# **Terms of Reference**

# **Introducing Corporate Governance Instruments for**

# **Mykolaivvodokanal**

## Background:

**The European Union Anti-Corruption Initiative (EUACI)**

The European Union Anti-Corruption Initiative (EUACI) in Ukraine is a joint EU and Government of Denmark financed programme aimed at supporting Ukraine to reduce corruption at the national and local level through the empowerment of citizens, civil society, businesses, and state institutions. In May 2020, the EUACI entered into its phase II that runs till mid-2024.

The EUACI has three components supporting anti-corruption reforms from different angles:

Component 1, supporting key state anti-corruption agencies in improving their effectiveness and independence;

Component 2, supporting selected integrity cities in the efforts to strengthen their integrity, transparency, and accountability; and

Component 3 supports Ukraine's civil society, media, and business community to increase awareness of and engagement in anti-corruption activities.

This specific assignment concerns the EUACI's support to integrity cities (Component 2). The component aligns with the government's encouragement of e-government functions by using ICT to improve the efficiency, effectiveness, transparency, and accountability of government at all levels.

It is in this context that the EUACI is seeking a Consultant (Consultant or Consulting firm or NGO) that can work closely with the EUACI and its partner city to deliver the Corporate Governance Roadmap for Mykolaivvodokanal, the water supply municipally owned enterprise (MOE) and provide practical recommendations (solutions) on how to establish a Supervisory board.

These Terms of Reference (ToR) provide more details about the assignment.

**The partnership with Integrity Cities**

The six integrity cities with which the EUACI has entered into a partnership under its component 2 are Chernivtsi, Chervonohrad, Mykolaiv, Nikopol, Mariupol and Zhytomyr.

During phase 1 and 2, the EUACI worked with these cities to further strengthen their systems and tools for enhancing integrity, transparency, and accountability. The partnership continues in the current second phase of EUACI, focusing on the continued development of the various integrity tools launched during phase one and implementation of new tools agreed expressly for phase two.

One of the tool implemented is the Integrity Assessment of MykolaivVodokanal, water supply MOE. It was conducted by Deloitte in Ukraine on behalf of the EUACI and evaluates the level of transparency and accountability, identifies integrity risks and consider aspects of corporate governance. As part of the assessment, 9 spheres of enterprise functioning were analyzed based on 87 indicators.

An effective corporate governance system promotes an open, transparent, and effective approach to sustainable business in both the private and public sectors. An important advantage of implementing a comprehensive corporate governance system is the establishment of a reliable control environment system – internal audit, compliance, and risk management functions. It is important for CEs to ensure the appropriate level of supervision and control by the owner.

International experience in the implementation of supervisory or advisory boards in state-owned enterprises and CEs confirms increasing investments attracted, improving the quality of services provided to citizens, reducing corruption risks and updating material and technical equipment. The formation of transparent and responsible business conduct is directly correlated with the key performance indicators, the remuneration system and the selection process of management.

According to the Integrity Assessment, MykolaivVodokanal scored 67 out of 130 points in the area of "Corporate Governance". Mykolaivvodokanal is a unitary commercial enterprise owned by the communal property of the Mykolaiv Territorial Community, with the Mykolaiv City Council as its founder. The company is accountable to and controlled by the founder, and it is subordinated to the Department of Housing and Communal Services of the Mykolaiv City Council. Operational management is overseen by the General Director, appointed and dismissed by the city mayor. The director is accountable to various bodies, including the Mykolaiv City Council and other executive bodies. In addition, the Mykolaiv City Council performs strategic and supervisory functions in the activities of the CE, which include the approval of development strategies and activity plans, consideration and approval of the results of their implementation, etc. Clause 64 of the Charter of the CE "Mykolaivvodokanal" provides for the possibility of creating a Supervisory Board by the decision of the Founder. However, as of April 2024, the enterprise lacked a supervisory board and other essential elements of effective corporate governance, such as internal audit, risk management, and compliance measures.

The Mykolaiv City Council, as the founder, aims to enhance corporate governance practices at Mykolaivvodokanal in alignment with international standards, notably the OECD Guidelines on Corporate Governance of SOEs. To achieve this, the organization requires the expertise of a Corporate Governance Consultant to conduct a comprehensive review, identify gaps, and develop a Roadmap for introducing key elements of Corporate Governance and establishing a Supervisory board.

## Purpose

The objective of this assignment is to establish a solid technical basis for the support provided by EUACI to its partner city, Mykolaiv, in the corporate governance reform of the water supply municipal-owned enterprise (MOE).

## Objective

This assignment aims to create a thorough Corporate Governance Roadmap for the water supply municipal-owned enterprise (MOE) in Mykolaiv, along with an internal framework for establishing the Supervisory Board of Mykolaivvodokanal. This involves providing implementable recommendations and outlining the principles governing its formation.

**3. SCOPE OF WORK**

The scope of work includes all activities necessary to ensure the achievement of the above objective, including, but not necessarily limited to:

**Kick-Off**

1) Present the work plan and assignment implementation strategy and considerations to EUACI Component Team during the Kick-Off meeting.

**Main tasks**

1) Review of Current Corporate Governance Practices:

a. Based on the results of Integrity Assessment Report (<https://drive.google.com/drive/folders/1P-HsoPmF0Y2B-NzUL1T_SnXwhehJBj4r>), evaluate the weaknesses of the current system, identifying bottlenecks, inefficiencies, and potential risks.

2) Stakeholder Consultation:

a. Engage key stakeholders, including City Council staff, MOEs representatives, finance department representatives, and external stakeholders, including donors/potential donors, to understand their perspectives, and suggestions for improvement and addressing the issues identified under 1.

Conduct at least **5 interviews** with stakeholders and at least **2 offline** visits in Mykolaiv

3) Corporate Governance Roadmap:

a. Designing a target corporate governance model aligned with OECD Guidelines on Corporate Governance of SOEs and incorporating the experience gained in Ukraine in terms of well-functioning governance models, including the use of supervisory boards.

b. Developing a comprehensive action plan to implement the targeted corporate governance model involves outlining specific, actionable recommendations. This includes defining a set of instruments, anticipating outcomes of implementation, consequences, conditions for proper functioning, setting timelines, identifying key stages, assigning responsible individuals, and other pertinent factors.

с. Develop the concept of the functioning of the Supervisory Board and establish the principles of its formation, drafting the mandate, rules of procedure, role and responsibilities, mechanism for selection of members, and working methods.

d. Create profiles for members of the Supervisory Board of Mykolaivvodokanal.

1. **DELIVERABLES:**

The Deliverables are presented below in Table 1 with a tentative schedule.

All results are expected to be provided in Ukrainian and English unless otherwise agreed. Electronic copies are sent by email to the particular EUACI contact person.

Table 1: Summary of deliverables/outputs and the tentative timeline for delivery.

| **#** | **Deliverable/Output** | **Timeline** | **Note** |
| --- | --- | --- | --- |
| 1 | Consultant's **updated work plan** showing tentative timing for the start and completion of the activities listed in the scope of work section.  | 1 week after contract signing | To be submitted to the EUACI contact person by e-mail ahead of the presentation during Kick-Off meeting |
| 2 | Corporate governance model for Mykolaivvodokanal  | 4 weeks after the contract signing | To be approved by the EUACI.The report should contain:* The short review of current corporate governance practices;
* The target corporate governance model.
 |
| 3 | Corporate Governance Roadmap  | 6 weeks after the contract signing. | The structure of the roadmap should be approved by EUACI 2 weeks after the contract signing. The final Roadmap to be approved by the EUACI The roadmap should contain:- an action plan and recommendations on its implementing * the concept of functioning of the Supervisory Board for Mykolayivvodokanal drafting the mandate, rules of procedure, role, and responsibilities, a mechanism for selection of members, and working methods
* Design of the transparent nomination procedure;
* Profiles for Members of the Supervisory Board for Mykolaivvodokanal.
 |
| 4 | **Final report** | 6 weeks after the contract signing | A short summary of the consultants and outputs delivered under the contract. To be approved by the EUACI. |

The timelines indicated in the table above are indicative. The Consultant will reflect on and update the timelines for different activities while preparing and updating the Consultant’s work plan. During the Kick-Off meeting with the EUACI Component Team, the Consultant’s work plan will be discussed, including the proposed timeline for the different activities and the submission of deliverables.

**5. TIMING**

The expected duration of the assignment is 6 weeks, with a tentative start in the end of April 2024 and completion in the middle of June 2024.

 **6. METHODOLOGY**

The methodology for introducing corporate governance instruments in communal enterprises should be guided (but not limited to) by:

* OECD Guidelines on Corporate Governance of State-Owned Enterprises

(2015th edition)

* G20/OECD Principles of Corporate Governance 2023

Implementing the OECD Guidelines on Corporate Governance of State-Owned Enterprises: Review of Recent Developments, 2020

* Implementing the OECD Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises, 2023
* OECD Principles and the OECD Guidelines - Risk Management by State-Owned Enterprises and their Ownership, State-Owned Enterprises and Corruption, Accountability and Transparency: a Guide for State Ownership
* Corporate governance of state-owned enterprises: A Toolkit / The World Bank
* International Finance Corporation: Corporate Governance Tools
* Corporate Governance Code: Key Requirements and Recommendations,

Ukraine

The Consultant will work under the supervision of the Head of the Integrity Support Group in Mykolaiv City Administration.

**7. PAYMENT**

Payment will be made in a maximum of two installments.

The first installment, representing a maximum of 30% of the total contract value, will be made after receipt of the Consultant's Deliverable 1, and invoice.

The second and final payment will be made upon receipt and approval of the Final Report and all other supporting documents, including a Final Invoice.

**8. QUALIFICATIONS AND COMPETENCE OF STAFF**

The assignment described above is expected to be completed by a qualified Consultant or expert team.

The Consultant's core team shall include the following profiles:

* One **Team Leader** responsible for overseeing and quality assuring the entire process, the processing and analysis of collected data, and the quality of key deliverables.
* **Corporate Governance Expert** with experience in corporate governance in SOEs or CEs

The more specific requirements for the above profiles are provided below.

It will be up to the Consultant to decide how many additional team members will be required and their roles and responsibilities.

**TEAM LEADER REQUIREMENTS**

**General qualifications**

* Master's degree or equivalent in public administration, law, finances, or another related field that demonstrates the ability to perform the duties and responsibilities as described.
* Proven track record (no fewer than 3 years) of managing teams in public or private procurement for legal entities (preferably state or municipally owned) over the past 10 years.

**Adequacy of the Team Leader**

* A track record of a minimum of one earlier assignment as Team Leader for business processes reviews for legal entities (preferably state or municipally owned) that range from project design, data collection, data analysis and presentation, and writing and presentation of reports.

**Experience in the region and language**

* Relevant working experience in the region.
* Fluency in Ukrainian and English.

**REQUIREMENTS FOR THE CORPORATE GOVERNANCE EXPERT:**

**General qualifications**

* Master’s degree in law or a similar field. A Master's degree or higher qualification in Corporate Governance, Business Ethics, or a similar discipline is preferred.
* Proven track record of implementing and overseeing corporate governance frameworks, policies, and procedures.
* Familiarity with international corporate governance principles, standards, and best practices such as those outlined by OECD, ICGN, or similar institutions.

**Adequacy for the assignment**

* A minimum of one recent assignment from projects of a similar nature within the past three years.

**Experience in the region and language**

* Relevant working experience in the region.
* Fluency in Ukrainian.
1. **ESTIMATED BUDGET AND LEVEL OF EFFORT**

The maximum budget available for this assignment is **up to EUR 20 000**. This amount includes subsistence allowance for fieldwork in the partner city as well as costs related to local travel, and other project-related costs such as for example printing. Bids will be evaluated in accordance with the criteria provided below:

|  |  |  |
| --- | --- | --- |
| # | Criteria | Weight |
| 1 | Budget  | 20% |
| 2 | Methodology  | 20% |
| 3 | Participant(s) CV(s) | 60% |

**HOW TO APPLY**

The proposals with

1) budget proposal;

2) short methodology of project implementation;

3) CV(s) of the tender participant(s)

shall be submitted in electronic format only within the below deadline to the email: oleoho@um.dk, cc: yuliiamincheva@gmail.com indicating the subject line «Introducing Corporate Governance Instruments for Mykolaivvodokanal».

Any clarification questions for the bid request should be addressed: oleoho@um.dk, cc: yuliiamincheva@gmail.com no later than 3 May, 18:00 Kyiv time.

**The deadline for submitting proposals is 8 May 2024, 18:00 Kyiv time.**

**Bidding language: English**