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## TERMS OF REFERENCE

### CONSULTANCY FIRM TO DEVELOP THE LEGAL AND REGULATORY FRAMEWORK FOR MICRO, SMALL AND MEDIUM ENTERPRISES (MSMEs) IN LESOTHO

Type of Contract	:	Contract for professional services
Languages Required	:	English
Time commitment	:	80 days (July – October 2017)

#### A. PROJECT DESCRIPTION

UNDP is the UN's global development network, advocating for change and connecting countries to knowledge, experience and resources to help people build a better life. It works with individual countries on their own solutions to global and national development challenges. UNDP Lesotho supports Lesotho's development priorities laid out in the National Strategic Development Plan and through that, the achievement of the MDGs. The focus areas of the UNDP Country Programme are Democratic Governance; Environment and Energy; Poverty Reduction and Economic Growth, with Gender Mainstreaming and HIV/AIDS as crosscutting areas.

The Government of Lesotho through the newly established Ministry of Small Business Development, Cooperatives and Marketing intends to develop a legal and regulatory framework that is consistent to the development of the micro, small and medium enterprises in Lesotho. The Ministry of Small Business Development, Cooperatives and Marketing (MSCM) was established in 2015, and is dedicated to supporting the development and growth of MSMEs in Lesotho, and to exploit the inherent potential for job creation and inclusive economic growth by creating necessary regulatory and policy environment. The Government of Lesotho, through the Ministry of Trade and Industry, Marketing and Cooperatives, developed the Micro, Small, and Medium and Enterprises (MSMEs) Policy in 2011 with the assistance of the United Nations Development Programme (UNDP). The policy was reviewed and conceded by Lesotho Cabinet in February 2016, making it a blueprint for the new Ministry of Small Business, Cooperatives and Marketing.

The National Strategic Development Plan (2013 – 2017) considers entrepreneurship as one of the key factors to promoting economic growth and combating youth employment. According to research, there are over 80, 000 active MSME activities in Lesotho, with only 13% registered and licensed. Most of these

enterprises are survivalist and sole entities, without any operational sophistication to increase potential for growth and competitiveness. Some of the constraints to growth in the sector include entrepreneur ignorance and lack of information on governing laws for MSMEs, lack of relevant laws for the sector, legal statuses of businesses and technical capabilities to identify and take advantage of market opportunities. Further, Lesotho is ranked 100<sup>th</sup> on the ease of doing business; the lowest indicator in this index being ease of starting a business, which is ranked at 117 (out of 190 countries)<sup>1</sup>.

The World Bank reports that it takes up to 29 days to register a business in Lesotho, and among the inhibiting factors are the necessary procedures an entrepreneur must undertake before registering a business. For MSMEs, some of these requirements are complex and have standardized assumptions for all sizes of enterprises, including access to services, business premises and innovations for business names. On the ILO "Regulatory Quality Index", Lesotho's performance has been very poor (hovering between 0 and -0.7<sup>2</sup>), and this has indirectly led to the expansion of the informal economy. As such, as part of the ongoing reforms to improving the business and investment climate, the development of legal and regulatory framework project of the Ministry of Small Business is intended to complement efforts to promoting economic competitiveness and participation of MSMEs in Lesotho, as well as reduce factors that inhibit access to business support services. Development of the legal framework for MSMEs will further help determine entry points for MSMEs facilitating growth and credibility of the Lesotho MSMEs sector in a long-run through development of harmonized and relevant legal and policy frameworks.

The project is supported under the UNDP Integrated Economic Development Project. The objective of the project is to support national efforts towards improved business environment for MSMEs by contributing to reduced number of days it takes to register a business in Lesotho and to improve MSME access and use of facilitates for business registration. In this context, UNDP is looking for a firm or a team of consultants to help develop a legal framework for the Lesotho MSMEs that is consistent to the policy provisions and to harness the existing and future opportunities for development of the sector. As a primer, the consultants will be expected to assess capabilities of the MSME sector, considering opportunities and gaps for development and growth, and to use the results to determine policy responsiveness and areas that may require regulation.

This assignment will be delivered in three interlinked outputs:

- assessment of entrepreneurial capabilities, opportunities and gaps in Lesotho to facilitate development of an entrepreneurship development strategy,
- review of the MSME policy in view of the global and domestic developments and lastly,
- development of an MSME legal and regulatory framework.

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<sup>1</sup> World Bank 2017

<sup>2</sup> EESE, 2014

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## B. SCOPE OF WORK

Interested firms or team of consultants will be expected to deliver the following:

- 1) Undertake assessment of entrepreneurial capabilities, opportunities and gaps in Lesotho to facilitate development of the national strategy for entrepreneurship development.
  - Review and identify common trends among the Lesotho entrepreneurial practices among different population groups and potential entrepreneurs,
  - Identify common challenges for entrepreneurship development, and develop recommendations based on international best practice
  - Review local landscape and identify opportunities and gaps for entrepreneurship development, establishing potential options for value chains with focus to institutional framework, business development and entrepreneurs' development.
  - Develop a framework for entrepreneurship development strategy in Lesotho
- 2) Review the Lesotho MSME policy to establish nature and scope of the legislation required to give effect to provisions of the Policy;
  - Based on the above, review the Lesotho MSME policy to identify gaps and alignment to global best practice
  - Review related sector policies to ensure harmonization and integration of issues affecting entrepreneurship development
- 3) Develop of legal and regulatory framework for MSMEs in Lesotho
  - Carry out an analysis of business regulation in Lesotho to establish gaps in the regulation of MSMEs in Lesotho;
  - Establish the legal aspects necessary for creating a conducive operating environment for MSMEs; and
  - Study the existing economic development policies, legal and regulatory frameworks as they relate to business and draft a regulatory and legislative framework for the MSMEs in Lesotho

## C. EXPECTED OUTPUTS AND DELIVERABLES

The assignment is expected to take up to 3 month, distributed into 80 consultancy days. The appointed consulting firm or team or team of consultants will be expected to deliver the following:

Deliverables/ Outputs	Estimated Duration to Complete	Estimated Submission timelines	Review and Approvals Required
1) Inception report on the assignment	5 days	10 <sup>th</sup> July 2017	Ministry of Small Business, Cooperatives



			and Marketing
2) Study on the entrepreneurship capabilities in Lesotho	20 days	20 <sup>th</sup> August 2017	Ministry of Small Business, Cooperatives and Marketing
3) Framework for Entrepreneurship development in Lesotho	10 days		Ministry of Small Business, Cooperatives and Marketing
4) Policy review	20 days	25 <sup>th</sup> September 2017	Ministry of Small Business, Cooperatives and Marketing
5) Legal and regulatory framework for MSMEs in Lesotho	25 days	30 <sup>th</sup> October 2017	Ministry of Small Business, Cooperatives and Marketing

#### **D. INSTITUTIONAL ARRANGEMENT**

- a) The Consulting team will be engaged by the UNDP, and becomes directly responsible to the UNDP – Deputy Resident Representative, but will liaise with the relevant Program Officer for implementation of the project.
- b) The Ministry of Small Business, Marketing and Cooperatives will provide day to day supervision on the assignment. The team will work in liaison with the Director – Entrepreneurship to ensure delivery of the project objectives as set out in this terms of reference.
- c) The Consulting team will prepare reports and facilitate stakeholder sessions for validation at each stage of the assignment.
- d) The Consultant will be expected to engage with the various institutions, government and development partners working in the business development sector, and ensure participation of all relevant departments of government, civil society, academia, media and development partners.
- e) The Ministry of Small Business, Cooperatives and Marketing will provide office space and resources, and transport for all work-related activities for the duration of the contract period.

#### **E. DURATION OF THE WORK AND DUTY STATION**

- a) The assignment is expected to be carried out in 3 months' period, beginning 1<sup>st</sup> July 2017, until 30<sup>th</sup> October 2017.
- b) The assignment will be carried both in location, based in Maseru, and home – based. The consultancy firm should be able to conduct in person all stakeholder consultations and validation sessions on all the deliverables of the assignment.

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## **F. QUALIFICATIONS OF A SUCCESSFUL CONTRACTOR**

The team or firm of consultants required in this assignment should be an entity focused in business development, with experience in development policy analysis, research and business development services. The team should have expertise in development of legal and regulatory frameworks and overall knowledge of the small business development and entrepreneurship development. The qualifying team should have a minimum of 2 team experts comprising a team leader and expert in MSME development, and a legal expert for drafting legal frameworks.

The individual qualifications and requisite experience are defined below:

### **i. Team leader and MSME development expert**

The team leader, who is also an expert in the MSME development, will work and coordinate team members to deliver the assignment as required. S/He will be expected to meet the following requirements:

Possess an Advanced University degree in Economics, Business Studies, Development Studies or any other related field.

- A minimum of 10 years' experience in entrepreneurship development, or private sector development for MSMEs.
- Proven experience with private sector development, policy analysis and research
- Proven experience with development of institutional strategies for business development, and technical support to emerging MSME sectors
- Knowledge and understanding of MSME context, common challenge and some emerging issues in the sector
- Knowledge of the Lesotho MSME and private sector will be an added advantage
- Minimum 5 years, experience on value chain analysis, MSME competitiveness and business development strategies
- Fluency in English
- Excellent communication, reporting, and presentation skills
- Ability to coordinate and lead a multi-disciplinary team of experts, and to engage in a multi-cultural setting

### **ii. Legal Expert**

In collaboration with the team leader, the Legal Expert will be responsible for development and drafting the legal and regulatory framework for MSMEs in Lesotho. S/He will be expected to have the following attributes:

- S/He should possess an advanced degree in legal studies, Business Studies, Economics, or



related.

- Experience of at least 10 years in relevant and similar assignments
- A minimum of 8 years in the areas of business development, private sector and policy development
- Excellent report writing and communication skills
- Ability to work in a team and a multi-cultural setting,

#### **G. SCOPE OF BID PRICE AND SCHEDULE OF PAYMENTS**

<b>Deliverables/ Outputs</b>	<b>% of payment</b>
1. Inception report on the assignment and report for inception meeting	<b>10%</b>
2. Study on the entrepreneurship capabilities and Framework for entrepreneurship development strategy in Lesotho in Lesotho with a validation session report	<b>30%</b>
3. Policy review with a validation session report	<b>20%</b>
4. Legal and regulatory framework for MSMEs in Lesotho with a validation session report	<b>30%</b>
5. Exit report	<b>10%</b>

#### **H. RECOMMENDED PRESENTATION OF OFFER**

Interested consultancy firms should submit their applications on the specified templates and include the following:

- 1) Brief description on why the firm is the most suitable for the assignment, and a methodology on how they will approach and complete the assignment.
- 2) Personal CV for all team members indicating all experience from similar projects, as well as the contact details (email and telephone number) of the Candidate and at least three (3) professional references;
- 3) Financial proposal

#### **I. CRITERIA FOR SELECTION OF THE BEST OFFER**

A successful consultancy firm will be selected based on the Combined Scoring method – where the qualifications and methodology will be weighted a max. of 70%, and combined with the price offer which will be weighted a max of 30%, broken down as:

- 1) Technical Proposal (70%)
  - Expertise of the firm 20%
  - Proposed methodology 50%
  - Personnel 30%
- 2) Financial Proposal (30%), to be computed as a ratio of the lowest price among the proposals

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received by UNDP.

**J. ANNEXES TO THE TOR**

The following are attached to the TOR:

- i) RFP templates document
  - Templates for Technical and financial proposals
- ii) General Terms and Conditions

**H. PROPOSALS WITH THE REQUIREMENTS LISTED ABOVE MAY BE SUBMITTED TO:**

**RFP: Development of legal framework for MSME**

Resident Representative

United Nations Development Program

United Nations Road

3<sup>rd</sup> Floor, United Nations House

Maseru 100

e-mail: [ls.procurement@undp.org](mailto:ls.procurement@undp.org)

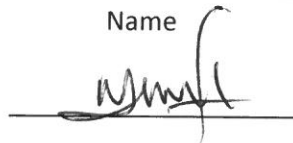
**Strictly ONLY E-MAIL submissions to the above address will be reviewed.**

**K. APPROVAL**

This TOR is approved by: Ms. Christy Ahenkora  
Name

UNDP Deputy Resident Representative  
Designation

Signature



Date of Signing 14 June, 2017