Terms of reference

Reference: RFP-2022-046
Title: Preparation of recommendations for consolidating on the legislative level the concept of "reasonable accommodation"
Project number: 00123514
Project title: Enhancing Effectiveness of Social Protection Programmes and Improving Access and Participation of Socially Vulnerable Groups
Contract type: Contract for Professional Services
Duty station: Kazakhstan
Duration: August 2022 – December 2022

A. General background and justification

In 2015, Kazakhstan ratified the Convention on the Rights of Persons with Disabilities (hereinafter - the Convention/CRPD), which proclaimed the principle of reasonable accommodation.

“Reasonable accommodation” means making, where appropriate, modifications and adjustments that do not become disproportionate or undue burdens, where appropriate, in order to ensure that persons with disabilities enjoy or enjoy all human rights and fundamental freedoms on an equal basis with others.

According to the Convention, denying a person "reasonable accommodation" is tantamount to discrimination on the basis of disability. In this sense, the principle of "reasonable accommodation" is the basis of legislation governing the observance and protection of the rights of people with disabilities (PwD).

Scope and objectives of this assignment


In the Republic of Kazakhstan, the term "reasonable accommodation" in a similar edition of the Convention is contained only in the Code of Rules of the CR RK 3.06-101-2012 "Design of buildings and structures taking into account accessibility for low-mobility groups of the population", put into effect on July 1, 2015. This set of rules applies to the design of public and industrial buildings, functional planning elements, plots or separate premises accessible to people with limited mobility, including persons with disabilities.

However, "reasonable accommodation" means not only making buildings physically accessible, but also taking steps to remove barriers that prevent a person with a disability from participating in activities or receiving services on an equal basis with others.

The Ministry of Labor and Social Protection of the Population, in the framework of improving legislation, considers it necessary to study the concept of reasonable accommodation and obtain reasonable recommendations on its application and inclusion in legislative acts and by-laws of the Republic of Kazakhstan.

Approach and methodology

To fulfill this Terms of Reference, aimed at consolidating the concept of "reasonable accommodation" at the legislative level, UNDP will engage a competent company capable of providing high-quality services (hereinafter-the Contractor).

The beneficiaries of this work are UNDP and the Ministry of Labor and Social Protection of Population of the Republic of Kazakhstan (hereinafter – the Ministry).

The Contractor must submit report containing:
- comparative legal analysis of national and international legislation, as well as the practice of using the term "reasonable accommodation;
- recommendations for improving the country's legislation in the context of the concept of reasonable accommodation.
The Ministry is interested in the experience of the countries of the European Union, the USA, Great Britain, Singapore, South Korea and Japan. However, list of above-mentioned countries is not exhaustive.

The Contractor will gradually submit separate sections of the report for comment, which will be consolidated into a final report.

The text of the research should be presented in compliance with the norms of the literary language, be laconic, consistent, logical and structured, have conclusions. Diagrams, tables, figures and other images can be used to illustrate the text.

By participating in this competition, the Contractor agrees that after the completion of the research work and the signing of the act of acceptance, further will provide advice and clarifications on issues related to the research, as well as take part in discussions on the topic of reasonable accommodation.

**B. Expected results/ deliverables and payment terms**

<table>
<thead>
<tr>
<th>#</th>
<th>Deliverables</th>
<th>Estimated duration to complete</th>
<th>Review and approvals required</th>
<th>Payment %</th>
</tr>
</thead>
</table>
| 1  | Analysis of national legislation and practice for compliance with Article 2 of the Convention in terms of the use and application of the term “reasonable accommodation”  
*Expected result: Analytical report (Report: Section 1)* | 1 month from the date of signing the contract | UNDP Project Manager and the Ministry | 50%       |
| 2  | Analysis of international legislation and practice in terms of the use and application of the term “reasonable accommodation”  
*Expected result: Analytical report (Report: Section 2)* | 2.5 months from the date of signing the contract | UNDP Project Manager and the Ministry | 50%       |
| 3  | Recommendations for making amendments and additions to legislative and by-laws, documents on standardization (national, interstate standards and rules)  
*Expected result: Analytical report (Report: Section 3)* | 4 months from the date of signing the contract | UNDP Project Manager and the Ministry | 50%       |
| 4  | Final report was submitted. Acts of acceptance has been signed  
*Expected result: Final report* | 5 months from the date of signing the contract | UNDP Project Manager and the Ministry |           |

All results and reports should be submitted in Kazakh and Russian languages. For the purposes of agreement and receipt of comments, the text can be submitted in electronic format. Final analytical report - in electronic and paper (at least 2 copies) in MS WORD format (2003 and later), font: Times New Roman, 12.

**C. Duration**

This assignment must be completed within 5 months from its start date. The expected start date is August 2022. Therefore, the completion date for the assignment will be approximately 30 December 2022.

**D. Duty station**

Work to be carried out at the location of the Contractor. However, the Contractor should schedule the visits to Nur-Sultan (up to 2 company’s representatives for max. 2 days) to discuss and present the results of the work (if location is not in Nur-Sultan). All expenses associated with the trip shall be duly calculated and included to the Financial Proposal.

**E. Responsibility and accountability**
• The Contractor fully coordinates its actions with the Project Manager on a regular basis and/or at the request of the project manager.
• In other words, the Contractor interacts with the Project Manager to resolve the day-to-day issues that arise during the assignment. The Contractor also interacts with representatives of the Ministry, and also holds working meetings with them when they are considered necessary.
• The Contractor is fully responsible for the quality and volume of work performed, has the appropriate competence and ensures the timely implementation of the activities specified in this Terms of Reference. The Contractor must submit all materials related to the assignment to the project manager and the Ministry for comments and approval.
• The Contractor undertakes to comply with the information security policies and procedures of the beneficiary and UNDP.
• The work must be done efficiently and in a timely manner, in accordance with the requirements of the contract and the terms of reference. In case of poor quality of work of the Contractor UNDP reserves the right to terminate the contract unilaterally.
• UNDP reserves the right to make changes of no more than 25% to the Terms of Reference that do not affect the overall nature of the work and cost of services under the Contract.
• Responsibility for high-quality translation of texts into the Kazakh/Russian languages lies with the contractor.

**IMPORTANT:** In connection with the COVID-19 pandemic, the Contractor undertakes to provide all the necessary protective equipment for its employees and comply with all the norms and recommendations of the WHO, as well as local authorized bodies of the Republic of Kazakhstan for performing work during the period of the introduction of quarantine measures and emergency situations. The service provider is responsible for the proper and timely provision of its employees involved in this Terms of Reference with all necessary personal protective equipment in accordance with the current WHO recommendations (masks, gloves, sanitizers, passing the COVID-19 test (if necessary) for the entire period of Contract.

**F. Qualification requirements.**

A service provider may be a company / organization duly registered and meeting the following requirements:

- Must have legal capacity to enter into agreements (certificate of business registration/re-registration, copy of Charter).
- Be solvent, not subject to liquidation, its property cannot be seized, its financial and economic activities cannot be suspended in accordance with the law (certificates of the absence of debts in the tax authorities, balance sheets for 2020-2021);
- Certificate of VAT payment, if the company is a VAT payer. Otherwise, written confirmation that the company is not a VAT payer;
- Should demonstrate creative / intellectual potential for carrying out work within the scope of the terms of reference. The Company profile with detailed activity information that confirms:
  - at least 3 years of experience in similar research work;
  - at least 1 year experience in developing recommendations on amendments to legislative acts.
  - availability in the Company’s team at least one international consultant in the field of protecting the rights of persons with disabilities, promoting the CRPD, etc. (detailed CV to be enclosed);
- Previous experience with international organizations will be considered as asset.
- Reputation - a table / list of clients for the last 2 years for similar services required by UNDP with indication of the Customer, year of execution, name of services / works, year of service provision, contract name and customer contact details (e-mail, phone number and full name of contact person).
- Provide at least 3 letters of recommendation from previous customers in the last 2 years for similar /analogous services (on official letterhead, signed and dated);
- Provide a work schedule (must include team composition and distribution of responsibilities, a description of the approach, as well as the methods and procedures that will be used in carrying out the work);
- Availability of qualified personnel with the necessary work experience and qualifications according to the table below, with the provision of a detailed resume, documents confirming the expert’s qualifications.
(diplomas, certificates of advanced training in the subject area, other certificates), as well as written confirmation from each employee that they will be available during the entire duration of the contract.

**Requirements for the main staff and qualifications of a group of experts involved in the implementation of work on this technical assignment:**

<table>
<thead>
<tr>
<th>#</th>
<th>Team composition</th>
<th>Number of people</th>
<th>Min. acceptable educational level and field of study</th>
<th>Special skills / experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Team Leader</td>
<td>1</td>
<td>Higher education in the field of Finance, Economics or Jurisprudence/Law</td>
<td>At least 5 years of working experience (in managerial positions) in the field of education and / or research. Working experience in international organizations will be an asset. Knowledge of Kazakh and Russian languages.</td>
</tr>
<tr>
<td>2</td>
<td>Research Expert</td>
<td>1</td>
<td>Higher education in the field of social sciences and / or legal sciences</td>
<td>At least 2 years of working experience in research organizations. At least 2 years of experience in teaching. Working experience in international organizations will be an asset. Professional working experience in protecting the rights of persons with disabilities will be an asset. Upper-intermediate level of English language</td>
</tr>
<tr>
<td>3</td>
<td>Expert in the field of construction engineering</td>
<td>1</td>
<td>Higher education in the field of construction, architecture</td>
<td>At least 3 years of working experience in the field of design and construction of buildings and structures</td>
</tr>
</tbody>
</table>

*Any adjustments among the personnel during the period of work must be agreed with the UNDP and the Ministry.*

**G. Financial proposal**

The price offer shall include all company’s costs with a detailed breakdown by items stipulated under the "Expected results/ deliverables and payment terms", as well as the Contractor’s agreement with the conditions and requirements of the Terms of Reference. The price offer shall include all indirect and direct costs (VAT, if applicable, and other mandatory payments). Travel expenses must be included in the financial proposal if location is not in Nur-Sultan. The Contractor must specify if it pays the VAT or not.

This contract sets a fixed price based on the achieved result, regardless of the extension of its specified period.

Payment is made in 2 tranches after satisfactory completion of each item of the "Expected results/ deliverables and payment terms” of the Terms of Reference and authorization of the results by the UNDP Project Manager and the provision of a certificate of completion and invoice.

The Contractor’s proposal must be submitted indicating the lump sum payment according to the tranches indicated below:

<table>
<thead>
<tr>
<th>Deliverables</th>
<th>Results</th>
<th>Payment %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deliverables 1 &amp; 2</td>
<td>Sections 1 and 2 of report.</td>
<td>50</td>
</tr>
<tr>
<td>Deliverables 3 &amp; 4</td>
<td>The final report. Signed certificate of completion.</td>
<td>50</td>
</tr>
</tbody>
</table>
H. Recommendations For Submitting a Proposal

Properly executed Application for Tender, UNDP template must be used;

- Short description why the company considers itself the best fit for the job, and a methodology that tells what approach will be taken and how the assignment will be carried out. Work schedule (should necessarily include the composition of the team and the distribution of responsibilities, a brief description of the methods and procedures for performing work),
- A financial proposal indicating the total amount of the contract, including all costs, as well as their breakdown according to the template. If the tenderer is in an organization/company/institution and he/she believes that his/her employer will charge a management fee in the process of his/her release to work under UNDP under a loan repayment agreement, then the tenderer must indicate this paragraph and ensure that all costs are properly included in the financial proposal submitted to UNDP. All other documents confirming qualifications and experience that meet the requirements specified in the "QUALIFICATION REQUIREMENTS" (requirement for the supplier).

I. Confidentiality

Information related to this work must not be transferred to third parties, with the exception of authorized recipients (UNDP, the Ministry), including after end of the contract. Transfer of any information related to work to subcontractors or other parties must be strictly coordinated with UNDP and the Ministry.

All employees of a potential contractor who have access to data and internal documents of state bodies will have to sign a non-disclosure statement of information related to this work.

All information related to this work must be kept confidential and used only for the above work purposes. UNDP and the Ministry must be immediately notified of any unauthorized copying, use or disclosure of information related to this project.

J. Selection Criteria

Contractors will be assessed by a cumulative approach/Highest Combined Score based on technical qualifications and a financial proposal:

- weight of a technical proposal (70%),
- weight of a financial proposal (30%);

UNDP General Terms and Conditions of Contract (GTCs) shall be fully accepted.

<table>
<thead>
<tr>
<th>Summary data on the evaluation forms of the Technical Proposal</th>
<th>Max points</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Qualification characteristics of the tenderer, his potential and work experience</td>
<td>280</td>
</tr>
<tr>
<td>2 Suggested methodology, approach and implementation plan</td>
<td>210</td>
</tr>
<tr>
<td>3 Management structure and qualifications of key personnel</td>
<td>210</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>700</strong></td>
</tr>
</tbody>
</table>

Please note that if an applicant does not meet any of the minimum technical qualification criteria/requirements specified in the Terms of Reference (TOR), they will be scored zero and will be automatically disqualified. A disqualified candidate will not be evaluated further.

Financial offer (30%)

Calculated as the ratio of the Proposal price to the lowest price among all Proposals received by UNDP.
Detailed information on the criteria for evaluating the proposal and the list of required documents is set out in the Request for Proposal.

This TOR is prepared by:
Botagoz Yussupova, Project Manager

Signature: Botagoz Yussupova
Date of Signing: 03-Jul-2022

This TOR is approved by:
Ainur Baimyrza, Head of Governance Unit

Signature: Ainur Baimyrza
Date of Signing: 04-Jul-2022