

**DRAFT TERMS OF REFERENCE FOR THE
OPEN GOVERNMENT PARTNERSHIP OF SOUTH AFRICA
MULTI-STAKEHOLDER FORUM**

PREFACE

- (a) The Open Government Partnership ('OGP') is a partnership of government leaders and civil society advocates which aims to promote transparent, participatory, inclusive and accountable governance. It is a partnership of 75 countries and 150 local jurisdictions that work alongside civil society organisations.
- (b) South Africa was a founding member of the OGP in 2011. Its latest (fifth) National Action Plan (NAP) outlines concrete commitments to enhance transparency, accountability and public participation in open government.
- (c) The OGP requires each partner country to establish a forum - either new or existing - for regular multi-stakeholder consultations to advance its goals. These forums bring together government, civil society, the private sector and other stakeholders to foster collaboration, ensure inclusive participation, and amplify diverse voices. The forum's objectives are to (1) provide stewardship of the OGP process in South Africa; (2) uphold the values and principles of the OGP; (3) ensure inclusion throughout the process - there is a governance function to support the process - by (a) raising awareness; (b) supporting outreach. In South Africa, the OGP aims to strengthen democratic governance by facilitating dialogue that contributes to co-creating policies that build public trust, improve services and tackle corruption. Such forums are seen as essential to the OGP's success, enabling citizen engagement and the delivery of effective, collaborative open government reforms.
- (d) The members of the Interim Steering Committee (ISC) of the OGP South Africa ('OGP-SA'), which includes current national implementing partners of the current fifth NAP, have agreed to establish the OGP-SA Multi-Stakeholder Forum ('MSF'). This document sets out the MSF's terms of reference (ToRs).

1. PURPOSE OF THE TERMS OF REFERENCE

- 1.1 These ToRs reflect the understanding of the members of the ISC ('the members') and any future members with regard to a relationship of collaboration, consultation, mutual support and cooperation between themselves, and between them and any future members, and serves to strengthen and formalise their relationship between the members and to

promote the aims, objectives, principles and values of the OGP in South Africa by establishing the OGP-SA MSF.

- 1.2 The members of the ISC agree to provide mutual assistance and co-operation to each other, subject to their relevant governing laws and any other applicable legislation.
- 1.3 The members acknowledge that these ToRs do not modify or supersede any laws and that they do not create legally binding obligations or enforceable rights between them.
- 1.4 Anything performed in terms of these ToRs will be subject to applicable legislation. It will furthermore be subject to applicable policies and standard operating procedures of the members and any other terms and conditions as may be agreed upon between the members.
- 1.5 Each member will provide the fullest possible measure of assistance to the other, subject to applicable legislation and policies and any other terms and conditions agreed upon between the members.
- 1.6 The provisions of these ToRs will not give rise to a right on the part of any other person, directly or indirectly, to obtain, suppress or exclude any relevant or pertinent information.

2. GUIDELINES FOR MUTUAL ASSISTANCE

- 2.1 The members and partners agree to use their best endeavours to secure sufficient resources in order to implement their obligations as set out in these ToRs.
- 2.2 Despite 2.1 above and for the avoidance of doubt none of the members or partners are under any obligation to commit funds under these ToRs, except to fulfil their commitments and obligations as agreed from time to time, with particular reference to the development and implementation of the commitments in South Africa's current and future OGP National Action Plans (NAPs).
- 2.3 In the event of the members and partners identifying and agreeing on a specific form of co-operation that requires funding, the members and partners will formalise the specifics, rights and obligations of the members, partners and any other parties in a separate legally binding contract.
- 2.4 Each member and partner remains responsible for its own expenses, except as may be agreed in a contract contemplated in clause 2.3 above.

3. PRINCIPLES OF COOPERATION

- 3.1 The members and partners will endeavour to co-operate with one another regarding how best to promote and fulfil the aims and objectives of the OGP internationally and in South Africa.
- 3.2 The principles on which the cooperation shall be based are –
 - 3.2.1 Mutual trust, transparency, respect, good faith and benefit to the members, other stakeholders and generally to the public of South Africa;
 - 3.2.2 Technical information, knowledge and expertise exchanged between the members and partners shall not be passed to a third party except in accordance with these ToRs;
 - 3.2.3 Commitment to joint training and capacity-building where applicable to enhance knowledge, skills and a shared understanding of the functions of the respective members and partners; and
 - 3.2.4 Adherence to the legislative frameworks governing the members and partners, while also giving due consideration to executing their respective mandates without fear, favour or prejudice.

4. OBJECTIVES OF THE MSF

- 4.1 To support and coordinate the implementation of the OGP aims, objectives, policies, principles and values in South Africa in line with the values, and processes and guidelines set out in the OGP Handbook.
- 4.2 In conjunction with the National Focal Point/POC, facilitate broad stakeholder participation in the development and implementation of South Africa's NAPs.
- 4.3 To coordinate OGP programme activities that ensure open governance, including with the African Peer Review Mechanism (APRM), and enable implementation and monitoring of South Africa's NAPs.
- 4.4. To manage the ongoing operations of the MSF.

5. MANDATE AND FUNCTIONS OF THE MSF

- 5.1 Collaborate, support and assist the OGP-SA National Focal Point (NFP) to lead the OGP process of the country.
- 5.2 Serve as a cornerstone of the country's successful participation in the OGP, which is crucial to delivering collaborative open government reform in South Africa.

- 5.3 Provide a platform and structured environment that is designed to maximise participation, consultation, dialogue and cooperation between the government, civil society, partners and other stakeholders, by bringing them into the discussions and ensuring that all voices are heard.
- 5.4 Facilitate and coordinate the collaborative development and finalisation of draft OGP South Africa draft NAPs and submit them to the National Focal Point (NFP) for consideration.
- 5.5 Request such information from South African state institutions and other agencies as may be necessary to perform its functions.
- 5.6 Invite and devise proposals and recommendations to coordinate the development, elaboration and implementation of the country's NAPs.
- 5.7 Facilitate and monitor implementation of the country's NAPs.
- 5.8 Facilitate communication and broad dissemination of the activities of OGP-SA, implementation of the country's NAPs and progress of open government reforms in South Africa.
- 5.9 Engage on an annual basis with other country MSFs in efforts to facilitate and foster collaboration, public awareness and best practice between OGP country chapters.
- 5.10 Establish rules for governance and membership for the MSF.
- 5.11 Support the work of the OGP's Independent Reporting Mechanism (IRM).

6. RESPONSIBILITIES OF THE MULTI-STAKEHOLDER FORUM (MSF)

- 6.1 Strategic and tactical planning: Based on available resources, priorities within and outside the government, and the political context, the MSF will strategise on the best ways to approach the entire OGP process, including co-creation and development, implementation, monitoring of national action plans (NAPs), and cooperation with the Independent Review Mechanism (IRM). It will ensure that open government aims and objectives are established and that stakeholders are, in accordance with OGP processes (as set out in the OGP handbook), engaged in open government processes to identify strategic themes to be addressed in NAPs. As an established space, the MSF can also be used to respond to emerging priorities or opportunities.
- 6.2 Engagement: The MSF will proactively identify ways to engage stakeholders from within and outside government in various open government processes within the country, including the development, implementation and monitoring of the NAPs. The MSF will also support opportunities for other non-government stakeholders, such as academia and the private sector, to engage with OGP and OGP-SA processes. The MSF will further provide opportunities for

remote/virtual participation in some meetings and events to enable the inclusion of groups or their representatives who are unable to attend in person.

- 6.3 Communication: The MSF will undertake activities to inform open government stakeholders and the broader public about open government processes in the country and how they can participate. The MSF will also proactively communicate and report back to government and civil society stakeholders on its activities, decisions and results, including of the NAP and its commitments.
- 6.4 Oversight: The MSF will oversee domestic processes related to OGP and ensure the development, implementation and monitoring of NAPs. It will ensure assessment of action plan development and implementation and will identify ways to approach these processes in future iterations. The MSF will also coordinate cross-sector efforts towards openness beyond the NAPs.

7. MEMBERSHIP, PARTICIPATION AND DECISION-MAKING

7.1 Composition

- 7.1.1 The MSF will comprise representatives of government and civil society and other relevant stakeholder groups such as academia and the private sector. The MSF will promote the participation in the MSF and its activities of organisations that prioritise the participation of young people and women.
- 7.1.2 Although these ToRs are signed by the members of the ISC, membership of the MSF remains open also to other organisations, groups or individuals on the basis of the values and principles of the Open Government Partnership. Any member may resign by giving 30 days' written notice, except that organisational member responsible for implementing NAP commitments may terminate their membership only after agreement by both the members of the MSF in accordance with the provisions of these ToRs and authorisation by the NFP.
- 7.1.3 While the number of representatives of each organisation or group in the MSF is not limited, the MSF will be guided by OGP good practice that indicates that the number of government representatives and civil society representatives should be roughly equivalent at all times.
- 7.1.4 Each member may nominate an alternate to represent their organisation and to attend and participate in meetings and other activities of the MSF. Prior communication of the identity and contact details of alternates must be provided to members of the MSF and to the secretariat.
- 7.1.5 Good faith efforts will be made by all stakeholders, especially members, and partners, to ensure appropriately inclusive, diverse representation and participation, as either members, partners or guests, by relevant stakeholder organisations or groups, especially those interested in or affected by existing or proposed NAP commitments, programmes or activities.

7.1.6 All decisions by the MSF concerning the NAPs shall be taken by members in consultation with each other and after consultation with any other relevant stakeholders. Whenever possible, decisions by the MSF shall be on the basis of good faith and consensus. Should consensus not be possible despite good faith efforts by all members, and partners, decisions by members may be taken on the basis of sufficient consensus, with objections or reservations, and supporting reasons, noted in the minutes.

7.2 **Term of the MSF**

7.2.1 Members of the ISC shall be invited to nominate members of the inaugural MSF. The process of inviting nominations shall commence immediately after the adoption of these ToRs and shall be aimed at encouraging broader membership of the MSF than of the current ISC.

7.2.2 Membership and partnership in the MSF is for the duration of South Africa's Fifth NAP 2023-2026, whereafter the MSF members will make a recommendation to the NFP.

8. **LOCATION AND FUNCTIONS OF THE MSF SECRETARIAT**

8.1. The secretariat of the MSF shall be located in the office of the NFP in the Department of Public Service and Administration (DPSA).

8.2 The MSF shall be coordinated and chaired by a representative of the DPSA as delegated by the Minister of Public Service and Administration.

8.3 Members of the civil society sector shall elect an alternate chairperson of the MSF to ensure the OGP spirit of collaboration and partnership within the MSF.

8.4 The functions and responsibilities of the secretariat shall include to –

8.4.1 Support the MSF in undertaking its responsibility to coordinate the NAP development process.

8.4.2 Monitor implementation of the NAP and other activities agreed upon by the MSF.

8.4.3 Prepare regular progress reports on NAP implementation for consideration by the MSF.

8.4.4 Prepare the annual calendar for MSF meetings and publish it timeously on the OGP-SA website.

8.4.5 Arrange scheduled and ad hoc meetings.

8.4.6 Organise MSF meetings, help identify proposed issues for discussion, prepare draft meeting agendas and prepare the list of invitees.

- 8.4.7 Prepare the draft and final approved minutes of MSF meetings, and maintain meeting records in a transparent manner including through the timely publication of key discussions decisions on the OGP South Africa online platform
- 8.4.8 In agreement with the MSF, develop schedules for open and transparent public consultations on open governance issues.
- 8.4.9 Coordinate agreed awareness raising activities for stakeholders and the public concerning South Africa's OGP process, and progress with NAPs implementation and open government reforms.
- 8.4.10 Establish, maintain and regularly update an OGP-SA website that is available and accessible to the public and all other stakeholders, and which provides a comprehensive repository of historical (to the extent possible) and current OGP-SA documents, materials and resources.
- 8.5 Members may decide to accept offers of third-party support for the secretariat.

9. MEETINGS

9.1 Frequency

- 9.1.1 Members will endeavour to meet quarterly i.e., four meetings each year. Depending on participants' needs, special meetings can be convened.

9.2 Participation

- 9.2.1 For better communication, understanding, trust and collaboration, in-person participation is encouraged at least once a year, subject to the availability of funding.
- 9.2.2 Participation can also be in the form of remote participation i.e., online meetings.

9.3 Location

- 9.3.1 The location of meetings may alternate between in-person and online meetings, but in-person meetings are subject to the availability of funding.

9.4 Language

- 9.4.1 Meetings of the MSF will be conducted in English and the agenda and associated material will be made available in English. However, MSF members and other participants will be free to express themselves in any official language of their choice, provided that good faith efforts will be made to promptly provide either a simultaneous English translation or paraphrase. Capacity will be progressively built to cater for other official languages in the OGP-SA programme and MSF proceedings and activities.

9.5 Non-members' attendance

9.5.1 Members shall agree when other stakeholders may attend all or part of any meeting of the MSF.

9.5.2 The MSF may agree to extend meeting invitations to non-members when deemed necessary or appropriate.

9.6 Fostering Collaboration

9.6.1 The MSF will engage on an annual basis with other country MSFs in efforts to facilitate collaboration, public awareness and best practice between country OGP chapters.

9.7 Transitions

9.7.1 The MSF should prepare and share appropriate information and training with new members and partners of the MSF to ensure mutual understanding and expectations of the MSF and OGP process in South Africa.

10. EVALUATION

10.1. The MSF should ensure that progress is assessed or evaluated regularly as part of its functions to ensure that the implementation of the NAP is on track.

11. EFFECTIVE DATE OF THE MSF TERMS OF REFERENCE

11.1 Effective date

11.1.1 These ToRs will come into effect upon endorsement by the OGP-SA NFP (the effective date) and shall endure, subject to its terms and conditions, until it is terminated by either the majority of MSF members or the DPSA with 90 days written notice to members.

11.2 Any amendments or improvements to these ToRs will be discussed and agreed by MSF members and forwarded to the OGP-SA NFP for endorsement.