

Circular on Issuing the Administrative Measures of the Ministry of Finance for the Public-Private Partnership (PPP) Expert Database

(31-MAR-2017)

Cai Jin [2016] No.144

Finance departments (bureaus) of all provinces, autonomous regions, municipalities directly under the Central Government and cities specifically designated in the state plan, the Financial Supervision Commissioner Offices of the Ministry of Finance at all provinces, autonomous regions, municipalities directly under the Central Government and cities specifically designated in the State plan, and the Finance Bureau of Xinjiang Production and Construction Corps,

In order to enhance the sharing of information on the public-private partnership (PPP) experts, regulate the establishment and management of PPP expert database, make full use of expert intelligence support, and ensure that PPP-related project review, research, supervision, investigation and other activities can be carried out in a fair, just and reasonable manner, and in accordance with relevant laws and regulations, as well as the Circular of the Ministry of Finance on Regulating the Operation of the Public-Private Partnership (PPP) Integrated Information Platform (Cai Jin [2015] No.166), the Ministry of Finance has formulated the Administrative Measures of the Ministry of Finance for the Public-Private Partnership (PPP) Expert Database, which are hereby issued to you for your compliance and implementation.

Ministry of Finance

December 30, 2016

Appendix:

Administrative Measures of the Ministry of Finance for the Public-Private Partnership (PPP) Expert Database

Article 1 These Measures are formulated in accordance with the Circular of the Ministry of Finance on Regulating the Operation of the Public-Private Partnership (PPP) Integrated Information Platform (Cai Jin

[2015] No.166), in order to enhance the sharing of information on the public-private partnership (PPP) experts, regulate the establishment and management of PPP expert database, make full use of expert intelligence support, and ensure that PPP-related project review, research, supervision, investigation and other activities can be carried out in a fair, just and reasonable manner.

Article 2 These Measures apply to the selection and information entry of PPP experts, as well as the formation, use and management activities in respect of PPP database.

Article 3 The PPP expert database shall be managed in compliance with the principles of openness and transparency, performance orientation, and dynamic adjustment. The information in the PPP expert database shall be available to the whole society for inquiry and use.

Article 4 The China Public Private Partnerships Center ("CPPPC") is responsible for the daily operation and management of the PPP expert database under the guidance of the PPP Work Leading Group of the Ministry of Finance, mainly including:

1. construction, maintenance and management of the PPP expert database;
2. collection, management and confidentiality of the personal information of experts included in the PPP expert database;
3. daily management, liaison service and performance evaluation of experts included in the PPP expert database;
4. consolidation, review, update and release of PPP expert database information; and
5. other related work.

Article 5 The basic expert database consists of experts recommended by the ministries and commissions under the State Council and those specifically invited by CPPPC. The experts in the basic expert database may act as the referrals and judges for experts to be included in the database in the future.

Article 6 The PPP expert database is subject to the open application system. The expert data base shall be expanded by way of individual application and specific invitation on the basis of the basic database.

An individual expert may, subject to the consent of his/her employer, voluntarily apply for being an expert in the expert database, and become one of the experts in the database upon recommendation by one expert already included in the database and anonymous review by three other experts already included in the database. The applicant, referral expert, and anonymous review experts shall work in different institutions or entities.

CPPPC may directly send an invitation to a target expert, and the invited expert will become an expert in the database upon completion of his/her personal information and review by CPPPC.

Article 7 Experts in the database shall satisfy the following basic conditions:

1. having good professional ethics and professionalism, being able to perform his/her responsibilities in compliance with the law and discipline in a reasonable, rigorous, impartial, fair, honest and self-disciplined manner, and carrying out relevant work actively and independently;

2. having a bachelor's degree or above, and working for at least 13 years if holding a bachelor's degree and for at least 10 years if holding a master or doctorate degree;
3. being engaged in PPP-related work for at least five years, having senior professional technical titles or relevant qualifications such as certified public accountants and practicing lawyers or equivalent professional technical competency, being familiar with PPP-related laws, regulations, rules and policies, and possessing strong ability in terms of theoretical research, practical experience and comprehensive analysis;
4. having no record of illegal acts or dishonest behaviors in respect of employment;
5. being under the age of 65 years in principle, in good physical health conditions, and having the time and energy to undertake the corresponding work; and
6. any other conditions specified by the laws and regulations.

Article 8 If any applicant for being an expert in the database that complies with the provisions of Article 7 of these measures upon review falls under any of the following conditions, such applicant may be included in the database first:

1. publishing publicly PPP-related papers on quality journals for the relevant areas of expertise;
2. publishing PPP-related works through high-end economic and management publishing houses;
3. being deeply involved in or having organized and managed 2 or more PPP-related research projects or other programs; or
4. having participated in the operation, evaluation and other relevant activities regarding the demonstration projects of the Ministry of Finance.

Article 9 Experts in the database shall assume the following responsibilities:

1. as commissioned by the Ministry of Finance and the units directly subordinate to it, participating in PPP-related policy formulation, project research, evaluation of demonstration projects, supervision and investigation, case compilation, publicity and training activities;
2. as commissioned by the local governments and corporate partners, participating in scheme design, evaluation and assessment, personnel training and other work related to PPP project; and
3. Reviewing the applications for being an expert in the database filed by individual applicants.

Article 10 Experts in the database are entitled to the following rights:

1. deciding whether to accept the commission of the relevant work under Article 9 hereof;
2. obtaining the relevant information and materials necessary for carrying out related work;
3. independently carrying out the relevant work, and independently submitting expert's opinions;
4. receiving remuneration according to the law and contracts;
5. submitting comments and suggestions on PPP-related work and management of the PPP expert database; and
6. recommending excellent experts to be included in the PPP expert database.

Article 11 Experts in the database shall perform the following obligations:

1. accepting the management conducted by the operating institution of PPP expert database;
2. earnestly complying with the provisions of relevant laws and regulations, adhering to the principle of being objective and neutral, and not practicing fraud;
3. when commissioned to conduct the relevant work, completing the relevant work on time and with required quality, and not withdrawing from the work halfway without a good reason;
4. strictly implementing the confidentiality system, and not disclosing any information obtained in the course of conducting the relevant work without authorization;
5. complying with the expert withdrawal system, and accepting the conditions for withdrawal set out in Article 15 hereof or any reasonable request for withdrawal submitted by a relevant party in any relevant work;
6. not seeking any improper interest for themselves or any third parties in the name of experts in the PPP expert database; and
7. timely completing and updating personal information, recording and feeding back the information on the work or activities they have participated.

Article 12 Any expert in the database falling under any of the following circumstances will be removed from the database upon verification by CPPPC, and announced for public review on the official website of CPPPC:

1. he/she is not honest and self-disciplined, contacts in secret any stakeholder of the work he/she has participated in, receives economic interests from any relevant business or individual, or seeks any other benefits;
2. he/she plays favoritism and practices fraud, and fails to perform his responsibilities objectively and impartially;
3. he/she violates any relevant confidentiality provisions and reveals any information obtained from the relevant work;
4. he/she violates the provisions on withdrawal set out in Article 15 hereof;
5. he/she fails to pass the performance appraisal as required by Article 16 hereof;
6. he/she is engaged in any other activity that damages the image of the Ministry of Finance or CPPPC in the name of expert in the database; or
7. he/she is subject to any administrative punishment or criminal liability for conducting any illegal act in any other activity.

Article 13 Any expert removed from the database in accordance with Article 12 hereof shall not apply for being an expert in the database again within three years.

Article 14 Where any expert in the database is unable or unwilling to continue to serve as such expert due to health or any other reason, he/she may apply for exiting the PPP expert database.

Article 15 Under any of the following circumstances, an expert in the database shall withdraw him/herself on a voluntary basis:

1. the relevant work relates to a project directly involving him/herself, his/her spouse, immediate family member, or his/her employer or other interest relationship of any of the aforesaid parties;
2. there has been any legal dispute between the expert or spouse or any of the immediate family members thereof and the entity related to the relevant work; or
3. any other circumstance that may affect fair review.

Article 16 The PPP expert database is subject to dynamic adjustment. CPPPC shall regularly conduct performance appraisal on experts in the database according to the workload, accomplished performance, clients' evaluation and other information on such experts. The appraisal results will be used as an important basis for removal of experts from the database.

Article 17 The period for experts being included in the database is generally 2 years, and upon expiration of the initial 2 years, the period will be automatically extended for successive periods of 2 years each, except that the expert is removed from the database as a result of occurrence of any of the circumstances specified in Article 12 hereof.

Article 18 The information relevant to the experts in the database shall be disclosed to the public by CPPPC. Without CPPPC's approval, no institution or individual shall disclose any information in the PPP expert database that shall not be disclosed.

Article 19 CPPPC and its personnel will be subject to corresponding liability according to the Civil Servant Law, the Law on Administrative Supervision, the Regulations on the Penalties and Sanctions against Illegal Financial Conduct and other relevant state regulations if they abuse their power, neglect of duty, play favoritism and commit irregularities and have any other violations during the management of the expert database; if any crime is involved, the relevant case shall be transferred to the relevant judicial organ for settlement.

Article 20 The establishment, operation and management of PPP expert database, as well as the experts' activities for participating in relevant work shall be subject to supervision from the public. Any entity or individual has the right to file complaints and reports to the relevant administrative supervision departments and supervisory authorities.

Article 21 These Measures shall be subject to the interpretation of the Ministry of Finance.

Article 22 These Measures will take effect as of the date of issue.