

Notification of the Office for the Development of the Eastern Economic Corridor

Re: Criteria and Procedure for Market Sounding B.E. 2560

Whereas it is expedient to prescribe criteria and procedures for marketing sounding for projects of Public-Private Partnership or investment by private entities in the Eastern Economic Corridor.

By virtue of the provision of Clause 25 of the Notification of the Eastern Economic Corridor Policy Committee Re: Criteria, Methods, Conditions and Procedures for Public-Private Partnership or Investment by Private Entities B.E. 2560 (2017), the Office for the Development of Eastern Economic Corridor hereby issues the Notification as follows:

Clause 1 This Notification is called “Notification of the Office for the Development of the Eastern Economic Corridor Re: Criteria and Procedure for Market Sounding B.E. 2560.”

Clause 2 The Project Owner Agency shall arrange a market sounding at least on the following issues:

(1) Policy and other work plans relating to the development of the Eastern Economic Corridor and the project, including project details and project feasibility;

(2) Project study and analysis, including project risk, forms of private joint investment under allocation of duties and responsibilities, rights and benefits, risk allocation, and division of returns between the government and private entity, and readiness of state agencies;

(3) Significant requirements in a draft document for private entity selection and a draft joint investment contract.

Regarding the market sounding under Paragraph one, the Project Owner Agency may consider arranging the market sounding according to guidelines in the attachment at the end of this Notification.

Clause 3 Before arranging each market sounding, the project owner agency shall act as follows:

(1) Set clear objectives, goals, achievement, and issues of a market sounding;

(2) Identify criteria and procedures in selecting targeted private entities by considering the following issues:

(a) Topics and issues of a market sounding;

(b) Type of business, qualification, experience, ability, readiness, and interest to be part of the project joint investment;

(c) Equality without discrimination against one or more private entities specifically;

(d) Budget and time for a market sounding.

(3) Undertake the selection of targeted private entities according to criteria and procedures prescribed in (2) and notify the result of selection of targeted private entities to the public before a market sounding at the time as the project owner agency deems appropriate;

(4) Prepare information that is clear, easy to understand, and sufficient for opinion exchange in topics and issues of a market sounding to accomplish objectives, goals, and achievement of that market sounding. The aforesaid information shall be notified to the targeted entities in advance before a market sounding at the time as the project owner agency deems appropriate;

(5) Determine the procedures for market sounding by considering the characteristics of targeted private entities, forms and type of information, as well as objectives, goal, and achievement of such market sounding;

(6) Specify the date, time, location, and period of market sounding by considering sufficient and appropriate time for targeted private entities both in the country and abroad (if any) to give opinions; and notify such information to the targeted private entities before arranging a market sounding at the time as the project owner agency deems appropriate, but not less than seven days in advance.

Clause 4 The project owner agency shall arrange each market sounding by one or more of the following methods:

(1) Open for receiving opinions by mail, electronic mail, telephone or facsimile, or through information system;

(2) Open for the targeted private entities to receive information and submit opinions to the project owner agency;

(3) Arrange a wide seminar;

(4) Arrange a one-on-group of relevant people or stakeholders;

(5) Arrange a one-on-one consultation;

(6) Other methods that the project owner agency deems appropriate.

In case of the need to get opinions from private entities abroad, the project owner agency shall inform the relevant embassy or conduct any other methods and determine the time of a market sounding. Consequently, foreign private entities shall receive correct and complete information and shall be able to express opinions within sufficient and appropriate time.

Clause 5 After the market sounding, the project owner agency shall act as follows:

(1) Compiling and preparing a market sounding summary which comprises at least the market sounding topics and issues, groups and a list of private's names participating, and a summary of all private entities' opinions, as well as opinions of the project owner agency on private entities' opinions. This shall include both the case applying the private opinions to improve a draft

feasibility report, a draft private selection document, a draft joint investment contract as the case may be, and in case of not applying the opinions.

(2) Considering to improve a draft feasibility report, a draft private selection document, and a draft joint investment contract as the case may be, to be in line with the opinions of private entities as the project owner agency deems appropriate with consideration of the project success as important.

The information under Paragraph 1 shall be publicly notified to the targeted private entities.

Clause 6 The Office shall have the authority to identify practice guidelines for implementation under this Notification.

Clause 7 This Notification shall come into force from the date of notification onwards.

Issued on the 9th day of October B.E. 2560 (2017)

Kanit Sangsubhan

Secretary-General

of the Eastern Economic Corridor Policy Committee

Notification Attachment

Guidelines for Arranging Market Sounding

Phase 1 The Policy Committee determining the project to implement under this Notification

The Project Owner Agency shall arrange market sounding publicly about policy and operational plans relating to the development of the Eastern Economic Corridor and the project, including project details and feasibility. The purposes are to create interest and attract a private sector to participate and express the interest in project investment, as well as to prepare readiness for determination of criteria and procedures for group and list of targeted private selection in the next phase.

Phase 2 The preparation of a project feasibility report

The Project Owner Agency shall arrange market sounding of targeted private entities more specifically about details of project development, project risk, and form of Public-Private Partnership under allocation of duties and responsibilities, incentives, allocation of risks, public-private profit-sharing, and readiness of the State Agencies. It may consider each group of private entities with direct involvement with the project implementation e.g. groups of investors, financial institutions, manufacturers/suppliers, contractors, project developers, and project operators, as information for preparing a feasibility report with a working group. The determination of qualifications, experience, and capability of private entities shall also be prepared for supporting the pre-qualification selection of the applicants.

Phase 3 The preparation of a draft private entity selection document and a draft joint investment contract

The Project Owner Agency shall arrange market sounding about important terms in a draft private entity selection document and a draft joint investment contract with targeted private entities or the selected pre-qualification applicants. The opinion from the market sounding shall be supporting information for preparing a correct and complete draft private entity selection document and a draft joint investment contract with universal standards. The purposes are to motivate targeted private entities or the selected pre-qualification applicants more interest and to promote fair competitiveness in selection and negotiation with private.