



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Eighty-seventh Session

Rome, 25 - 26 May 2009

CHARTER FOR THE FAO OFFICE OF EVALUATION

BACKGROUND

1. The Immediate Plan of Action (IPA) for FAO Renewal (2009-2011) approved by the Conference at its Thirty-fifth (Special) Session foresees the Organization's evaluation policy, strategy and institutional arrangements to be incorporated in a "Charter" which will be subject to Council approval (IPA Actions 2.77 to 2.90, reproduced in Appendix I of this document).
2. During its Hundred and First Session, the Programme Committee examined a draft Charter of the FAO Office of Evaluation, which is attached as Appendix II of this document. The PC also examined an amendment proposed by the Secretariat to the procedure for the selection and appointment of the Director of Evaluation, which is attached as Appendix III of this document. The amendment is in accordance with the position followed in the Organization regarding the constitutional authority of the Director-General to appoint staff, especially senior staff, insofar as the Director-General remains accountable for the activities of such senior staff.
3. The Programme Committee deferred consideration of this proposal pending the further advice of the Committee on Constitutional and Legal Matters (CCLM). The PC also requested the CCLM to examine further the issue of the procedures for the renewal of the appointment of the Director of the Office. The considerations of the Programme Committee on these issues, as reflected in its report, are reproduced in Appendix IV of this document.
4. In accordance with the IPA, the Charter for the FAO Office of Evaluation, once reviewed by the CCLM and the Programme Committee, will be referred to the Council for approval and set out in Volume II of the Basic Texts.

SUGGESTED ACTION BY THE COMMITTEE

5. The CCLM is invited to review the proposed Charter, including the proposed amendment to paragraph 42, and provide such guidance as it deems appropriate.

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APPENDIX I

IPA ACTION MATRIX

A. EVALUATION, AUDIT AND ORGANIZATIONAL LEARNING

1) Evaluation: The learning and accountability functions of a strong evaluation system are indispensable for use by both the Governing Bodies and the senior management of FAO and the conduct of evaluation must be responsive to, but operationally independent of, both. Evaluation in FAO is already of a relatively high standard and provides a strong foundation to build on further. Transparency in evaluation is important, as well as clarity on institutional arrangements. The Organization's evaluation policy, strategy and institutional arrangements will be incorporated in a "Charter" which will be subject to Council approval.

Evaluation - Action Matrix

Actions			Responsibility for final decision	Start-End Year	Costs or Savings US\$ (million)	
Ref. N.	Ref. IEE Rec	Action			Investment	Recurrent per biennium
Evaluation						
2.77	7.10a	Establishment of evaluation as a separate and operationally independent office inside the FAO secretariat structure, reporting to the Director-General and to the Council through the Programme Committee.	Management/Council	Jan 2009	0	0
2.78	7.11	Evaluation Budget: The evaluation Regular Programme budget will be increased to 0.8-1.0% of the total Regular Programme Budget (over two biennia) and once decided upon by the Governing Bodies, as part of the Programme of Work and Budget approval process, allocated in full to the evaluation office. <u>All contributors of extra-budgetary funds will respect the Council decision that at least 1% of all extra-budgetary funds should be allocated for evaluation.</u>	Conference	2010 - 2013	0	4.5
2.79	7.10d	Evaluation staffing: a) Recruitment of Evaluation Director at D2 level. A panel consisting of representatives of the Director-General and Governing Bodies, as well as evaluation specialists from other UN agencies will review the terms of reference and statement of qualifications for the post, and then participate in a panel to screen and select an appropriate candidate. The Director of evaluation will serve for a fixed term of four years with the possibility of renewal for a maximum of one further term, with no possibility for reappointment within FAO to another post or consultancy for at least one year;	Management/ Programme Committee	2009	0	0 Difference between D1 and D2 covered in increase in Budget above

2.80		b) All appointments for evaluation of staff and consultants will follow transparent and professional procedures with the first criteria being technical competence but also with attention to considerations of regional and gender balance. The Director of Evaluation will have the main responsibility for the appointment of evaluation staff and the responsibility for appointment of consultants in conformity with FAO procedures.				
2.81	7.10b	Quality assurance and continued strengthening of the evaluation function: a) Strengthening of existing independent peer review of major reports	Evaluation Director	2009 first peer review 2010	0	0 part of above increase in
2.82		b) Biennial review by a small group of independent peers for conformity of work to evaluation best-practice and standards – report to management and the Council together with the recommendations of the Programme Committee			0	evaluation budget
2.83	7.10b	c) Independent Evaluation of the evaluation function every six years – report to management and the Council together with the recommendations of the Programme Committee	Programme Committee & Management	2013 first evaluation	0	0 part of above increase in evaluation budget
2.84	7.10c	Approval by the Council of a comprehensive evaluation policy incorporated in a “Charter”, including the above, and a) the FAO internal evaluation committee will interact with the Programme Committee as appropriate;	Council	2009	0	0
2.85		b) the rolling evaluation plan will continue to be approved by the Governing Bodies, following consultation with the internal evaluation committee;				
2.86		c) the follow-up processes for evaluation will be fully institutionalised, including an independent monitoring system and reporting to the Programme Committee;				
2.87		d) all evaluation reports, management responses and follow-up reports will continue to be public documents, fully available to all FAO Members. Efforts to discuss and bring the reports to the attention of all concerned Governing Body members will also be further strengthened through consultative groups and workshops on individual evaluations;				
2.88		e) the evaluation office will have an institutionalised advisory role to management on results based management and programming and budgeting, reinforcing the feed-back and learning loop;				
2.89		f) evaluation will be well coordinated within the UN system, taking account of the work of the Joint Inspection Unit (JIU) and the evaluation office will continue to work closely with the United Nations Evaluation Group (UNEG).				
2.90	7.10c	g) The provisions for evaluation as approved in the Charter reflected in the Basic Texts	Council	2009	0	0

APPENDIX II

CHARTER FOR THE FAO OFFICE OF EVALUATION PROGRAMME COMMITTEE DOCUMENT PC 101/5 b, OF THE 101ST SESSION, ROME 11 – 15 MAY 2009

The Immediate Plan of Action approved by the 35th Special Session of the Conference in November 2008 specified that a comprehensive evaluation policy would be incorporated in a Charter for decision by the Council. This draft Charter responds to that requirement. Once approved as directed by the IPA the provisions of the Charter will be incorporated in the Basic Texts.

I. Evaluation in FAO

1. The FAO Evaluation Service was established in 1968 to assure the effective operation of evaluation in the Organization. The evaluation function is one part of the oversight regime of FAO, which also includes external audit, internal audit, inspection and investigation.
2. Evaluation provides accountability to member countries and to the Director-General. It gives member countries a more in-depth understanding and objective basis for their decisions in the governing bodies and for cooperation in the Organization's programmes. Evaluation also contributes to corporate learning, feeding lessons into a robust feedback loop. Evaluation provides a sound basis for improvements in the Organization's programmes in terms of their relevance to countries, definition of objectives, their design and implementation. FAO also participates in system-wide evaluation initiatives. Thus evaluation contributes to assessments of development effectiveness by the UN system.
3. All work of FAO financed from the regular budget of the Organization (mandatory assessed contributions) as well as that financed from voluntarily contributed extra-budgetary resources, is subject to evaluation. The policies for evaluation are set by member countries in the governing bodies.
4. Evaluation is an integral element of a functioning results-based management (RBM) system. It provides accountability on results, in particular on outcomes and impacts of FAO's work. It informs the formulation of programmes, the definition of priorities and the arrangements to maximise institutional effectiveness.

II. Purpose and Principles of Evaluation

A. DEFINITION OF EVALUATION

5. An evaluation is "an assessment...of an activity, project, programme, strategy, policy, topic, theme, sector, operational area, institutional performance, etc. It focuses on expected and achieved accomplishments, examining the results chain, processes, contextual factors and causality, in order to understand achievements or the lack thereof. It aims at determining the relevance, impact, effectiveness, efficiency and sustainability of the interventions and contributions of the organizations of the UN system. An evaluation should provide evidence-based information that is credible, reliable and useful, enabling the timely incorporation of

findings, recommendations and lessons into the decision-making processes of the organization and its members”¹.

B. PRINCIPLES OF EVALUATION

6. FAO strives for the highest international standards in its evaluation practice. It adheres to norms and standards established by the United Nations Evaluation Group (UNEG)². These norms and standards provide a benchmark against which all organizations and programmes of the UN system can gauge their performance and aim to strengthen, professionalize and improve the quality of evaluation throughout the UN system.

7. The primary principles underpinning evaluation in FAO are: Independence, Impartiality, Credibility, Transparency and Usefulness. These are inter-related.

8. **Independence:** Independence should be protected throughout the evaluation process: policy, institutional framework, management of the evaluation function, conduct of evaluations and follow-up. The evaluation function must be located in the Organization outside the line management that it is mandated to evaluate, and have a direct line of reporting to the governing bodies and the Director-General. In this way, it remains separate from those responsible for the design and implementation of the policies and operations that are evaluated. It must be free from undue influence by management through independent control of the financial and human resources allocated to evaluation, including independent performance assessment of evaluation staff. It must have freedom to design and conduct evaluations according to professional quality standards.

9. **Impartiality:** Evaluation must be free from bias. This means that evaluators must demonstrate professional and personal integrity and conflicts of interest must be avoided. Independence and quality of evaluation design are additional pre-requisites for impartiality. Evaluations must value the input of the main stakeholders, demonstrating a degree of empathy while at the same time maintaining intellectual rigour. Because no individual is totally impartial, evaluation teams must balance different perspectives and backgrounds.

10. **Credibility:** Evaluations must command a high degree of credibility, both from the governing bodies and from managers who must make and implement decisions. Besides impartiality and independence, the credibility of evaluation also requires that the team of evaluators has proven technical competence in the area under evaluation and its context as well as demonstrated competence in evaluation. Independent peer review of evaluation reports also reinforces their credibility.

11. **Transparency:** Evaluation reports and management responses are in the public domain. Evaluations follow a consultative process, whereby evaluators and evaluation managers engage in dialogue to the maximum extent possible with main stakeholders throughout the evaluation process

12. **Usefulness:** Usefulness should always be a prime consideration for selection of a topic for evaluation. Evaluations will be most useful when addressing key areas of concern for the

¹ Adapted to become specific to FAO from the “Norms for Evaluation in the UN System”, United Nations Evaluation Group, 2005.

² **The United Nations Evaluation Group (UNEG)** [HTTP://WWW.UNEVAL.ORG](http://www.uneval.org) is a professional network that brings together the units responsible for evaluation in the UN system including the specialised agencies, funds, programmes and affiliated organisations. UNEG currently has 43 such members. UNEG aims to strengthen the objectivity, effectiveness and visibility of the evaluation function across the UN system and to advocate the importance of evaluation for learning, decision making and accountability. UNEG provides a forum for members to share experiences and information, discuss the latest evaluation issues and promote simplification and harmonisation of reporting practices.

governing bodies and/or FAO management, especially when there are perceived to be problems, priorities are changing or if there are new opportunities. Evaluation should be timed to fit into the management decision-making process.

III. Types of Evaluation in FAO

13. It is FAO policy that all the work carried out by the Organization is subject to evaluation, regardless of the source of funds, through three types of evaluation.

14. **Evaluations for the governing bodies** are decided upon by the Council on the advice of the Programme Committee. Such evaluations focus on key elements of the results-based hierarchy, including strategic and functional objectives, impact focus areas, organizational results and core functions³. They also include thematic and programmatic studies and strategic partnership agreements. Major evaluations include all aspects of the work in the area covered, regardless of funding source, and deal with work at headquarters, regional and country levels.

15. **Country evaluations** comprehensively examine the results of all of FAO's work at country level, including technical cooperation, use made of normative work and functioning of the country office. Synthesis reports consolidating the results across country evaluations are considered by the governing bodies.

16. **Evaluations of individual programmes and projects, usually funded from extra-budgetary resources.** Results of such evaluations are directly used by stakeholders including managers, funders and others directly concerned, often at country level.

IV. Evaluation Scope and Methodology

17. Evaluation in FAO is governed by guidelines that direct and ensure consistency in evaluation processes and methodologies. The key components are:

18. Scoping the evaluation and terms of reference: An approach paper for each major evaluation is developed by the Evaluation Office in consultation with the units most closely involved in implementing the strategy or programme and other stakeholders, including, as appropriate, national government representatives and the representatives of donors.

19. Scope of Evaluations: All evaluations follow UNEG criteria and assess relevance, effectiveness, efficiency, sustainability and impact.

20. Evaluations include examination of:

- relevance to the needs and priorities of the member countries and the international community;
- functionality and clarity of the objectives, strategy, design and implementation plan to meet those needs and priorities;
- institutional strengths and weaknesses;
- changes in the external environment in which FAO functions;
- quality and quantity of outputs, in relation to resources deployed in undertaking the work (efficiency);
- outcomes resulting from the activities and outputs in relation to resources deployed for the work (effectiveness);
- impacts and their sustainability in terms of benefits to present and future generations for food security, nutrition, social and economic well-being, gender equity, the environment, etc.; and

³ The Charter may need to be revised in the future, to take account of experience with Results-Based Management approaches and its implications for the Organization's evaluation programme.

- FAO's comparative advantage in addressing the priority needs.

21. Evaluation methodology: The methods and tools used are tailored to the individual evaluations and to answer specific evaluation questions. Triangulation of information across stakeholders is a key tool for gathering and validation of evidence. Evaluations are carried out using a participatory approach, seeking and sharing opinions with stakeholders at different points in time, as this is important for learning and acceptance of evaluation findings. Tools most frequently used include semi-structured interviews, focus groups, checklists, desk studies, direct observation through field visits and surveys.

22. Evaluations seek to identify and measure long-term changes induced through interventions. Separate impact assessments are undertaken for country and other major evaluations, in areas where FAO has had a substantial volume of work. In some cases where impact evaluation is not possible or cost-effective, beneficiary assessments or other forms of field enquiries may be used to gather key information from the targeted population. The intent is to determine whether the Organization has contributed to change and impact in a meaningful line of causality.

23. The evaluation team: Evaluations are managed by the Office of Evaluation. Teams are led and largely composed of independent external consultants⁴. Evaluation team leaders are consulted where possible on the composition of the remainder of the team. The size of the teams is related to both the scale and complexity of the evaluation, 3-4 lead consultants being a typical number.

24. The evaluation report: The evaluation team is solely responsible for its findings and recommendations, subject to quality assurance by the Office of Evaluation. The Office assures adherence to the terms of reference and recognised quality standards, timeliness, and to provide information and methodological support to the evaluation.

V. Mechanisms for Evaluation Follow-up

25. In order to develop an effective evaluation system, mechanisms must be in place to ensure that evaluation reports are fully considered and agreed recommendations are acted upon. In FAO, this is done through management responses to each evaluation undertaken and follow-up reports on the implementation of the management response.

26. Management response: Each evaluation has a management response, including management's overall view of the evaluation, comments on each recommendation and an operational plan for implementation of agreed recommendations. The Office of Evaluation checks that responses meet required standards of comprehensiveness and clarity, but responsibility for the substance of a response lies with the manager(s) concerned.

27. Follow-up report: The follow-up report ensures compliance with agreed recommendations and, if necessary, accounts for any variation between actions decided in the management response and those actually implemented. The follow-up report is prepared by the organizational unit responsible for the management response and the Office of Evaluation ensures that it meets required standards.

28. For reports presented to the governing bodies, both the management response and the follow-up report are also considered by the Programme Committee.

⁴ Office of Evaluation staff but not other staff of FAO may also serve as evaluation team members

29. All evaluation reports, management responses and follow-up reports are available to all members and posted on the FAO evaluation website. Consultative groups and workshops will be used to bring key evaluation reports to the attention of member countries.

VI. Quality Assurance

30. Mechanisms are instituted to ensure that the evaluation function in FAO corresponds to needs of Members and conforms to UNEG norms and standards. These measures include: a) peer review of major evaluation reports; b) biennial review by a small group of independent peers for conformity of evaluation work to best practice and standards; c) independent evaluation of the evaluation function every six years.

31. The biennial review and independent evaluation of the evaluation function will result in a report to the Director-General and the Council, together with the recommendations of the Programme Committee.

VII. Institutional Arrangements

32. The institutional arrangements for evaluation ensure independence of the evaluation function so as to fulfil its accountability role while ensuring use of evaluation results by the governing bodies and management.

A. THE OFFICE OF EVALUATION

33. The Office of Evaluation is responsible for ensuring the relevance, effectiveness, quality and independence of evaluation in FAO. It is located inside the FAO Secretariat structure, reporting to the Director-General and to the Council through the Programme Committee.

34. The Office receives guidance from the Council and its Programme Committee and consults with the Evaluation Committee (Internal). It is solely responsible for the conduct of all evaluations (with the exception of auto-evaluations), including the selection of evaluators and the terms of reference. It is thus operationally independent within the Organization. In addition to its responsibilities for the conduct of evaluations, the Office also:

- 1) facilitates feedback from evaluation through follow-up to individual evaluations and in communicating lessons for more general application;
- 2) ensures timely reporting on the implementation of those evaluation recommendations accepted by the governing bodies, management and other concerned stakeholders;
- 3) has an institutionalised advisory role on results-based management and programming and budgeting;
- 4) contributes to the enhancement of evaluation within the UN through active participation in the United Nations Evaluation Group (UNEG);
- 5) contributes to the evaluation of the effectiveness of the UN system and other partners as it relates to areas of FAO's mandate through joint evaluations;
- 6) coordinates its work programme with the rest of the UN system, taking into account the work of the Joint Inspection Unit (JIU); and
- 7) for staff training, provides comments on training requirements to the Human Resources Management Division.

B. ROLE OF THE GOVERNING BODIES IN EVALUATION

35. The Council is the decision-making body on evaluation policy and work programme. It exercises oversight over evaluation and ensures that there is transparent, professional and

independent evaluation of the Organization's performance in contributing to its planned outcomes and impacts, including feedback of evaluation into planning and programming.

36. The Programme Committee is the direct recipient of evaluation reports for the governing bodies. Reports involving financial or administrative matters may be referred to the Finance Committee. The functions of the Programme Committee with respect to evaluation are to advise the Council on overall policies and procedures for evaluation and to:

- 1) approve the rolling workplan for major evaluations;
- 2) consider major evaluation reports and the management response to the evaluation and its findings and recommendations. The Committee presents its conclusions on both the evaluation and the management response to the Council in its report as well as its recommendations for follow-up action; and
- 3) receive progress reports on the implementation of evaluation findings and recommendations and provide recommendations to the Council.

C. ROLE OF THE DIRECTOR-GENERAL

37. The role of the Director-General with respect to evaluation is to:

- 1) make proposals on the work programme of the Office of Evaluation and request specific independent evaluations of FAO programmes and activities;
- 2) for evaluations to the governing bodies, present the Management Response through the Programme Committee, including whether each recommendation is accepted, partially accepted or rejected, and an operational plan on follow-up;
- 3) prepare and present to the governing bodies through the Programme Committee, follow-up reports on actions taken with respect to agreed recommendations;
- 4) facilitate feedback from evaluation to improve learning from strategic planning results-based management; and
- 5) ensure that the Evaluation Office functions within its approved budget and work programme and the agreed rules and procedures.

D. THE EVALUATION COMMITTEE (INTERNAL)

38. The Committee advises the Director-General and the Office of Evaluation on matters pertaining to evaluation in FAO with respect to the Organization as a whole. Its aim is to assist the Organization in implementing an evaluation regime which is efficient and responsive to the needs of both the Organization's Members and its Secretariat. It also exercises a quality control function on management responses and follow-up reports. In line with the decisions of the Council, the Committee will support the independent role of the Office of Evaluation within FAO and will review and advise the Director-General on all policy matters pertaining to evaluation. The Committee interacts with the Programme Committee as appropriate.

39. Subject, to any organizational changes which may occur as a result of the implementation of the Immediate Plan of Action for FAO Renewal, the Committee is chaired by the Deputy Director-General and also comprises two permanent members: the Assistant Director-General, Technical Cooperation Department (TC), and the Director, Office of Strategy, Planning and Resources Management; and, rotating on a two-year term: the Assistant Directors-General of two technical departments and one Assistant Director-General/Regional Representative. Other members may be co-opted as required by the Chairperson. The Director of the Office of Evaluation serves as Secretary.

40. The scope of the Committee's work includes:
- a) advice on the implementation of decisions of the governing bodies on evaluation;
 - b) maximise the benefits from evaluation in feedback to planning, programming and management decision-making;
 - c) review of the coverage of evaluation, proposals for the evaluation work programme and the terms of reference of major evaluations;
 - d) review of Management Responses to major evaluations for consideration by the governing bodies;
 - e) assessment and oversight of progress in implementation of management follow-up actions to evaluations;
 - f) advice on the adoption of measures to ensure the Evaluation Office applies international quality standards to its work; and
 - g) review of available resources for evaluation in the light of the Organization's needs.

VIII. Staffing of the Office of Evaluation

41. All appointments for evaluation, including that of the Director of the Office of Evaluation, staff and consultants follow transparent and professional procedures with the primary criteria being those of technical competence and behavioural independence but also with considerations of regional and gender balance. The Director of Evaluation will have the responsibility for the appointment of evaluation staff and the appointment of consultants, in conformity with FAO procedures.

42. A competitive procedure applies for appointment of the Director of Evaluation. A panel, consisting of representatives of the Director-General and governing bodies, as well as evaluation specialists from other UN agencies will review the terms of reference and statement of qualifications for the post. A vacancy announcement will be prepared, issued widely and a list of qualified candidates for interview prepared. The panel will then screen and select an appropriate candidate for appointment by the Director-General.

43. The Director of Evaluation serves for a fixed term of four years with the possibility of renewal for one further term, with no possibility for reappointment within FAO to another post or consultancy for at least one year. The governing bodies are consulted on the renewal and/or termination of the Director of Evaluation.

IX. Budget for Evaluation in FAO

44. The Regular Programme budget for evaluation will attain the level of at least 0.8% of the total Regular Programme Budget. In consideration of the fact that the Evaluation Office also reports to the governing bodies of the Organization, the evaluation budget will be allocated in full to the Evaluation Office upon approval by the Council and Conference as part of the Programme of Work and Budget.

45. The translation and reproduction of evaluation documents for the governing bodies, and certain indirect costs of evaluation such as office space, are covered outside the evaluation budget.

46. An allocation for evaluation is included in all extra-budgetary supported activities. Two Trust Fund pool accounts have been established to receive the evaluation funds: one for emergency and rehabilitation projects and another for technical cooperation for development projects, including programme support to normative work. The Trust Funds will be utilised to finance thematic, programme and country evaluations. Emergency and rehabilitation evaluations will be carried out in an integrated way, examining the relevance, efficiency and sustainable benefit from the FAO response to the totality of the emergency and rehabilitation needs.

47. Large projects of technical cooperation for development (including those financed through Unilateral Trust Funds) will have a separate independent evaluation at least once in their lifetime. The criteria for separate evaluation and the levels of allocation in project budgets for evaluation will be in accordance with published guidelines that may be reviewed periodically by the governing bodies.

APPENDIX III**PROPOSED AMENDMENT TO PARAGRAPH 42 OF THE CHARTER****Document PC 101/5(b)**
CHARTER FOR THE FAO OFFICE OF EVALUATION

42. A competitive procedure applies for appointment of the Director of Evaluation. A panel, consisting of representatives of the Director-General and governing bodies, as well as evaluation specialists from other UN agencies will review the terms of reference and statement of qualifications for the post. A vacancy announcement will be prepared, issued widely and a list of candidates for interview prepared. The panel will then screen and ~~select~~ *recommend* ~~an~~ appropriate candidates for appointment by the Director-General.

APPENDIX IV**EXTRACT OF THE REPORT OF THE 101ST SESSION OF THE
PROGRAMME COMMITTEE, ROME 11 – 15 MAY 2009****X. Item 5 b: Charter for the Office of Evaluation⁵**

1. The Committee recalled that it had reviewed a draft version of the Charter at its 100th Session and appreciated that its suggestions for improving the document had been taken into account in preparing the revised draft version. Members made minor suggestions for further improvements to the text.
2. The Committee examined an amendment proposed by the Secretariat on the procedure for the selection and appointment of the Director of Evaluation⁶ whereby a panel, after screening candidatures, would recommend appropriate candidates for appointment by the Director-General. The Committee deferred consideration of this proposal pending the further advice of the CCLM which the Committee noted was to consider it at its forthcoming 87th Session on 25 and 26 May 2009. The Committee also requested the CCLM to examine further the issue of the procedures for the renewal of the appointment of the Director of the Office.
3. The Committee looked forward to reviewing a revised draft version of the Charter at its next session.
4. The Committee received an update on the ongoing selection process for the Director of Evaluation.

⁵ PC 101/5 b

⁶ PC 101/5 b) paragraph 42