**Documentation of the commercial and legal eligibility check on a potential recipient[[1]](#footnote-2)**

For the commercial and legal eligibility check, the contractor may request advice and support from the project’s officer responsible for the commission or from a national/international auditor (where own TORs provide for this). Under no circumstances may the potential recipient itself be involved in carrying out the checks.

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| **Potential recipient, registered office**  (Note: check the eligibility of the direct contractual partner, not that of a local branch as this is not an independent legal entity) |  |

**People involved in the eligibility checking process**

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| Full first and last name(s) |  |
| Organisational unit, company (where relevant) |  |

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| Location |  |
| Date |  |

**Details of the potential recipient**

(Please summarise key information here and attach any explanatory notes as an appendix)

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| **Eligibility criteria** | **Assessment** |

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| **1. Sanctions list check**  (The GIZ project will perform a manual sanctions list check (in accordance with P+R 517) at the contractor’s request). | The sanctions list check was carried out on      . There were no hits.      *Note: if the check reveals a match on the sanctions list, i.e. there is a suspicion that the potential recipient is on the sanctions list, no further steps may be taken if the check is performed manually.* |

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| **2. Legal personality**  What is the legal form of the potential recipient? How is the potential recipient registered? Provide evidence of legal form and registration in accordance with the legal regulations applicable in the country in which the institution/organisation is based. Please attach extracts from the appropriate register/formation documents showing the location of the institution/organisation’s registered office and the year it was established (if not shown in the register entry)/tax number or other forms of substantiating documentation generally required in the country.  In the case of ministries and state institutions, does it have a permanent or temporary mandate? |  |

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| **3. Public-benefit status**[[2]](#footnote-3)  If the potential recipient’s official location is outside Germany, you will need to check whether the actual content of the project intended for funding is compliant with German public-benefit legislation (i.e. whether the activity benefits the general public and would therefore also be tax-privileged under the German Fiscal Code were it to be pursued in Germany).  To determine whether the potential recipient is serving public-benefit purposes under their articles of association or through their usual course of business, it may help to examine the relevant articles of association, registration details, etc. To do so, you could ask the recipient for corresponding documentation, performs online research, etc. and contact the officer responsible for the commission at GIZ if need be. | **1.) Official location of the potential recipient**  Does the potential recipient have their registered office in Germany?  yes  no   * **If no**, continue to **2.)** * **If yes**, no funding from local contributions can be provided via a consulting firm *(check is to be terminated at this point)*   **2.) Limited tax liability of the potential recipient**  a. Does the recipient have a limited tax liability in Germany?  yes  no   * **If yes**, no funding from local contributions can be provided via a consulting firm *(check is to be terminated at this point)* * **If no,** please observe EU state aid law²) insofar as the content of the project serves the public benefit according to the project proposal (recipient’s articles of association or similar may indicate that this is the case). * Please explain the extent to which the use of funds to be used for the project according to the project proposal is to deliver tangible benefits to the general public in the developing country:   Please explain: |

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| **4. Accounting**  As a basic principle, the bookkeeping system should make it possible for an expert third party to gain an overview of the company’s business transactions and financial situation within a reasonable amount of time. It should be checked whether an appropriate bookkeeping system exists and is used by qualified staff. Also check the time recording system.  *Template for voluntary commitment: ‘By signing this document, we commit ourselves to implementing a manual or electronic time recording system that is used to record the actual number of working hours spent on the project and that presents these hours in verifiable form.’*” | Is the national accounting standard complied with?  yes  no  Are there lists of income and expenditures?  yes  no  (minimum standard for local contributions (see Guideline on local contributions in consulting contracts))  Is there an electronic bookkeeping system?  yes  no  Are the annual financial statements drawn up properly?  yes  no  Is there qualified staff?  yes  no  Is there a time recording system?  yes  no  If **yes**:  manual  electronic  If **no**, a voluntary commitment is required (see text on the left). |

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| **5. Contract award procedure**  (valid legislation on public procurement, implementation, assessment results)  If procurements are included retrospectively, this eligibility criterion must be reviewed again. | Information on the individual agreement:  Are there plans to procure materials, equipment and services?  yes  no  As a general rule:  Does the potential recipient have its own written contract award rules?  yes  no  Are the regulations applied correctly by the recipient, and is there proof?  yes  no  Do these regulations meet the national contract award standards?  yes  no |

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| **6. Internal and external controls**  Existence, mandate, quality of internal control bodies (adherence to the following principles: transparency, cross-check, separation of functions/tasks, minimum information).  External audit bodies and audit reports, including those of other providers of funding. |  |

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| **7. Experience of handling financing arrangements**  Scope and quality of the technical and administrative implementation of previous financing arrangements with GIZ in the relevant country (via the officer responsible for the commission at GIZ if required). Findings from financial audit reports.  “If GIZ has no experience of implementing financing arrangements with the potential recipient, other donors should be named (if they exist).” | **1.** **Does GIZ have experience of implementing financing arrangements with the potential recipient?**  yes  no   * **If no**, continue to **2.)**   1.1. Does this experience relate to GIZ’s country offices?  yes  no  1.1.1 How would this experience be rated?  Positive  Positive with risk-minimising measures        (please explain)  Negative  1.1.2 Information requested from the unit responsible at the GIZ country office on:  ----------------------------------------------------------------  **2. Experience with other funding provider:**  Name of funding provider:  Amount of financing: |

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| **8. Legal compliance and anti-corruption**  Have the above institution, its executive bodies and/or executive managers broken the law and/or been the subject of allegations of or investigations into corruption?  *Example of a voluntary disclosure: ‘I hereby confirm that no allegations have been made or investigations carried out in the last five years in relation to the organisation, members of its executive bodies or executive managers concerning breaches of the law, corruption or other offences (e.g. fraud, misappropriation, breach of trust).* *We also confirm that an effective system to prevent and combat corruption has been put in place and is being used consistently.’* | 1. **The assessment criterion has been met in the following way:**   Option 1 – Internet research  Option 2 – voluntary disclosure   1. **Assessment result:**   The research and/or voluntary disclosure revealed no indications from the past five years. An effective system has been put in place to prevent and combat corruption and is being used consistently. (if the system is unknown, a voluntary disclosure (option 2) must be obtained)  The research and/or voluntary disclosure revealed hits from the past five years. It was possible to show that investigations have been launched and an effective system to prevent and combat corruption has been put in place and is being used consistently.  There are current indications that remain to be clarified, or investigations are under way. Contact the officer responsible for the commission at GIZ.  There are serious confirmed cases. Contact the officer responsible for the commission at GIZ. |

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| **9. Risk assessment**  Processes and competencies for handling potential unintended negative impacts  Risks of potential unintended negative impacts and corresponding measures to avoid/mitigate them must be included in the advice/capacity building provided to recipients of local contributions and discussed with them.  The potential recipient must carry out their own risk analysis as part of the project proposal. | **Handling potential unintended negative impacts / Environmental and social standards**  Environment/climate  Conflict and context sensitivity  Human rights  **Check:**  Does the potential recipient have the competencies and processes in place to identify, promptly and appropriately, any potential unintended negative impacts in the areas indicated above caused by the activities to be financed, to analyse them, to address them with suitable prevention and/or mitigation measures and to monitor them? Please indicate with a cross where you believe competencies and processes are in place.  Please justify your assessment and state your sources: | |
| **Overall risk assessment based on the commercial and legal eligibility check**  (to be completed by the contractor)  The recipient is legally/commercially eligible to implement a financing agreement or grant themselves. No local contribution can be entered into with the recipient.  The recipient is **not yet** legally/commercially eligible to implement a financing agreement or grant. A **local contribution** can be entered into with the recipient.  **No financing arrangement** can be entered into with this recipient. | |

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| **Signatures:**   |  |  |  |  |  | | --- | --- | --- | --- | --- | | **Date** |  | **Date** |  | **Date** | | **First and last name, job title** | **First and last name, job title** | **First and last name, job title** | | **Contractor**  (or officer responsible for the budget) –  **MANDATORY** | **1st person involved in the eligibility checking process**  (where applicable) | **2nd person involved in the eligibility checking process**  (where applicable) | |

1. The contents of the commercial and legal eligibility check must not be in conflict with national legislation. [↑](#footnote-ref-2)
2. If the potential recipient is a private commercial entity with a registered office in the EU/EEA or a private commercial entity with a registered office in the partner country but with ownership structures or sales markets in the EU/EEA, a case-by-case assessment under EU-state aid law is required in addition to the assessment under non-profit law . Contact the officer responsible for the commission at GIZ if necessary. [↑](#footnote-ref-3)