



Proposals for a Framework for Consultation On the Second Canadian OGP Action Plan

A key element of the OGP process is that the country-level action plans should be developed in a broadly consultative manner with local stakeholders. The third common expectation of OGP Participating Countries, as spelled out in the June 2012 Articles of Governance, is that States should:

Develop country action plans through a multi-stakeholder process, with the active engagement of citizens and civil society

Addendum C of the Articles of Governance sets out in some detail the minimum conditions for appropriate consultation, essentially as follows:

- The consultation process and timeline should be set out in advance.
- There should be broad consultations with national stakeholders.
- A summary of the consultation process and submissions should be made available.
- Activities should be undertaken to raise public awareness.
- A variety of consultative mechanisms should be employed, including both online and in-person mechanisms.
- A forum for regular multi-stakeholder consultation should be employed.

The process of consultation with external (i.e. non-government) stakeholders around the first Canadian Action Plan – which consisted essentially of an open online consultation based on three questions for participants to answer, a Twitter Town Hall and one teleconference call with the members of the Advisory Panel on Open Government – has been criticised for failing to respect either OGP rules or minimum established standards for consultation.¹

These Proposals by the Centre for Law and Democracy (CLD) aim to help ensure a more robust consultation around the development of Canada's second OGP Action Plan. CLD consulted with Publish What You Pay, Canada (PWYP-Canada) when developing these Proposals.

¹ See, for example, Centre for Law and Democracy, *Canada: Open Government Partnership (OGP) Progress Review of First Year Implementation of the Action Plan* (September 2013), available at: <http://www.law-democracy.org/live/cld-contributes-to-canadas-ogp-consultation/>.

Guiding Principles

A number of principles should guide a robust consultation process. CLD has identified the following key consultation principles:

Principle 1: The Consultation should be Transparent

The consultation process should be transparent. It should be clear, from the outset, how the process will work and the various steps that will be taken and their respective timelines. The process regarding external submissions should be open, including by posting submissions online. This should be clear from the outset, so that participants understand that their submissions will be made public. Proposed content (i.e. draft Action Plans) should be made publicly available, as soon as possible, for purposes of public comment. This should be an iterative process, with content being updated regularly. As new content is posted, changes, including in response to external comments, should be highlighted.

Principle 2: The Consultation should be Inclusive

The consultative process should be designed so as to be as inclusive as possible, taking into account time and resource constraints. Different ways of reaching out to different stakeholders should be employed, so as to promote the widest possible engagement. Ideally, stakeholders should be involved at the design stage of the consultations, which will promote legitimacy and buy-in, and help ensure that the process is structured in a manner that promotes widespread engagement.

Principle 3: The Consultation should be Genuine

The consultative process should be genuine in the sense that participants should have a realistic expectation that their views will be taken into account. The government should not approach the consultation with a fixed, pre-set range of priorities. There must be a real possibility of the consultations impacting on the subject matter of the consultations. To promote this, sufficient context should be made available to participants to help them appropriately and realistically tailor their input.

Concrete Proposals for Canada's Second Action Plan

Process

Stages of the Consultation

There should be a number of iterative elements to the consultation process. It should start with an initial brainstorming to collect ideas. It should also include an opportunity for interested stakeholders to provide feedback on concrete proposals (i.e. a draft Action Plan). Ideally, participants should have the opportunity to provide comments on an initial draft and then again on a more final version which takes into account their original input. As a practical suggestion, the second stage could involve more focused discussions on key issues (i.e. the scope of consultation could be narrowed as the process moves forward, so as to focus on unresolved issues).

Mechanisms for Providing Input

A variety of mechanisms for collecting input should be employed. This should include virtual tools, such as online opportunities to provide substantive feedback and discussions via social media, including Twitter.

It should also include more direct forms of interaction. There should be an ongoing dialogue with the Advisory Panel, allowing for ongoing, i.e. repetitive, input into the Action Plan as it develops.

There should also be face-to-face discussions, as required by the OGP. In the Canadian context, this implies discussions in a number of different geographic locations across the country. To save time and effort, consideration could be given to attaching these to other ongoing events/consultations.

At each stage of the process, input should be posted online, and participants given a chance to provide ongoing input. This should include the substance of Advisory Panel discussions, with summaries of teleconferences being provided.

Transparency

Proposals for the entire consultative process should be posted online at an early stage, allowing interested stakeholders to comment on the proposed process.

An initial and then revised versions of the Action Plan should be posted online as frequently as possible, allowing for iterative feedback. All submissions from external stakeholders, however received, should be posted online. At least summaries of Advisory Panel discussions should be made available online.

An outline of responses to external input should be provided, alongside revised versions of the Action Plan, so that participants understand how their input has been taken into account. Where input has not been taken into account, reasons should be provided.