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Terms of Reference (ToR)

Services/Work Description: Support the development a National Anti-Corruption Policy and Strategy for Ethiopia.

Project/Program Title: Governance and Democratic Participation Programme (GDPP) FEACC Sub-Programme

Duty Station: Addis Ababa

Type of the Contract: National Consultant (Individual contract type)

No. of Posts: Two

Duration of the Assignment: 4 months

Expected Start Date: As soon as possible

1. Background

Recognizing that corruption is an obstacle to good governance and development, and as part of the civil service reform program that started in the 1990s, the Federal Government of Ethiopia established the Federal Ethics and Anti-Corruption Commission (FEACC) in 2001. The Commission was tasked to create anti-corruption awareness and to promote ethics and integrity and prevent corruption in all its forms both in the public and private sector and investigate and prosecute corruption crimes when it occurs.

To extend and intensify the fight against corruption throughout the country, since 2002, all regional states have been following the federal government in passing laws and establishing their own anti-corruption bodies. Today, all the nine regional administrations have Regional Ethics and Anti-Corruption Commissions (REACCs). The nine regional states represent diverse demographic, socio-economic and geographical compositions and is bound to have an impact on the level and form of corruption each region experiences. It also has an impact on how communities perceive and respond to corruption/anti-corruption efforts.

In addition, at a federal level, there are several institutions involved in the fight against corruption and ensuring good governance in Ethiopia, such as the Office of the Federal Attorney General, Office of the Federal Auditors General, Ethiopian Institute of the Ombudsman, Civil Service Commission, the Federal Police and the Financial Intelligence Centre. Besides, there are coalitions and CSOs established at Federal and Regional level playing an important role in the promotion of integrity and the fight against corruption. Beyond the institutions, Ethiopia has also put in place a number of legislative and policy measures aimed at tackling and combating corruption, such as the revised FEACC establishment Proclamation No. 883/2015, the revised Anti-Corruption Procedure Proclamation No. 434/2005, Assets Disclosure and Registration Proclamation No.668 /2010, the Protection of Witnesses and Whistle-blowers of Criminal Offences Proclamation No. 699/2010, Corruption Crimes proclamation No. 881/2011, the Federal Attorney General Establishment Proclamation No. 943/2016 and the Financial Intelligence Centre Establishment Regulation No. 171/2009 and Regulation on the Functioning of Ethics Liaison Units (no. 144/2008) are the major ones. The commitment of the Ethiopian government to the anti-corruption commissions mandate has also been continually

reflected in the successive national strategic plans, which acknowledges that combating corruption is critical to meeting the second Growth and Transformation Plan (GTP II) targets and realizing the vision of Ethiopia becoming a lower middle-income country by 2025. The second and prominent globally agreed development goals, the Sustainable Development Goals (SDGs) (2015-2030) which is mainstreamed in the GTP II of Ethiopia also provides the opportunities to work on anti-corruptions and build effective, accountable and responsive institutions at all levels¹. These are important for achieving the globally committed development goals and create the means where other goals of the SDGs could be achieved.

With the institutional arrangement and policy and legal frameworks in place both at the federal and regional level and successive development goals the country has been implementing, several successes have been scored in the fight against corruption in Ethiopia. Over the last eighteen years, the FEACC and REACCs have achieved significant results in educating, preventing, investigating and prosecuting corruption. Millions of citizens have been educated on ethics and integrity; thousands of corrupters have been investigated and prosecuted²; an estimated value of more than two Billion Birr has been returned to public treasury by confiscation through court orders; and in prevention realms, the working procedures of hundreds of public institutions and enterprises have been studied to identify and address practices that are prone to corruption and remedial recommendations rendered to fill the observed loopholes. Additionally, more than 300,000 elected officials, political appointees and eligible civil servants have been made to declare and register their assets throughout the country to promote transparency and curb corruption in public institutions.

Despite all these efforts and measures, the spread of corruption has been unrelenting and has remained a major obstacle to the attainment of the country's development goals. There is a long way to go in terms of ensuring a transparent and accountable system of governance across all government structures and fully mainstream ethics and integrity in the education system of the country in the move to create a generation of public service and society that is accountable, responsive and transparent. To date, the works of FEACC and its regional counterparts have been using the usual and conventional approach in education, prevention, investigation and prosecution and this coupled with the non-existence of a policy and strategy to coordinate and build synergies among different players made the fight against corruption a daunting task. The research conducted by the commission have also indicated that the delivery of the Anti-Corruption Commissions and other institutions with oversight roles is not compatible with the public expectation in fighting corruption in all its forms. In addition, as corruption becomes increasingly sophisticated, the fight against it demands a well-integrated, multi-disciplinary approach. Successful anti-corruption efforts are often led by a well thought out and robust national anti-corruption policy and strategy that can guide and coordinate the anti-corruption activities of politicians and senior government officials, the private sector, citizens, communities, and civil society organizations. Article 5 (1) of the United Nations Convention Against

¹ SDG 16 – on peace, justice and strong institutions has anti-corruption targets.

16.4 By 2030, significantly reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime

16.5 substantially reduce corruption and bribery in all their forms

16.6 develop effective, accountable and transparent institutions at all levels

² FEACC investigation and prosecution power has been taken over by the act that establishes the Attorney General (2016) and the power has been given to the federal police and federal attorney general respectively. This means FEACC current mandate focuses on anti-corruption awareness and education and prevention of corruption.

Corruption (UNCAC)³ also stipulates that: “Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability”. This article reflects the conviction of states parties that anti-corruption measures should be embedded in coordinated policies instead of being carried out in isolation or ad hoc manner. It also recognizes that anti-corruption approaches cannot be confined only to technocratic solutions aimed at fixing certain systemic problems. Rather, it places emphasis on the realm of public policy and thus acknowledges the inherently political nature of anti-corruption work. Besides, Article 5 of the convention puts emphasis on a strategic approach in the fight against corruption which becomes more evident when it is read together with the articles that follows.

Ethiopia also showed its commitment to regional instrument against corruption by signing the African Union Convention on Preventing and Combating Corruption. The object of the Convention is promoting and strengthening measures to prevent and combat corruption in Africa. This includes the facilitation of co-operation in respect of anti-corruption measures and the harmonisation of anti-corruption policies and legislation among States Parties. It also aims at promoting and strengthening the development of mechanisms and policies that would prevent, detect and punish corruption. In line with UNCAC and the African Union Convention on Preventing and Combating Corruption, to fill the policy and strategy gap in the anti-corruption endeavours, there has been attempts by FEACC to develop a national anti-corruption policy. But the process was stranded at a draft stage and the draft is now available at FEACC. The effort to complete the process was not successful and the works of FEACC/REACCs and other accountability institutions in promotion of ethics and integrity, corruption prevention as well as investigation and prosecution of corruption crimes have been done intermittently.

Thus, developing a national anti-corruption policy and strategy is timely and important to success of the country in the fight against corruption as corruption continues to pose a major challenge in the move to achieve the national as well as regional and global committed development goals. Besides, the links between corruption, terrorism, conflict, human rights abuses, poverty and other organized crimes are now universally recognized. Preventing and combating corruption must be seen as part of an overall efforts to create the foundation for democracy, development, justice and effective governance which is in tandem with the overall reform programs currently propagated in the country.

Ethiopia is in the midst of a democratic transition in which there are high expectations from the people on the new political leadership to set a vision for the country where integrity and anti-corruption are core pillars of the country’s development strategy. This new political reform is particularly vital to the FEACC deliver on its core function and tap into and capitalize on the new reform agendas taking place in the country’s political landscape. To this end, the commission puts this as a top priority and will deploy most of its efforts in this direction. It is against this background that FEACC partners with UNDP through the Governance and Democratic Participation Programme (GDPP) to develop a national anti-corruption policy and strategy.

³ It is the only legally binding international anti-corruption instrument and Ethiopia ratified the said convention with a Proclamation No.544/2007 A proclamation to provide for the ratification of the United Nations Convention Against Corruption. The Convention provides strategic guidance to international and national anti-corruption approaches that could be adopted by member countries.

2. Objectives and Scope of the Consultancy

Objective

The major objective of the consultancy is to support FEACC and other accountability institutions coordinate national efforts in developing a robust national anti-corruption policy and strategy. The expert teams will primarily work with the Federal Ethics and Anti-Corruption Commission (FEACC) to develop a policy and strategy document in accordance with international good practice and taking into account the current state of corruption in the country. The specific objectives of the assignment include:

- Develop national anti-corruption policy taking into account the current political, cultural and socio-economic context and FEACC's and other accountability institutions mandates and the draft national anti-corruption policy that is available at FEACC;
- Provide technical support to FEACC top leadership to design a context-specific consultative process to develop of the Government of Ethiopia's anti-corruption policy and strategy and its resulting implementation plan;
- Based on the draft national anti-corruption policy, develop a national anti-corruption strategy with ambitious but realistic objectives, including the identification of top priorities and appropriate sequencing. The strategy will need to include SMART indicators and specific yearly targets; and
- Based on the Anti-corruption strategy, develop a complete implementation plan and clear follow up and monitoring and evaluation plan.

Scope

In developing a robust national anti-corruption policy and strategy, the consultants should look into policy and regulatory gaps that impede anti-corruption efforts in the country. The assignment also involves reviewing the draft national anti-corruption policy document that is available at FEACC and identify its strength and weakness to tip into the new process of policy document development.

The National Anti-Corruption policy and strategy is intended to serve as a guide for Government (both federal and regional), the private sector, as well as Civil Society Organisations, in order to assist with the coordination and support of their efforts of reducing and eliminating corruption. Therefore, the policy and strategy seek to provide a set of pillars, programmes and intervention areas around which different sectors, organisations and other forums within these sectors can direct and attempt to align their work. It also aims at providing a tool for citizens and others with which they can monitor Ethiopia's progress towards achieving a significant reduction in corruption in the country.

In doing so, the consultants will work closely with the FEACC, OAG⁴, Federal Police, UNDP and the relevant sectors in developing the policy and strategy documents. This would require review of multiple documents and undertake multi-stakeholders' consultations. As the policy and strategy documents will also apply to the regions/REACCs, the assignment also involves a field mission for data collection to at least five regional states to garner relevant information and get insights from the regions.

⁴ Office of the Attorney General (OAG) will also be the key player in this process as it has the prosecution and law enforcement mandate.

The assignment also assumed an additional role to be played by an international consultant⁵. These include leading and coordinating the research team, advising and providing substantive and technical support to the FEACC top leaderships to enhance their leadership skills in terms of managing processes such as this and strategizing and implementation of plans and institutional development process. In line with this, it also involves facilitating and advising, as a subject matter expert, the work of the technical committee on the Anti-Corruption policy and Strategy.

The process of developing anti-corruption policy and strategy should be evidence-based and during the drafting process, consultations with stakeholders are key for the development of a robust, contextualized and realistic anti-corruption policy and strategy. In relations to this, it is contemplated that the third national corruption perception survey will be undertaken by a national firm in parallel with the process of policy and strategy development to make the policy and strategy documents evidence-based and reflect the situations on the ground. Hence, the international expert together with the team is expected to support FEACC in conceptualizing the survey, review and provide feedbacks on inception report and research methodologies and data collection instruments.

The development of the National Anti-Corruption Strategy will be rolled out at least in three main phases and involves the following main activities: Research including desk review, collecting experiences and good practices from other countries, consultation including visits to at least five regional states and development of draft policy and strategy; a range of public engagement and consultations which include sectoral consultations workshops during which a range of inputs will be gathered; and integration of inputs and finalization and validation of the National Anti-Corruption Policy and Strategy which will also include the drafting of an implementation plan as well as a monitoring framework.

3. Approach and Methodology

Developing the anti-corruption policy and strategy and the implementation and monitoring plan will be undertaken by a team of international and national consultants and the consultants will be required to develop a clear and rigorous methodology to deliver on the key tasks as described in the scope of work.

The national Anti-Corruption Policy and Strategy should serve as a guide to developing a set of minimum integrity and accountability mechanisms and standards, to forge shared commitments across sectors, to support collaboration within and between sectors, and to direct renewed energy towards the goal of reducing corruption and building an ethical society. As a result, the overall process

⁵ For this purpose, the international consultant will be seated at FEACC for 28 working days during a period of four months to provide advisory service to the FEACC top leadership. The roles and responsibilities of the international expert include but not limited to the following:

- Provide support to the FEACC leadership in ensuring effective coordination on anti-corruption and integrity issues;
- Support FEACC in the review of their mandate and ways to strengthen their professional independence and autonomy;
- Provide technical advice in the identification of quick-wins that would ensure FEACC relevance/public trust and impact;
- Analyse results of different studies such as capacity gap assessment and gender analysis and support FEACC for effective implementation;
- Improve the coordination and synergies (both vertical and horizontally) with institutions playing an oversight role;

should be guided by a “whole of government and society” approach in the fight against corruption. The process should also be open, transparent, and inclusive of all sectors of Ethiopian Society. At the end, it should arrive at a robust National Anti-Corruption policy and Strategy that has buy-in from the government, the private sector, CSOs and the public, and foster ownership of the process and the resulting policy and strategy documents by all sectors.

The process to develop the anti-corruption policy and strategy should be participatory, consultative, inclusive and engaging a variety of stakeholders. The strategy development should identify an effective strategic development/mentoring model or approaches being used or tested at the federal or regional level. As part of the initial steps at developing strategic document, the team should engage in a desk review of several key documents to get relevant information on the nature, prevalence and impact of corruption in Ethiopia, the policy and legislative frameworks and its enforcement, anti-corruption architecture and systems as well as sector and thematic review. In addition, the process of developing the implementation as well as follow up and monitoring and evaluation plans should take into consideration population, monitoring and reporting capacity and should put tangible benchmarks and tracking mechanisms to determine whether set targets are achieved.

The consultants together with FEACC are also expected to ensure synergy among the various government (House of Peoples Representatives, The Prime Minister Office, the Federal Ethics and Anti-Corruption Commission and Regional Anti-Corruption Commissions, Office of the Federal Attorney General, Federal Police, Office of the Auditor General, Ethiopian Institute of the Ombudsman, the Financial Intelligence Center, Civil Service Commission, Public Procurement Agency and ministry of revenue, and etc.) and non-governmental actors in the development and in ensuring full buy-in and support to the national anti-corruption policy and strategy. They should also ensure the principles of social accountability⁶, transparency, inclusive and participatory approach are reflected in the methodology and during the process of the assignment. Besides, the consultants should ensure cross-cutting issues (youth, gender, people with special needs and environmental sustainability) are taken into consideration.

4. Expected Deliverables

- i. **An Inception Report**, which contains detailed methodology and work plan with timeframes and key milestones and prioritization of activities; and roles and responsibilities of each consultant, *to be submitted within one week of signing a contract*;
- ii. **Preliminary (intermediary) Report**, following desk reviews, several consultations with stakeholders and field works and which should contain initial findings from the desk reviews and consultations with stakeholders, *to be submitted within 12 weeks of signing of the contract*;
- iii. **Draft Anti-Corruption Policy and Strategy**: This should be presented both to FEACC and UNDP, *to be submitted within 14 weeks of signing contract*;

⁶ Social accountability mechanisms are separate from the conventional accountability mechanisms and create the opportunities for constructive engagement between citizens and government to check the conduct and performance of public officials, politicians and service providers as they use public resources to discharge their duties and if properly used, it can complement, reinforce as well as activate the conventional check and balance mechanisms. Anti-corruption is highly imbedded in the culture of a society and social accountability mechanisms are instrumental in building a society that is more open, accountable and inclusive.

- iv. **Validation Workshop⁷**, which would be organized by FEACC and the policy and strategy as well as the implementation plan will be presented at a stakeholder's workshop to solicit additional inputs and comments and also to ensure ownership of the process and its subsequent implementation, *within 15 weeks of signing contract*;
- v. **Final National Anti-Corruption Policy and Strategy Development Report**, which contains the inputs and comments of stakeholders. The report should contain the final policy and strategy document together with implementation plan and Monitoring and Evaluation Framework, *to be submitted within 16 weeks of signing contract*

5. Timeframe

The assignment is expected to be completed within a duration of 4 months from the date of signing the contract and shall take a maximum of **80 working days⁸**. It is envisaged that implementation of this assignment commences as soon as possible, and it is tentatively set to be conducted, **between 01 September to 31 December 2019**.

Timeframe with deliverables

| No. | Deliverables | Actions | Location | Duration (approx.) |
|-----|--|--|----------------------------------|--------------------|
| 1 | Desk review and submission of inception report | <ul style="list-style-type: none"> Prepare inception report detailing the approach and methodology, activities and roles and responsibilities of each consultant | Home based | 6 days |
| 2. | Data collection | <ul style="list-style-type: none"> Undertake data collection applying the various methods including field work and several consultations with stakeholders Analyze and interoperate the collected data | Addis Ababa and selected regions | 45 working days |
| 3 | Write up and submission of preliminary (intermediary) report | <ul style="list-style-type: none"> Prepare and submit a preliminary report containing the initial findings from the desk reviews and consultations with stakeholders | Addis Ababa | 6 working days |
| 4. | Write up and submission of draft anti-corruption policy and strategy | <ul style="list-style-type: none"> Prepare and submit draft national anti-corruption policy | Addis Ababa | 6 working days |
| | | <ul style="list-style-type: none"> Prepare and submit draft national anti-corruption strategy containing the implementation as well as follow up and monitoring and evaluation plan | Addis Ababa | 8 working days |
| | Present policy & strategy documents | <ul style="list-style-type: none"> Present the draft policy document at a stakeholders' workshop | Addis Ababa | 1 working day |

⁷ Two validation workshops will be organized back-to-back, one on the draft policy and the other on the draft strategy document.

| No. | Deliverables | Actions | Location | Duration (approx.) |
|-----|--|--|-------------|--------------------|
| 5. | at a stakeholder's workshop | <ul style="list-style-type: none"> Present draft strategy document including the implementation plan at a stakeholders' workshop | Addis Ababa | 1 working day |
| 6. | Submit revised final draft policy and strategy documents | <ul style="list-style-type: none"> Revise the draft policy and strategy taking into consideration the feedback from the workshops and submit the final draft together with the implementation and monitoring and evaluation framework | Home based | 7 working days |

6. Reporting Relationship

A technical committee (composed 10-12 individuals) drawn from FEACC, OFAG, OAG, Federal Police, Civil Service Commission, FIC and UNDP will be established to provide overall guidance and coordinate and facilitate the process. The contract administration will be managed by UNDP. FEACC and UNDP will also provide technical advice and support at each stage of the assessment, appraise methodology and technical approaches, review drafts and appraise and approve final deliverables.

7. 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 | Deliverables or Documents to be Delivered | Approval | Percentage of Payment |
|-----------------------------|---|----------------|-----------------------|
| 1 st Installment | Upon submission and endorsement of Inception Report | FEACC and UNDP | 15% |
| 2 nd Installment | Upon submission of draft report which includes deliverables 2 & 3 | FEACC and UNDP | 45% |
| 3 rd Installment | Upon submission of final report which includes deliverables 4, 5 & 6. | FEACC and UNDP | 40% |

Note that final payment is dependent on the completion of deliverables as well as hand-over notes and submission of the deliverables and subsequent approval of the FEACC and technical committee established for this purpose.

8. Required Qualifications and Expertise

This assignment foresees a three-member team, comprised of one international consultant and two national consultants, with the international consultant serving as a lead consultant.

⁸ Out of the total 80 working days of the assignment, the international expert will dedicate 40 days (28 days to provide advisory service to FEACC top leadership and 12 days to assist FEACC, UNDP and the technical committee that will be established on the corruption survey conceptualize the survey, review and provide feedbacks on inception report and research methodologies and data collection instruments.

Academic Qualification/Education:

- A minimum of master's degree in governance studies, public administration, public policy study, political science, law, economics or other related social science field.

Experience:

- At least 10 years of experience in anti-corruption and accountability programming;
- Proven experience in developing anti-corruption policy/strategy documents;
- Experience with strategizing and implementation plans, institutional development processes and workshop facilitation;
- The prospective consultants are expected to have knowledge and experience on anti-corruption programming, international conventions and legislations including Ethiopian laws;
- Proven track record effectively facilitating complex policy/strategy development processes in a fully consultative and inclusive manner;
- The international expert should have experience in working in/with similar contexts in developing countries and in cross-cultural settings; and
- Successful consultants are also expected to have deep understanding of the Ethiopian State System in general and the public sector and the governance landscape in particular.

Required Competencies

- Proven ability to deliver quality output working under tight deadlines;
- Ability to communicate effectively and to facilitate discussions at the senior level with government officials and the development community;
- Solid analytical and presentation skills;
- Excellent communication and interpersonal skills and team-oriented work style; and
- Fluency in both written and spoken English. Fluency in both written and spoken Amharic is required for the national consultants.

9. Confidentiality and Proprietary Interests

The Consultants 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 FEACC. Proprietary interests on all materials and documents prepared by the consultants under the assignment shall become and remain properties of the FEACC and UNDP.

10. Contractual Arrangement

Separate contracts will be signed with the successful individual consultants, but they will be required to work as a team. The international consultant will provide overall coordination and leadership to the team. The consultants will be jointly responsible for overall delivery of the work. They will have, as a team, collective responsibility to deliver on all the deliverables. They will be engaged until a Final Anti-Corruption Strategy is Developed and accepted. The International consultant will also assume additional roles and responsibilities of providing substantive and technical support to the FEACC top leadership and this will be reflected in the contract agreement.

The Chief Technical Advisor for GDPP together with the FEACC GDDP Focal Person and UNDP GDPP Programme Officer seconded at FEACC will be the primary focal points and as such they will manage the overall process, under the overall guidance of the team leader and the technical Committee established for this purpose.

11. Logistical Support

FEACC/UNDP will provide office space and internet access for duration of the consultancy. **UNDP will also avail a vehicle and driver for travels and per diem for mission outside Addis Ababa.** FEACC on its part will ensure that the Consultants get access to all government institutions including in the selected regions where they need to go for data collection.

12. Evaluation criteria

Upon the advertisement of the Tender Notice, qualified individual consultants are expected to submit both the **Technical** and **Financial Proposals**. Accordingly, consultants will be evaluated based on **Cumulative Analysis** as per the following conditions:

- 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 is:
 - a) Technical Criteria Weight is **70%**
 - b) Financial Criteria weight is **30%**

Annex- 1 Technical Proposal Evaluation Criteria

| Criteria | Weight | Max. Point |
|--|--|------------|
| Technical Competence (based on CV, Proposal and interview (if required)) | 70% | 100 |
| ▪ Criteria a. Understanding the Scope of Work (SoW); comprehensiveness of the methodology/approach; and organization & completeness of the proposal | 30% | |
| ▪ Criteria b. Relevant academic background (qualification) | 10% | |
| ▪ Criteria c. Proven experience in the development of strategies, programmes and implementation plans within the public and/or development sector | 15% | |
| ▪ Criteria d. At least 10 years of verifiable experience in policy analysis; policy drafting, and strategic research and analysis | 15% | |
| Financial (Lower Offer/Offer*100) | 30% | 30 |
| Total Score | Technical Score * 70% + Financial Score * 30% | |