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INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: 12/09/2014
PN/FJI-36-14

Country: UNDP Fiji Multi-Country Office
Project name: Tuvalu Trade Capacity Building and Institutional Strengthening Project
Description of the assignment: Investment Study Consultancy for Tuvalu
Period of assignment/services: 4 months commencing in September 2014.

Consultancy Proposal should be mailed to C/-UNDP Fiji MCO, Private Mail Bag, Suva, Fiji or sent via email to procurement.fj@undp.org no later than 25th September 2014 (Fiji Time) clearly stating the title of consultancy applied for. Any proposals received after this date/time will not be accepted. Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. UNDP 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. Incomplete, late and joint proposals will not be considered and only offers for which there is further interest will be contacted.

1. BACKGROUND

This EIF Tier 1 Trade Capacity-Building and Institutional Strengthening Project in Tuvalu commenced implementation in February 2013 with the main objective to strengthen the capacity of institutions and stakeholders in Tuvalu to formulate and implement trade policies that support poverty reduction, inclusive economic growth and equitable sustainable development. As part of the Tier 1 project, UNDP as the Main Implementing Entity is recruiting a suitable Technical consultant to review the overall investment regime in Tuvalu to strengthen legislation, regulations, policies and institutional arrangements appropriate for Tuvalu as a small island State.

The New Government Roadmap, initiated in 2013, includes incentives to encourage FDI. Under the Private Sector and Employment chapter, activities include reviewing existing investment-related legislations, business-related regulations that would assist in the improvement, development and sustainability of investment with the potential to increase sustainable economic growth and increase sustainable, opportunities for trade.

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

There is basic investment-related legislation in place but neither investment regulations nor a formal investment policy. No investment promotional activities are being or have been undertaken and considerable capacity-building is required for relevant staff, especially those in the Business and Investment Department. Apart from a few modest investments in the fisheries sector and few from other sectors, some foreign direct investment proposals are still pending due to delays in receiving credentials check results. Usually, no more than three investment proposals are received each year, probably due, at least in part, to a lack of investment promotion and appropriate investment-related legislation. The Government of Tuvalu seeks to address this situation as a matter of priority. Given that situation, a number of key investment-

related issues should be considered if investment is to contribute to Tuvalu's sustainable development, including the following:

- Domestic Investment;
- Foreign Direct Investment;
- Investment Promotion;
- Barriers/Disincentives to Investment; and
- Legislation and other formal Investment and related institutional arrangements

3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATION

Qualifications

Minimum Advanced Degree in or Economics, Trade and Investment Promotion, International Trade Law and/or Investment Law, Private Sector Development, National Development Planning, Public/Private Sector Partnerships or related disciplines

Experience:

At least 7 years relevant experience in trade and investment policy review/development and capacity development, including in LDCs and/or other developing countries, preferably with Pacific Island experience.

Skills

- Knowledge of development projects and programmes especially programmes financed by international development partners.
- Strong knowledge of investment policy issues and policy formulation and analysis
- Experience with development and delivery of capacity development programmes
- Understanding of the unique situation in Tuvalu, its isolation and its barriers to trade
- Ability to work under pressure and good team work skills.
- Excellent communication and interpersonal abilities, ability to relate to stakeholders at all levels.

Languages

- Excellent oral and written English.

4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING PROPOSALS

Offerors should send the following:

- i) Letter addressing how you meet the requirements
- ii) CV or P11 form provided including names of at least 3 referees
- ii) Letter confirming availability and Interest using UNDP template
- iii) Financial Proposal (which includes breakdown of professional fees, travel (only economy class air-fares), living expenses (if applicable) for the duty station and any other miscellaneous cost that may be incurred during the duration of the consultancy.) **The financial proposal must be submitted separately from other documents.**

The P11 form and Template for confirming availability and interest is available on the UNDP Fiji website (www.fj.undp.org).

Lump sum contracts

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 travel, living expenses, and number of anticipated working days).

Travel;

All envisaged travel costs must be included in the financial proposal. This includes all travel to join duty station/repatriation travel. In general, UNDP should 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 their own resources.

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.

5. Evaluation

Cumulative analysis

The proposals will be evaluated using the cumulative analysis method with a split 70% technical and 30% financial scoring. The proposal with the highest cumulative scoring will be awarded the contract. Applications will be evaluated technically and points are attributed based on how well the proposal meets the requirements of the Terms of Reference using the guidelines detailed in the table below:

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 weighting; 70%

* Financial Criteria weighting; 30%

Only candidates obtaining a minimum of 49 points would be considered for the Financial Evaluation

Criteria	Weight	Max. Point
<u>Technical</u>		
i) Qualification <ul style="list-style-type: none"> Minimum Advanced Degree in or Economics, Trade and Investment Promotion, International Trade Law and/or Investment Law, Private Sector Development, National Development Planning, Public/Private Sector Partnerships or related disciplines 	10%	10
ii) Competencies <ul style="list-style-type: none"> Strong knowledge of policy issues, policy formulation and analysis relating to investment promotion, private sector development, private/public sector partnerships and inclusive economic growth Understanding of the unique situation in Tuvalu or small island developing states, in terms of barriers to trade Ability to work under pressure and good team work skills. Excellent communication and interpersonal abilities, ability to relate to stakeholders at all levels. 	10% 10% 10% 10%	40
iii) Experience <ul style="list-style-type: none"> At least 7 years of relevant experience in the field of trade, investment promotion, private sector development, economic growth or private/public sector partnerships Proven experience working in LDCs and/or other developing countries, preferably with Pacific Island experience. 	10% 10%	20
**If necessary interviews shall also be conducted as part of the technical evaluation to ascertain best value for money.		
<u>Financial</u>	30%	30
<u>Cumulative</u>	100%	100

ANNEX 1

Terms of Reference – Review of Investment Legislative Framework in Tuvalu

- A. Project Title: Award ID: 00071633;
Project ID: 00084994 - Tuvalu Trade Capacity Building and Institutional Strengthening Project**

B. Project Description

This EIF Tier 1 Trade Capacity-Building and Institutional Strengthening Project in Tuvalu commenced implementation in February 2013 with the main objective to strengthen the capacity of institutions and stakeholders in Tuvalu to formulate and implement trade policies that support poverty reduction, inclusive economic growth and equitable sustainable development. As part of the Tier 1 project, UNDP as the Main Implementing Entity is recruiting a suitable Technical consultant to review the overall investment regime in Tuvalu to strengthen legislation, regulations, policies and institutional arrangements appropriate for Tuvalu as a small island State.

The New Government Roadmap, initiated in 2013, includes incentives to encourage FDI. Under the Private Sector and Employment chapter, activities include reviewing existing investment-related legislations, business-related regulations that would assist in the improvement, development and sustainability of investment with the potential to increase sustainable economic growth and increase sustainable, opportunities for trade.

C. Scope of Work

There is basic investment-related legislation in place but neither investment regulations nor a formal investment policy. No investment promotional activities are being or have been undertaken and considerable capacity-building is required for relevant staff, especially those in the Business and Investment Department. Apart from a few modest investments in the fisheries sector and few from other sectors, some foreign direct investment proposals are still pending due to delays in receiving credentials check results. Usually, no more than three investment proposals are received each year, probably due, at least in part, to a lack of investment promotion and appropriate investment-related legislation. The Government of Tuvalu seeks to address this situation as a matter of priority. Given that situation, a number of key investment-related issues should be considered if investment is to contribute to Tuvalu's sustainable development, including the following.

i. Domestic Investment:

- What economic sectors/sub-sectors should be open only for domestic investment (e.g., retail trade)?
- Should domestic investors be offered different incentives from those offered to foreign investors or have fewer restrictions placed on them than those applying to foreign investors?
- Should Tuvaluan investors living overseas on a long-term basis be treated as domestic investors?
- If Tuvaluan investors living overseas are to be treated as domestic investors and, if incentives for domestic investors are offered greater incentives than those offered to foreign investors, or fewer restrictions, how to ensure that the Tuvaluan investor overseas is him/herself the real investor and not simply covering for a foreign investor?
- what longer-term (one-two years) technical assistance (TA) is required to build capacities within Government and the private sector (including the TNPSO), as appropriate, to deal with investment-related matters?
- What TA and other assistance is needed for Government to establish an Enterprises Development Centre and ensure its successful operation?

ii. Foreign Direct Investment (FDI)

- What kinds of FDI (joint venture, 'greenfield', acquisition of existing business) should either be prohibited or allowed and, if the latter, allowed under what conditions?
- What economic sectors/sub-sectors (e.g. the hotels/restaurants sub-sector of the tourism sector) should be open to FDI and under what conditions/restrictions, if any?
- What financial and/or other incentives should be offered to promote FDI?

iii. Investment Promotion

- What would be an appropriate short- and longer-term investment promotion programme for Tuvalu?
- Should Tuvalu have a dedicated website promoting investment and, if so, what should be its optimum content and linkages to other websites?

iv. Barriers/disincentives to investment

- What barriers are there to investment in Tuvalu (e.g., State monopolies, long/onerous procedures) and how should they be addressed¹?
- What are disincentives to investment in Tuvalu (e.g., system of land tenure etc) and how should they be addressed? How can land reform take place in ways to encourage investment (without changing land rights of individual Tuvaluans)?
- How can the reclaimed barrow pits be used (at least in part) for investment (e.g., perhaps as a site for a conference centre and hotel)?
- How can both domestic investment and FDI best be promoted in the Outer Islands?

v. Legislation and other formal Investment and related institutional arrangements

- The Foreign Direct Investment Act 1996 should be reviewed and, if necessary, amended or repealed and replaced by new legislation
- What other legislation needs to be reviewed, amended or repealed and replaced with new legislation to deal with *domestic* investment policy matters?
- What investment regulations, if any, and/or national investment policy (covering both domestic investment and FDI) needs to be drafted and adopted, either by legislative means or a decision of Cabinet/the relevant Minister
- What would be an appropriate plan for the introduction and strengthening of intellectual property rights (IPRs) in Tuvalu in ways that would encourage investment?²
- How to protect consumer interests while promoting investment?
- What should be the internal Government institutional arrangements to deal with investment issues, recognising the need to avoid unnecessary bureaucratic delays in dealing with investment proposals?
- How should investment be monitoring in Tuvalu and what statistics should be gathered and, of those statistics, what should be published, if any? What should be the appropriate roles of Government and the private sector, especially the TNPSO, in relation to investment in Tuvalu?

D. Expected Outputs and Deliverables:

Key Tasks	Expected Outputs	Due Dates	Review and approvals required
<u>Domestic Investment/FDI:</u> <ul style="list-style-type: none">• Consider issues relevant to domestic investment and FDI for Tuvalu, especially those referred to in sections (i) and (ii) above; and• Prepare appropriate recommendations for follow-up legal and other activities (e.g., capacity-building programme, further TA (short- and longer-term), and detailed studies), identifying the type and extent of resources	A comprehensive report which addresses the following: <u>Domestic Investment/FDI:</u> <ul style="list-style-type: none">• Detailed consideration given to relevant issues, including through consultations with Government and other stakeholders as appropriate;• Recommendations formulated for follow-up action, including in relation to international negotiations	End of first month of consultancy	1 week before due date

¹ Only the 1917 UK Copyright Act and the UK Trademarks Act 1977 are in force in Tuvalu

<p>required to implement the recommendations.</p> <p><u>Investment promotion:</u></p> <ul style="list-style-type: none"> • Examine the current situation and plans for investment promotional activities in the future, including through discussions with Government and other stakeholders; • Prepare appropriate recommendations for a short- and longer-term investment promotion programme appropriate for Tuvalu, including an investment-related website as referred to in section (iii) above; and • identify the type and extent of resources required to establish the programme and website. 	<p><u>Investment promotion:</u></p> <ul style="list-style-type: none"> • Detailed consideration given to relevant issues concerning investment promotion and consultations held with Government and other stakeholders; • Appropriate recommendations formulated for Government consideration; and • The type and extent of financial and other resources are identified to implement the recommendations 	<p>End of second month of consultancy</p>	<p>1 week before due date</p>
<p><u>Barriers/disincentives to investment</u></p> <ul style="list-style-type: none"> • Identify barriers and disincentives to investment in Tuvalu, especially those referred to in (iv) above • Prepare appropriate recommendations for a short- and longer-term programme to overcome/ address those barriers and disincentives; and • Identify the type and extent of resources required to implement the recommendations 	<p><u>Barriers/disincentives to investment</u></p> <ul style="list-style-type: none"> • Barriers and disincentives to investment in Tuvalu identified; • Appropriate recommendations made for a short- and longer-term programme to overcome/ address those barriers and disincentives; and • The type and extent of resources required to implement the recommendations are identified 	<p>End of third month of consultancy</p>	<p>1 week before due date</p>
<p><u>Legislation and other formal investment and related institutional arrangements</u></p> <ul style="list-style-type: none"> • On the basis of the above examinations and recommendations, identify what changes, if any, are required to Tuvalu legislation (including regulations), especially legislation referred to, directly or indirectly, in section (v) above; • As appropriate, draft amendments to existing legislation or new legislation to give effect to the above recommendations; 	<p><u>Legislation and other formal investment and related institutional arrangements</u></p> <ul style="list-style-type: none"> • Required changes to existing legislation or the need for new legislation identified • Amending or new legislation drafted • Recommendations proposed for an appropriate investment policy for Tuvalu 	<p>End of final month of consultancy</p>	<p>1 week before due date</p>

<ul style="list-style-type: none"> Propose recommendations with respect to an appropriate investment policy for Tuvalu Draft the investment policy, as appropriate Identify what institutional arrangements (new or revised) and appropriate capacity-building activities are required to give effect to the new investment policy and legislation; Recommend the most appropriate means for Tuvalu to monitor investment, including with respect to the collection and publication of investment-related statistics Identify the type and extent of resources required to implement the recommendations <p><u>Cross-cutting tasks</u></p> <ul style="list-style-type: none"> Advise on possible sources of assistance to implement the recommendations and assist in securing that assistance (e.g., drafting project proposals etc). <p>Note: <i>The above key tasks should complement and not duplicate tasks being carried out as part of any study examining the operations of public enterprises and embedded businesses in Tuvalu</i></p>	<ul style="list-style-type: none"> The investment policy is drafted Appropriate institutional arrangements and capacity-building requirements are identified; Recommendations made on the best way to monitor investments and collecting/publishing investment-related statistics; and <p><u>Cross-cutting tasks</u></p> <ul style="list-style-type: none"> The type and extent of resources required to implement the above recommendations are identified. Potential sources of assistance are identified and the Government is assisted in preparing appropriate project requests for assistance 	End of final month of consultancy	1 week before due date
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E. Payment Schedule:

Deliverables	Due Date	Amount
Draft Investment Study Report	End of first month	25% of contract amount
Final Investment Study Report	End of second month	25% of contract amount
Draft Legislation policy/act	End of third month	25% of contract amount
Final Legislation policy act	End of last month	25% of contract amount

F. Institutional Arrangement

- a) The Investment Promotion Consultant will work under the direct supervision of the EIF Focal Point (Permanent Secretary, Ministry of Foreign Affairs, Trade, Tourism, Environment and Labour), with guidance from the National Trade Steering Committee (NTSC) and in close collaboration with the Investment Officer and EIF Coordinator (Trade Officer).

- b) Deliverables and quality of work will be reviewed jointly by the PS MFATTEL, Investment Officer, EIF Focal Point, the NTSC and UNDP. Specific reports should be provided on due dates as specified in the above table. All payments will be certified by UNDP.
- c) The Investment Promotion Consultant will need to consult widely throughout various Government ministries and departments; the National Trade Steering committee; the Tuvalu National Private Sector Organisation and other private sector players; and with civil society organisations to provide training and advocacy services as required by the TOR and Annual work plan.
- d) The position will be based within the Department of Trade when incountry, with office space, internet connectivity, and printer access. The consultant is expected to have his/her own laptop.

G. Duration of the Work

- a) The consultancy will be for a period of 4 months, commencing from 1 October 2014 or as soon as feasible after this date.
- b) The number of working days in a week is 5
- c) Any extension granted would be dependent on a review by UNDP which would determine if further assistance is required on a full time or part time basis.

H. Duty Station

- a) The Investment consultant will be home based but is expected to undertake at least 2 missions to Tuvalu during the contract period.

I. Qualifications of the Successful Individual Contractor

Qualifications

Minimum Advanced Degree in or Economics, Trade and Investment Promotion, International Trade Law and/or Investment Law, Private Sector Development, National Development Planning, Public/Private Sector Partnerships or related disciplines

Experience:

At least 7 years relevant experience in trade and investment policy review/development and capacity development, including in LDCs and/or other developing countries, preferably with Pacific Island experience.

Skills

- Knowledge of development projects and programmes especially programmes financed by international development partners.
- Strong knowledge of investment policy issues and policy formulation and analysis
- Experience with development and delivery of capacity development programmes
- Understanding of the unique situation in Tuvalu, its isolation and its barriers to trade
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Languages

- Excellent oral and written English.