters arising from his contract.
- d. Potential conflict of interest
- i. While the technical capacity of the consultants is an important basic requirement, its credibility is essential. Therefore, issues of conflict of interest need to be considered very seriously. Conflict of interest does not relate to the consultants only but to all parties involved: the MSG, the host agency, the contracting body.
  - ii. Please note that conflict of interest is a broad term. It includes anything form current and prior contractual relationship with a bidder to relatives working for the same organisation.
  - iii. The tender requirements should require consultants to declaring a conflict of interest in their proposal. This helps assess the objectivity of the assurance team before the short- listing stage.
  - iv. MSG members or International Secretariat members should declare an interest in a timely fashion when they have a relationship with an organisation who have submitted a proposal. Once the conflict of interest has been declared the evaluation panel can decide how to manage the issue. Failure to do so will be considered unethical and a reason for cancelation of the tender.
  - v. The host agency should only be part of the contracting and evaluation process where its own projects will not be a subject of review. We encourage all host agencies to consider if they are well placed to contract the consultancy services. Any concern about the independence of the consultants can significantly undermine CoST.

- vi. While CoST is a country driven initiative and the role of the MSG is key, the International Secretariat has a duty to raise concerns with the Interim Board where a conflict of interest can damage the reputation of CoST.
- e. Payment
  - i. Choosing the right payment option for the contract requires an assessment of the level of certainty in the terms of reference and the financial risk CoST is willing to take. There are three potential options:
    - Priced contract whereby the consultant is paid on reaching specific milestone and delivering specific outputs. There is less financial risk for the employer but the consultant rate is usually higher as they factor in the additional risk placed on him. This may be the appropriate option when the scope of work is well defined.
    - Time based contract, whereby the consultant is paid for the hours worked at the appropriate rate. There is more financial risk for the employer, thus it requires a highly competent project manager. However, the consultant rate is usually lower as he is carrying less risk. This may be appropriate when there is uncertainty over scope of work.
    - Term based contract whereby a framework for the pricing of services, whether by lump sums for predetermined activities or at time charge rates is established with the consultant. This may be appropriate when the consultancy service is for a specific period of time.
    - Framework agreement, whereby 4 or 5 consultants are recruited with the pricing of services, whether by lump sums for predetermined activities or at time charge rates established. This method could be particularly useful for the assurance process as the MSG could opt for a mini-tender or call-off the team with the appropriate skills and experience for a specific project or programme.

## **Prevention of Bribery and Corruption Policy**

### **a. Introduction**

As an organisation that is committed to the highest standards of ethical behaviour, it is essential that Engineers Against Poverty (EAP) in its role as the host of the International Secretariat for the Construction Sector Transparency Initiative (CoST) oversees and implements a policy of zero-tolerance, recognising that bribery and corruption are contrary to fundamental values of integrity, transparency and accountability and undermines organisational effectiveness.

EAP has recently adopted a Prevention of Bribery and Corruption Policy which has been adapted specifically for CoST. It sets out the general rules and principles to which EAP adheres in preventing bribery and corruption. It explains the procedures through which EAP can maintain high ethical standards and protect its reputation against any allegations of bribery and corruption. The UK Bribery Act 2010 has reinforced the need for organisations such as EAP to have in place effective measures for preventing bribery and corruption.

This is not just a cultural commitment. Bribery and corruption is a criminal offence in the UK and in many other countries.

### **b. Why is this relevant to CoST?**

Under the UK Bribery Act 2010 it is an offence for UK organisations and any person or organisation acting on their behalf to engage in bribery or corrupt acts inside and outside of the UK.

This means any person acting on behalf of EAP through CoST, is responsible for maintaining the highest standards of business conduct and acting in accordance with this Policy.

“Agents” is the collective term for this Policy for any person or organisation acting on behalf of CoST including Interim Board Members, Multi-Stakeholder Group Members, Assurance Team Members, CoST Coordinators, and International Secretariat Members.

Corrupt acts under this legislation expose the organisation and any person or organisation acting on its behalf to the risk of prosecution, fines and imprisonment, as well as endangering EAP and CoST’s reputation.

**It is imperative that you read this Prevention of Bribery and Corruption Policy in order to comply with the UK Bribery Act 2010. You should ensure that you understand your role and responsibilities in relation to both the Act and the Policy by completing section 11 of this paper. Failure to do so could jeopardize future country funding, payment of fees, transport allowances and or expenses by the CoST International Secretariat.**

c. UK Bribery Act 2010

EAP may face criminal liability for unlawful actions by its workers under the UK Bribery Act 2010 when the offence is committed in an overseas country including CoST Countries. Under the legislation it is an offence to:

- Offer, promise, or give a bribe to another person;
- Request, agree to receive, or accept a bribe from another person;
- Bribe a foreign public official, and;
- Fail to prevent bribery (which applies to organisations and is known as “the corporate offence”).

The legislation requires EAP as a UK based organisation to ensure it has adequate procedures are in place to prevent bribery and corruption being committed by persons associated with the organisation.

d. What is bribery and corruption?

A bribe is an inducement or reward offered, promised, or provided in order to gain any commercial, contractual, regulatory, or personal advantage. Corruption is the misuse of public office or power for private gain; or misuse of private power in relation to business outside the realm of government.

It is not acceptable for an Agent (or someone on their behalf) or any other person acting for, or on behalf of, EAP or CoST to:

- Give, promise to give, or offer, a payment, gift, or hospitality with the expectation or hope that a business advantage will be received, or to reward a business advantage already given;
- Give, promise to give, or offer, a payment, gift, or hospitality to a government official, agent or representative to "facilitate" or expedite a routine procedure;
- Accept payment from a third party that the worker knows or suspects is offered with the expectation that it will obtain a business advantage for them;
- Accept a gift or hospitality from a third party if the worker knows or suspects that it is offered or provided with an expectation that a business advantage will be provided by EAP or CoST in return.

e. Understanding your responsibilities

- Agents are required to take particular care to ensure that all CoST records are accurately maintained in relation to any contracts or activities, including financial invoices and all payment transactions with clients, business partners, suppliers and public officials;
- Agents are required to keep accurate, detailed and up-to-date records of any corporate hospitality, entertainment, or gifts accepted or offered;
- Agents are required to co-operate with the CoST International Secretariat's risk management procedures and to report suspicions of bribery or corruption to the MSG Chairman, a Member of the International Secretariat or a Member of the Interim Board.

f. **If an Agent is in any doubt as to whether or not a potential act constitutes bribery or corruption, the matter should be referred to the CoST International Secretariat Executive Director.**

g. **Corporate Entertainment, Gifts, Hospitality and Promotional Expenditure**

The CoST International Secretariat may approve business entertainment proposals if they demonstrate a clear business objective and are appropriate for the nature of the business relationship.

The CoST International Secretariat will not approve proposals where it is considered that a conflict of interest may arise or where it could be perceived that undue influence or a particular business benefit was being sought (for example, prior to a tendering exercise).

The CoST International Secretariat permits reasonable corporate entertainment, gifts, hospitality and promotional expenditure that it is undertaken in accordance with this policy.

Case study 1, below, and those incorporated within this guide are intended to provide examples of the how the Prevention of Bribery and Corruption Policy would be implemented.

**Case Study 1**

A CoST Interim Board (IB) Member is concerned that he may be acting in breach of the Bribery Act 2010 because of the corporate hospitality that he offers his clients, which includes occasionally taking them to football matches and giving them gifts of food and wine hampers at Christmas.

**Are his actions likely to amount to a breach of the Bribery Act 2010?**

Proportionate hospitality in the course of business to meet and network with clients and to improve relationships is unlikely to be in breach of the Act. However, hospitality and expenditure that is used to induce or reward someone for the improper performance of a function or to obtain an improper advantage is likely to amount to a breach. The amount spent on corporate hospitality should not be excessive or lavish. Small nominal gifts aimed at building a relationship are unlikely to be in breach of the Act, provided that they are given without expectation of any favour or advantage in return.

UK Government guidance gives an example of an invitation to foreign clients to attend a English Premier League football match as a public relations exercise as being unlikely to amount to a breach of the Act, provided it creates no sense of obligation. Therefore, the IB Members offer of occasional football tickets and Christmas hampers, if aimed only at fostering good relationships with clients, and not creating an obligation, is likely to be an acceptable level of hospitality.



h. Receipt of Corporate Entertainment, Gifts or Hospitality

Any gifts, rewards, or entertainment received or offered from clients, public officials, suppliers, or other business contacts that the Agent is unsure how to categorise in relation to this policy should be reported to, or discussed with, the MSG Chairman or the CoST International Secretariat Executive Director. They should be reasonable and proportionate and, in certain circumstances, it may not be appropriate to retain such gifts or to be provided with the entertainment. Agents may be asked to return the gifts to the sender or refuse the entertainment, for example, where there could be a real or perceived conflict of interest.

CoST Agents should bear the following in mind:

- There must be nothing in their behaviour that might give rise to a suspicion they are acting in their own private interest, and;
- They should never give the impression to the public or to any organisation with which they deal, or to their colleagues, that a gift or reward could influence the way in which they deal with any person or organisation.

**Case study 2**

A CoST Coordinator is responsible for managing a consultant who provides Assurance Team services to the MSG. Previously the consultant has given gifts to the Coordinator including a calendar, mouse mat and a box of chocolates. The bribery and anti-corruption policy of the MSG states that gifts above the value of \$50 should be politely declined, unless agreed otherwise by the MSG Chairman. The policy also notes that gifts to the value of \$50 or less can be accepted but a gift offered as cash, or as a cash equivalent cannot be accepted. The consultant has recently offered the Coordinator gift vouchers valued at \$250. This gift has not been discussed with the MSG Chairman.

**Should the Coordinator accept the gift vouchers?**

No, the Coordinator should not accept the gift. Any gift of \$50 or more in value must be approved by the MSG Chairman before it is accepted. In this case, the gift vouchers would be considered a cash equivalent and the Chairman should not approve it.

i. Facilitation payments

Agents are prohibited from making or accepting facilitation payments. These are payments made to, or received from, government officials or third parties over and above normal payments for carrying out or expediting routine procedures. Facilitation payments or offers of such payments will constitute a criminal offence by both the individual concerned and the International Secretariat under the Bribery Act 2010, even where such payments are made or requested overseas.

Facilitation payments are distinct from an official, publicly available fast-track process.



Where a public official, private sector representative or civil society representative has requested a payment other than, and extra to, any publicly disclosed, legitimate payment, Agents should ask for further details of the purpose and nature of the payment in writing. If the public official private sector representative or civil society representative refuses to do so, this should be reported immediately to the MSG Chairman. Should extra information be received, this should be discussed with the MSG Chairman or the CoST International Secretariat Executive Director prior to making any payments.

#### **Case Study 3:**

A MSG Member is meeting with a Minister to see if they would speak at a CoST Disclosure Event. At the meeting the MSG Member is informed that the Minister will require a per diem for speaking at the event of \$800.

#### **What action should the Coordinator take?**

The MSG Member should ask for further details of the purpose and nature of the payment in writing. If the Minister refuses to do so, this should be reported immediately by the MSG Member to the MSG Chairman or the International Secretariat Executive Director. Upon investigation by the MSG Chairman or the International Secretariat Executive Director, should it become clear that the payment is not an official one it would be considered a facilitation payment. As such, this further payment should not be made and the request for such a payment should be reported using suitable channels e.g. the Government Anti-Corruption Bureau. It should be remembered that facilitation payments are distinct from per diems that cover legitimate expenses incurred from travel, accommodation, meals etc. Facilitation payments (potentially the payment of \$800) are unlawful under the UK Bribery Act 2010 and such payments will constitute a criminal offence. If it is concluded, by the MSG Chairman or the International Secretariat Executive Director that the payment is a legitimate fee, for example, covering legitimate travel and accommodation expenses then the MSG, may permit the Coordinator to make the payment.

j. **Reporting suspected bribery or corruption**

CoST depends on its Agents to ensure that the highest standards of ethical conduct are maintained in all its business dealings. Agents are required to assist EAP and CoST and to remain vigilant in preventing, detecting, and reporting bribery and corruption. Agents should report any concerns that they may have to the MSG Chairman or the CoST International Secretariat Executive Director the earliest possible opportunity. EAP and CoST will ensure that the individual is not subjected to detrimental treatment as a consequence of their report.

k. **What happens if the policy is breached?**

The CoST International Secretariat will fully investigate any instances of alleged or suspected bribery or corruption and will seek the suspension of Agents suspected of bribery or corruption from their duties while the investigation is being carried out. Proven acts of bribery or corruption, or accepting a bribe may also constitute a criminal offence.

The CoST International Secretariat reserves the right to take action against any person acting on behalf of EAP and CoST who is found to have breached this policy.

I. Acknowledgement of Receipt and Understanding

Please tick the box which is most applicable and sign below:

I understand my role and responsibilities in relation to the EAP/CoST Prevention of Bribery and Corruption Policy and require **no further training**.

☐

I do not understand my roles and responsibilities in relation to the EAP/CoST Prevention of Bribery and Corruption Policy and **require further training**.

☐

**Signature** .....

**Date** .....

**Print name** .....