GUIDELINE ON IMPLEMENTATION THE BUSINESS ANTI-CORRUPTION CODE

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I. Initial Provisions: Content and Purpose

Through this Guideline, prepared by USAID Kosovo Municipal Integrity activity grantee Riinvest Institute, provides guideline to implement 'Business Anti-Corruption Code" signed by business association representatives.

The purpose of this document is to establish common standards and principles for implementation of the Business Anti-Corruption Code signed by business associations.

The goal of this document is to provide a general outline for businesses to design and implement policies to create an anti-corruption environment, focusing on eliminating corruption risks within the business.

This document provides guidelines on ethical conduct aiming to create an anti-corruption environment within the business by assessing the corruption risks that businesses face, protecting reputations, fostering a culture of integrity, and designing internal policies in line with the 'Business Anti-Corruption Code' and the legal framework in force in Kosovo.

II. Creating anti-corruption environment

Private companies need to create an anti-corruption environment within the organization. Creating such an environment needs to be followed by taking into consideration several steps.

Building self-assessment of current analysis within the organization. This needs to be carried out through an assessment of what has already been done within the organization, an analysis of the current environment within the organization, the identification of risks of corruption, the degree of occurrence of corruption risks, and its potential effects. This step also needs to include analyzing all organizational processes, with special emphasis on those that are considered to be prone to any potential corruption risks.

Defining a model that would lead to an anti-corruption environment and designing and implementing an anti-corruption model. Regarding the definition of the anti-corruption model, this involves several factors that the business needs to take into consideration. These factors include organizational size, the volume of activities, cost-benefit analysis, and what anti-corruption activities need to be carried out. This sub-step includes a declaration from the management regarding their organization's values, the formation of an anti-corruption environment, and the assignment of a person responsible for creating an anti-corruption environment by the management. The second sub-step includes designing a model for the implementation of an anti-corruption environment. The model needs to take into consideration the size of the business as well as the risk of corruption within the organization before carrying out this step.

Regular analysis of the anti-corruption environment needs to be carried out in order to identify any risk factors, areas, or business units where the corruption risk is higher, and accordingly, carry out prevention measures to eliminate these risk factors.

conducting honesty and loyalty assessments of potential employees during the recruitment process and those that are currently working in the business. The aim of this assessment is to identify the level of tolerance of staff for corruption among employees.

Businesses need to take the following steps to create an anti-corruption environment:

Defining organizational values, the behavioral standards of all members of the organization consider core values such as intolerance for corruption practices, honesty, responsibility, and loyalty.

Design regulations regarding issues affecting work-related and private interests and implementation measures on these duties, sanctions, and measurement effects.

The anti-corruption regulation needs to be built around three pillars: prevention, monitoring, and management.

Prevention includes: i) order and procedures based on a clear framework of rules and protocols that businesses need to build to mitigate the risks of corrupt practices in creating an anti-corruption environment; ii) designing a clear training environment for the staff to raise awareness on prevention and behavior in anti-corruption practices; iii) organizing internal consultation and discussing anti-corruption; and iv) building a motivational system within the organization to motivate all members of the organization at all levels against corruptive practices.

Monitoring: The monitoring component needs to include risk and performance analysis, a trust line system, and surveys. i) Risk and performance analysis needs to include analysis of the risks of corruption that the organization may face within the business units and the relationships with external stakeholders and practices. Risk assessment needs to include the likelihood of potential identified corruption risks and take into consideration factors such as the prevalence of corruption practices within the sector and the negative impact on business finances and reputation. Risk mitigation strategies need to involve strategies addressing identified corruption risks. This includes establishing a clear system for due diligence processes with third-party relationships, strengthening monitoring mechanisms, and establishing an effective whistleblower system to encourage reporting on any potential suspected corruption practices within the organization.

Management: The management component needs to include a sanctions framework and investigation protocols. i) The sanctions framework needs to include a clear and robust framework to impose sanctions on individuals who have been found to have engaged in non-ethical behavior. Defining criteria to determine the evidence of corrupt behavior and violation of anti-corruption policies; ii) The investigation protocol needs to include structured procedures on reports on corruption, developing clear guidance, designating individuals or teams on the implementation of the monitoring process, and developing procedures to impose disciplinary actions and sanctions on individuals that are engaged in corrupt practices. Monitor the progress and outcomes and track key performance indicators regarding the possible cases of corrupt practices within the organization.

Based on the above steps, the regulation needs to include: i) actions and measures that prevent anti-corruption-related behavior, procedures, training, and motivational systems; ii) effective monitoring actions and measures by taking into consideration risk and activity analysis and conducting systematic analysis on the implementation of regulations and risk analysis regarding corruption; iii) measures that include sanctions and procedures in cases where corruption practices are evidence and management procedures consequences.

III.   Whistleblower System

The whistleblower system provides a secure and confidential way for individuals within the organization to report any irregularity regarding a violation of the code of conduct within the organization. The following guidelines for businesses to establish a whistleblowing system are:

The whistleblower system needs to be adopted based on LAW No. 06/L-085.

Businesses with more than 50 employees are obliged to appoint a responsible official.

The business will design a whistleblower policy taking into consideration the legal framework in Kosovo (Law No. 06/L-085).

Businesses need to develop a comprehensive whistleblower policy. The policy needs to comprise the following elements: purpose, scope, and procedures to report any suspected unethical behavior within the company.

The whistleblower system needs to be designed based on the following components: confidentiality, where the business guarantees the confidentiality of the whistleblower's identity.

The business will guarantee that if a whistleblower reports any corruption activity within the organization, they won't be punished in any way by the management. Implementing support and protection measures also includes protection from retaliation, where the whistleblower will not be punished for exposing any irregularities as long as they report based on evidence. This includes designing policies in relation to confidentiality, and in the case of disciplinary procedures in place, they must be updated and reviewed to prevent retaliation.

Secure a confidential reporting system. This needs to be carried out by establishing clear, secure, and confidential reporting channels.

Businesses need to develop a reporting system for whistleblowers when they file reports in writing or orally and encourage them to report internally first.

Businesses need to ensure that they have a supporting system where whistleblowers have information about their rights, legal support, financial assistance, and any other form of assistance needed.

Businesses need to clarify who will be protected. This includes not only current employees but also former employees, suppliers, and shareholders.

IV.   Staff training and awareness campaign

To create an anti-corruption business environment and avoid corruption practices within the business, the following steps need to be taken: implement the component of staff training and awareness campaigns within the business anti-corruption code.

Companies are required to provide training and awareness-raising to all employees.

Training and awareness campaigns within the business need to be designed to emphasize the importance of whistleblowing. These trainings need to be designed on topics including but not limited to whistleblowing policy, channels to report, and their rights and protection based on the law and internal regulations.

Businesses also need to organize training for the management team on handling reports, conducting investigations, and how to protect whistleblowers.

Training employees on how to identify any unethical or corruptive practices.

Anti-corruption training needs to target all employees at all levels of business. In cases where business units have distinct roles and responsibilities, the content of training needs to be adopted accordingly, including the position of employees.

Training can be organized in the form of meetings, seminars, or online training, depending on the specificity of the responsibilities and position that employees have. In cases where employees have positions that are exposed to greater risks of corruption, trainings in person need to be organized periodically as well as during the training to get feedback from these employees.

Businesses need to build a tracking system regarding their anti-corruption training, such as the time when these trainings have taken place, the number of employees, and the content of the training.

Trainings need to be organized every year. In cases where businesses have a higher risk of corruption, these trainings can be organized more often.

In the event of a change in the legal framework regarding corruption, businesses need to organize training on these changes and the requirements of the legal act.

Training needs to be designed around anti-corruption measures and explain these measures to employees while they conduct their daily activities. Within these trainings, it would be advisable if the training provided real-time examples of cases that occurred within the organization or at other organizations.

If the management team, during the assessment of corruption risk assessments, concludes that the risks are related to its stakeholders, such as suppliers, business partners, etc., then they also need to be included in these trainings.

Training for employees that deal with business units directly related to public procurement applications.

The content of employee training also needs to include components of due diligence gifts, donations, sponsorships, and political contributions.

V.   Private Sector Integrity in Public Procurement Processes

Defining clearly internal regulations regarding their application in public procurement. The elements that internal regulation should include are:

Ensuring alignment with internal policies and procedures regarding conflicts of interest is necessary to maintain organizational compliance and ethical conduct.

 Integrate the code of ethics to avoid any false submission of documents during the application for public bidding contracts.

Design clear steps that businesses have taken to comply with the applicable rules on professional procedures regarding public procurement.

Enhance oversight and internal controls; this includes clear steps on monitoring practices to evaluate and identify corruption risks and ensure that these align with internal policies and procedures.

Independent audits to help the management identify any weaknesses.

Evaluating risk assessment consistently in cooperation with employees on staff.

Training procurement unit staff and clearly defining the responsibilities of staff in accordance with code of ethics policies and procedures.

Training staff in applicable laws and regulations for public contracts and services.

VI.   Due diligence

Before carrying out the due diligence, the business needs to take into consideration the limitations related to its business, such as the size of the business, the resources available, and the scope of its operations. The following guideline on due diligence:

Develop ongoing communication and relationships with business partners and stakeholders on due diligence processes. Where gaps in information exist, consult with relevant stakeholders and experts.

While conducting a corruption risk assessment, focus on the most significant risks and provide clear guidance on how the business can approach these risks. As a result, develop due diligence plans and policies accordingly.

Communicate assessed risks in the context of due diligence with employees at all levels.

Establish channels of communication, or utilize existing channels of communication, between relevant senior management and implementing departments for sharing and documenting information on risk and decision-making.

Develop and implement pre-qualification processes on due diligence for suppliers and other business relationships, where feasible, adapting such processes to the specific risk and context.

Understand and address barriers arising from the enterprise's way of doing business that may impede the ability of suppliers and other business relationships to implement.

Analyze the main stakeholders that are directly or indirectly relevant to your business. This would help the business to have a clear mapping of business operations, suppliers, and other business relationships and the relevance of the prioritized risks assessed.

Are any supplier or client who is directly or indirectly targeted by public procurement policies to be sanctioned due to their unethical behavior and corruptive practices.

VII.   Initiatives for improving the legal framework

The guideline for the initiative of businesses to improve the legal framework related to corruption needs to be based on the following steps: i) businesses to engage with other governmental and non-governmental organizations, regulatory bodies, research institutions, and stakeholders in advocacy; ii) share the experience in meetings organized by providing clear examples of gaps in the legal framework and recommendations on how to improve it.

VIII.   Gifts, donations, and sponsorships

Businesses need to adopt a donation for charity, sponsorship, hospitality and entertainment, and gift policies. These policies within the organization must be designed to prohibit any form of benefit facilitated through payments.

These documents must include the following components: i) develop regulations on donation for charity and sponsorship, gifts and political contributions; ii) to be undertaken in a proper, open and transparent manner within the regulation of business; iii) inform employees about this policies; iv) these regulations need to avoid any conflict of interest between the business and the benefiter of the donation and sponsorship; v) in case of any donation and sponsorship these must be documented as a memorandum for approval which must include the name of the receipt organization supported with other relevant documents; vi) In case of sponsorships, these must be granted on the bases on written contracts that serve a serious commercial purpose.

Hospitality and Entertainment Hospitality

The following elements, but not limited to, need to be included within the policy: i) employees need to be informed regarding ethical behavior and comply in accordance with this policy; ii) the policy needs to include acceptable expenses; iii) register in detail into accounting books; iv) hospitality and entertainment need to be approved by the board or management of the business; v) hospitality and entertainment Hospitality is allowed with the aim of maintaining relationships with customers and suppliers that do not compromise any business decisions or values against the law or are not in line with business regulations.

Donations for Charity and Sponsorship

Bussineses need to develop internal policy on charity and sponsorships that clearly outline the criteria on charity and sponsorship. These policies need to emphasize the following elements and not limited to; i) donations need to clearly emphasize that there is no conflict of interest between the provider (business) and receiver; ii) donations are in line with business value and objective; iii) business before providing the charity and sponsorships has to conduct due diligence on possible recipients, analyze their reputation and whether the charity and sponsorship will violate ethical standards; iii) build clear procedures on the approval of charity and sponsorships by the management and involving business internal and external stakeholders; iv) the policy needs to emphasize the individuals who will monitor and evaluate the charity and sponsorship.

Gift policy

A gift policy needs to comprise the following elements: i) Businesses need to endorse the gift policy as an element of an element of business integrity, agree to set a good example regarding business behavior, and inform all employees regarding the importance of this policy. Within the gift policy, businesses need to emphasize that they do not tolerate the delivery or acceptance of gifts unless the gift is permitted by law. Within this framework, the business need to emphasize that: ii) gifts are not provided to public entities with whom the business are or have been connected through goods or services provided; iii) gifts are not provided to business partners that violate the work ethics and is against legal framework, business