INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: 28 September 2022

Country: Botswana

Title of the Consultancy: Individual Consultant to conduct a Review of the Criminal Justice Sector in Botswana

Description of the assignment: Consultancy Services to conduct a Review of the Criminal Justice Sector in Botswana

Project Name: A Just Botswana (2022-2026)

Project Number: 00143489

Duration: 100 days over a 6-month period

Submission Requirements: Proposals must be submitted by email with a subject line: IC TO CONDUCT A REVIEW OF THE CRIMINAL JUSTICE SECTOR IN BOTSWANA TO:

procurement.bw@undp.org

Submission deadline: 12th October 2022, 12 Noon Botswana Time

Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mailed to enquiries.bw@undp.org. UNDP Botswana 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 the inquiry to all prospective facilitators

NOTE: Consultancy firms/companies interested in applying for this assignment are free to do so provided they submit a CV of only one qualified consultant and present its bid in a manner that would allow for evaluation of the bid in accordance with the evaluation criteria specified in these solicitation documents. That is, the experience required is that of the individual whose CV would have been submitted by the company rather than that of the company. Further, if the submitted bid wins, the ensuing contract will be between the UNDP and the company/firm, not the individual.
1. **BACKGROUND**

The Botswana Ministry of Justice (MOJ) exists to provide policy development, legislation, programmes and strategic directions on matters relating to justice.

The mandate of the Ministry is broad as it entails the following services:

- Provision of judicial and legal services
- Civil and criminal justice
- Protection and promotion of human rights
- Promotion of alternative dispute resolution

Given its mandate, MOJ is seeking support from the United Nations Development Programme (UNDP) to conduct a baseline study and review of the criminal justice sector in Botswana, which will include key recommendations for reform to ensure a fair, efficient and effective criminal justice sector and access to justice for all. The review will include criminal justice sector institutions in Botswana at national, district and local levels.

The criminal justice sector has implemented several reforms since Botswana attained independence in 1966. These reforms include establishing specialised courts, case management systems, mobile courts, new statutory offices including the Directorate of Public Prosecutions and establishing a parastatal (Legal Aid Botswana) to provide legal aid for the indigent, among others. The underlying objective of these reforms has been to remove the bottlenecks and impediments to fair, accessible, affordable and timely justice and to ensure that the justice sector supports democratic governance and the rule of law as well as facilitating economic growth.

Some of the key challenges already identified within the sector, that inhibit efficient and effective delivery of justice include: a lack of coordination between institutions, a backlog of cases and the costs incurred in accessing justice. There is an absence of an effective case management system in some institutions. There is a lack of an electronic database to track and monitor case flow management. There is an absence of an effective calendar system to avoid conflicting dates by counsel, which cause adjournment of proceedings. There are inadequate protection measures for vulnerable witnesses and victims. There is also no public defender system in Botswana. It is against this background, that the Ministry seeks to identify and implement measures that will holistically address these and other relevant issues.

2. **OBJECTIVES OF THE REVIEW**

Through this review the MOJ is seeking to improve capacities across the criminal justice sector to plan for delivery; identify and solve implementation challenges and account for delivery of high quality and timely, fair, and accessible criminal justice services. The capacities of individuals and each Ministry Department and criminal justice sector entity contributing to the coordination and/or implementation of institutional mandates is therefore critical.
The review will assess the criminal justice system as a whole, and as interrelated and interdependent entities, to provide an evidence basis for holistic and comprehensive criminal justice system reform at all levels. The review will encompass the current legal and policy frameworks, institutional policy and regulatory functions, institutional arrangements including monitoring and evaluation and implementation practices which are directly related to criminal justice sector reform in Botswana.

The review will also examine how the criminal justice system engages with poor, vulnerable and disadvantaged people and groups. The review will also examine service delivery standards and the protection of vulnerable witnesses and victims.

The review will recommend specific areas for reform elaborating upon possible short, medium and long-term reform initiatives with the aim of supporting the Government of Botswana to ensure coherence in the criminal justice sector and promoting evidence-based justice system reform policies and programs. The baseline, findings and recommendations, when approved, will form the basis of the “Criminal Justice Sector Reform Roadmap.”

3. **SCOPE OF WORKS**

In summary, the consultant will:

a) **Mandate Review**
- The consultant will conduct desktop reviews of existing policies and legislation and literature and reports and materials.
- Read and become familiar with the vision, mission and mandate of the criminal justice sector institutions in Botswana.
- Summarise findings and recommendations emanating from strategic plans and reviews of these entities and provide detailed recommendations accordingly.

b) **Functional Review**
- Carry out a functional review of criminal justice sector institutions.
- Produce a baseline on criminal justice sector institution functions based on legislation, strategic and policy documents and consultations with key stakeholders to identify the core functions and organizational strategies of the criminal justice sector.
- Determine whether the functions are adequate to deliver efficiently and effectively the current mandate, any proposed amendments to the mandate and provide an in-depth analysis of the findings.
- Provide detailed well thought-out recommendations based on the analysis for all levels.
- Consider and provide specific recommendations in relation to witness and victim protection.
- Consider and provide specific recommendations for rehabilitation and offender management strategies.
- Consider and provide specific recommendations in relation to legal aid and representation for victims and offenders including juveniles, including a public defender scheme.

c) **Structural Review**
- Produce the baseline for the approved organisational structure for each of the criminal justice sector institutions and any amendments made thereafter.
- Produce the baseline for with service delivery standards, KPIs and “bottlenecks” in the criminal justice system in Botswana.
• Read and become familiar with policies, systems and processes that guide the mandate of the criminal justice sector institutions.
• Examine to what extent the current structures can deliver their mandates and targets effectively and efficiently and achieve National Development Plan and SDG 16 access to justice targets and respond effectively to the impact of covid-19 on the criminal justice sector.
• Consider new and innovative ways of service delivery that will address the ‘bottlenecks’ and improve access to justice, particularly for the poor and vulnerable.
• Provide an in-depth analysis of the issues identified in the review.
• Provide well thought out detailed recommendations of any proposed changes to the structure at all levels and in all criminal justice sector institutions. All proposed changes must be set out in both narrative and diagrammatic form where accountability and reporting line are clear. Justification for key proposed changes must be included.

d) Human Resources Review
• Conduct a technical knowledge and skills audit (i.e. assess the capacities) of all existing Senior Management and Technical staff in criminal justice sector institutions against the proposed revised functions /structure.
• Determine if additional staff will be required to implement the proposed functions and make recommendations accordingly. Develop Job Descriptions for these new proposed positions.
• Review Job Descriptions of existing staff to ensure that any relevant new functions as proposed are included. Revise all Job Description accordingly.

e) Change Management Risk Assessment and Mitigation Plan
• Identify and document the risks associated with the proposed changes and develop an appropriate risk mitigation plan.

f) Accountability and Information Flow Review
• Review information flow within and between the criminal justice sector institutions and other stakeholders.
• Review the reporting requirements, frequency and flow of reports and assess reporting capacities.
• Review what types of information and how this information is shared within and between the Ministry agencies. Assess the effectiveness of how this process is undertaken and make recommendations accordingly.

g) Criminal Justice Sector Reform Roadmap
• Develop an action plan for the implementation of the proposed changes to, Mandate, Functions, Structure, and Human Resources at all levels including proposed changes. This five-year plan will be costed, showing the time frames and cost aspects of all proposed activities. The plan should have key KPIs. The plan will also propose and define an appropriate high-level institutional review management system to oversee its roll out.

4. METHODOLOGY

This institutional review must be done in consultation with the Criminal Justice Forum (chaired by MOJ). The Criminal Justice Forum is comprised of senior staff from various criminal justice sector institutions.

The review should include key informants’ interviews for senior officials and include the perspectives of a broader range of justice sector users in addition to the institutions being
reviewed. The review should take into account views of ‘users’ of the criminal justice sector (including victims of crime, people in conflict with the law and legal practitioners) as well as a broader set of stakeholders including but not limited to Governmental, CSOs and international organisations and partners that are mandated and are directly working on criminal justice issues in Botswana.

The consultant is expected to set out in detail the approaches and tools that will be used for each section above, building on international best practices to ensure the transformational nature of the assignment and the full ownership of the process by MOJ and the Criminal Justice Forum.
5. **KEY DELIVERABLES**

The following are the articulated deliverables for the consultancy.

<table>
<thead>
<tr>
<th>No.</th>
<th>Deliverables</th>
<th>Explanation/ Requirement(s)</th>
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<tbody>
<tr>
<td>1.</td>
<td>Inception Report</td>
<td>The Inception Report should have a clear workplan for undertaking and completing each section of the scope of works. The inception report should detail the understanding of the assignment; show how each action in the Scope of Works will be addressed by way of proposed methods, sources of data and data collection procedures. Include a proposed schedule of tasks, activities, and deliverables. Designate a team member with lead responsibilities for each task or product if applicable. The report should include the templates to be used and the capacity assessment questions to be analysed.</td>
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<tr>
<td>2.</td>
<td>Institutional Review Assessment Report for Mandate, Functions and Structure</td>
<td>The Institutional Review Assessment Report will be developed after approval of the Inception Report. The Assessment Report must respond to all the requirements of the assignment stated under Scope of Work under Mandate, Functions, and Structure.</td>
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<tr>
<td>3.</td>
<td>Recommendations report for Mandate, Functions and Structure</td>
<td>The Recommendations Report must respond to all the requirements of the assignment stated under Scope of Work under Mandate, Functions, and Structure.</td>
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<td>4.</td>
<td>Human Resources Capacity Assessment</td>
<td>The Human Resources Capacity Assessment report must respond to all the requirements of the assignment stated under the Scope of Work.</td>
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<tr>
<td>5.</td>
<td>Human Resources Capacity Assessment Response Plan and new/revised Job Descriptions</td>
<td>A Capacity Response Plan for both existing and new proposed staff, based on the findings of the Capacity Assessment. This plan must have clear actions and timelines. It should set out in detail the broad outline of the content of any proposed training activities to be conducted but is not expected to develop the training manuals/materials in full for each activity, or to conduct the training for any activity. The plan must include job descriptions of all new proposed staff and revise and update existing staff job descriptions where appropriate.</td>
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<tr>
<td>6.</td>
<td>Change Management Risk Assessment and Mitigation Plan</td>
<td>The Change Management Risk Assessment and Mitigation Plan including all the requirements of the assignment as stated under Scope of Work.</td>
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<td>7.</td>
<td>Accountability and Information Flow Review report and recommendations</td>
<td>Accountability and Information Flow Review and Recommendations report as specified in the Scope of Works</td>
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<tr>
<td>8.</td>
<td>Criminal Justice Sector Reform Roadmap</td>
<td>Action plan for the implementation of the proposed changes to: Mandate, Functions, Structure and Human Resources at all levels. This five-year plan will be costed, include time frames and responsible persons. The plan should have key KPIs.</td>
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6. **PLANNING**

The assignment must be completed by May 2023. Any extension beyond the agreed period will be a no-cost extension. The assignment will be completed locally with no envisaged travel beyond Botswana.

7. **REQUIRED QUALIFICATIONS AND EXPERIENCE**

The consultant must demonstrate extensive experience in the criminal justice sector, including developing organizational assessment and restructuring exercise in the justice sector. The consultant must also demonstrate extensive experience on past assignments of similar nature. In addition, the consultant must possess expertise in all areas associated with this assignment.

The consultant will be responsible for overall management of the assignment, quality assurance of the assignment and submission of all deliverables through soft and hard copies.

**Academic Qualifications:**

- Minimum of bachelor’s degree in Law, Organizational Development, Business Administration, Psychology, or other relevant behavioural sciences.

**Experience:**

- Minimum 15 years of professional experience in the Botswana justice sector, including in criminal justice
- Knowledge of Botswana justice sector institutions (including the interface with customary courts)
- Knowledge of public sector administration in Botswana

**Competencies:**

- Excellent leadership and influence skills
- Excellent written, verbal, and interpersonal communication skills

**Technical competence:**

The consultant must have excellent knowledge of justice sector administration and good knowledge of organizational behavioural/ development working knowledge; organizational analysis and change skills; employee involvement and recognition programmes working knowledge; training and development needs analysis.

8. **IMPLEMENTATION ARRANGEMENTS**

The Ministry of Justice is the lead of all processes. The Consultant will report directly to the Permanent Secretary at MOJ with a matrix reporting line to the UNDP Resident Representative. The Consultant will work closely with the nominated focal persons at MOJ (Project Manager) and at UNDP.

Furthermore, the Consultant will be working closely with the Criminal Justice Forum (of which MOJ is the Chair and Secretariat) which will inform, review and validate each stage of the scope of works and endorse draft and final deliverables.

The Consultants will be required to present the reports at Criminal Justice Forum meetings within 10 days of the submission of the report to MOJ and UNDP. UNDP will attend the
Criminal Justice Forum meetings to provide technical support and quality assurance to the consultancy.

Other stakeholders as determined by MOJ may be requested to provide quality assurance and technical support to the entire consultancy.

9. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS

Interested consultants must submit the following documents/information to demonstrate their qualifications:

a. Technical Proposal:
   (i) Explain why they are the most suitable for the work, clearly matching expertise to the selection criteria
   (ii) Provide a Draft Methodology and Work Plan outlining approach and delivery of the scope of work
   (iii) Provide examples of previous justice sector work, including in criminal justice, demonstrating experience of similar assignment, nature and scope of work.

b. Financial proposal:
   The financial proposal will specify the daily fee. Payments will be made to the Individual Consultant based on an agreed schedule of deliverables per the payment schedule below. No travel costs should be included in the financial proposal.

c. Personal CV including the names of 3 referees.

10. TRAVEL

The consultancy will be performed locally with only domestic travel anticipated at this time. 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.

11. PAYMENT SCHEDULE

Payment shall be made against deliverables in three instalments following the suggested schedule defined below:

   a) First payment: Thirty percent (30%) upon approval by MOJ of the Institutional Review Assessment Report for Mandate, Functions and Structure and the Recommendations report for Mandate, Functions and Structure after presentation at the Criminal Justice Forum.

   b) The second payment: Thirty percent (30%) upon approval by MOJ of the Human Resources Capacity Assessment and the Human Resources Capacity Assessment Response Plan and new/revised Job Descriptions after presentation at the Criminal Justice Forum.
c) The third payment: Thirty percent (30%) approval by MOJ of the Change Management Risk Assessment and Mitigation Plan and the Accountability and Information Flow Review report and recommendations after presentation at the Reference Group and Stakeholders meeting.

d) The fourth and final payment: ten percent (10%) upon approval by MOJ of the Criminal Justice Sector Reform Roadmap and all deliverables are submitted to the client.

12. **EVALUATION**

Bids will be evaluated based on the following methodology:

**Cumulative analysis**

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 weight; [70%]
* Financial Criteria weight; [30%]

Only candidates obtaining a minimum of 70% in the Technical Stage will be considered for the Financial Evaluation.

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<tr>
<th>Criteria</th>
<th>Weight</th>
<th>Max. Point</th>
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<tr>
<td>Minimum of bachelor’s degree in Law, Organizational Development, Business Administration, Psychology, or other relevant behavioural sciences</td>
<td>Mandatory exclusionary criteria</td>
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<tr>
<td>Minimum 15 years of professional experience in the Botswana justice sector, including in criminal justice</td>
<td>Mandatory exclusionary criteria</td>
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<tr>
<td>Knowledge of public sector administration in Botswana</td>
<td>Mandatory exclusionary criteria</td>
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<tr>
<td>Complete technical and financial proposal submitted as per Item 9 “Documents to be Included when Submitting the Proposal”</td>
<td>Mandatory exclusionary criteria</td>
<td></td>
</tr>
<tr>
<td><strong>Technical</strong></td>
<td>70%</td>
<td>70 points</td>
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<tr>
<td>Knowledge of Botswana justice sector institutions (including the interface with customary courts)</td>
<td>15</td>
<td>15</td>
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<tr>
<td>Previous demonstrated experience in Botswana justice sector, including in criminal justice</td>
<td>25</td>
<td>25</td>
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<td>Technical proposal clearly matches skills and experience to the selection criteria and demonstrates competency to complete the scope of works and the ability to coherently write in English</td>
<td>30</td>
<td>30</td>
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<tr>
<td><strong>Financial</strong></td>
<td>30%</td>
<td>30</td>
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