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## TERMS OF REFERENCE

<b>Job Title:</b>	<b>National consultant</b> in the area of risk assessment of corruption in public procurement
<b>Duty Station:</b>	Chisinau, Republic of Moldova
<b>Project reference:</b>	Strengthening the corruption prevention and analysis functions of the National Anticorruption Center (NAC)
<b>Contract type:</b>	Individual Contract (IC)
<b>Duration of assignment:</b>	up to 29 working days during October 2015 – January 2016

### I. Context

One of the most vulnerable sectors, which is exposed to corruption risks, is public procurement. A recent analysis of corruption risks in public procurement in the EU (*Identifying and reducing corruption in public procurement in the European Union*<sup>1</sup>), notes a number of practices having a negative character towards the procurement process, including bid rigging, providing illicit commissions, conflicts of interest, intentional mismanagement or ignorance, etc. According to the estimations conducted in five different sectors, corrupt/grey cases in public procurement generate a public loss of 18 % of their projected costs.

In 2014, the EU updated the existing legislative framework adopting new directives on public procurement in order to ensure better legal protection for the financial interests of the EU public procurement process. In order to strengthen the anti-corruption actions, European Anti-Fraud Office (OLAF) has introduced new indicators on the entire scope of the procurement process, called "Red Flag" to warn Member States and contracting authorities to take appropriate measures to effectively prevent fraud and corruption in the system.

In Moldova the Court of Accounts reports show that public procurement remains a sector with a high risk of inefficient use of public funds. National procurement system is characterized by a series of negative practices, resulting from poor management of the public procurement process. Weaknesses in the sector are determined by the low capacity of actors involved in procurement process to prevent fraud and corruption practices.

The sociological research "Corruption in Moldova: perceptions and experiences of businessmen and households" conducted in 2014 by Transparency International - Moldova<sup>2</sup>, indicates the persistence of informal payments offered by economic operators to public officials to win tenders of about 10% of the amount of contracts.

A recent research *Public Acquisitions in Moldova: Problems and Solutions* (2014) developed by a local think-tank Expert-Group, suggests that the legal and normative framework, even if not perfect, is not the main cause generating risks and loss in public procurement. The experts say that main causes are the weak system of control over the procurement process and results and an inadequate risk management. The contracting authorities pay little attention to the analysis of the existent constraints

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<sup>1</sup>[http://ec.europa.eu/anti\\_fraud/documents/anti-fraud-policy/research-and-studies/identifying\\_reducing\\_corruption\\_in\\_public\\_procurement\\_en.pdf](http://ec.europa.eu/anti_fraud/documents/anti-fraud-policy/research-and-studies/identifying_reducing_corruption_in_public_procurement_en.pdf)

<sup>2</sup><http://transparency.md/ro/cefacem/publicatii/216-sondaj2014>

with the view of developing new measures to improve the situation. The experts also mention that the system of public procurement is strongly affected by the situation in justice sector, passivity of the law enforcement institutions, opacity in political competition, traditions, quality of business sector, etc.<sup>3</sup>.

Assessment of corruption risks across different sectors, including public procurement, is part of the National Anticorruption Strategy of the Republic of Moldova 2011 – 2015<sup>4</sup>, approved by Parliament Decision no. 154/21.07.2011. The Strategy highlights that prevention of corruption in public procurement procedures requires excluding the privilege of influence given to economic operators concerning the conditions for submission of bids, increasing transparency of the organization and conduct of public tenders, preventing conflict of interests and their respective treatment while selecting the auction winner, etc.

NAC has a clear mandate to prevent corruption including through the provision of the methodological and other support in conducting corruption risk assessments within public authorities and institutions through training and consultation, monitoring and analysis of data on corruption risks and coordinating the development as well as the execution of the integrity plans.

UNDP, through its project *Strengthening the corruption prevention and analysis functions of the National Anti-corruption Center (NAC)* aims to strengthen the capacities of NAC in the field of risk assessment of corruption and provision of methodological support to identify and reduce corruption in public procurement, offering as the tools raising awareness and training for contracting authorities managers and staff, as well as for private sector entities. For this, the project intends to engage a national consultant that working in a team with an international consultant and in close collaboration with the relevant NAC's units will carry out a comprehensive assessment of corruption risks in public procurement and elaborate an optimal risk indicator system based on the "red flag" concept., using the *OECD Methodology for assessment of national procurement systems*.

## **II. Objective**

The main objective of the assignment is to perform a comprehensive assessment of corruption risks in public procurement, including mapping of integrity risk areas and recommended measures for integrity/corruption risks mitigation; and elaboration of an optimal risk indicator system based on the "red flag" concept.

## **III. Strategy**

The national consultant will work in a team with international consultant and will support him or her in developing and delivering the report on assessing the corruption risks characteristic to the national system of public procurement. The consultants will use as reference the *OECD Methodology for assessment of national procurement systems*.

The assignment will consist of two phases. The first phase related to the first mission of the international consultant (tentatively scheduled to take place on 27 October- 6 November 2015) will involve the review of relevant background documents, national legislation, materials, and reports prior to and during the mission, focus group discussions and in-depth interviews involving officials from NAC, Public Procurement Agency, Court of Accounts, Ministry of Finance, line ministries, and other relevant institutions. It may also include interviews and/or focus group discussions with key external partners and civil society organizations to discuss possible solutions based on their familiarity and knowledge of Moldovan public procurement system. The second phase, related to the second mission of the international consultant which will be undertaken at least one month after the first phase, will involve the presentation of the

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<sup>3</sup> <http://expert-grup.org/en/biblioteca/item/969-achizitii-publice-moldova&category=180>

<sup>4</sup>[http://cna.md/sites/default/files/snadoc/national\\_anti-corruption\\_strategy\\_2011-2015\\_republic\\_of\\_moldova.pdf](http://cna.md/sites/default/files/snadoc/national_anti-corruption_strategy_2011-2015_republic_of_moldova.pdf)

draft assessment report of corruption risks in public procurement with required inputs/recommendations and an optimal risk indicator system based on the “red flag” concept, discussion of the recommendations and their validation. Final assessment report will be submitted to the NAC and UNDP after the second mission.

#### **IV. Scope of work and expected outputs:**

The consultancy will have two major outputs:

- (1) Report assessing corruption risks characteristic to the national system of public procurement, including mapping of integrity risk areas and recommended measures for integrity/corruption risks mitigation;
- (2) An optimal risk indicator system based on the “red flag” concept;

In order to achieve the objective, the national consultant shall:

- Use as reference the *OECD Methodology for assessment of national procurement systems*.
- Support the international consultant in preparation of the assignment; gather background documentation related to the mission, including national regulatory framework for public procurement with focus on integrity related issues and conflicting legislation, compared to the international regulatory framework, in particular the new EU Directives on public procurement;
- Provide the international consultant with all the necessary information so he/she could evaluate the institutional framework in the field and its operational capacities, efficiency of integrity mechanisms, control and punishment;
- Support the international consultant in identifying the focus group(s), developing the questionnaires for individual and focus groups interviews and organizing focus group sessions and individual interviews to identify problems and risk sectors, evaluate the needs in the field and formulate the recommendations to mitigate corruption risks; additionally arrange meetings with all the necessary stakeholders for the international consultant;
- Take part in all gatherings and related activities together with the international consultant and provide him/her with the essential substantive and logistical backing;
- Provide inputs for the assessment report of corruption risks in public procurement, including mapping of integrity risk areas and recommended measures for integrity/corruption risks mitigation; and elaboration of an optimal risk indicator system based on the “red flag” concept;
- Support the international consultant in presenting the draft and final assessment report with detailed recommendations, discuss and validated it with the relevant stakeholders;
- Perform different tasks fundamental for the effective implementation of the assignment.

#### **V. Deliverables:**

#	Deliverable	Deadline
1.	Support to the international consultant in preparation of the assignment provided; background documentation related to the assignment for the desk review collected	26 October 2015 (up to 3 working days)
2.	Support to the international consultant in examination of the important legal and strategic reports, in organizing /arranging and participating in focus group sessions, individual interviews and gatherings with significant stakeholders, provided	

3.	Inputs for the draft report assessing corruption risks characteristic to the national system of public procurement including mapping of integrity risk areas and recommended measures for integrity/corruption risks mitigation and an optimal risk indicator system based on the “red flag” concept submitted	26 November 2015 (up to 17 working days, including 10 days of mission)
4.	Support to the international consultant in presenting the draft assessment report provided	18 January 2016 (up to 9 working days, including 5 days of mission)
5.	Inputs to final report assessing corruption risks and an optimal risk indicator system based on the “red flag” concept submitted.	
6.	Final report on the assignment describing how the work was done, including the list of people met, capacity development assistance provided to the Analytical unit, work group and/or public discussions and presentations, etc. submitted	25 January 2016

Deliverables and timeline can be amended or specified for the purpose of the assignment.

**Note:** The international consultant will develop final Assessment Report and the framework for the assignment, including the tasks for the national consultant.

Payment will be made in two instalments upon the successful completion of the tasks assigned.

#### **J. Organizational Setting:**

This is a part-time consultancy. The expert will work in a team with an international consultant and in close collaboration with the management and staff of the National Anticorruption Centre. The expert will work under direct supervision of UNDP Project manager for administrative issues.

#### **K. Inputs:**

The National Anticorruption Centre and UNDP Moldova will provide the expert with the necessary information and materials for the fulfilment of tasks and will provide support with the facilitation of meetings where necessary.

#### **L. Qualifications and skills required**

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

- Master’s Degree or equivalent ( 5 years of university studies ) in Economics, Finance, Law or other relevant field;

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

- At least three years of relevant experience in consultancy area in public procurement/public finance and anti-corruption area.

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

- Previous experience in working with audit institutions, public procurement agencies and/or anti-corruption agencies is considered an asset;
- Good knowledge of national system of public procurement and knowledge of effective mechanisms for identifying and reducing corruption in public procurement;

- Practical experience in expertise of the regulatory framework related to public procurement/public finance area;
- Extensive demonstrated experience in developing analytical studies/reports related to public procurement/corruption risks in public sector;
- Effective communication and strong analytical skills;
- Knowledge of English, Romanian and Russian.
- Working knowledge of one or more additional languages relevant for Moldova, including Bulgarian, Gagauzian, Romani, Ukrainian or sign language is an asset;

#### IV. Personal qualities

- Proven commitment to the core values of the United Nations; in particular, is respectful of differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
- Responsibility
- Capacity of collaboration and teamwork
- Flexibility
- Punctuality
- Creativity/resourcefulness

The UNDP in 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.