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ETHIOPIA

Term of Reference (ToR)

GENERAL INFORMATION

Services/Work Description:	National Firm Level Consultancy to conduct Assessment, Develop Strategy Document, and prepare training manuals on Court Annexed Mediation
Project/Program Title:	Support to Judicial Reform in Ethiopia
Duty Station:	Addis Ababa, Ethiopia
Type of the Contract:	Consulting Firm (Local Firm-Ethiopia Registered Firms)
Duration:	60 Days
Expected Start Date:	Immediately after Signing the Contract

I. BACKGROUND / RATIONALE

Since November 2019 the Federal Supreme Court (FSC) is undertaking reform activities with the aim of restoring public trust. It has developed a three years' reform project plan, established a Judicial Affairs Advisory Council (JAAC) and revised laws pertinent to judicial reform.

The three years' reform plan has the objectives of: -

- i. Strengthening Judicial Independence and Accountability
- ii. Increasing access to justice and legal empowerment
- iii. Enhance Court Performance through effective and efficient service delivery

Within the bounds of these three main objectives, the FSC plans to introduce the assignment of specific cases for a mandatory court led dispute settlement mechanism (Court Annexed Mediation-CAM). The purpose of the CAM is increasing access to justice for court users whose number is showing an increase every year due to population growth and changes in the economy, politics and social interactions. It also aims at reducing case congestion in federal courts. In order to give the CAM, the necessary legal framework, it is recognized under the draft revised Federal Courts Proclamation and a pilot CAM program is launched in selected five benches of the Federal High Court and the Federal First Instance Courts. A training has been given to 200 mediators and the Court in collaboration with a CSO has prepared a roster list of 250 mediators.

With evidence-based approach, the FSC intends to scale up the pilot program. The assessment on 'Alternative Dispute Resolution Mechanisms (ADR) in Ethiopia and the Feasibility of Assigning Cases for Mandatory Court Annexed Mediation' is expected to provide an empirical evidence on the necessity of introducing alternative dispute resolution mechanism in federal courts in order to increase access to justice and to improving efficiency of courts by reducing backlog.

The United Nations Development Programme (UNDP) collaborates with the Federal Supreme Court in providing support to the implementation of the three years' reform project plan through the 'Support to Judicial Reform in Ethiopia Project'. As part of this support, in response to the request from the FSC, UNDP is recruiting consulting firm to conduct assessments and develop materials on Court Annexed Mediation, as per the ToR.

II. OBJECTIVES OF THE SERVICE / WORK

The primary objective of this assignment is building an evidence base for the introduction and implementation of an out of court dispute settlement mechanism for selected cases that fall within the jurisdiction of federal courts which in return is expected to increase access to justice and reduce case backlog.

Annual data of cases filed at federal courts shows that the number of cases coming to courts is increasing. This coupled with limited number of judges leads to delay in settlement of disputes and backlog. CAM is considered as one of the solutions to address such challenges in delay because it is not bound by the rules of litigation and allows more space for creative resolution within a short period of time.

Conducting an assessment on CAM within the border context of receptivity of alternative dispute resolution mechanisms in Ethiopia is expected to help the FSC in identifying gaps and what/ where/how to mobilize resources for a large scale up launch of CAM in all federal courts across the country. Hence, the findings of the assessment are expected to inform budget preparation of FSC and be an evidence base for resource mobilization with development partners.

The federal judiciary with legal and institutional reforms it is undertaking, envisions to regain public confidence. Such vision is to be achieved among others through increase in efficiency and improvement of court service delivery. Therefore, this particular assignment aims at establishing strong evidence base for the introduction of a court annexed mediations and developing mediators' training materials.

III. SCOPE OF THE SERVICE / WORK

The consulting firm will be responsible to: -

- Prepare inception report consisting a work plan, detailed assessment methodology, time frame, and illustrative list of materials to be reviewed and stakeholders to be interviewed;
- Conduct an in-depth assessment of international and national legal frameworks and practices viz a viz FSC Cassation Bench decisions on the application of out of court dispute resolution mechanisms;
- Assess the feasibility and effectiveness of pilot CAM programs in the five benches including identifying strengths and gaps, competence of mediators, and feedback of mediation users and stakeholders;
- Identify type of cases that can be referred for Mandatory Court Annexed Mediation (CAM) or mandatory out of court ADR;
- Examine the mediators' fee payment strategy and recommend ranges of mediation fee tariff
- Produce an assessment report with recommendations to strengthen and scale up CAM in federal courts including recommendation on appropriate procedure for mandatory CAM (hard and soft copies);
- Submitting progress report and findings of the assessment for the leadership of federal courts and during consultation forums;
- Document and incorporate comments and feedbacks from federal courts leadership and consultation forums;
- Conduct needs assessment to identify type and content of mediation training modules;
- Develop a strategy for mediators' selection and training which among others set criteria and modality for selection of mediators, updating mediators roster list, and providing trainings;
- Produce training modules.

IV. EXPECTED OUTPUTS / DELIVERABLES

The firm will be expected to produce the following outputs during the period of the consultancy:

1. A work plan that consists methodology, time frame, and illustrative list of materials to be reviewed and stakeholders to be interviewed
2. A comprehensive assessment report that shows;

- International and national legal frameworks and practices viz a viz FSC Cassation Bench decisions on the application of out of court dispute resolution mechanisms;
 - Findings on the feasibility of pilot CAM programs in the five benches it has introduced, including strengths, gaps and feedback of mediation users and stakeholders;
 - Recommendations on how to scale up and strengthen CAM in all federal courts.
3. Mediators Selection and Training Strategy
 4. Based on areas where gap is identified, develop mediators training material

Unless otherwise provided, all deliverables shall be produced in Amharic. Deliverables shall be submitted in hard and soft copies

V. METHODOLOGY / APPROACH OF THE SERVICE (WORK)

The assignment is required to be undertaken by a consulting firm that should have adequate knowledge and experience on the desired areas through empirical study.

The firm will be expected to carry out this assignment through:

- Assessment of international and national legal frameworks and practices viz a viz FSC Cassation Bench decisions on the application of out of court dispute resolution mechanisms;
- Survey and collect relevant information and data on feasibility and effectiveness of pilot CAM programs in the five benches it is introduced including identifying strengths and gaps, competence of mediators, and feedback of mediation users and stakeholders;
- Consult relevant stakeholders such as judges, mediators, academicians, lawyers, etc,

While this is indicative, it is anticipated that prospective firm is expected to design appropriate methodologies using their knowledge and experience to carry out the assignment at the required level.

VI. LOCATION, DURATION AND TIMEFRAME OF THE WORK /DELIVERABLES/OUTPUT

The overall consultancy period for all activities is 60 working days. The consulting firm has dual reporting responsibility to the **FSC and UNDP**. It shall send progress report to the FSC by the end of each 30 days. **This consultancy assignment will be home-based.**

No.	Deliverables	Location and Action to be Undertaken	Duration (approx.)
1	Inception Report	Submission to the FSC Office of the President	5 working days
2	Assessment Report with recommendation	"	25 working days
3	Mediators Selection and Training Strategy	"	30 working days
4	Training Modules	"	
Total Working Days			60 Days

VII. INSTITUTIONAL ARRANGEMENT / REPORTING RELATIONSHIPS

- a. The assessment will be under the supervision of the president and vice president of the FSC. Progress reports shall be submitted to the Office of the President addressed to FSC Reform Coordinator.
- b. Progress reports shall be submitted monthly.
- c. The service provider shall liaise with the Federal High Court, Federal First Instance Court and UNDP Ethiopia to gather information or guideline. Federal High Court, Federal First Instance Court, the Federal Legal and Justice Research and training Institute, Law Schools, Regional States Supreme Courts will participate as respondents to survey and resource institutions. UNDP Ethiopia will be involved in monitoring and evaluation of progress of the assignment and issuing payment accordingly.

VIII. PAYMENT MILESTONES AND AUTHORITY

The Prospective Service Provider will indicate the cost of services for each deliverable in ETB when applying for this

consultancy. Payment will be issued after the approving authority confirms the successful completion of each deliverable as stipulated hereunder. The consultancy firm shall be paid the lump sum contract amount 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 from:	Percentage of Payment
1 st Installment	Upon submission, presentation and approval of inception report, demonstrating good understanding of the assignment, methodology, timeframe, deliverables – 5 days	FSC & UNDP	20%
2 nd Installment	Upon submission, presentation approval of assessment Report with recommendation	FSC & UNDP	40 %
3 rd Installment	Upon submission, presentation approval of a Strategy Document for Mediators Selection and Training Training Modules	FSC & UNDP	40 %

IX. MINIMUM ORGANIZATION AND CONSULTANCY TASK FORCE REQUIREMENTS

9.1 Minimum Organization Requirements

The prospective Service Provider is expected to meet the following minimum requirements:

- It must have at least seven years of practical experience in conducting research on the Ethiopian legal and justice system preferably with an in-depth engagement with the judiciary. The consultancy firm shall have a multi-disciplinary team with hands on experience relevant to the scope of work of this consultancy.
- Knowledge of relevant sectors and access to stakeholders and relevant information sources, especially of the federal judiciary.
- Experience working on alternative dispute resolution mechanism, training and adult education is beneficial.
- Capability to deploy strong analytical aptitude, communication and presentation expertise.
- Capability to deploy good communication expertise in Amharic and English.
- It shall demonstrate its capabilities, understanding of the TOR, and methodology of audit approach

The multi-disciplinary team should comprise members with the following educational qualifications; experience and competencies:

9.2 Team Leader/Principal Consultant

- At least Master’s degree in Law with a professional experience of minimum of seven years in conducting studies on the Ethiopian legal and justice system and engagement in alternative dispute resolution mechanisms.

9.3 Senior Expert

A Master’s degree in law with a minimum of five years of proven experience of working with federal and regional judiciary.

9.4 Associate Consultants / Team Members

- A minimum of a bachelor degree with three years or more experience in the area of dispute settlement, conflict management, education planning and management, economics, public policy or related discipline.

10. Functional Competencies:

Interested firms are required to submit:

- A. Technical proposal;
- B. Financial proposal;

11. Core Competencies: -

The firm shall:

- Exhibit professionalism;

- Demonstrate integrity by modelling judicial and UN's values and ethical standards;
- Promote the vision, mission, and strategic goals of the FSC and UNDP;
- Display cultural, gender, religion, race, nationality and age sensitivity and adaptability
- Treat all people fairly without favoritism;
- Fulfil all obligations to gender sensitivity and zero tolerance for sexual harassment.

X. CRITERIA FOR SELECTING THE BEST OFFER

Upon the advertisement of the Procurement Notice, qualified Consultancy Firm is expected to submit a Technical and Financial Proposals. Accordingly; the firm will be evaluated based on Cumulative Analysis as per the following conditions:

- Responsive/compliant/acceptable as per the Instruction to Bidders (ITB) of the Standard Bid Document (SBD), 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%

Summary of Technical Proposal Evaluation		Score Weight	Points Obtainable
1	Expertise of Firm / Organization	30%	300
2	Proposed Methodology, Approach and Implementation Plan	40%	400
3	Management Structure and Key Personnel	30%	300
TOTAL		100%	1000
Technical Proposal Evaluation			
Expertise of the Firm / Organization			Points Obtainable
1.1	Reputation of Organization and Staff / Credibility / Reliability / Industry Standing		50
1.2	General Organizational Capability which is likely to affect implementation		90
	- Financial Stability		
	- Loose consortium, Holding company or One firm		
	- Age/size of the firm		
	- Strength of the Project Management Support		
	- Project Financing Capacity		
1.3	Extent to which any work would be subcontracted (subcontracting carries additional risks which may affect project implementation, but properly done it offers a chance to access specialized skills.)		15
1.4	Quality assurance procedure, warranty		25
1.5	Relevance of:		120
	- Specialized Knowledge		
	- Experience on Similar Programme / Projects		
	- Experience on Projects in the Region		
	- Work for UNDP/ major multilateral/ or bilateral programmes		
SUB TOTAL			300

Proposed Methodology, Approach and Implementation Plan		
2.1	To what degree does the Proposer understand the task?	30
2.2	Have the important aspects of the task been addressed in sufficient detail?	25
2.3	Are the different components of the project adequately weighted relative to one another?	20
2.4	Is the proposal based on a survey of the project environment and was this data input properly used in the preparation of the proposal?	55
2.5	Is the conceptual framework adopted appropriate for the task?	65
2.6	Is the scope of task well defined and does it correspond to the TOR?	120
2.7	Is the presentation clear and is the sequence of activities and the planning logical, realistic and promise efficient implementation to the project?	85
SUB TOTAL		400
Management Structure and Key Personnel		
3.1	Team Leader/Principal Consultant	
	General Qualification	
	Suitability for the Project	
	- International experience	25
	- Training experience	20
	- Professional experience in the area of specialization	45
	- Knowledge of region	30
	- Language qualification	20
SUB TOTAL		140
3.2	Senior Expert	
	General Qualification	
	Suitability for the project	
	- International experience	15
	- Training experience	15
	- Professional experience in the area of specialization	45
	- Knowledge of the jurisdiction	25
	- Language qualification	20
SUB TOTAL		120
3.3	Associate Consultants / Team Members	
	General Qualification	
	Suitability for the project	
	- International experience	5
	- Training experience	5
	- Professional experience in the area of specialization	10
	- Knowledge of the jurisdiction	10
	- Language qualification	10
SUB TOTAL		40
Aggregate		1000

XII. RECOMMENDED PRESENTATION OF TECHNICAL PROPOSAL

For purposes of generating proposals whose contents are uniformly presented and to facilitate their comparative review, a Service Provider advised to use a proposed Table of Contents. Hence, your Technical Proposal document must have at least the preferred content as outlined in the respective RFP Proposal Submission Form.

XIII. CONFIDENTIALITY AND PROPRIETARY INTERESTS

The consulting firm shall not either during the term or after termination of the assignment, disclose any proprietary or confidential information related to the consultancy or the Government without prior written consent. Proprietary interests on all materials and documents prepared by the consulting firm under the assignment shall become and remain properties of UNDP. This assignment will be administrated by the United Nations Development Programme (UNDP), and all relevant UNDP rules, policies and procedures will apply.