



## INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: 5 July 2018

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**Country: Botswana**

**Description of the assignment: Disability Law Specialist**

**Project name:** Support to the Fulfilment of Human Rights, Access to Justice and Empowerment of Women and Youth Project (2018 – 2021)

**Period of assignment/services (if applicable):**

Proposal should be submitted at the following address: PO Box 54 Gaborone, Botswana or by email to no [procurement.bw@undp.org](mailto:procurement.bw@undp.org) later than **5:00pm Botswana Time on the 20<sup>th</sup> July 2018**.

Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. [enquiries.bw@undp.org](mailto:enquiries.bw@undp.org) will respond in writing or 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 consultants.

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## 1. BACKGROUND

At the 38<sup>th</sup> session of the Human Rights Council, on 28 June 2018, the Government of Botswana reported to the Human Rights Council that it has taken a decision to ratify the Convention on the Rights of Persons with Disabilities (CRPD). Botswana also plans to ratify the African Union Protocol on Disabilities (AU Protocol) which was adopted at the African Union Summit in Addis Ababa, Ethiopia, on 29 January 2018.

While ratified conventions do not automatically form part of the law of Botswana, ratification of the CRPD and the AU Protocol will provide the normative framework to guide the development of an holistic and comprehensive National Disability Framework (NDF) in Botswana. The NDF will consist of a national disability strategy, national disability policy and Disability Law.

Botswana does not have a National Disability Strategy or a Disability Law. The Government of Botswana has reviewed the National Policy on Care for Persons with Disabilities (1996). The revised National Disability Policy was tabled in Parliament in 2016 but was not approved. It was subsequently further revised, and the revised version is expected to be approved by Parliament in 2018.

The Government of Botswana wants to ensure that it is ready to implement the CRPD (and AU Protocol) upon ratification, or as soon as possible thereafter, noting that States Parties undertake:

4(1)(a) To adopt all ***appropriate legislative, administrative and other measures*** for the implementation of the rights recognized in the present Convention;

4(1)(b) To take all appropriate measures, including legislation, to ***modify or abolish existing laws, regulations, customs and practices*** that constitute discrimination against persons with disabilities; ....

4(3) In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall ***closely consult with and actively involve persons with disabilities***, including children with disabilities, through their representative organizations.

The National Development Plan 11 sets out government priorities regarding disabilities. The priorities are primarily welfare-based rather than rights-based, and include initiatives such as cash transfers, allowances and restructuring rehabilitation to improve coordination and access, a database of people with disabilities and an inclusive education policy. It is understood that with the ratification of the CRPD and the AU Protocol by the Government of Botswana, passage of a Disability Law and approval of a Disability Policy and Disability Strategy will become national priorities in addition to those listed in NDP 11. Botswana has also committed to the Sustainable Development Goals including SDG16.7, ensuring responsive, inclusive, participatory and representative decision making at all levels. The CRPD and SDGs are mutually reinforcing; all references to 'equality' and the principles of inclusion that underpin the SDGs ('leave no one behind') apply to people with disabilities.

The Government of Botswana created the Disability Unit in the Office of the President in 2010, recognizing the importance of the issue of disability and the need for whole of government coordination on the issue. The Disability Unit is the secretariat for the National Coordinating Committee on Disabilities (NCCD), which provides oversight of disability policy in Botswana. NCCD processes are consultative and inclusive of people with disabilities.

The development of the Disability Law (as part of the National Disability Framework) will be coordinated by Disability Office at the Office of the President as secretariat for the NCCD, in close consultation with PwDs. A consultation plan will be developed which will include consultations on the draft Law and verification and endorsement of the draft Law by the NCCD and PwDs. Government will meet with key stakeholders including civil society disabled persons' organisations on the plans to ratify the CRPD and the AU Protocol and to seek input into the draft Disability Strategy and Draft Bill prior to endorsement by the NCCD.

UNDP and the Government of Botswana have signed the "Support to the Fulfilment of Human Rights, Access to Justice and Empowerment of Women and Youth Project" (2018 – 2021) ("the Project"). Under the auspices of this Project, the Government of Botswana has requested support from UNDP to develop a National Disability Strategy and Disability Law, conduct consultations and convene an international conference on Disability in 2019.

Accordingly, UNDP is procuring the services of a Disability Law Specialist. The Disability Law Specialist will work closely with the national legislative drafting consultant, to produce a Disability Bill to domesticate the CRPD and AU Protocol and mainstream disability into the law of Botswana and include the necessary transitional and consequential amendments to existing laws. The Disability Law will be developed in September and October 2018 for approval by the NCCD and subsequent consideration by Government. The Disability Law will build upon a review<sup>1</sup> of the legal framework of Botswana for people with disabilities (PwDs) which was conducted in 2011 and the Situation Analysis of Disability Rights in the Context of Botswana (2016). It will also take into account existing draft Bills to amend the Building Control Act 1960 and Penal Code.

The Consultant will report to the Coordinator of the Office of the President (Disability Unit) and the UNDP Human Rights Specialist. The Office of the President will coordinate the consultant's access to relevant cases and legislation.

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<sup>1</sup> *Final Review of the Legal Instruments, Policies, Strategies and Programmes for the Integration of Issues for People with Disabilities* (2011).

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

### **Deliverables**

In close collaboration with the Human Rights Specialist (UNDP) and Coordinator Disability Unit, Office of the President, the consultant will develop the policy, drafting instructions and Explanatory Memorandum for a Disability Bill in a consultative manner and liaise closely with a national legislative drafter during to ensure finalization of the Disability Bill to the standard required for approval by the National Coordinating Committee on Disabilities (NCCD).

The **deliverables** are:

1. A Disability Bill that is consistent with the specifications below and acceptable to the National Coordinating Committee on Disabilities;
2. Explanatory Memorandum for the Disability Bill;
3. Completed consultations on the Disability Bill;
4. Succinct report summarizing the consultative processes undertaken, key issues arising and how they were resolved, recommendations and annexing the consultation attendance lists, any presentations or consultation documents, the Explanatory Memorandum and the draft Bill.

The **milestones** are:

1. Initial round of consultations complete and drafting instructions submitted to NCCD for endorsement (30 September); and
2. Final draft Bill submitted to NCCD for approval (30 October 2018).

**Specifications:** the draft Disability Bill must:

- Domesticate the CRPD and the AU Protocol and mainstream disability rights into the law of Botswana;
- Include all recommended transitional and consequential amendments to the laws of Botswana;
- Include an Explanatory Memorandum setting out the policy and background for the Bill and outlining the objective and effect of each clause of the Bill;
- Take into consideration the legal and policy setting in Botswana, including NDP 11, the National Disability Framework, the Constitution of Botswana, the domestic legal framework in Botswana, and relevant case law;
- Be compliant with the Legislative Drafting Guidelines issued by Attorney General's Chambers in Botswana;
- Be appropriate to the local context in Botswana; and
- Be written in plain English.

**Specific tasks** to achieve the deliverables will include:

1. Conduct a desk review (based on existing information and additional research) to inform the development of drafting instructions for a Disability Law;
2. Provide input into the programme for Disability Law consultation meetings with stakeholders to be held in Botswana (September – October 2018);

3. Conduct meetings / workshops with key stakeholders in Botswana to inform policy development of the Disability Law (September / October 2018);
4. Prepare drafting instructions for approval by the NCCD. The drafting instructions must be consistent with the Drafting Instructions Guidelines published by the Attorney Generals' Chambers of Botswana (September 2018);
5. Work closely with the legislative drafting consultant to ensure the draft Disability Bill fully reflects the approved drafting instructions (September - October 2018);
6. Finalise the Disability Bill (in close coordination with the legislative drafting consultant) to reflect input received during consultations (October 2018) and draft the Explanatory Memorandum;
7. Submit report including recommendations regarding any Regulations that may be required to support the draft Disability Law (November 2018).

### **3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS**

#### I. Academic Qualifications:

- Minimum Master's degree in law. Advanced qualifications in disability law or policy will be highly regarded.

#### II. Required experience:

- Minimum 10 years' experience providing technical advice on human rights policy and legislation, including a minimum of 5 years' experience in the specific field of disability;
- Demonstrated expert knowledge of the CRPD and international and regional disability instruments;
- Demonstrated experience in developing legislative policy and instructing Parliamentary Counsel / legislative drafters and working together to develop draft Bills;
- Demonstrated experience in engaging in consultation processes on disability or related issues;
- Excellent written and oral communication skills.

#### III. Competencies:

##### **Core Competencies:**

- Uses substantive mastery of technical content to build consensus and motivate performance;
- Ability to lead effectively, using mentoring as well as conflict resolution skills;
- Demonstrates openness to change and ability to manage uncertainties and complexities;
- Remains calm, in control and good humored even under pressure;
- Close attention to detail;

- Demonstrates excellent oral and written communication skills.

**Technical Competencies:**

- Expertise in disability law and policy including the CRPD and international and regional disability instruments;
- Ability to effectively develop policy and translate policy into drafting instructions;
- Ability to draft documents in plain English;
- Fluency in written and spoken English.

#### **4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS.**

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

**1. Technical Proposal:**

- (i) How the work will be conducted; and
- (ii) Explaining why they are the most suitable for the work.

The technical proposal must meet the specifications in the TOR and correlate the bidder's experience and expertise with the proposed approach. The consultancy can be primarily home based, however travel to Botswana will be required between September and October 2018 to engage with stakeholders.

The technical proposal must indicate availability to complete the work between July – November 2018. While there can be some flexibility around the dates, the work is required to be completed in the timeframes specified in the TOR.

**2. Financial proposal**

**3. Personal CV** including past *relevant* experience and at least 3 references.

#### **5. FINANCIAL PROPOSAL**

The financial proposal shall specify a total lump sum amount, and payment terms for the deliverables (i.e., whether payments will fall in installments or upon completion of the entire contract). Payments are based on delivery of the services specified in the TOR. The financial proposal must include a breakdown any lump sum amount (eg travel, fees, per diems, and number of anticipated working days).

### **Travel and subsistence costs**

*All envisaged travel costs and subsistence costs must be included in the financial proposal.* This includes all travel to join the duty station/repatriation travel. In general, UNDP will 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 his/her own resources. If payment for any amount (eg travel, per diems) is required at a specific time, this should be specified in the financial proposal, noting that usually UNDP will not pay for travel or per diems in advance of arrival of the consultant in country.

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. Local travel costs (transfer to and from airport and travel within Botswana for purposes of completing the assignment) should not be included in the financial proposal.

## **6. EVALUATION**

Individual consultants will be evaluated based on the following methodology:

### **Cumulative analysis**

*When using this weighted scoring method, the award of the contract should 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; 70%*

*\* Financial Criteria weight; 30%*

*Only candidates obtaining a minimum of 50 points are considered for the Financial Evaluation*

<b>Evaluation criteria – responsive / compliant / acceptable</b>	<b>Evaluation</b>
<b>Qualifications</b>	Yes/No
Minimum Master's degree or equivalent in law. Advanced qualifications in human rights and / or disability law or policy will be highly regarded.	

<p><b>Experience</b></p> <p>Minimum 10 years' experience providing technical advice on human rights policy and legislation, including a minimum of 5 years' experience in the specific field of disability.</p>	<p>Yes/No</p>
<p><b>Proposal</b></p> <p>Complete Consultancy package submitted (CV, references, technical and financial proposals)</p>	<p>Yes/No</p>

<b>Criteria</b>	<b>Weight</b>	<b>Max. Point</b>
<u>Technical</u>		
Demonstrated expert knowledge of the CRPD and international and regional disability instruments	20%	20
Demonstrated experience in developing legislative policy and instructing Parliamentary Counsel / legislative drafters and working together to develop draft Bills	40%	40
Demonstrated experience in engaging in consultation processes on disability or related issues	10%	10
<u>Financial</u>	30%	30



**ANNEX**

**ANNEX 1- INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS**