



## INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: 10 July 2015

---

**Country:** Republic of Moldova

**Description of the assignment:** National Legal Consultant to assist Ministry of Justice in drafting amendments to legislation on tariffs and taxation of justice system related professions

**Project name:** Support to Justice Sector Reform in the Republic of Moldova

**Period of assignment/services:** July-October 2015 (up to 40 working days)

**Application instructions:** Proposals should be submitted online by pressing the "Apply Online" button no later than 23:59, 17 July 2015.

Requests **for clarification only** must be sent by standard electronic communication to the following e-mail: [alexei.ghertescu@undp.org](mailto:alexei.ghertescu@undp.org). UNDP will respond 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 applicants.

---

### 1. BACKGROUND

The Justice Sector Reform Strategy, approved by the Parliament for 2011-2016, and the achieved progress in its implementation was one of the main conditions for the successful negotiation and signature during 2014 of the European Union - Moldova Association Agreement. During 2014 the EU also signed a financing agreement in support of justice sector reform in order to build an accessible, efficient, independent, transparent, and professional justice sector, with high public accountability and consistent with European standards, in order to ensure the rule of law and protection of human rights. Consequently, the EU association urges Moldova to reform the Justice Sector. Title III (Freedom, Security and Justice), Article 12 (Rule of law) of the EU Association Agreement specifically provides that *"The Parties will cooperate fully on the effective functioning of institutions in the areas of law enforcement and the administration of justice"* (Section 2).

One of the priority issues stated in the Justice Sector Reform Strategy is linked to the current status of the services provided in the justice sector by various justice system related professions (defence lawyers, notaries, bailiffs, judicial experts, mediators, translators/ interpreters, insolvency administrators). The tariffs (pricing for the provided services) are established arbitrarily by the service providers, without having a methodology to make the calculations based on clear criteria and indicators. On the other hand, the taxation of the justice system related professions is based on different regulations, is complicated and it is difficult to monitor the implementation.

The same situation exists in the area of the social security (pension fund, medical insurance, etc.) of the justice system related professions. All these lead to overpricing of the services, hiding of income by

representatives of justice system related professions to avoid paying taxes, and in general limit access to legal services and to justice for the population that cannot afford high costs. The absence of a clear, transparent and an uniform methodology makes justice system related professions prone to corrupted behaviours, lack of integrity and infringement of the Codes of Ethics, making this part of the justice system a weak link that negatively affects the system in general and people's trust in it.

In 2014 the Ministry of Justice requested UNDP to provide the international expertise that would support the process of analyzing the situation related to fees, taxation and social security of legal professions, formulate recommendations for the improvement and streamlining of the system based on options existing in other countries and be involved in drafting the methodology for establishing the fees in a transparent and justifiable way and the methodology for the establishment of the taxation and social security mechanisms for the legal professions. The task was in line with the mandate and objectives of the UNDP, since its implementation would contribute to preventing corruption and corrupted behaviours in the Justice System, would make it more transparent, accountable and would ensure accessible legal services for people.

Earlier in 2014-2015 a study had been conducted by a team of one international and one national consultant on tariffs and taxation of justice system related professions. The assignment was completed in a participatory way through a series of consultations with the representatives of the concerned legal professions and their unions. The consultations were also used as a platform for advocating for stronger integrity of the professions and for provision of people-centred services. The study was based on an analysis of the situation in the pricing mechanisms (tariffs), tax regime, social security, medical insurance and pension payments systems in relation to the justice system professions. Following this analysis a number of recommendations were formulated for the improvement and streamlining of the systems based on options existing in other countries, and methodologies were drafted for establishing the tariffs in a transparent and justifiable way and for a system of uniform taxation and social security, medical insurance and pension payments systems for these professions.

To implement the aforesaid recommendations one national consultant will be engaged under the present terms of reference in order to assist the Ministry of Justice in drafting respective amendments and modifications to Moldovan legislation.

## **2. OBJECTIVE:**

The main objective of the present assignment is to provide the necessary expertise and assistance to the Ministry of Justice in order to draft amendments to the existing Moldovan legislation based on the recommendations contained in the *Study on the tariffs and taxation of justice system related professions* prepared within the project: "*Support to Justice Sector Reform in Moldova*". The final result of the consultancy will be a set of draft amendments to the current Moldovan legislation on tariffs and taxation of justice system related professions.

## **3. SCOPE OF WORK AND EXPECTED OUTPUT:**

In order to achieve the objectives the National Consultant shall perform the following tasks:

- Review the recommendations and suggestions on modification of Moldovan legislation contained in the *Study on the tariffs and taxation of justice system related professions* prepared within the project: "*Support to Justice Sector Reform in Moldova*";
- Discuss the proposed recommendations with the main stakeholders: UNDP, Ministry of Justice, State Fiscal Service, National House of Social Security, National Company of Medical Insurance, Notaries Union, Bar Union, National Union of Bailiffs, etc.;

- Review Moldovan legislation regulating tariffs and taxation of justice system related professions in order to establish the affected legislation (specific laws and subordinate regulatory acts, including instructions, regulations and recommendations of the governing bodies of the respective professions, e.g. Notaries Union, Bar Union, National Union of Bailiffs, etc.) that needs to be amended and modified;
- Establish for each particular piece of legislation or subordinate act whether amendments are needed into the existing legislative and/or subordinate acts or new acts shall be approved that will completely substitute the existing ones;
- Produce a preliminary report that will cover the main conclusions of the legislation review and main suggestions that will focus on necessary modifications and amendments to be introduced into the existing legislation, including the list of the affected legislation;
- Prepare draft amendments to the current legislation on tariffs and taxation of justice system related professions;
- Prepare justification for every and each amendment to be included in the explanatory note attached to draft amendments;
- Cooperate with the national consultant who will conduct the regulatory impact assessment of the proposed amendments and take into consideration the conclusions of the assessment when drafting the amendments;
- Participate in the follow-up meetings with the main stakeholders and produce final versions of the proposed draft amendments and corresponding explanatory note based on the discussions with and proposals from the stakeholders;
- Perform any other assignment related tasks.

#### **4. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS**

##### **I. Academic Qualifications:**

- Master's Degree or equivalent (5-year university education) in Law, Public administration, Political, Social sciences, Human Rights or other relevant field;

##### **II. Years of experience and sphere of experience:**

- At least 5 years of proven professional experience in the area of justice system related professions, tariffs, taxation or other relevant fields;

##### **III. Competencies:**

- Knowledge of the existing Moldovan legislative system and Moldovan legislation on tariffs and taxation of the justice system related professions;
- Proven previous experience in drafting legislation and subordinate regulatory acts or in the field of lawmaking processes;
- Excellent communication and presentation skills, ability to facilitate discussions;
- Experience in working on similar or justice system related professions assignments is a strong asset;
- Fluency in Romanian language, knowledge of English is an asset;
- Knowledge of one or more additional languages relevant for Moldova, including Bulgarian, Gagauzian, Romani, Russian, Ukrainian or sign language is an asset.

#### IV. Personal qualities:

- Proven commitment to the core values of the United Nations, in particular, respecting differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
- Responsibility, creativity, flexibility and punctuality.

The UNDP Moldova is committed to workforce diversity. Women, persons with disabilities, Roma and other ethnic or religious minorities, persons living with HIV, as well as refugees and other non-citizens legally entitled to work in the Republic of Moldova, are particularly encouraged to apply.

### 5. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS

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

1. Technical Proposal:
  - a. explaining how applicant responds to each of the qualification requirements (particularly providing details on the previously implemented similar projects and previous experience of drafting legislation and/or subordinate regulatory acts) and why he/she is the most suitable for the work;
  - b. describing a short vision on achievement of tasks;
2. Personal information (Personal History Form /P11) including records of past experience in similar projects/assignments and concrete outputs obtained with three references;
3. Financial proposal (in USD, specifying a total **lump sum** amount)

### 6. FINANCIAL PROPOSAL

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 installments 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 fees and taxes, 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.

No travel costs are envisaged under this assignment.

### 7. EVALUATION

Initially, individual consultants will be short-listed based on the following minimum qualification criteria:

- Master's Degree or equivalent (5-year university education) in Law, Public administration, Political, Social sciences, Human Rights or other relevant field;
- At least 5 years of proven professional experience in the area of justice system related professions, tariffs, taxation or other relevant fields;

The short-listed individual consultants will be further evaluated based on the following methodology:

A two-stage procedure will be used in evaluating the candidates:

1. Technical evaluation (max 300 points) – 60%;
2. Financial evaluation (max 200 points) – 40%.

Technical evaluation will be based on a thorough desk review of applications.

Only candidates obtaining a minimum of 70% score of the technical evaluation (at least 210 points) would be considered for the Financial Evaluation.

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 a pre-determined set of weighted technical and financial criteria specific to the solicitation.

Criteria	Scoring	Maximum Points Obtainable
<b><u>Technical</u></b>		
Master's Degree or equivalent (5-year university education) in Law, Public administration, Political, Social sciences, Human Rights or other relevant field	(Master – 40 pts., PhD – 50 pts.)	50
At least 5 years of proven professional experience in the area of justice system related professions, tariffs, taxation or other relevant fields	(5 years of experience – 35 pts., 5-10 years of experience – up to 60 pts., more than 10 years – up to 70 pts)	70
Proven previous experience in drafting legislation and subordinate regulatory acts or in the field of lawmaking processes	(no – 0 pts., to some extent – up to 70 pts., extensive experience – up to 100 pts)	100
Experience in working on similar or justice system related professions assignments	(no – 0 pts., to some extent – up to 30 pts., yes/extensive experience – up to 50 pts.)	50
Knowledge of Romanian and English, Russian and other languages relevant for Moldova	(Romanian – 15 pts., English, Russian or other languages relevant for Moldova – 5 pts. each up to 15 additional pts.)	30
<b>Maximum Total Technical Scoring</b>		<b>300</b>
<b><u>Financial</u></b>		
Evaluation of submitted financial offers will be done based on the following formula: <b><math>S = F_{min} / F * 200</math></b> S – score received on financial evaluation; Fmin – the lowest financial offer out of all the submitted offers qualified over the technical evaluation round; F – financial offer under consideration.		<b>200</b>

### Winning candidate

The winning candidate will be the candidate, who has accumulated the highest aggregated score (technical scoring + financial scoring).

### **ANNEXES:**

**ANNEX 1 – TERMS OF REFERENCES (TOR)**

**ANNEX 2 – INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS**