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GHANA

TERM OF REFERENCE (TOR) FOR THE RECRUITMENT OF INDIVIDUAL CONTRACTOR (IC)

GENERAL INFORMATION

Services/Work Description:	Consultant to lead the development of a paralegal framework for the delivery of legal aid by the Ghana Legal Aid Commission in Ghana
Project/Program Title:	Responsible, Accountable and Peaceful Governance Programme
Post Title:	National Consultant (NC) Group of Individuals and/or Firms are not eligible for this consultancy assignment (only at an individual level)
Consultant Level:	
Duty Station:	Home-Based
Expected Places of Travel:	
Duration:	25 working Days (Within the period of 18 th November to 20 th December 2019)
Expected Start Date:	Dec 2019

I. BACKGROUND / PROJECT DESCRIPTION

Background

Access to justice is a fundamental human right guaranteed under the 1992 Constitution of Ghana. The Constitution of Ghana, 1992 contains very elaborate provisions on access to criminal justice. In particular, it recognizes the complexity of the criminal justice process and the need for assistance from a lawyer right from the outset. With particular reference to the criminal justice process which usually begins with the arrest of a suspect, the Constitution, per article 14 (2), requires that:

“14 (2) A person who is arrested, restricted or detained shall be informed immediately; in the language, he understands, of the reason for his arrest, restriction or detention and of his right to a lawyer of his choice.”

It is also provided in the Constitution that the arresting authority has a maximum of forty-eight hours within which to release the person or put him before a court.

Not only does the Constitution recognize the fact that the arrested person can be discriminated against on grounds of his social or economic status in article 17 (2) but also, as part of the fair trial guarantees under article 19, he has the right to defend himself in person or by a lawyer of his choice. To ensure that the arrested person enjoys the constitutional rights stated above among others the Constitution provides for legal aid under article 294.

However, in a country plagued by high levels of poverty, ignorance of the workings of the formal justice system and illiteracy, expensive, slow, and complex legal processes, state sponsored legal aid is essential for actual delivery and general confidence in the formal justice system. Unfortunately, access to justice is often illusory for many poor people, especially in cases of persons arrested and detained by the criminal justice machinery. The poor who find themselves in trouble with the law are vulnerable to all manner of human rights and procedural abuses and deprivation. They are also more likely to be neglected and forgotten.

According to the General Legal Council's records as at 31st October, 2019, there are 7,286 names on the roll of lawyers. These are the persons who have been admitted to the Ghana Bar since its inception and include many who have passed on to glory and others who are not available to the public for various reasons. Of the number on the roll, 3,184 are licensed lawyers to practice under the laws in Ghana. Many of these licensed lawyers are not in advocacy and still others are not engaged in practice of the profession in the criminal justice system. An additional challenge to general availability is the fact that the majority of the licensed lawyers resides and works only in the national and regional capitals. The remaining part of the population who do not live in these areas have limited or no access to lawyers. It is also not worth denying that those of the population who reside outside the national and regional capitals are also the ones plagued with poverty, ignorance and illiteracy and therefore in greater need for legal assistance. A conservative population figure for Ghana is above 26 million. Each of them is entitled to some minimum legal advice and this is not practical if they all have to rely upon the less than 3,200 lawyers available on the market. Even where there is access to a lawyer, high cost of lawyer's fees especially because the service is needed outside the location of the lawyers, makes it almost impossible for the average Ghanaian outside the national and regional capitals to contract the services of a lawyer. This was a reason why the state established a Legal Aid Commission to ensure that no one is left behind in accessing Justice.

The current number of lawyers (1:8,600) cannot therefore be relied upon to ensure the constitutional guarantees contained in chapter five of the 1992 Constitution. This leaves the vast majority of residents in Ghana who are outside the regional capitals with little or no access to legal assistance. Some drastic steps need to be taken to ensure that all have the access to all the rights guaranteed everyone under the Constitution.

The State funded Legal Aid Commission is however woefully under-financed and ill-equipped with human and material resources making the services accessible to only a negligible number of deserving persons. The Scheme currently have only nineteen (19) lawyers operating in the 10 regional capitals in Ghana, posing a challenge to them to be able to provide the needed services to clients. This limitation may be attributed to the rights violations suffered by some poor and vulnerable citizens who come into conflict with the law from arrest to remand and sometimes wrongful prosecutions. As a result of the situation of inadequate lawyers in Ghana generally and the Legal Aid Commission in particular as described above; increasing emphasis is being placed on the potential of paralegals to fill in the gap to provide basic legal assistance to people with unmet legal needs. It is for this reason that the new Legal Aid Commission (LAC) Act, adopted in year 2018 makes provision for the development of a paralegal framework by the Board of LAC to facilitate the use of paralegals to expand access to Legal Aid Services to the poor and vulnerable in Ghana. To facilitate this, the United Nations Development Programme (UNDP) in collaboration with the Legal Aid Commission seeks the services of a National Consultant to lead the development of a paralegal framework for the delivery of legal aid by the Ghana Legal Aid Commission in Ghana

II. SCOPE OF THE WORK

The consultant under the direction of the Leadership and Board of the LAC as well as UNDP will;

- i. Conduct a mapping of countries that have developed and are successfully implementing a framework of paralegals for legal aid delivery
- ii. Recommend countries with good practices related to the framework and use of paralegals for legal aid delivery for an experience sharing workshop in Ghana
- iii. Facilitate the experience sharing workshop and produce first draft of paralegal framework for LAC

- iv. Facilitate a validation workshop and finalise the framework for adoption and implementation by the Board of the Legal Aid Commission
- v. Recommend strategies for addressing the gaps.

III. EXPECTED OUTPUTS AND DELIVERABLES

No	Deliverables	Duration (approx.)	Review and Approval
1.	Submit an inception report detailing schedule of work for the period.	2 working days after contract signing	LAC/UNDP
2.	Submit a mapping report of paralegal framework of other countries for possible adaption	7 working days after contract signing	LAC/UNDP
3.	Submit draft Paralegal Framework for LAC	17 working days after contract signing	LAC/UNDP
4.	Submit final Paralegal Framework for LAC	25 working days after contract signing	LAC/UNDP

IV. INSTITUTIONAL ARRANGEMENT / REPORTING RELATIONSHIPS

- ❖ The consultant will be supervised by the Access to Justice Lead at UNDP and the Executive Director of LAC
- ❖ Payment will be made upon satisfactory delivery of outputs, certification of payment form, acceptance and confirmation by LAC /UNDP on outputs satisfactory delivery.

V. LOGISTICS AND ADMINISTRATIVE SUPPORT TO PROSPECT IC

- a) The Consultant will be given access to relevant information necessary for execution of the tasks under this assignment.
- b) The Consultant will be responsible for providing her/his own working station (i.e. laptop, internet, phone, scanner/printer, etc.) and must have access to reliable internet connection.
- c) **All expenses must be anticipated and factored into the professional fees;** except workshop related travel and expenses which will be born by the project as and when necessary

VI. DURATION OF THE WORK

- a. The consultancy is from the 18th November to 20th December 2019 for a total of 25 working days. It is expected that within this period, the successful IC should complete work.
- b. Strictly follow the timelines as stated in expected output table above.

VII. QUALIFICATIONS OF THE SUCCESSFUL INDIVIDUAL CONTRACTOR (IC)

The successful consultant must possess the following:

Education:

Master's Degree or equivalent in Law, Social Sciences, Governance or related field.

Work Experience:

- Substantive experience conducting research and analysis as well as making recommendation for adoption in the area of law and access to justice for at least the last seven years;
- Proven ability to develop frameworks and action programmes to facilitate implementation for social change
- Demonstrated understanding of the issues of rule of law access to justice and Legal Aid, particularly for the poor and vulnerable

- Demonstrated experience working on policy and programmatic issues with national and/or local governments as well as civil society organizations;
- Experience or strong familiarity with the work of UNDP and/or other multilateral, bilateral and civil society development partners;
- Documentary evidence of the experience and information on similar assignments undertaken by the consultant including location, nature of services provided details of clients and durations of recent assignments will be required.

Functional Competencies:

- Excellent analytical and organizational skills;
- Excellent facilitation and presentation skills
- Excellent oral and written communication skills, with analytic capacity and demonstrated ability to synthesize complex information in high quality papers/reports and in effective presentations to different audiences;
- Exercise the highest level of responsibility and can handle confidential and politically sensitive issues in a responsible and mature manner.

Core Competencies:

- Ability to manage time effectively and adhere to deadlines
- Must be a computer literate
- A strong team player
- Ability to work with diverse views and opinions.

Important Note:

The Consultant is required to have the above mentioned professional and technical qualifications. **Only the applicants who hold these qualifications** will be shortlisted and contacted.

VIII. CRITERIA FOR SELECTING THE BEST OFFER

Upon the advertisement of the Procurement Notice, qualified Individual Consultant is expected to submit both the Technical and Financial Proposals. Accordingly; Individual Consultants will be evaluated based on Cumulative Analysis as per the following scenario:

- Responsive/compliant/acceptable, and
- Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation. In this regard, the respective weight of the proposals are:
 - a. Technical Criteria weight is 70%
 - b. Financial Criteria weight is 30%

Criteria	Weight	Max. Point
Technical Competence (based on CV, Proposal and interview (if required))	70%	100%
<ul style="list-style-type: none"> • Understanding the Scope of Work (SoW); comprehensiveness of the methodology/approach; and organization & completeness of the proposal 	15	15pts
<ul style="list-style-type: none"> • Minimum educational background as per the requirement in the ToR 	10	10pts
<ul style="list-style-type: none"> • Substantive experience conducting research and analysis as well as making recommendation for adoption in the area of law and access to justice for at least the last seven years;; (10 marks) • Proven ability to develop frameworks and action programmes to facilitate implementation for social change; (10 marks) • Demonstrated understanding of the issues of rule of law, access to justice and Legal Aid, particularly for the poor and vulnerable; (10 marks) 	30	15pts

<ul style="list-style-type: none"> Documentary evidence of the experience and information on similar assignments undertaken by the consultant including location, nature of services provided details of clients and durations of recent assignments will be required. (15 marks) 	15	30pts
Financial (Lower Offer/Offer*100)	30%	100
Total Score	Technical Score * 70% + Financial Score * 30%	

IX. PAYMENT MILESTONES AND AUTHORITY

The qualified consultant shall receive his/her lump sum service fees upon certification of the completed tasks satisfactorily, as per the following payment schedule:

Installment of Payment/ Period	Deliverables or Documents to be Delivered	Approval should be obtained	Percentage of Payment
1 st Installment	Upon Submission of a mapping report of paralegal framework of other countries	UNDP/LAC	20%
2 nd Installment	Upon Submission of a draft Paralegal Framework for LAC	UNDP/LAC	40%
2 rd	Upon Submission of a final Paralegal Framework for LAC	UNDP/LAC	40%

X. RECOMMENDED PRESENTATION OF TECHNICAL PROPOSAL

For purposes of generating quotations whose contents are uniformly presented and to facilitate their comparative review, a prospective Individual Contractor (IC) is given a proposed **Table of Contents**. Therefore, prospective Consultant Proposal Submission must have at least the preferred contents which are outlined in the IC Proposal Submission Form incorporated hereto.

XI. CONFIDENTIALITY AND PROPRIETARY INTERESTS

The Individual Consultant shall not either during the term or after termination of the assignment, disclose any proprietary or confidential information related to the consultancy service without prior written consent from the UNDP/MESTI/MoGCSP and UNDP. Proprietary interests on all materials and documents prepared by the consultants under the assignment shall become and remain properties of LAC/UNDP.

This TOR is approved by:

Name:

Designation:

Signature: _____

Date Signed: