



## NATIONAL CONSULTANT PROCUREMENT NOTICE

Date: **August 12, 2020**

**Country:** Republic of Moldova

**Description of the assignment:** **National consultant** to support National Anticorruption Center in the elaboration of a study on the proportionality and demotivating character of the sanctions for corruption offences and the appropriateness of establishing specialized anti-corruption courts/panels

**Project name:** Curbing Corruption by building Sustainable Integrity in Moldova

**Period of assignment/services:** September 2020 - February 2021 (up to 25 working days)

Proposals should be submitted **online by pressing the "Apply Online" button**, **by August 25, 2020, 16:00 EET**.

Requests for **clarification** must be sent by standard electronic communication to the following e-mail [olga.crivoliubic@undp.org](mailto:olga.crivoliubic@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 goal of the project „Curbing Corruption by Building Sustainable Integrity in Moldova” (further the UNDP Project) is to contribute to achieving a sustainable integrity and anticorruption system in the Republic of Moldova through the strengthened capacities of the public and private sector entities and the civil society for the efficient application and monitoring of national integrity instruments and standards. It will contribute to the progressive implementation of the Sustainable Development Goal 16 that calls for a substantial reduction of corruption and bribery in all their forms and for developing effective, accountable and transparent institutions at all levels. The Project is framed around the National Integrity and Anticorruption Strategy (NIAS) 2017-2020 and responds to the needs of its various actors and stakeholders in addressing the challenges for the effective implementation of NIAS, including insufficient capacities within central and local public authorities to ensure the uniform compliance with anticorruption and integrity standards; lack of mechanisms for enforcing integrity standards in private sector; and weak anticorruption demand-side explained by the limited awareness of men and women on the available anticorruption tools to be used and on the means of protection in the event of denunciation of corruption.

The National Anticorruption Center is the public authority specialized in preventing and combating corruption, corruption-related acts and corruptible deeds and is responsible for the coordination and monitoring of the NIAS implementation. One of the Center's prevention measures is the improvement of the legal framework in line with the anticorruption international standards.

The Republic of Moldova has aligned its' national regulations to the international standards in the area of fighting corruption through different legislative reforms. Nevertheless, certain difficulties are encountered in sanctioning corruption and corruption related acts due to the lack of proportionality and demotivating character of the sanctions for corruption offences.

A Study of the Court Decisions on Corruption Cases delivered during 2013-2017, commissioned by UNDP, revealed a reversed proportionality between the material object of the corruption crime and the fines established as punishments. The statistics analyzed by NAC every year point out the existence of the following trend: the bigger the bribe, the smaller the fine is, and as the bribe increases, the size of the fine becomes less significant.

Hence, in order to obtain results, the fight against corruption cannot be reduced only to carrying out combating activities. It also implies a set of actions meant to discourage perpetration of corruption acts. The capacity of the judicial system to impose dissuasive criminal sanctions plays a major deterring role and is a real evidence of an efficient policy of tolerance to corruption zero.

The second aspect which has proved to be a problem for the application of deterring sanctions in cases of corruption lies in the judicial trial phase. The lack of specialized judges and/or courts to review corruption acts, corruption assimilated and related acts does not allow a rapid change of the judiciary practice in relation to such cases; the corruption cases of resonance are not reviewed with celerity because of the overload of the common-law courts, and the sanctions applied in case of convictions – very rarely may be considered to be deterring.

The Action Plan for the implementation of the NIAS provides for “Establishing specialized courts/judge panels for examining cases of corruption acts and corruption-related acts and ensuring the specialized courts/judge panels for examining cases of corruption acts and corruption-related acts with sufficient human, technical, and financial resources”. As a result of determining certain challenges encountered in implementing the respective action, the monitoring body of the NIAS has decided that it is necessary to carry out a detailed analysis regarding the relevance and appropriateness of establishing specialized courts/judge panels to examine cases of corruption acts and corruption-related acts in the Republic of Moldova, considering the current legal and contextual aspects.

In this context, to ensure effective, proportionate, and deterring criminal sanctions for corruption cases and high efficiency and expertise during the judicial phase, the UNDP Project seeks to contract a National Consultant, who working in team with an international consultant, will provide substantive inputs for a comprehensive study on the conformity of the national normative framework with the international anticorruption standards, norms and good practice related to the framework of the sanctions for corruption offences and specialization of anticorruption judges/courts taking into account specific context of the Republic of Moldova.

## **2. SCOPE OF WORK, RESPONSIBILITIES AND DESCRIPTION OF THE PROPOSED ANALYTICAL WORK**

Main objective/output of the assignment: to carry out a comprehensive study on the conformity of the national normative framework with the international anticorruption standards, norms and good practice related to the framework of the sanctions for corruption offences and specialization of anticorruption judges/courts, which will include two chapters:

- I. Analysis of the conformity of the national normative framework with the international anticorruption standards, norms and good practice related to the framework of the sanctions for corruption offences;
- II. Analysis regarding the relevance and appropriateness of establishing specialized courts/judge panels to examine cases of corruption acts and corruption-related acts in the Republic of Moldova, taking into account specific context of the Republic of Moldova;

and to provide concrete recommendations for amending the national legal framework to ensure the implementation and observance of the international anticorruption standards and good practice related to the proportionality and demotivating character of the sanctions for corruption offences and the appropriateness of establishing specialized anti-corruption courts/panels.

National Consultant will work in team with an International Consultant. The national consultant will provide both substantive (gather background documentation, inputs to the study) and logistical assistance (arranging interviews, providing brief translation and interpreting, etc.).

**For detailed information, please refer to Annex 1 – Terms of Reference.**

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

I. Academic Qualifications:

- Master's Degree or equivalent (5 years of University studies) in Law, or other relevant field;

II. Years and sphere of experience:

- At least 4 years of experience in the field of, research and/or consultancy related to prevention and fight against corruption and/or justice sector;
- At least 2 years of proven professional experience involving legal drafting and analysis of normative acts related to justice and/or anticorruption;

III. Competencies:

- Excellent knowledge of the policy, normative and institutional framework on the fight and prevention of corruption of the Republic of Moldova demonstrated by previous assignments;
- Excellent knowledge of Moldovan criminal procedures regulatory framework and judiciary framework demonstrated by previous assignments;
- Experience related to the prosecution and/or judicial examination of corruption cases is a strong advantage;
- Demonstrated experience on the assessment of the effectiveness of implementation of specific legislation in the justice and/or anticorruption sectors related to criminal procedures will be a strong advantage;
- Previous work with UNDP and/or other development partners will be an asset;
- Excellent communication skills;
- Excellent analytical and report-writing skills demonstrated by previous assignments;
- Proficiency in English and Romanian is a must.

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, creativity, flexibility and punctuality, ability to meet deadlines

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.

### **4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS**

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

1. Offeror's Letter confirming Interest and Availability;
2. Proposal: explaining why they are the most suitable for the work including previous experience in similar Projects (please provide brief information on each of the above qualifications, item by item);

3. Financial proposal (in USD, specifying a total requested amount per working day, including all related costs, e.g. fees, travel costs, phone calls etc.);
4. Personal CV and at least 3 references.

## **5. FINANCIAL PROPOSAL**

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables. Payment will be made upon the successful completion of the tasks assigned and submission of the assessment report. 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 shall include a breakdown of this lump sum amount (including fee, taxes, communication costs, travel, per diems, 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 National Consultant, prior to travel and will be reimbursed.

**No travel is envisaged under this assignment.**

## **6. EVALUATION**

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

- Master's Degree or equivalent (5 years of University studies) in Law or other relevant field;
- At least 4 years of experience in the field of, research and/or consultancy related to prevention and fight against corruption and/or justice sector;
- At least 2 years of proven professional experience involving legal drafting and analysis of normative acts related to justice and/or anticorruption;
- Proficiency in English and Romanian is a must; Respective wording must be provided in the application.

The short-listed national consultants will be further 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 a pre-determined set of weighted technical and financial criteria specific to the solicitation.

\* Technical Criteria weight – 60% (max 300 pts);

\* Financial Criteria weight – 40% (max 200 pts).

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

<b>Technical evaluation</b>		
<b>Technical Criteria</b>	<b>Scoring</b>	<b>Max. Points Obtainable</b>
Master's Degree or equivalent (5 years of University studies) in Law or other relevant field;	(Master degree – 10 pts., PhD – 15 pts.)	15
At least 4 years of experience in the field of, research and/or consultancy related to prevention and fight against corruption and/or justice sector;	(4 years – 30 pts, each additional year – 5 pts, up to max. 50 pts)	50
At least 2 years of proven professional experience involving legal drafting and analysis of normative acts related to justice and/or anticorruption;	(2 years – 20 pts, each additional year – 5 pts, up to max. 30 pts)	30
Previous work with UNDP and/or other development partners will be an asset;	(each assignment – 5 points; up to max. 25 pts)	25
Excellent analytical and report-writing skills demonstrated by previous assignments;	(each assignment – 5 points; up to max. 30 pts)	30
<b>Maximum Technical Scoring</b>		<b>150</b>
<b>Interview evaluation</b>		
Excellent knowledge of the policy, normative and institutional framework on the fight and prevention of corruption of the Republic of Moldova demonstrated by previous assignments;	(no – 0 pts., to some extent – up to 20 pts., yes – up to 40 pts)	40
Excellent knowledge of Moldovan criminal procedures regulatory framework and judiciary framework demonstrated by previous assignments;	(each assignment – 10 pts., up to max. 30 pts)	30
Experience related to the prosecution and/or judicial examination of corruption cases is a strong advantage;	(each assignment – 10 points; up to max. 20 pts.)	20
Demonstrated experience on the assessment of the effectiveness of implementation of specific legislation in the justice and/or anticorruption sectors related to criminal procedures will be a strong advantage;	(each assignment – 10 pts., up to max. 30 pts)	30
Excellent communication skills;	(no – 0 pts., to some extent – up to 10 pts., yes – up to 20 pts.)	20
Responsibility, creativity, flexibility and punctuality, ability to meet deadlines	(no – 0 pts., to some extent – up to 5 pts., yes – up to 10 pts.)	10
<b>Maximum Interview Scoring</b>		<b>150</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>

**\* Interview evaluation criteria**

**\*The first three candidates who passed technical evaluation criteria with the best score shall be invited for a skype/ZOOM interview and pass cumulative analysis.**

**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 – NATIONAL CONSULTANT GENERAL TERMS AND CONDITIONS**