



INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: 28 November 2018

Country: Republic of Moldova

Description of the assignment: International Consultant in International Environmental Law

Project name: The Dniester Hydro Power Complex Social and Environmental Impact Study

Period of assignment/services: 20 working days

Contract type: Individual Contract

Proposals should be submitted **online by pressing the "Apply Online" button**, no later than **December 12 2018**.

Requests for **clarification only** must be sent by standard electronic communication to the following e-mail: vladimir.panfilii@undp.org. UNDP will respond by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all applicants.

1. BACKGROUND OF THE PROJECT

The Dniester HPC has been functioning for many years and various negative environmental impacts and other consequences of its operation have been registered by State Hydrometeorological Service downstream of the Dniester River. Generally, the critical pressures generated by HPC are well known. These are hydropeaking, altered water flow and fluctuating water level, sharp decrease of the natural water temperature values in the downstream river stretch which can be traced up to the Dubasari water reservoir, non-typical high transparency of water and reduced self-purification capacity of the river, drastic slow up of the gravel and sand sediments movement, extensive growth of aquatic vegetation in some river stretches, loss of valuable fish biodiversity and decline of fish population due to both blockage of migratory pattern, and changed features and loss of aquatic habitats, etc. Joint Dniester Expeditions have also indicated severe water quality problems, declining biodiversity and deteriorating ecosystems along the river.

To address cooperation on the hydro-energetics issues, currently, the Agreement on functioning of the Dniester HPC is being drafted and negotiated between the Governments of Moldova and Ukraine. It aims to provide the legal background for the functioning of the Dniester HPC and its further upgrading for full scale operation, as well as to establish responsibilities of both contracting parties in terms of ensuring safety of the HPC functioning, parties' rights, use of properties, leasing of land, etc. The negotiation

process of the Agreement has accelerated during last 2 (two) years, and in 2017, the parties came up with a revised draft of the Agreement. However, because of certain provisions on environmental issues it is not ready for signature.

In order to understand the implications of the further development of the Dniester HPC on ecosystems and the population of Moldova, as well as to ensure that the position of the Moldovan negotiation team is based on scientific evidence, the Ministry of Agriculture, Regional Development and Environment of the Republic of Moldova requested support in elaboration of a study on the current and potential impacts of the functioning of the Dniester HPC on the territory of Moldova.

A comprehensive impact assessment Study covering a wide range of issues linked to the hydropower development shall be carried out. Finally, the Study shall provide both the Government and broad public with scientifically based assessments and data to be used for negotiation of the Agreement, particularly, addressing environmental, social and legal implications of such an Agreement.

2. SCOPE OF WORK, RESPONSIBILITIES AND DESCRIPTION OF THE PROPOSED ANALYTICAL WORK

The support of the international legal expert should include:

1. Analysis of the Rules of exploitation of water reservoirs of Dniester HPC:
 - a) Legal assessment of the *Rules of exploitation of water reservoirs of Dniester HPC* in order to assess to what extent they ensure the protection of ecosystem services of the in the Dniester downstream to Dniester HPC.
 - b) Develop recommendation/suggestions on the mechanism of control over the enforcement of the *Rules of exploitation of water reservoirs of Dniester HPC* to be included in the *Agreement on functioning of Dniester HPC*.
2. Analysis of the draft Agreement (and its adjacent Annexes) on the functioning of the Dniester HPC:
 - a) Providing a legal analysis (strengths and weaknesses) of the draft Agreement.
 - b) Proposing reasonable modifications in the draft Agreement, and developing additional Annexes, at the request of negotiators (e.g. monitoring of water releases from HPS-2; methodology for yearly damage assessment; mitigation and compensation measures, etc.).
 - c) Advice on the specific provisions that have to be contained by the draft Agreement and its Annexes for the protection of aquatic flora and fauna of the Dniester river, if the case.
 - d) Describing the working procedures of a potential bilateral Group/Commission agreeing on a daily basis the dispatching principles of water and water release from Ukrainian cascade of the existing HPPs on Moldovan territory.
3. The lease of land for the functioning of Dniester HPS-2:
 - a) Assessment of long-term legal implications of the land lease.
 - b) Providing assistance for the specific way of negotiating the terms of the lease
4. Application of Espoo Convention:
 - a) Identifying what provisions of the Convention are applicable for infrastructure that was planned before the entering into force of the Convention.
 - b) Assessing the need for a new environmental and social impact assessment for the existing hydropower infrastructure where the suspicion of significant impacts exists and prepare a draft request to Implementation Committee of Espoo Convention and steps to be taken

5. Analysis of the International legal background (including European Union legislation):
 - a) Compliance of Dniester HPC upgrade and planned construction of new 6 HPS with the international and Moldovan-Ukrainian bilateral treaties, EU and internationally accepted standards on the use of water.
 - b) Providing examples of rules (bilateral treaties, agreements etc.) of joint use of shared rivers from other states and lessons learned from the experience of other downstream countries.
 - c) Describing the experience of other states in the elaboration or/and application of damage assessment methodology for lost eco-system services.

For detailed information, please refer to Annex 1 – Terms of Reference.

3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

I. Academic Qualifications:

- At least Master's degree (at least 5 consecutive years of graduate studies) in Law and/or other related fields.

II. Years of experience:

- 10 years of professional experience in developing or negotiation of legal and policy documents in environmental field in the Southeastern European (SEE) region;
- 7 years of working experience in the field of environmental law in SEE region;

III. Competencies:

- Proven experience in working with international organizations;
- Knowledge in the EU environmental legislation and Multilateral Environmental Treaties and Conventions;
- Knowledge of legal and institutional set up in environmental sector in Moldova and Ukraine would be an advantage;
- Diplomatic and negotiation experience of bilateral environmental Treaties with Ukraine would be an advantage;
- Fluency in English. Knowledge of Romanian or Russian would be an advantage.

Proven commitment to the core values of the United Nations, in particular, respecting differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status.

UNDP Moldova is committed to workforce diversity. Women, persons with disabilities, Roma and other ethnic or religious minorities, persons living with HIV, as well as refugees and other non-citizens legally entitled to work in the Republic of Moldova, are particularly encouraged to apply.

4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

1. Brief proposal explaining why you are the most suitable for this work;
2. Financial proposal (in USD, specifying the total lump sum amount as well as the requested amount of fee per day);

3. Curriculum Vitae.
4. Offeror's letter confirming Interest and Availability.

5. FINANCIAL PROPOSAL

Lump sum contracts

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables (i.e. whether payments fall in installments or upon completion of the entire contract). Payments are based upon output, i.e. upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this lump sum amount (including fees, taxes, travel costs, accommodation costs, communication, and number of anticipated working days).

Travel

All envisaged travel costs must be included in the financial proposal. This includes all travel to join duty station/repatriation travel. In general, UNDP should not accept travel costs exceeding those of an economy class ticket. Should the IC wish to travel on a higher class he/she should do so using their own resources.

In the case of unforeseeable travel, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and Individual Consultant, prior to travel and will be reimbursed.

6. EVALUATION

Initially, individual consultants will be short-listed based on the following minimum qualification criteria:

- At least Master's degree (at least 5 consecutive years of graduate studies) in Law and/or other related fields;
- 10 years of professional experience in developing or negotiation of legal and policy documents in environmental field in the Southeastern European (SEE) region;
- 7 years of working experience in the field of environmental law in SEE region;

The short-listed individual consultants will be further evaluated based on the following methodology:

Cumulative analysis

The award of the contract shall be made to the individual consultant whose offer has been evaluated and determined as:

- a) responsive/compliant/acceptable, and
- b) having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

- * Technical Criteria weight – 60% (300 pts);
- * Financial Criteria weight – 40% (200 pts).

Only candidates obtaining a minimum of 210 points would be considered for the Financial Evaluation.

Criteria	Scoring	Maximum Points Obtainable
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Technical		
• Relevant University Degree	(Master's degree – 20 pts., PhD Degree – 30 pts.)	30
• 10 years of professional experience in development of legal and policy documents in environmental sector, preferably, in SEE region.	(no – 0, yes – 30 pts.)	30
7 years of working experience in the field of environmental law in SEE region.	(no – 0, yes – 30 pts.)	30
• Proven experience in working with international organizations (successful experience in working with UN agencies is an asset).	(no – 0, yes – 10 pts, experience with UN agencies – 10 pts)	20
• Fluency in English. Knowledge of Romanian and Russian would be an advantage.	(Romanian and Russian – 10 pts each; English – 10 pts)	30
• Interview. a) Demonstrated knowledge in legal and institutional set up in environmental sector in Moldova and Ukraine). b) Demonstrated knowledge of the EU environmental legislation and Multilateral Environmental Treaties and Conventions. c) Demonstrated diplomatic and negotiation experience of bilateral environmental Treaties with Ukraine. d) Communication/ interpersonal skills; initiative; creativity/ resourcefulness.	(40 – knowledge in legal and institutional set up in environmental sector in Moldova and Ukraine; 40 - knowledge of the EU environmental acquis and Multilateral Environmental Treaties and Conventions; 30 - diplomatic and negotiation experience of bilateral environmental Treaties with Ukraine; 20 – communication/ interpersonal skills; 10 – initiative; 10 – creativity/resourcefulness)	150
c) Belonging to the group(s) under-represented in the UN Moldova and/or the area of assignment*	(no – 0 pts., to one group – 5 pts., to two or more groups – 10 pts.)	10
Maximum Total Technical Scoring		300
Financial		
Evaluation of submitted financial offers will be done based on the following formula: $S = F_{min} / F * 200$ S – score received on financial evaluation; Fmin – the lowest financial offer out of all the submitted offers qualified over the technical evaluation round; F – financial offer under consideration.		200

Winning candidate

The winning candidate will be the candidate, who has accumulated the highest aggregated score (technical scoring + financial scoring).

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other non-citizens legally entitled to work in the Republic of Moldova, are particularly encouraged to apply.

Important Notice

The applicants who has the statute of Government Official / Public Servant, prior to appointment will be asked to submit the following documentation:

- A no-objection letter in respect of the applicant received from the government, and:
- The applicant is certified in writing by the Government to be on official leave without pay for the entire duration of the Individual Contract.

A retired government official is not considered in this case a government official, and as such, may be contracted.

ANNEXES:

ANNEX 1 – TERMS OF REFERENCES (TOR)

ANNEX 2 – INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS