**Annex II - Checks and Verifications to be carried on Conflict of Interest for EU Funded contracts in line with Article 61 of the Financial Regulation of 2024.**

Explanatory Note

As per MA Circular 4/2022 and MEFL/EF Circular 1/2023 both issued by the Permanent Secretary EU Funds on 15 December 2022 and 21 August 2023 respectively, , Line Ministries are being reminded of their obligations to strengthen and carry out checks and verifications against conflict of interest throughout the design and the implementation of the projects. The following checklists are being provided hereunder as a guideline to understand better the level of checks that are required to be carried out on EU Funded projects. It is important to stress that these checklists do not intend to represent a comprehensive or exhaustive list of checks each Line Ministry should put in place. The Line Ministry needs to carry out its own unbiased, diligent and thorough assessment of the implementation process of any EU Funded project and on potential conflict of interest.

This Ministry is therefore proposing the Checklists hereunder which are ALL being proposed to be used at different stages of the project cycle. Each section of this document is providing the necessary notes and detail of when and how these checklists should be utilised.

**Procurement Checks**

*Step 1 – To be filled in for all bidders for all procurement processes above* ***€10,000 (excluding VAT)****.*

1. **Checklist for Line Ministries/Beneficiaries to verify the Declaration of Conflict of Interest and CV at the opening of the tender bids.**
2. This checklist is to be used by Line Ministries/Beneficiaries to undertake a basic check on **all bidders** for all procurement processes **above €10,000 (excluding VAT)**.
3. Checks are to be carried out on the **Project Team, Evaluation Committee Members (including any Consultant/Technical Advisor/s) and, Procurement Drafters** vis-à-vis **all** the bidders submitting an offer in that particular tender.
4. The following documents are required to carry out this check and fill in the below checklist:

* CVs of the officials involved in the evaluation of the tender including the Evaluation Committee Members (including any Consultant/Technical Advisor/s) and Procurement Drafters;
* CVs of the officers forming part of the project team;
* Signed Declaration/s of Conflict of Interest;
* Bids received for that particular tender

|  |  |
| --- | --- |
| Contract Reference |  |
| Full Name and Surname of official being assessed |  |
| ID card of Official being assessed |  |
| Grade of Official being assessed |  |
| Detailed functions of official being assessed |  |
| Bidding Companies for the respective tender |  |

Checklist to cross check the Declaration of Impartiality & Confidentiality vis-a-vis the CV and the bids received

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Verification** | | **Comments** |
| 1 | Declaration of Impartiality & Confidentiality of officer being assessed is signed and filed | Yes/No |  |
| 2 | Was a Conflict of Interest declared? | Yes/No |  |
|  | If yes to Question 2, is there any documentary evidence that the officer being assessed was replaced? |  |  |
| 3 | To confirm that the CV submitted is a recent one (last year) | Yes/No |  |
| 4 | Has the CV been checked vis-à-vis all bids received? This check should include the following:   1. Cross check between the addresses of the bidders and the officials involved 2. Officials past employment (previous 5 years) vis-à-vis bids received 3. Officials part-time and ancillary employment related to any of the bidders 4. Check whether references/ board membership included in the CV are related to any of the bidder | Yes/No |  |
| 5 | To your knowledge is there a family member of the official linked to a bid which may lead to preferential treatment or biased decisions? | Yes/No |  |
| 6 | To your knowledge could the official’s personal relationships lead to preferential treatment or make biased decisions? | Yes/No |  |
| 8 | To your knowledge and based on the CV, is the official involved in any activities that might create COI (example official is a committee member in a social club that is sponsored by one of the bidders)? | Yes/No |  |
| 9 | To your knowledge and from general information do you think there is a COI? | Yes/No |  |
| 10 | Is there any additional information from external alerts that should be considered or that may need further verification? | Yes/No |  |
| 11 | Any further comments |  | |

Note: Where feasible, Line Ministries and Beneficiaries are encouraged to use data mining tools to carry out these checks.

Name of officer conducting the check Signature of the officer conducting the

Check

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Senior officer Signature of the Senior officer

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Step 2 – To be filled in for winning bidder following the award of contract for all tenders above* ***€10,000 (excluding VAT)***

1. **Checklist for Line Ministries/Beneficiaries to verify the CV vis-à-vis the Ultimate Beneficial Owner Information Sheet of the winning bid following the award of contract.**
2. This checklist is to be used by Line Ministries/Beneficiaries to undertake a consequent basic check on the winning bidders of all awarded contracts for all tender processes above € **€10,000 (excluding VAT)**.
3. Checks are to be carried out on the **Project Team,** **Evaluation Committee (including any Consultant/Technical Advisor/s), and Procurement Drafters** vis-à-vis the **winning bidder including** **its Ultimate Beneficial Owner/s;**
4. The following documents are required to carry out this check and fill in the below checklist:

* CVs of the officials involved in the evaluation of the tender including the Evaluation Committee Members **(including any Consultant/Technical Advisor/s)** and Procurement Drafters;
* CVs of the officers forming part of the project team;
* Completed Ultimate Beneficial Owner/s information declaration sheet for Winning Contractor.

|  |  |
| --- | --- |
| Contract Reference |  |
| Full Name and Surname of official being assessed |  |
| ID card of Official being assessed |  |
| Grade of Official being assessed |  |
| Detailed functions of official being assessed |  |
| Awarded Company |  |
| Ultimate Beneficial Owner/s |  |

Checklist to cross check the Ultimate Beneficial Owner Information Sheet vis-a-vis the CV

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Verification** | | **Comments** |
| 1 | Ultimate Beneficial Owner Information Sheet signed and filed | Yes/No |  |
| 2 | Has the CV been checked vis-à-vis the Ultimate Beneficial Owner? This check should include the following:   1. Cross check between the name/s, address/es etc of the beneficial owner/s and the officials being assessed | Yes/No |  |
| 3 | To your knowledge could the listed beneficial owner/s and the official being assessed lead to any preferential treatment or make biased decisions? | Yes/No |  |
| 4 | Is there any additional information from external alerts that should be considered or that may need further verification? |  |  |
| 5 | Any further comments |  | |

Note: Where feasible, Line Ministries and Beneficiaries are encouraged to use data mining tools to carry out these checks.

Name of officer conducting the check Signature of the officer conducting the

Check

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Senior officer Signature of the Senior officer

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*Step 3 – To be filled in for the winning bidder following the award of the contract and in accordance with the criteria listed in point ii below.*

1. **Detailed Checklist for Line Ministry and Beneficiaries for high value awarded contracts**

The goal of this detailed checklist is to undertake a more thorough verification check on the official/s in order to further reinforce efforts in detecting any possible conflict of interest.

1. This checklist is to be used by Line Ministries/Beneficiaries to undertake a detailed check on the **winning bid** and its ultimate beneficial owner/s following **the award of a contract**.
2. This checklist is to be used for contracts which fall under any of the following criteria:
3. Contracts awarded through a tender process on projects whose value is equal to or exceeds:
   * + *Cohesion Fund – €20 Million*
     + *ERDF - €2 Million*
     + *Home Funds – €1.5 Million*
     + *ESF – €750,000*
     + *Fisheries - €500,000*;
     + *RRP – €5 Million*
     + **or**
4. Contracts awarded through a procurement process for which a single bid was submitted; **or**
5. Contracts awarded following a negotiated procedure.
6. The following documents are required to carry out this check and fill in the below checklist:

* CVs of the officials involved in the evaluation of the tender including the Evaluation Committee Members **(including any Consultant/Technical Advisor/s)** and Procurement Drafters;
* CVs of the officers forming part of the project team;
* Completed Ultimate Beneficial Owner/s information declaration sheet for Winning Contractor;
* Beneficial Owner Information from Malta Business Registry (MBR) about the winning contractor

|  |  |
| --- | --- |
| Contract Reference |  |
| Full Name and Surname of official being assessed |  |
| ID card of Official being assessed |  |
| Grade of Official being assessed |  |
| Detailed functions of official being assessed |  |
| Awarded Company |  |
| Ultimate Beneficial Owner/s |  |

Checklist to ascertain the veracity of information produced in Ultimate Beneficial Owner/s Information Sheet

Beneficial Owner/s Information of winning contractor declared in the winning bid Beneficial Owner/s Information sheet, matches with Beneficial Owner/s Information from Malta Business Registry (MBR), namely:

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Verification** | | **Comments** |
| 1 | Does the Beneficial Owner/s Information of winning contractor declared in winning bid Beneficial Owner/s Information sheet, match with Beneficial Owner/s Information from Malta Business Registry (MBR), namely?   1. Company Registered address on MBR matches with declared information 2. Shareholder/s List on MBR matches with declared information 3. Shareholder/s ID card number on MBR matches with declared information   ***Note:*** *If shareholders list includes other registered companies, it is recommended to also look at the information of such companies and their respective shareholders as part of this comparison.* | Yes/No |  |
| 2 | The official being assessed is not listed as an involved party of the winning bid company or any of its subsidiaries. | Yes/No |  |
| 3 | The official’s residential address does not match with any official address of any of the involved parties of the winning bid company or its subsidiaries. | Yes/No |  |
| 4 | The official being assessed was not employed by the winning bid company or any of its subsidiaries in the last 5 years | Yes/No |  |
| 5 | Is there any additional information from external alerts that should be considered or that may need further verification? |  |  |
| 6 | To your knowledge, is the official being assessed involved in any activities that might lead to a conflict of interest with any of the involved parties in the winning bid company or any of its subsidiaries? | Yes/No |  |
| 7 | To your knowledge, is there any reason to believe that the official being assessed has a conflict of interest with any of the involved parties in the winning bid company or any of its subsidiaries? |  |  |
| 8 | Any further comment |  | |

Note: Where feasible line ministries and beneficiaries are encouraged to use data mining tools to carry out these checks.

Name of officer conducting the check Signature of the officer conducting the

Check

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Senior officer Signature of the Senior officer

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Recruitment Checks**

**Conflict of Interest Checks pertinent to Recruitment Procedures leading to Contracts of Service (Employment contracts)**

|  |  |  |
| --- | --- | --- |
| **Project Reference No.:** |  | |
| **Project Title:** |  | |
| **Beneficiary Organisation:** |  | |
| **Call Reference No.:** |  | |
| **Title of Call for Applications:** |  | |
| **Eligible Applicants Assessed:** | **Name and Surname** | **ID Number** |
|  |  |
| *[add further rows as necessary…]* |  |

**Risk Factor: Selection Committee’s relationship with Applicant[[1]](#footnote-2)**

|  |  |  |
| --- | --- | --- |
| **Risk Description** | **Document(s) supporting the check** | **Outcome** |
|  | *By ticking the checkboxes below, the officer conducting the check, is confirming the availability of the necessary evidence and the outcome of the check.* | |
| 1. Personal Relationship(s): 2. A member of the Selection Committee has a personal relationship[[2]](#footnote-3) with the applicant[[3]](#footnote-4) | Conflict of Interest Self-Declaration Form of all members of the Selection Committee as well as the applicant  Check through data mining tools available | Potential Conflict of Interest detected:  Yes  No  If yes, kindly elaborate in the Conclusion section. |
| 1. A member of the Selection Committee has a professional relationship (past[[4]](#footnote-5) or current) with the applicant[[5]](#footnote-6).   *This constitutes any of the following:*   1. Dual Roles: A member of the Selection Committee who sits on the Board or Management of another organisation where the applicant used to work 2. Financial Interests: A member of the Selection Committee has significant[[6]](#footnote-7) financial stakes in a company owned by the applicant, or in which an applicant previously worked   (iii) Is there any additional information from external alerts that should be considered or that may need further verification? | Conflict of Interest Self-Declaration Form of all members of the Selection Committee as well as the applicant  CVs of all members of the Selection Committee as well as the applicant  Check through Data mining tools available:    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | Potential Conflict of Interest detected:  Yes  No  If yes, kindly elaborate in the Conclusion section.  Yes  No |

**Note**: Where feasible, Line Ministries and Beneficiaries are encouraged to use data mining tools to carry out these checks.

**Note:** If shareholders list includes other registered companies, it is recommended to also look at the information of such companies and their respective shareholders as part of this comparison.

**Conclusion**

Is there reason to believe that the person(s) whose salary(ies) is/are being claimed through EU Funds has/have a perceived / outright conflict of interest with any member of the Selection Committee or the Project Team?

**Comments (if any)**:

Name of officer conducting the check Signature of the officer conducting the

Check

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Senior officer Signature of the Senior officer

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. This incorporates also the project team members, if these do not form part of the Selection Committee. [↑](#footnote-ref-2)
2. In line with Commission Notice on the *Guidance on the avoidance and management of conflicts of interest under the Financial Regulation* (2021/C 121/01), a personal relationship is understood to be within the scope of what is termed as ‘immediate family’ which comprises the following, including through adoption: the spouse (including a partner with whom the individual has a (non-registered) non-marital partnership), children and parents, (great-)grandparents and (great-)grandchildren, (half-)brothers and sisters including from blended families, uncles and aunts, nieces and nephews, first-degree cousins parents-in-law, children-in-law, siblings-in-law, stepparents and stepchildren. [↑](#footnote-ref-3)
3. The case could be triggered from any other source such as Audit Authorities, COM Services, Social Media, News Reports, etc. [↑](#footnote-ref-4)
4. In Accordance with the Framework for Preventing and Managing Conflicts of Interest in the Public Sector, dated 1st February 2024 (Directive 16), “Relations with friends, associates, persons or organisations with whom the public employee / board member has business interests or has had business interests over the past two (2) years.” [↑](#footnote-ref-5)
5. The case could be triggered from any other source such as Audit Authorities, COM Services, Social Media, News Reports, etc. [↑](#footnote-ref-6)
6. In general, significant is considered to be a shareholding of 2% or more in a company. In the case of companies which are listed on the Malta Stock Exchange, this check does not apply. [↑](#footnote-ref-7)