



INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: **July 14, 2019**

Country: Republic of Moldova

Description of the assignment: Team of two local consultants (legal and economic) to strengthen the capacities of NAC in performing anti-corruption proofing of the draft normative acts by evaluating its impact

Project name: Curbing Corruption by Building Sustainable Integrity in Moldova

Period of assignment/services: August 2019 – May 2021; up to 45 working days for the legal consultant/team leader; up to 40 working days for the economic consultant

Proposals should be submitted **online only** by pressing the "Apply Online" button by **July 31, 2019, 16:00**.

Requests for **clarification** must be sent by standard electronic communication to the following e-mail olga.crivoliubic@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

Anticorruption proofing of normative acts represents a process of the identification of corruption risks which can emerge in relation to the process of promoting normative acts by public entities, identification of the factors generating such risks and formulating recommendations to exclude such risks in the content of draft normative acts. It was introduced as a mandatory tool in 2006 and is carried out by the National Anticorruption Center. The current methodology for anticorruption proofing expertise was adopted in 2017.

According to the Integrity Law no.82/2017, anticorruption proofing has the following objectives:

- Prevention of corruption acts by excluding the risk factors from the draft normative documents;
- Information of the authors and of the public at large on the risk factors and corruption risks identified in a draft document;
- Offering supplementary guaranties that the legislative process is in compliance to the citizens' interest and the public interest.

Within the corruption proofing process, the NAC experts identify the legal norms' corruptibility factors and formulate conclusions and recommendations on excluding or diminishing their effects. According to the NAC 2018 Activity Report, out of the total of 1015 drafts that were subject to anticorruption proofing expertise, 327 - were draft laws (in 2017 - 301), 629 - draft Government

decisions (in 2017 - 511) and 59 - departmental draft acts (in 2017 - 30). According to the Report, the most frequent corruption risks identified through the anticorruption proofing were ambiguous formulations that allow for abusive interpretations – 595; lack / ambiguity of administrative procedures - 580; legal loopholes - 465; duties/powers that allow derogations and abusive interpretations - 416, etc., as well as the risks related to conflicts of interest and / or favoritism, excess of service duties, undue influences, influence peddling, active corruption, passive corruption, etc. The practical application of such uncertain norms and provisions, without additional clarification, creates favorable conditions for corruption acts.

Of the total recommendations submitted in the anticorruption expert reports and accepted by the authors of the projects in 2018, the efficiency of anticorruption proofing expertise amounts to approximately 70% (in 2017 - 59.56%).

According to the Study "Legislating the interests: *quid prodest* (who will benefit)? Findings of the Anticorruption Expertise (2010 – 2015)" commissioned by UNDP in 2016, the highest incidence of the corruption factors in the drafts submitted for the anticorruption proofing expertise was registered in the category of "Excessive discretions of public authorities", accounting for a total share of 42.2% of the total corruption risks; followed by the category "Ambiguous linguistic formulations" – accounting for 21.0%. A total of seven categories of private interests had been analyzed: exemption from fiscal and customs fees; debt forgiveness; land use change; public-private partnerships; exemptions from trade rules; creation of the industrial parks; and public authorities budget favoring. The analysis demonstrated that most frequently private or corporate interests were promoted in the field of budget and finance and of the labor legislation, social insurance, health and family. According to the estimates of the costs of the draft legislation categorized as promoting some interests (where such estimation was possible), the anticipated public prejudice of normative acts retracted as the result of anticorruption proofing was at 198,340,946 MDL lei (almost USD 10 mln) and public prejudice of normative acts adopted in spite of the conclusions of the anticorruption proofing was estimated at 371,187,304 MDL (USD 18,5 mln).

UNDP, through its project "Curbing Corruption by Building Sustainable Integrity in Moldova" (further the Project) aims to strengthen the capacities of NAC in performing anti-corruption proofing expertise of the legislation by evaluating its impact and delivering recommendations on improving the process to ensure a higher impact of anticorruption proofing. In this context, the project intends to contract a team of two local consultants (legal and economic) to assess the impact of the anticorruption proofing of normative acts in the period of 2016 – 2018 and in the period 2019 - 2020 and deliver recommendations on improving the process.

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

The main objective of the assignment is to evaluate the impact of the corruption proofing of the normative acts in the period of 2016 -2018 and 2019 - 2020 and to deliver recommendations on improving the process to ensure the highest possible impact on corruption prevention.

Scope of work and expected outputs

The consultancy will be conducted in 2 phases:

1) September – November 2019: Analytical report on the Assessment of the period of 2016 – 2018;

2) February – April 2021: Analytical report on the Assessment of the period of 2019 - 2020

Each of the two Studies will have five major outputs:

1) Methodological framework for the assessment of (anticipated) prejudice caused by normative acts reviewed and adjusted (based on the methodology applied in the Study “Legislating the interests: *quid prodest* (who will benefit)? Findings of the Anticorruption Expertise (2010 – 2015)” commissioned by UNDP in 2016);

2) Analysis and assessment of the caused and anticipated (substantial) prejudice of normative acts proofread by NAC, including:

- Analysis and economic assessment of the (substantial) anticipated prejudice of normative acts retracted as the result of anticorruption proofing;

- Analysis and economic assessment of the (substantial) prejudice of legal and normative acts adopted in spite of the anticorruption proofing conclusions/recommendations

3) A typology of draft normative acts generating prejudice;

4) A list of draft normative acts that eluded anticorruption proofing;

5) A set of recommendations on improving current process of proofing to ensure the highest possible impact on corruption prevention.

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

3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

For the legal consultant/team leader

I. Academic Qualifications:

- Master’s Degree or equivalent in Law.

II. Years and sphere of experience:

- At least 6 years of proven professional experience in legal drafting and analysis of normative acts
- At least 6 years of experience related to corruption prevention in a public institution/NGO/international organization

III. Competencies:

- Excellent knowledge of Moldovan legislative process demonstrated by previous assignments;
- Excellent knowledge of corruption prevention normative framework demonstrated by previous assignments;
- Knowledge of principles, legal and normative framework regulating anticorruption proofing of legislation demonstrated by previous assignments will be a strong advantage;
- Strong analytical and report writing skills demonstrated by previous assignments;
- Strong communication and teamwork/coordination skills demonstrated by previous assignments;

- Previous successful experience in development assistance or related work for a donor organization, in particular UNDP, governmental institutions, NGO/think-tank or consulting firm is a strong advantage;
 - Knowledge of English, Romanian, Russian languages for the purposes of the assignment;
- IV. Personal qualities:
- Proven commitment to the core values of the United Nations; in particular, is respectful of differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
 - Responsibility, Flexibility, Punctuality.

For economic consultant

- I. Academic Qualifications:
- Bachelor's Degree in Economics, Finance, Public Administration or other relevant field.
- II. Years and sphere of experience:
- At least 4 years of proven professional experience in economic and financial assessments, policy analysis, strategic planning or other related field.
- III. Competencies:
- Experience in conducting economic and financial assessments of draft legislation, strategic documents, or similar experience demonstrated by previous assignments;
 - Knowledge of the corruption phenomenon demonstrated by previous assignments is a strong asset;
 - Strong analytical and report writing skills demonstrated by previous assignments;
 - Previous successful experience in development assistance or related work for a donor organization, in particular UNDP, NGO/think-tank or consulting firm is a strong advantage;
 - Previous experience in governmental institution is a strong advantage;
 - Knowledge of English, Romanian, Russian languages for the purposes of the assignment;
- IV. Personal qualities:
- Proven commitment to the core values of the United Nations; in particular, is respectful of differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
 - Responsibility, Flexibility, Punctuality.

The United Nations Country Team in the Republic of 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. Offeror's Letter confirming Interest and Availability;
2. Proposal: explaining why they are the most suitable for this position and providing examples reflecting the competencies for each of the qualification requirements (particularly providing details on the previously implemented similar projects and assignments and previous experience in the fields related to this consultancy as described in the terms of reference);
3. Financial proposal: in (USD, specifying a total lump sum amount and the number of anticipated working days);
4. Personal CV including past experience in similar projects and the contact details of at least 3 reference persons.

5. FINANCIAL PROPOSAL

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables. Payment will be made upon the successful completion of the tasks assigned and submission of the assessment report. 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 shall include a breakdown of this lump sum amount (including fee, taxes, communication costs, travel, per diems, 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.

No travel is envisaged under this assignment

6. EVALUATION

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

For the legal consultant/team leader

- Master's Degree or equivalent (5 years of University studies) in Law;
- At least 6 years of proven professional experience in legal drafting and analysis of normative acts
- At least 6 years of experience related to corruption prevention in a public institution/NGO/international organization

For economic consultant

- Bachelor's Degree in Economics, Finance, Public Administration or other relevant field.
- At least 4 years of proven professional experience in economic and financial assessments, policy analysis, strategic planning or other related field.

The qualified candidates will pass cumulative analysis.

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.

1. Technical evaluation (max 300 points) – 60%;
2. Financial evaluation (max 200 points) – 40%.

Only candidates obtaining a minimum of 70% score of the technical evaluation (at least 210 points) would be considered for the Financial Evaluation.

For the legal consultant/team leader

| Technical Criteria | Scoring | Max. Points Obtainable |
|--|--|-------------------------------|
| Master's Degree or equivalent (5 years of University studies) in Law | (Bachelor - 20 pts., Master – 30 pts.) | 30 |
| At least 6 years of proven professional experience in legal drafting and analysis of legal and normative acts | 6 years – max. 25 pts, more than 6 years – up to 50 pts, 5 pts – for each additional year) | 45 |
| At least 6 years of experience related to corruption prevention in a public institution/NGO/international organization | 6 years – max. 25 pts, more than 6 years – up to 45 pts, 5 pts – for each additional year) | 45 |
| Excellent knowledge of Moldovan legislative process demonstrated by previous assignments; | 5 pts. for each assignment | 25 |
| Excellent knowledge of corruption prevention normative framework demonstrated by previous assignments; | 5 pts. for each assignment | 30 |

| | | |
|---|---|------------|
| Knowledge of principles, legal and normative framework regulating anticorruption proofing of legislation demonstrated by previous assignments will be a strong advantage; | 1-2 assignments – 20 pts; each additional assignment - 10 pts., up to maximum 40 pts. | 40 |
| Strong analytical and report writing skills demonstrated by previous assignments; | 5 pts. for each assignment | 25 |
| Strong communication and teamwork/coordination skills demonstrated by previous assignments; | 5 pts. for each assignment | 20 |
| Previous successful experience in development assistance or related work for a donor organization, in particular UNDP, governmental institutions, NGO/think-tank or consulting firm is a strong advantage; | 5 pts. for each assignment | 25 |
| Knowledge of English, Romanian and Russian languages for the purpose of assignment | (English – 5 pts; Romanian – additional 5 pts; Russian – additional 5 pts;) | 15 |
| Maximum Total Technical Scoring | | 300 |
| Financial | | |
| Evaluation of submitted financial offers will be done based on the following formula: S = Fmin / 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 |

For economic consultant

| Technical Criteria | Scoring | Max. Points Obtainable |
|--|--|------------------------|
| Bachelor's Degree in Economics, Finance, Public Administration or other relevant field | (Bachelor – 30 pts., Master – 40 pts.) | 40 |
| At least 4 years of proven professional experience in economic and financial assessments, policy analysis, strategic planning or other related field | 4 years – max. 30 pts, more than 5 years – up to 60 pts, 5 pts – for each additional year) | 60 |
| Experience in conducting economic and financial assessments of draft legislation, strategic | 1-3 assignments – 30 pts; each additional assignment | 70 |

| | | |
|---|---|------------|
| documents, or similar experience demonstrated by previous assignments | 10 pts., up to max 70 pts. | |
| Knowledge of the corruption phenomenon demonstrated by previous assignments is a strong asset | 10 pts. each assignment | 30 |
| Strong analytical and report writing skills demonstrated by previous assignments | 8 pts. for each assignment | 40 |
| Previous successful experience in development assistance or related work for a donor organization, in particular UNDP, NGO/think-tank or consulting firm is a strong advantage | 5 pts. for each assignment | 25 |
| Previous experience in governmental institutions is a strong advantage | 10 pts. for each assignment | 20 |
| Knowledge of English, Romanian and Russian languages for the purpose of assignment | (English – 5 pts; Romanian – additional 5 pts; Russian – additional 5 pts;) | 15 |
| 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 candidates

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

ANNEXES:

ANNEX 1 – TERMS OF REFERENCES (TOR)

ANNEX 2 – INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS