

TERMS OF REFERENCE

Reference	PN/FJ/105/20
Location	Home-based
Application deadline	29-Oct-20
Type of Contract	Individual Contractor
Post Level	International Consultant
Consultancy Title	Anti-corruption consultant on whistleblower protection
Languages required:	English
Duration of Initial Contract:	40 days (between November 2020 to March 2021)

BACKGROUND

Corruption offences have proven difficult to detect for various reasons. In some cases, all persons directly involved in the criminal conduct tend to benefit and therefore no report is filed with the police. In other situations, where the request for a bribe by a public official is coercive, the bribe-giver might fear future retaliation by the official, or criminal liability, as both the giving and receiving of a bribe are criminal offences. When those involved in corruption cooperate with authorities, they are often motivated to do so in order to negotiate or mitigate any sanctions that might be taken against them.

There may also be others who are close to the individuals involved in the corruption, but are not involved themselves. A few may witness the actual act of corruption. Others may spot the methods that were used to bypass systems and procedures or to redirect funds or benefits away from the intended purpose or recipients, or they may see the harm caused. While these people may be in a position to report what they know to the authorities, often they do not. Making it safer and easier to report wrongdoing is also an important part of creating an organizational ethos that is more resistant to corruption.

Corrupt links between business and government are more difficult to establish when organizations themselves make it clear that reporting is welcome and that retaliation against those who report wrongdoing will not be tolerated. Encouraging staff to challenge poor practices and report suspected wrongdoing strengthens an organization's resilience against malpractice. Unfortunately, in many workplaces, workers become vulnerable if they report to anyone other than their employer because of implicit or explicit duties of confidentiality or a sense of loyalty. Members of the public who report information about corruption to the authorities may lack the legal status to be protected, even when they face intimidation or threats.

The UN Pacific Regional Anti-Corruption (UN-PRAC) Project is a joint UN Office on Drugs and Crime (UNODC) and UN Development Programme (UNDP) initiative, funded by the Australian Government and the New Zealand Aid Programme, aimed to support Pacific Island countries (PICs) to strengthen their national integrity systems. The Project is firmly anchored in the United Nations Convention against Corruption (UNCAC) as the only international legally binding framework on how to prevent and fight corruption, and the 2030 Agenda for Sustainable

Development, notably Sustainable Development Goal (SDG) 16 which calls for stronger action on anti-corruption, transparency and accountability.

UNCAC article 33 requires each State Party to consider adopting at the national level, measures to provide protection against any unjustified treatment for any person who reports in good faith any facts concerning offences established in accordance with the Convention. A robust whistleblowing system is also crucial for effective fight against corruption and promotion of good governance as envisaged by SDG 16 targets and indicators.

DUTIES AND RESPONSIBILITIES

Scope of Work

For the first half of this consultancy, the consultant will work with UN-PRAC and the relevant stakeholders to develop a publication on whistleblower protection in the Pacific. Using relevant Pacific Island country examples, the publication will:

- Discuss in an *introduction* section on what whistleblower protection is and the importance of addressing it (including reference to academic literature);
- Outline in a *background* section international and regional best practices (e.g. drawing on UNODC's Resource Guide on Good Practices in the Protection of Reporting Persons, the Pacific Islands Law Officers' Network's Guiding Principles for Protecting Whistleblowers and Encouraging Protected Disclosures, practices of other Small Island Developing States, etc.) relevant to the Pacific and its context, including concrete case studies;
- Outline how the Pacific is currently addressing whistleblower protection with reference to their implementation of UNCAC article 33 focusing on current challenges and opportunities;
- Discuss gender dimensions to whistleblower protection (statistically, more men are reporting than women in e.g. Fiji), including what possible measures could be taken to address this; and
- Provide recommendations for Pacific Island countries to address whistleblower protection.

The publication will be structured to include an *Executive Summary* which states the objective of the publication, the content of the publication and the recommendations made, an *Introduction*, *Background*, two sections on whistleblower protection in the Pacific and relevant gender dimensions, and a *Conclusion including the recommendations*.

Appropriate infographics should be used where possible to ensure the publication is engaging.

Each part of the publication must consider the Pacific context and provide relevant Pacific examples referenced appropriately in footnotes using consistent referencing style. Where Pacific examples are not available, those from Small Island Developing States should be considered.

For the second half of this consultancy, the consultant is to work with the UN-PRAC team and

possible other partners to develop a two-hour training package that can be virtually provided to 3-4 Pacific Island countries. The consultant will also be available to review whistleblower protection legislation, upon request, in line with UNCAC article 33 and international best practice for up to 3 Pacific Island countries.

Expected Outputs and Deliverables

Deliverable	Steps	Indicative completion date	Number of consultancy days
1. Provide first draft of publication	1. Provide first draft of publication to UN-PRAC (approx. 20-25 pages) that includes appropriate Harvard referencing where sources have been used	30 October 2020	15
2. Provide final draft of the publication	1. Incorporate feedback received from UN-PRAC into the draft 2. Provide second draft of publication to UN-PRAC (UN-PRAC will then determine whether further amendment is required) 3. Incorporate further feedback should UN-PRAC require it and then submit final draft publication	20 November 2020	7
3. Develop training package	1. Develop training package for a two-hour virtual webinar based on the publication (incl. structure, presentations, handouts, etc.) 2. Incorporate feedback received from UN-PRAC and then submit the final package	10 December 2020	8
4. Deliver training package	Deliver up to 4 virtual trainings with UN-PRAC and other partners upon request from Pacific Island countries	19 February 2021	4
5. Legislative review of whistleblower protection	Review whistleblower protection legislation, upon request, for up to 3 Pacific Island countries	26 February 2021	6

Institutional Arrangement

- The Consultant will report to UNDP's Anti-Corruption Adviser, Pacific and UNODC's Regional Anti-Corruption Adviser (Pacific).
- The consultant will be expected to liaise/discuss with relevant institutions and

stakeholders in organization of the workshops.

Duration of the Work

- The envisaged time frame of the consultancy is estimated not to exceed 40 consultancy days in the overall period from November 2020 – March 2021.

Duty Station

- The consultant will work from home.

COMPETENCIES

- Strong interpersonal and communication skills;
- Strong analytical, reporting and writing abilities skills;
- Openness to change and ability to receive/integrate feedback;
- Ability to plan, organize, implement and report on work;
- Ability to work under pressure and tight deadlines;
- Proficiency in the use of office IT applications and internet in conducting research;
- Outstanding communication, project management and organizational skills;
- Excellent presentation and facilitation skills.
- Demonstrates integrity and ethical standards;
- Positive, constructive attitude to work;
- Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability.

REQUIRED SKILLS AND EXPERIENCE**Educational Qualifications:**

- University degree or equivalent qualification in law;

Experience

- At least seven (7) years of relevant experience work on governance/ ethics/ corruption;
- Specific legislative/ policy experience on whistleblower protection is required (academic work; technical assistance, advisory services, analytical work, knowledge products), notably in advising governments and supporting the development of whistleblower protection systems;
- Experience in working on similar assignments/products will be an asset.

Language requirements

- Fluency of English language is required.

Price Proposal and Schedule of Payments

Consultant must send a financial proposal based on **Lump Sum Amount**. The total amount quoted shall be all-inclusive and include all costs components required to perform the deliverables identified in the TOR, including professional fee, travel costs, living allowance (if any work is to be done outside the IC's duty station) and any other applicable cost to be incurred by the IC in completing the assignment. The contract price will be fixed output-based price regardless of extension of the herein specified duration. Payments will be done upon completion of the deliverables and as per below percentages:

- Deliverable 1: First draft submitted of publication and training package developed 2/3 of total contract amount
- Deliverable 2: Delivery of the training package and support to legislative review of whistleblower protection: 1/3 of total contract amount

In general, UNDP shall 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 event of unforeseeable travel not anticipated in this TOR, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and the Individual Consultant, prior to travel and will be reimbursed.

Evaluation Method and Criteria

Individual consultants will be evaluated based on the following methodology:

Cumulative analysis

The award of the contract shall 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 set of weighted technical criteria (70%). and financial criteria (30%).

Financial score shall be computed as a ratio of the proposal being evaluated and the lowest priced proposal received by UNDP for the assignment.

Technical Criteria for Evaluation (Maximum 70 points)

- University degree or equivalent qualification in law. (10 points)
- At least seven (7) years of relevant experience work on governance/ ethics/ corruption; (30 points)
- Specific legislative/ policy experience on whistleblower protection is required (academic work; technical assistance, advisory services, analytical work, knowledge products), notably in advising governments and supporting the development of whistleblower protection systems; (25 points)
- Experience in working on similar assignments/products will be an asset. (5 points)

Only candidates obtaining a minimum of 49 points (70% of the total technical points) would be considered for the Financial Evaluation.

Documentation required

Interested individual consultants must submit the following documents/information to demonstrate their qualifications. Please group them into **one (1) single PDF document** as the application only allows to upload maximum one document:

- **Letter of Confirmation of Interest and Availability** using the template provided in Annex II.
- **Personal CV or P11**, indicating all past experience from similar projects, as well as the contact details (email and telephone number) of the Candidate and at least three (3) professional references.
- **Technical proposal**, including a brief description of why the individual considers him/herself as the most suitable for the assignment;
- **Financial proposal**, as per template provided in Annex II. Note: National consultants must quote prices in United States Dollars (USD).

Incomplete, joint proposals and proposals sent to the wrong mailing address will not be accepted and only candidates for whom there is further interest will be contacted.

Individuals interested in this consultancy should apply and will be reviewed based on their own individual capacity. The successful individual may sign an Individual Contract with UNDP or request his/her employer to sign a Reimbursable Loan Agreement (RLA) on their behalf by indicating this in the Offerors letter to Confirming Interest and Availability using Annex II.

Annexes

- Annex I - Individual IC General Terms and Conditions
- Annex II – Offeror’s Letter to UNDP Confirming Interest and Availability for the Individual IC, including Financial Proposal Template

Proposal Submission

- All applications must be clearly marked with the title of the consultancy (**Anti-corruption consultant on whistleblower protection**) with reference (PN/FJ/105/20) and submitted via UN Job shop by **29 October 2020**.
- **Note: UNDP Jobs only supports single document upload hence ensure that the proposal is consolidated and submitted as one single document**
- For further information concerning this Terms of Reference, please contact UNDP Pacific Office by email: deepak.naicker@undp.org

Women applicants are encouraged to apply