



TERMS OF REFERENCE

Job title:	National legal consultant to conduct legal interventions to facilitate the raw material supply and development of the solid biofuel market in Moldova
Duty station:	Chisinau
Project:	“Multidimensional response to emerging human security challenges” (Human Security Project) Objective 1/Component 1 - To enhance people’s energy security through access to affordable energy that supports livelihoods and energy-efficient production
Payment:	Lump sum contract (payments linked to satisfactory performance and delivery of outputs)
Contract type:	Individual Contract (IC)
Contract Duration:	October 2023 – February 2024 (up to 43 working days)

1. BACKGROUND

Moldova is facing a compound crisis of energy and food security, curtailed economic growth, growing inflation, limited institutional capacities and divisions in society, aggravated by the continuing socio-economic impact of the COVID-19 pandemic and the war in Ukraine.

The refugee crisis presents an additional challenge that requires sustained attention and support from the international community. Without urgent intervention, the deepening socio-economic, energy, food and human security crises has the potential to derail the trajectory of development, and drastically increase human suffering of people in Moldova, whether Ukrainian refugees, third country nationals, or Moldovan citizens (including those from minority ethnic groups). There are risks of massive outmigration and brain drain, as an immediate impact of the worsening of the socio-economic situation, depleting the country of its major asset: human capital.

The **overall objective** of the intervention is to protect human security and enhance the resilience of the Republic of Moldova, in order to address the multifaceted and interconnected challenges of the current socio-economic, food and energy shocks. The three specific objectives are:

Specific objective 1: To enhance people’s energy security through access to affordable energy that supports livelihoods and energy-efficient production

Specific objective 2: To enhance food security by supporting the government to implement its Food Security Strategy, thereby strengthening the capacities of agricultural producers affected by the compound crises

Specific objective 3: To enhance community security by capacitating the police service and community actors to deliver on the principles of social cohesion and peaceful coexistence.

With this project, UNDP ensures that immediate humanitarian assistance is complemented by development efforts across three core insecurities (Energy, Food, Community) to protect and maintain vital systems, structures and a capacity to support Moldova's resilience. Ultimately, the advancement of human security in Moldova will give rise to more tangible and sustainable results that comprehensively address root causes and drivers behind current and emerging challenges, identify priorities based on the actual needs, vulnerabilities and capacities of the governments, institutions and the target group of people, and advance solutions that strengthen the protection and empowerment of all peoples and communities.

The project is financed through the Japan Supplementary Budget for a period of 1 year and the total budget of the Specific Objective 1 is around 2.2. mln USD.

The Specific Objective 1/Component 1 will create pre-requisites for secure and affordable energy supply to improve people's living conditions and of the productions processes. The activities under Objective/Component 1 of the project range from capacity building for biomass boilers operators to grant scheme for households, biomass producers, SMEs and revamping of related platforms to enable access to biomass-related information such as follows:

The foundations of the solid biofuels sector in the Republic of Moldova were laid between 2012 and 2017 when, through a multidimensional approach, several projects aimed at creating a solid biofuels market were implemented. Thus, in 2017 in the Republic of Moldova there was a demand for solid biofuels in the form of pellets and briquettes provided by approximately 320 public institutions and over 1200 domestic consumers, there were over 70 producers of solid biofuels, there was a laboratory for checking the quality of solid biofuels, there were training programs ranging from school children to solid biofuel plant operators. After 2018, the solid biofuels sector experienced a recession, this being influenced by several factors such as the very low price of natural gas, the precarious institutional framework to ensure the continuity of the launched initiatives, the lack of political support for the sector, etc. The energy crisis affecting the Republic of Moldova starting in the fall of 2021 highlighted the importance of the biofuels sector for the national economy but also from the point of view of energy security. At the same time, it demonstrated the need for the unconditional development of this sector in the situation where the stable supply of energy resources of the country still remains a challenge.

In terms of producing of solid biofuels, official data shows a production volume of solid biofuels that varies between 21.7 thousand tons in 2021 and 30.6 million tons in 2020, the average for the analysed period being 25.5 thousand tons.

The average volume of solid biofuels imported in the period 2019-2021 is 4299 tons of which 2305 tons represent briquettes and 1994 tons pellets. The average volume of biofuels exported during this period is 221 tons and is represented only by pellets. Considering this, there is an average volume of biofuels available on the market of approximately 29.57 thousand tons, 24.4% out of which are imported.

According to the statistical data, a minimum volume of 21.8 thousand tons of solid biofuels was consumed in 2020 and a maximum of 28.3 thousand tons consumed in 2021. There are 265 public institutions consumers of solid biofuels, totalling an installed capacity of 57 MW and 1159 households that have solid biofuel plants with a total installed capacity of 26.2 MW.

There were identified several problems within the solid biofuels producing sector, e.g. difficulties in diversifying raw material sources; accessibility of the equipment for the collection and primary preparation of raw materials, low financial and administrative capacities of economic agents to manage the situation of diversification of raw material sources; high rates for the credits, low interest of the local public authorities, state-owned enterprises and other state entities that, as a result of their activity, generate biomass waste, to send for solid biofuels production, etc.

The legal framework that regulate the solid biofuels sector is limited and consist of:

- Law no. 10 of 26-02-2016 regarding the promotion of the use of energy from renewable sources that includes some provisions regarding the quality of solid biofuels and establishes the national authority responsible for market surveillance.
- The regulation on solid biofuel (approved by Government Decision no. 1070 of 27-12-2013) - establishes the definitions, classes and quality requirements, labelling requirements, as well as the conditions for placing on the market and supervision of biomass products both domestically produced and imported, intended for use in households and small buildings in the residential, commercial and public sectors.

Considering this, UNDP Moldova, through the Project “Multidimensional response to emerging human security challenges” (Human Security Project), Objective 1/Component 1 - To enhance people’s energy security through access to affordable energy that supports livelihoods and energy-efficient production is providing support to improve the regulatory framework that will contribute to an improved raw material supply and to development of the solid biofuel market.

2. SCOPE OF THE WORK, DUTIES AND RESPONSIBILITIES

The overall objective of the assignment is to provide support to the national energy authorities (e.g. Ministry of Energy, Energy Efficiency Agency) to review and improve the biomass related regulatory framework, thus contributing to improving of raw material supply and development of the solid biofuel market in Moldova.

To reach the proposed objective, the national consultant is expected to perform the following tasks:

1. Conduct an assessment of the existing legislative framework in the area of solid biofuels, including but not limited to the aspects related to uncontrolled burn of vegetation on open fields, use of abandoned lands which are not properly maintained, creation of energy plantations or forest with a special destination as an energy reserve, provisions of the forestry code and its secondary legislation that is related to biomass. The assessment will identify the barriers that prevent the development of the sector and propose concrete legal intervention that will contribute to improving of raw material supply and development of the solid biofuel market in Moldova.
2. Conduct consultation meetings with stakeholders to present the legislative solutions for improving of raw material supply and development of the solid biofuel market in Moldova and to agree on the priority interventions that will be further supported by the Project.

3. Considering the priority intervention, identified during the consultation meetings, to develop at least 1 legal act that will improve the conditions of biomass production and market operation. The consultant will also develop the related package required for Governmental consideration and approval (e.g., informative note), in accordance with the requirements of the Law 100/2017 on normative acts.
4. To develop the draft Regulatory Impact Assessment (RIA) of the new legal intervention, in accordance with the Methodology of analyzing the impact in the process of substantiation the draft normative acts approved through the Governmental Decision No. 23 as of 18.01.2019.
5. To provide support/consultancy during the examination of the RIA by the Working Group of the State Commission for the regulation of entrepreneurial activity.
6. To provide support/consultancy during the promotion for adoption by the proposed draft legal act.
7. Others tasks as might be required in the course of the implementation of the project component on biomass.

3. EXPECTED DELIVERABLES AND TENTATIVE TIMEFRAME

The assignment will require the completion of the following tasks:

No.	Deliverables	Tentative timeframe
1	Deliverable 1: A detailed Work Plan and Implementation Schedule (up to 2 working day)	1 October 2023
2	Deliverable 2: The assessment of the existing legislative framework in the area of solid biofuels vs the identified challenges for biomass production (14 working days)	20 October 2023
3	Deliverable 3: Conduct meetings with stakeholders to present the results of the study and to agree on the priority legal interventions that will be further supported by the Project., as per task #2 (5 working days)	10 November 2023
4	Deliverable 4: Draft legal act that that will improve the conditions of biomass production and market operation, including its related package required for Governmental consideration and approval, as per task # (5 working days).	15 December 2023
5	Deliverable 5: Draft RIA of the new legal intervention developed, as per task #4 (5 working days)	15 December 2023
6	Deliverable 6: Support in promotion of the draft RIA and draft legal act for adoption (participate in the meetings of RIA WG, public consultation of the draft legal act, table of divergence) as per tasks #5&6 (5 working days)	20 February 2024
7	Deliverable 7: Final version of the documents considering the public consultation and position of the RIA WG (2 working days)	29 February 2024
8.	Deliverable 8: Progress report on supporting other tasks at request (5 working days)	29 February 2024

Note: The final timeline can be amended or specified for the purpose of the assignment.

4. MANAGEMENT ARRANGEMENTS

This is a part-time consultancy. The timeframe for the work is October 2023 – February 2024.

The consultant will be given access to relevant information and data necessary for the execution of the tasks under this assignment. The national consultant will work in close collaboration with the Team Leader for Component 1 - for substantive aspects of the assignment. The national consultant will also closely work with the Ministry of Energy in order to ensure that the draft documents reflect their concerns, expertise, and comments. Consultations/engagement with international experts/companies contracted under the same project will be necessary.

The UNDP will provide administrative and logistical support in the organization of all required consultations and meetings.

5. FINANCIAL PROPOSAL

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 instalments 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 the daily fee, taxes, and number of anticipated working days) (see Annex 2 of the Offeror's Letter Confirming Interest and availability).

Travel

This assignment is home-based. 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. QUALIFICATION AND SKILLS REQUIRED

Qualifications:

- Master's Degree or equivalent in Law, Energy, Climate, Environment, Public Administration, Engineering, Economics and other closely related fields is required.

Experience:

- At least 5 years of proven professional experience in legal acts drafting and promotion;
- At least 5 years of working experience in the institutional consultancy;
- At least 1 study/ legal act of the same complexity in the energy area is required;
- Experience in working with the local communities and/or private sector in implementing, coordinating, monitoring, and evaluating energy-efficiency and Renewable Energy Sources initiatives will be considered a strong advantage;

Competencies:

- Good knowledge of the energy sector in Moldova and of the existing legal and regulatory framework pertaining to biofuel production, including solid biofuels, in Moldova;

- Excellent analytical skills to conduct an in-depth analysis of the on the ground situation and legal barriers or constraints that impede development of the solid biofuel market and the efficient supply of raw materials;
- Excellent knowledge of the national legislative process (drafting and promotion for adoption) and of the RIA development procedure;
- Strong report-writing skills demonstrated by previous assignments;
- Strong interpersonal and communication skills, ability to work with Government representatives;
- Working experience with UNDP or other international organizations in the field of energy will be an advantage;
- Fluency in Romanian is required. Good command of written and spoken Russian and English would be an advantage.

7. Documents to Be Included When Submitting the Proposals

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

- Signed and filled-in Offeror's letter to UNDP confirming interest and availability for the individual contractor (IC) assignment, incorporating Financial proposal in Annex 2 (in USD, specifying a total requested amount per working day, including all related costs, e.g. fees, phone calls etc.). Annex 2 to the Offeror's letter, incorporating the Financial Proposal, shall be filled in mandatorily and includes the detailed breakdown of costs supporting the all inclusive financial proposal;
- Proposal (Motivation Letter): explaining why they are the most suitable for the work including previous experience in similar Projects (please provide brief information on each of the above qualifications, item by item, including information, links/copies of documents for similar assignments);
- CV with at least 3 references.

Important notice: The applicants who have 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.

8. EVALUATION

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

- Citizen of the Republic of Moldova.
- Master's Degree or equivalent in Law, Energy, Climate, Environment, Public Administration, Engineering, Economics and other closely related fields is required.
- At least 5 years of proven professional experience in legal acts drafting and promotion.
- At least 5 years of working experience in the institutional consultancy, in energy sector preferably.

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
<u>Technical</u>		
Master's Degree or equivalent in Law, Energy, Climate, Environment, Public Administration, Engineering, Economics and other closely related fields	<i>Master's – 20 pts; PhD – 30 pts</i>	30
At least 5 years of proven professional experience in legal acts drafting and promotion	<i>No – 0 pts, 5 years – 40 pts, each additional year – 5 pts, up to max – 50 pts.</i>	50
At least 5 years of working experience in the institutional consultancy	<i>No – 0 pts, 5 years – 40 pts, each additional year – 5 pts, up to max – 50 pts.</i>	50
At least 1 study/ legal act of the same complexity in the energy area	<i>No – 0 pts. 1 study/legal act – 15 pts each additional study/legal act – 5 pts, up to max – 25 pts.</i>	25
<i>Subtotal desk review Scoring – 155 pts.</i>		
<u>Interview</u> (demonstrated technical knowledge and experience; communication/ interpersonal skills; initiative; creativity/ resourcefulness). Only the first 5 applicants that have accumulated the highest technical score shall be invited to the interview.		
Excellent knowledge of the biomass sector in Moldova	<i>Limited knowledge – up to 10 pts, Satisfactory – up to 30 pts, Extensive – up to 50 pts</i>	50
Excellent knowledge of the national legislative process (drafting and	<i>Limited knowledge – up to 10 pts, Satisfactory – up to 30 pts,</i>	50

promotion for adoption) and of the RIA development procedure	<i>Extensive – up to 50 pts</i>	
Strong analytical and report-writing skills demonstrated by previous assignments	<i>Yes – 10 pts, No – 0 pts.</i>	10
Strong interpersonal and communication skills, ability to work with Government representatives	<i>Yes – 10 pts, No – 0 pts.</i>	10
Fluency in Romanian is required. Good command of written and spoken Russian and English would be an advantage.	<i>Romanian – up to 10 pts. English – up to 5 pts. Russian – up to 5 pts.</i>	20
Belonging to the group(s) under-represented in the UN Moldova and/or the area of assignment*	<i>no – 0 pts., to one group – 2.5 pts., to two or more groups – 5 pts.</i>	5
Subtotal Interview Scoring – 145 pts.		
Maximum Total Technical Scoring		300
<u>Financial</u>		
Evaluation of submitted financial offers will be done based on the following formula: <u>S = Fmin / F * 200</u> 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

**Under-represented group in the area of assignment are women. Under-represented groups in UN Moldova are persons with disabilities, LGBTI, ethnic and linguistic minorities, especially ethnic Gagauzians, Bulgarians, Roma, Jews, people of African descent, people living with HIV, religious minorities, especially Muslim women, refugees, and other non-citizens*

Winning candidate

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