

Recommendations for Hiring Private Security Providers (PSPs)

Companies¹ operating in complex environments commonly hire or contract private security providers (PSPs) to ensure the safety and security of their employees, facilities and local stakeholders. Working with private security providers is, however, no guarantee for unobstructed operations or untroubled community relations. Indeed, inadequate or inappropriate security arrangements are frequently the source of security and human rights risks for companies and communities.

To prevent and mitigate any security and human rights impacts, companies must carry out due diligence in their engagement with private security providers. As a first step, companies need to ensure a PSP selection process that considers and evaluates all relevant security and human rights requirements, standards and past records. Secondly, a contract needs to be developed that includes the qualification and performance requirements and allows companies to hold security providers accountable. The aim of this tool is to support company representatives in the process of hiring private security providers. The tool is divided into five sections: I. Solicitation, notice and bidding process; II. Evaluation of potential contractors; III. Award and development of the contract; IV. Monitoring, enforcement, and accountability; and V. Termination of contract.

As part of the human rights due diligence process, and prior to the bidding process, companies should have conducted a thorough risk assessment and developed a security plan. The suitability of any private security provider needs to be assessed against the identified types and likelihood of risks as well as the established security plan. Security arrangements in excess of strong security measures (e.g. display of weapons, armoured cars) may in fact worsen the security situation and result in mistrust and grievances. To avoid and address grievances that could develop into security risks, company representatives should also consider conducting a wider needs assessment of local communities and their sub-groups.

I. Solicitation, notice and bidding process²

Develop a Request for Proposals (RFP) on the basis of a previously developed risk assessment and the security plan. Ensure that the bidding process:

- Is of public knowledge (whether open or by invitation);
- Is transparent, with clear rules of the process for bidders;
- Does not discriminate and exclude any of the bidders;
- Is guided by the principle of competence and impartiality;
- Strikes a balance between profitability and protection of human rights.

1. The RFP should provide information on:
 - a) The working environment and operational tasks required of the PSPs;
 - b) The type of security required, including whether armed or unarmed, number of posts to be covered, and percentage of local staff required, if relevant;
 - c) Minimum training and experience levels required, language skills, and any other required skills/expertise;
 - d) Equipment requirements for the PSPs;
 - e) Existing company grievance mechanisms;
 - f) Requirements of compliance with relevant international and national laws and standards on human rights, labour, health, safety and environment.
2. The RFP should require that bids provide information on:
 - a) The private security provider, including:
 - Evidence of business licenses and ownership structure;
 - PSP policies, codes, standards, and internal control mechanisms;
 - Membership in trade associations, multi-stakeholder initiatives, or national industry regulatory bodies;
 - Proof of “sufficient insurance to cover risks and associated liabilities arising from its operations and activities”³, including insurance for its employees;
 - PSP balance sheets and statement of overall turnover;
 - Relations with subcontractors, subsidiary corporations, and ventures.
 - b) Employees, including:
 - Extent of pre-employment screening for employees/management staff;
 - Qualifications, background (including whether PSP staff includes former police or armed forces), and experience of PSP managerial and operational staff;
 - Salaries, benefits, and work conditions of employees;
 - Turnover rate of employees;
 - Proof of training (including who the trainers were and if official certificates exist) provided by the PSP to its staff on:
 - Human rights an international humanitarian law
 - The use of force
 - Safety training and first aid
 - Procedures in situations of violence
 - Weapons, firearms and other authorised equipment
 - The Voluntary Principles on Security and Human Rights (VPs) and the International Code of Conduct for Private Security Service Providers (ICoC)
 - Medical examination of all security guards (physical and psychological).
 - c) Equipment:
 - Evidence of equipment licenses (particularly licenses to own and to use weapons and firearms);
 - Number and type of weapons, firearms, and ammunition;
 - Transportation and communications equipment.
 - d) Track record and relevant experience:
 - Information on any human rights incidents or complaints relevant to the operating environment and/or tasks to be performed, as well as any remedial action taken;
 - A list of all services provided in the last three years (including information on whether they were dismissed, resigned, or their contract terminated) and references from similar clients;
 - Information regarding current or past complaints or judicial processes;
 - Relationships between key stakeholders and the PSP in the area of operations (e.g. local authorities, public security forces, community members).

- e) Implementation plan for the bid:
 - Number and work pattern of employees (full time/part time) for the job;
 - Cost of providing the services needed by the company in compliance with the above requirements.

II. Evaluation of potential contractors⁴

Conduct a thorough due diligence assessment of bids in two stages: automatic exclusion on the basis of set criteria and the assessment of bids according to award criteria.

1. Automatic exclusion:

- a) Inability to fulfil any key requirement of the RFP;
- b) Failure to provide requested documentation or submission of false/misleading information;
- c) Bankruptcy or proceedings for a declaration of bankruptcy;
- d) Failure to pay taxes or social security obligations;
- e) Grave professional misconduct by the PSP or one of its personnel or management, or conviction of any of the aforementioned for an offence concerning professional conduct;
- f) Conflict of interest, such as proven involvement in political activities;
- g) Proven breaches of international humanitarian and human rights law by the PSP, its management, or personnel.

2. Award criteria:

- a) Personnel standards:
 - Average employee experience: proof of 'clean' employee backgrounds, proof of contract specific experience, as well as experience in regional context where contracted activities will be carried out;
 - Staff training: effective and regular training on human rights (and international humanitarian law in situations of armed conflict), use of force and firearms, PSP policies, and any other relevant skills;
 - Employment conditions: pay and remuneration, benefit packages, working conditions, types/hours of shifts worked, in compliance with both international and national labour standards;
 - Selection and recruitment: criminal screening, human rights abuse (and international humanitarian law violations) screening, drug screening, history of discharge from police/security services, psychological screening.
- b) Contract management:
 - Organisational capacity: adequate management structure and experience;
 - Resources and implementation mechanisms: back-up capacity and response time, reporting, HQ support.
- c) Contract infrastructure:
 - Adequate equipment: communication tools and systems, IT hardware and software, uniforms, protective equipment, non-lethal arms, vehicles;
 - Monitoring and control systems: surveillance/CCTV, guard control system, access control system, alarm installation, central monitoring system.
- d) PSP standards:
 - PSP policies on: contracts, human rights and security, health and safety, equal opportunities, disclosure of information, and confidentiality;

- Use of force and firearms policy: weapons in use, storage and maintenance procedures, inspection procedures, oversight, and procedures for reporting use;
 - PSP associations: relations with public security, political parties and organisations are regulated and transparent;
 - Governance and oversight: code of conduct, rulebooks, ethics committee, employee tribunals, membership of trade association;
 - Human resource management: number of employees, staff turnover, low absenteeism;
 - References and certification (e.g. membership of ICoC Association - ICoCA).
- e) Compliance with the relevant legal frameworks:
- Compliance with international legal standards on human rights, security, and use of force (in particular: Universal Declaration of Human Rights, United Nations Code of Conduct for Law Enforcement, United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement, VPs and ICoC).
 - Compliance with national private security laws and regulations:
 - Registration with, and authorisation from, the relevant national institution in charge of controlling security services, arms, ammunition and explosives⁵;
 - Submission of certificate of compliance from the national official organ;
 - Willingness to accept audits or make records available;
 - Training of PSP staff by official training centres, where these exist.
- f) Understanding of social context and work experience in the project area:
- Knowledge of socio-economic conditions in the project area, its scope and characteristics;
 - Cultural awareness of the people(s) in the project area;
 - Knowledge of situations of violence in the context of the project, as well as current or past conflicts in the area;
 - Previous experience in working with or alongside local public security forces;
 - Locally appropriate protocols for action in case of violence, or trespassing.
- g) Financial: Appropriate costing and value for money.

III. Award and development of the contract

Select a PSP on the basis of the due diligence assessment of bids and publicly announce the decision. Notify other bidding PSPs of the decision and explain why they were not selected.

Develop a contract with the selected PSP that includes clear “clauses and performance requirements that ensure respect for relevant national law, international humanitarian law and human rights law”⁶, and confirm with international and national experts the validity of all contract clauses. Such clauses may address:

- a) Roles and responsibilities of the company and the PSP, including the requirement that PSP personnel will be under the supervision of the company’s security manager⁷;
- b) Compliance with international human rights and humanitarian law (in situations of armed conflict) and standards -including the VPs and the ICoC-, as well as with company policies (include these as an annex to the contract)⁸;
- c) Compliance with national laws and regulations;

- d) Prohibition of bribery and corruption;
- e) Rules for the use of force and procedures for apprehending persons;
- f) Procedures for handling grievances and complaints, including an internal PSP grievance mechanism;
- g) Vetting requirements, including past conduct verification and regular performance evaluations, where feasible. This includes records relating to posts held with the military, police or PSPs⁹;
- h) Requirements for ongoing training on human rights, international humanitarian law (in situations of armed conflict), international standards (e.g. VPs), use of force, weapons and firearms;
- i) Regular testing to evaluate physical and psychological fitness of staff to perform the contracted duties and to prevent substance abuse;
- j) Registration, licenses and/or authorisations requirements, and lawful acquisition and use of equipment, in particular weapons¹⁰;
- k) Equipment, including protective equipment, non-lethal arms and, where required, lethal arms;
- l) Clothing and identification requirements for PSP staff;
- m) Fair remuneration and working conditions for private security personnel, and minimum age to carry out security services (i.e. 18 years old);
- n) Confidentiality agreements;
- o) Monitoring and reporting requirements, including inspections and an annual audit;
- p) Investigation and reporting of security incidents, unlawful or abusive behaviour, including the requirement that appropriate reparation be provided to those harmed by the misconduct of PSPs and their personnel¹¹;
- q) Liabilities in case of damage to property, employees, reputation of the PSP or of human rights abuses to third parties;
- r) Conditions for subcontracting, including that the PSP:
 - Communicates in advance any intention, and obtains necessary approval, to engage with subcontractors as part of the service agreement¹²;
 - Demonstrates that subcontractors comply with equivalent requirements as the PSP initially contracted by the company¹³; and,
 - Accepts liability (as appropriate and within applicable law) for the conduct of its subcontractors¹⁴.
- s) Financial rewards (e.g. further work) for compliance or penalties (e.g. withholding payments) for non-compliance with contractual provisions that relate to human rights requirements¹⁵;
- t) Clear provisions for termination of the contract by the company.

Discuss these clauses with the PSP to make sure the security provider understands its performance

IV. Monitoring, enforcement, and accountability

Supervise the performance of PSPs through regular monitoring conducted either by the company security department or by an independent third party (e.g. ICoCA).

- a) Establish a focal point within the company who will be responsible for oversight of the PSP;
- b) Require the PSP to establish a focal point to oversee the conduct of its personnel, to meet with the company's focal point on a regular basis (e.g. daily or weekly) and submit regular reports as specified in the contract;
- c) Ensure PSPs wear their uniform, carry the equipment specified in the contract, handle and store weapons safely, and are in possession of any licenses or identity documents required to perform their duties;

- d) Monitor PSPs through a variety of means, such as through radio networks, CCTV visual monitoring (including installing cameras in security response vehicles), unannounced physical site inspections, and regular personal equipment inspections;
- e) Use performance indicators shared with the PSP and monitor these regularly. These may include¹⁶:
 - No-show rate or missed guard tours;
 - Missed training, incomplete training or failure to pass training tests;
 - Internal and third party complaints;
 - Misuse of force/firearms, including accidental discharges of weapons;
 - Inappropriate interactions with community, public security, or other stakeholders;
 - Violations of international humanitarian law, human rights abuses, or violations of international or national laws governing the private security industry;
 - Violations of company or industry code of conduct;
 - Failure to cooperate with client investigation, request for information or incident reporting requirements; and,
 - Violations of the terms of the contract.
- f) Check all complaints against the PSP reported through grievance or any other mechanisms, and record all allegations of human rights abuses by private security;
- g) Track the number of incidents in which PSP staff resorted to the use of force, including the following information:
 - Brief description of the event, including date and area of occurrence;
 - Context and relevant background information (e.g. social conflict);
 - Outcome and conclusion of the event;
 - Number of dead or injured people;
 - Actors involved (primary and secondary);
 - The number of armed private security agents involved;
 - The number of times firearms were used, explaining why they were used.
- h) Identify gaps in service delivery and examine options to fill gaps, including additional training and other support needs¹⁷.

Meet with the PSP focal point on a regular basis (e.g. daily or weekly) to discuss contract implementation and any relevant findings from monitoring activities, discuss any complaints received, and identify appropriate prevention or mitigation measures.

Investigate all allegations of abusive or unlawful acts and, where appropriate, report abuses to the relevant authorities.

- a) Request an incident report from the PSP as established in the contract;
- b) Keep records of all findings from the investigation;
- c) Based on available information, “decide if (the) investigation should be conducted internally or by a responsible third party”¹⁸.

If the PSP fails to comply with any or several of the clauses in the contract, consider the following options¹⁹:

- a) Negotiate a timeline for compliance;
- b) Withhold payments as established in the contract until the issue is satisfactorily addressed;
- c) Condition ongoing relationship on performance and provide further, detailed guidance and training, together with regular performance review;
- d) Terminate the relationship with the PSP and ensure a smooth transition of security delivery;
- e) Initiate a complaint to the appropriate agency or institution for failure to fulfil the contract.

V. Termination of contract²⁰

Conduct contingency planning in order to prepare for the potential termination of the PSP contract, so as to ensure that there is no gap in the provision of security services.

Consider PSP contract termination from two angles: legal and operational.

1. Seek advice on legal obligations in relation to the termination of the PSP contract.
2. Consider the following operational issues to ensure a smooth transition of security delivery:
 - a) **Licenses:** Conduct a review to establish which licenses and permits have been granted, who 'owns' them, as well as if and how they can be transferred;
 - b) **Equipment:** Determine who owns the equipment and, where appropriate, arrange for its transfer;
 - c) **Employees/Consultants:** Assess responsibility of the company for PSP employees or contractors beyond the termination of the contract. Such responsibilities may include obligations to continue employment, or pay for healthcare or insurance;
 - d) **Records:** Consider retaining or transferring copies of the PSP's records (personnel, incident logs, etc.) as appropriate;
 - e) **Systems:** Close access of the exiting PSP to the company's operational systems (including IT) and safeguard confidential or sensitive data;
 - f) **Complaints:** Verify whether there are any outstanding complaints against the PSP or its personnel;
 - g) **Public security:** Determine whether any existing agreements in place with public security forces name the PSP and, where necessary, how to transfer and institutionalise these relationships;
 - h) **Sub-contractors:** Identify what sub-contractors exist, how they will be affected, which party is responsible for them, and how any transfer of service delivery will be managed;
 - i) **Knowledge transfer:** Attempt to gain intelligence on relevant security issues surrounding company operations from the outgoing PSP;
 - j) **Relation with local communities:** Inform the communities about the termination of contract, warn them about any potential security gaps, and introduce them to new private security providers.
 - k) **Reasons for termination of contract** (where the PSP itself instigates the termination of the contract): Ensure that the PSP has not chosen to terminate its contract as a result of material threats, abuses or other issues at the operating site.

¹ In this tool the term “companies” refers to corporate clients who contract private security services. Private security companies are referred to as “private security providers” (PSPs).

² This section includes many recommendations from the Sarajevo Client Guidelines for the Procurement of Private Security Companies (SEESAC, 2006).

³ Management System for Quality of Private Security Company Operations – Requirements with guidance (ANSI/ASIS PSC.1 Standard, 2012), p. 15.

⁴ This section is based on the Sarajevo Client Guidelines for the Procurement of Private Security Companies (SEESAC, 2006).

⁵ For example, in Peru this body is the National Superintendence of Control of Security Services, Control of Firearms, Ammunition and Explosives for Civil Use – SUCAMEC. In recent months Peru has developed a new law (Decreto Legislativo N° 1213) which regulates the PSP service.

⁶ Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict, Part 2, paragraph 14.

⁷ Thus, the guards must be accountable both to their direct supervisors and the security manager of the contracting company.

⁸ This includes the requirement that the PSP and its personnel will not “participate in, encourage, or seek to benefit from any national or international crimes including but not limited to war crimes, crimes against humanity, genocide, torture, enforced disappearance, forced or compulsory labour, hostage-taking, sexual or gender-based violence, human trafficking, the trafficking of weapons or drugs, child labour or extrajudicial, summary or arbitrary executions.” (ICoC: par. 22)

⁹ International Code of Conduct for Private Security Service Providers, paragraph 48.

¹⁰ Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict, Part 2, paragraph 14.

¹¹ Ibid.

¹² Management System for Quality of Private Security Company Operations – Requirements with guidance (ANSI/ASIS PSC.1 Standard, 2012), p. 20.

¹³ Montreux Document on Pertinent International Legal Obligations and Good Practices for States Related to Operations of Private Military and Security Companies during Armed Conflict, Part 2, paragraph 15.

¹⁴ Ibid.

¹⁵ Voluntary Principles on Security and Human Rights Implementation Guidance Tools (2011), p. 53.

¹⁶ Based on the Sarajevo Client Guidelines for the Procurement of Private Security Companies (SEESAC, 2006).

¹⁷ Voluntary Principles on Security and Human Rights Implementation Guidance Tools (2011), p. 55.

¹⁸ Ibid., p. 56.

¹⁹ Ibid., p.57.

²⁰ Based on the “Termination of Contract with PSP and Transition of Security Delivery” box, developed by Oliver Cushing, Tsamota Natural Resources, and Mark Camilleri, Tsamota Ltd., included in Chapter 3 of the DCAF-ICRC Toolkit: www.securityhumanrightshub.org/content/toolkit .