

Terms of reference (ToRs) for the procurement of services below the EU threshold

RESEARCH ON ANTI-CORRUPTION INSTITUTIONAL AND GOVERNANCE ARCHITECTURE	Project number/ cost centre: 20.2106.1-001.00
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0. List of abbreviations

AG	Auditor General
API	Application Programming Interfaces
AVB	General Terms and Conditions of Contract (AVB) for supplying services and work 2018
BMZ	German Federal Ministry for Economic Cooperation and Development
DPCI	Directorate of Priority Crimes Investigations
DPME	Department of Planning, Monitoring and Evaluation
DCOG	Department of Cooperative Governance
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IPID	Independent Police Investigation Directorate
MFMA	Municipal Finance Management Act
MSSA	Municipal Systems & Structures Acts
MOU	Memorandum of Understanding
NACAC	National Anti-corruption Advisory Council
NACS	National Anti-corruption Strategy
NPA	National Prosecutions Authority
PAMA	Public Administration Management Act
PFMA	Public Finance Management Act
PP	Public Protector
PSC	Public Service Commission
TIP	Transparency, Integrity and Accountability Programme
ToRs	Terms of reference
SAPS	South African Police Service
UNCAC	United Nations Convention Against Corruption

1. Context& Background

The **Transparency, Integrity and Accountability Programme in South Africa (TIP)** supports state and non-state actors to contribute towards the implementation of the National Anti-corruption Strategy (NACS) in a whole-of-government and societal manner. The TIP provides capacity development for anti-corruption actors in the state, civil society and the business sector. The project supports:

- Active citizenry where citizens can contribute actively to activities and initiatives in favour of transparency, integrity and accountability (output 1);
- The strengthening of institutional capacity of collaborative mechanisms, particularly the National Anti-corruption Advisory Council (NACAC) to coordinate the implementation of the NACS (output 2); and
- Multi-stakeholder partnerships to improve transparency, integrity and accountability through open public procurement, business integrity and whistleblowing and corruption reporting (output 3).

In addition to the whole-of-government and societal approach of the TIP, the programme actively pursues a human rights-based orientation including gender equality. The strategic reference points for the TIP are the NACS, Agenda 2030, the Medium-term Strategic Framework 2019-2024, Germany's approaches to governance, democracy and anti-corruption as well as Agenda 2063 (African Union) and Sustainable Development Goals 16.5 and 16.6.

The TIP is implemented by the **Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH** on behalf of the **German Federal Ministry for Economic Cooperation and Development (BMZ)**. The programme is part of the newly established *Peaceful and Inclusive Societies* cluster of BMZ and the action field *Good Governance*. The programme is co-financed by the Swiss State Secretariat for Economic Affairs.

The key mandate of the National Anti-Corruption Advisory Council (NACAC) is to advise the President on the form and structure of an agency that will spearhead the fight against corruption in a coordinated manner. The National Anti-corruption Strategy (NACS) has identified this activity as one of the main priority areas that NACAC should focus on. The United Nations Convention against Corruption (UNCAC) requires that state parties establish (a) preventative anti-corruption body or bodies (Article 6) and a body or bodies specialized in combating corruption through law enforcement (Article 36). The *Colombo Commentary on the Jakarta Statement on Principles for Anti-corruption Agencies* provides guidance on the functioning of such a body or bodies.

A dedicated institutional architecture workstream was set up within NACAC to initiate research and consultations with various stakeholders, including with academia, civil society organizations as well as law enforcement agencies. Workshops and briefing sessions were conducted by the NACAC on the nature of the anti-corruption architecture including an anti-corruption body which will have overarching powers and independence to deal mainly with systemic corruption. The NACAC has developed a baseline proposal on a new permanent, independent anti-corruption body that operates within a multi-institution architecture.

The GIZ-TIP in partnership with the Department of Planning, Monitoring and Evaluation (DPME) seek to appoint a suitable service provider who will, under the guidance of the NACAC workstream on Institutional Architecture undertake further research on the implementation of the baseline proposal.

2. Tasks to be performed by the contractor

The main purpose of this assignment is to analyse the administrative, legal and financial implementation implications of the baseline proposal, including for the new body and the multi-institution architecture (that includes non-law enforcement institutions), and to make specific findings and recommendations for implementation. The findings and recommendations must take into consideration the 16 Jakarta principles.

The service provider will be expected to undertake the following activities as part of the assignment:

- a. Conduct an analysis and mapping of anti-corruption mandates and functions as contained in existing laws and regulations governing-
 - a. all the law enforcement agencies (SIU, NPA, IDAC, DPCI, SAPS, IPID)
 - b. Institutions supporting democracy (the Auditor-General (AGSA), Public Protector (PPSA) and Public Service Commission PSC))
 - c. National Treasury, public service and local government departments in relation to Public Finance Management Act (PFMA), Municipal Finance Management Act (MFMA), Public Service Act (PSA), Public Administration Management Act (PAMA) and the Municipal Structures and Systems Acts.
- b. Identify the administrative, legal and financial implications on existing mandates and functions if the baseline proposal is implemented and make findings and recommendations how to best implement the baseline proposal taking into consideration the implications.
- c. Conduct research and make recommendations on a governance model for the new anti-corruption body that will ensure the integrity of operations, minimise external interference, support internal and external accountability and safeguard independence.
- d. Provide a refined baseline proposal with an accompanying operational model and organisational structure.
- e. Provide a preliminary costing for the new body with an annualized budget, taking into account transfers of functions from other institutions.
- f. Present the final products to the project team and other stakeholders at the validation workshop and handover session.
- g. Provide progress/technical reports on key outputs achieved, with an executive summary.

Project Deliverables

The main project deliverables will be:

- 1) A detailed report with recommendations on the establishment of the new permanent, independent anti-corruption body within an existing architecture of law enforcement agencies and other institutions with anti-corruption functions. The report will also contain the mandate and functions of the new body and its complimentary relationship with other key role-players in the anti-corruption space to effectively fight systemic corruption.
- 2) A draft organizational structure of the new body and its sub-units with costings and staffing requirements.
- 3) Report on the legal and administrative implications of establishing the new body and recommendations for amendments of existing legislation or drafting of a new legislation.

- 4) Recommendations on the transitional arrangements and phased organic approach in the establishment of the new body within an existing multi-institution architecture.

In the process of undertaking this assignment, the service provider must regularly consult with the project partners, the DPME, NACAC and TIP for regular updates, progress report and quality assurance in accordance with the agreed project schedule.

Expertise required

The research work anticipated for this assignment will be undertaken by a specialist team of subject matter experts from governance and anticorruption sector who are familiar with the setting up of service units within the public sector and determining their mandates, drafting regulations as well as undertaking organizational designs and reviews. Knowledge and understanding of international best practice in the establishment of anti-corruption agencies will be an added advantage. In addition, the team will possess a combination of the following specialised skills and expertise:

- An experienced governance/anti-corruption researcher with international background
- An experienced researcher with a thorough knowledge and experience of working with anti-corruption role players in the South African context, both in civil society and the public sectors
- An organizational design expert with experience in the public service especially in the law enforcement sector.
- An experienced budgeting expert with background in drafting budgets for large public sector entities

Certain milestones, as laid out in the table below, are to be achieved during the contract term

Milestones/process steps/partial services	Deadline/place/person responsible
Inception meeting and propose project timelines	mid Oct 2024
Submit project implementation schedule with timeframes and milestones	mid Oct 2024
Participate in the first stakeholder on-boarding workshop	30 Oct 2024
Provide first draft version of the 'roadmap' for the setting up of the Unit for discussion	30 Nov 2024
Present the second version of the 'roadmap' in preparation for final submission	15 Dec 2024
Present the draft organizational structure, mandate and regulations for the Unit	15 Dec 2024
Present the draft budget and funding options for the Unit	30 Jan 2025
Present the final products to the project team for sign off	27 Feb 2025

Period of assignment: from mid Oct 2024 until 27 Feb 2025.

3. Concept

In the tender, the tenderer is required to show *how* the objectives defined in Chapter **Error! Reference source not found.** (Tasks to be performed) are to be achieved, if applicable under consideration of further method-related requirements (technical-methodological concept). In addition, the tenderer must describe the project management system for service provision.

Note: The numbers in parentheses correspond to the lines of the technical assessment grid.

Technical-methodological concept

Strategy (1.1): The tenderer is required to consider the tasks to be performed with reference to the objectives of the services put out to tender (see Chapter **Error! Reference source not found.** Context) (1.1.1). Following this, the tenderer presents and justifies the explicit strategy with which it intends to provide the services for which it is responsible (see Chapter **Error! Reference source not found.** Tasks to be performed) (1.1.2).

The tenderer is required to present the actors relevant for the services for which it is responsible and describe the **cooperation (1.2)** with them.

The tenderer is required to present and explain its approach to **steering** the measures with the project partners (1.3.1) and its contribution to the **results-based monitoring system** (1.3.2).

The tenderer is required to describe the key **processes** for the services for which it is responsible and create an **operational plan** or schedule (1.4.1) that describes how the services according to Chapter **Error! Reference source not found.** (Tasks to be performed by the contractor) are to be provided. In particular, the tenderer is required to describe the necessary work steps and, if applicable, take account of the milestones and **contributions** of other actors (partner contributions) in accordance with Chapter 2 (Tasks to be performed) (1.4.2).

The tenderer is required to describe its contribution to knowledge management for the partner (1.5.1) and GIZ and to promote scaling-up effects (1.5.2) under **learning and innovation**.

Project management of the contractor (1.6)

The tenderer is required to explain its approach for coordination with the GIZ project. In particular, the project management requirements specified in Chapter 2 (Tasks to be performed by the contractor) must be explained in detail.

The tenderer is required to draw up a **personnel assignment plan** with explanatory notes that lists all the experts proposed in the tender; the plan includes information on assignment dates (duration and expert days) and locations of the individual members of the team complete with the allocation of work steps as set out in the schedule.

4. Personnel concept

The tenderer is required to provide personnel who are suited to filling the positions described, on the basis of their CVs (see Chapter 6), the range of tasks involved and the required qualifications.

The below specified qualifications represent the requirements to reach the maximum number of points in the technical assessment.

Team leader

Tasks of the team leader

- Overall responsibility for the advisory packages of the contractor (quality and deadlines)
- Coordinating and ensuring communication with GIZ, partners and others involved in the project
- Personnel management, in particular identifying the need for short-term assignments within the available budget, as well as planning and steering assignments and supporting local and international short-term experts
- Regular reporting in accordance with deadlines

Qualifications of the team leader

- Education/training (2.1.1): university degree (post graduate degree) in management, economics, corporate governance, ethics, executive leadership or any equivalent
- Language (2.1.2): C2-level English Language proficiency
- General professional experience (2.1.3): 10 years of professional experience in conducting anti-corruption research in relation to governance and institutional architecture
- Specific professional experience (2.1.4): 10 years in providing technical and strategic advice to national governments in setting up anticorruption agencies
- Leadership/management experience (2.1.5): 10 years of management/leadership experience as project team leader or manager in a company
- Regional experience (2.1.6): 5 years of experience in projects in Sub-Saharan region.
- Development cooperation (DC) experience (2.1.7): 5 years of experience in DC projects

Key expert 1

Tasks of key expert 1

- Senior anti-corruption researcher and technical advisor on institutional development and governance
- Lead and oversee the institutional development and governance research component of the project

Qualifications of key expert 1

- Education/training (2.2.1): Post graduate degree in social science or related field
- Language (2.2.2): C2 -level English language proficiency
- General professional experience (2.2.3): 5 years in conducting research on anti-corruption agencies
- Specific professional experience (2.2.4): 5 years in providing technical advise on anti-corruption institutional arrangements and governance systems

Key Expert 2

Tasks of Key Expert 2

- Senior organizational design specialist focusing on reviewing organizational structures and setting up of new entities in the public sector, including drafting of policies and regulations.

- Will lead the organizational component of the project and facilitate the drawing up of recommendations

Qualifications of Expert 2

- Education/training (2.3.1): Post Graduate Degree in law, economics, management or equivalent degree
- Language (2.3.2): C2 level English language proficiency
- General professional experience (2.3.3): 5 years in conducting organizational designs and reviews in the public sector
- Specific professional experience (2.3.4): 5 years providing technical advice in setting up new entities in the public sector

Key Expert 3

Tasks of Key Expert 3

- Senior budget specialist will focus on the finalization of the budgeting and costings of the assignment
- Will lead the budgeting component of the assignment
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Qualifications of Key Expert 3

- Education/training (2.4.1): Post Graduate Degree in social science, economics management or equivalent field
- Language (2.4.2): C2 level English language proficiency
- General professional experience (2.4.3): 5 years in drafting budgets for complex public sector organizations
- Specific professional experience (2.4.4): 5 years in working with Organizational Design specialist in setting up new entities in the public sector.

The tenderer must provide a clear overview of all proposed short-term experts and their individual qualifications.

5. Costing requirements

Assignment of personnel and travel expenses

Per-diem and overnight accommodation allowances are reimbursed as a lump sum up to the maximum amounts permissible under tax law for each country as set out in the country table in the circular from the German Federal Ministry of Finance on travel expense remuneration (downloadable at <https://www.bundesfinanzministerium.de>).

Accommodation costs which exceed this up to a reasonable amount and the cost of flights and other main forms of transport can be reimbursed against evidence

All business travel must be agreed in advance by the officer responsible for the project.

Sustainability aspects for travel

GIZ would like to reduce greenhouse gas emissions (CO₂ emissions) caused by travel. When preparing your tender, please incorporate options for reducing emissions, such as selecting the lowest-emission booking class (economy) and using means of transport, airlines and flight routes with a higher CO₂ efficiency. For short distances, travel by train (second class) or e-mobility should be the preferred option.

If they cannot be avoided, CO₂ emissions caused by air travel should be offset. GIZ specifies a budget for this, through which the carbon offsets can be settled against evidence.

There are many different providers in the market for emissions certificates, and they have different climate impact ambitions. The [Development and Climate Alliance \(German only\)](#) has published a [list of standards \(German only\)](#). GIZ recommends using the standards specified there.

Specification of inputs

Fee days	Number of experts	Number of days per expert	Total	Comments
Team Leader	1	20	20	
Expert 1	1	20	20	
Expert 2	1	20	20	
Expert 3	1	10	10	
Travel expenses	Quantity	Price	Total	Comments
Lumpsum	1	ZAR 39 936		<p>Up to 4 Per-diem allowance in country of assignment</p> <p>Up to 4 Overnight allowance in country of assignment</p> <p>Up to 2 Domestic flights</p> <p>Kilometres</p>

6. Requirements on the format of the tender

The structure of the tender must correspond to the structure of the ToRs. In particular, the detailed structure of the concept (Chapter 3) should be organised in accordance with the positively weighted criteria in the assessment grid (not with zero). The tender must be legible (font size 11 or larger) and clearly formulated. It must be drawn up in English (language).

The complete tender must not exceed 10 pages (excluding CVs). If one of the maximum page lengths is exceeded, the content appearing after the cut-off point will not be included in the assessment. External content (e.g. links to websites) will also not be considered.

The CVs of the personnel proposed in accordance with Chapter 4 of the ToRs must be submitted using the format specified in the terms and conditions for application. The CVs shall not exceed 4 pages each. They must clearly show the position and job the proposed person held in the reference project and for how long. The CVs can also be submitted in English.

Please calculate your financial tender based exactly on the parameters specified in Chapter 5 Quantitative requirements. The contractor is not contractually entitled to use up the days, trips, workshops or budgets in full. The number of days, trips and workshops and the budgets will

be contractually agreed as maximum limits. The specifications for pricing are defined in the price schedule.

7. Option

After the services put out to tender have been completed, important elements of these tasks can be continued or extended. Specifically:

Requirements

Exercising the option will depend on the request from the partner. The decision on continuation is expected to be made in the period 15 days before the expiry date of the contract. If the option is exercised, it is anticipated that the contract term will be extended for an additional three months.

The option will be exercised by means of a contract extension on the basis of the individual approaches already offered.

Quantitative requirements for the optional services

8. Outsourced processing of personal data

Adherence to local data protection laws will be observed.

9. Additional Requirements

- Please submit your proposal (technical and price proposal) in separate files/folder to ZA_Quotation@giz.de no later than **7th October 2024** all documents must be in PDF.
- **Submission to any other email address may invalidate your bid.**
- Please do not mention any price for this measure on your cover letter/Technical proposal.
- Please submit your tax clearance certificate with the bidding documents.
- Please submit your price proposal in **ZAR**.
- Our General Terms of Conditions (attached) shall not be changed/amended should you be the winner of this tender. These General Terms and Conditions will form part of the contract should you be awarded this contract. By submitting your proposal, we will conclude that you have read and accepted these terms and conditions.
- Participating more than once in same tender is not allowed and it will lead to your proposal as well as that of the company where you appear more than once being disqualified. The responsibility rests with the companies to ensure that their partners/experts are not bidding/participating more than once in same tender.
- **Bidders are not allowed to communicate directly with any other person regarding this bid other than the procurement official/s. Failure to comply with this requirement may lead to your bid being disqualified.**
- Bidders must strictly avoid conflicts with other assignments or their own interests. Bidders found to have a conflict of interest shall be disqualified. Without limitation

on the generality of the above, Bidders, and any of their affiliates, shall be considered to have a conflict of interest with one or more parties in this EOI and tender process, if they:

- a) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by GIZ or the Interim Supply Chain Management Council to provide services for the preparation of the design, specifications, Terms of Reference, cost analysis/estimation, and other documents to be used for the procurement of the services in this selection process;
- b) were involved in the preparation and/or design of the programme/project related to the services requested under this EOI and tender;
- c) are serving or have been serving in the past three months in the structures of the Interim Supply Chain Management; or
- d) are found to be in conflict for any other reason, as may be established by, or at the discretion of GIZ.

Scientific data

In the event of any uncertainty in the interpretation of a potential conflict of interest, Bidders must disclose to GIZ, and seek GIZ's confirmation on whether or not such a conflict exists.

- Similarly, the Bidders must disclose in their proposal their knowledge of the following:
 - a) if the owners, part-owners, officers, directors, controlling shareholders, of the bidding entity or key personnel are family members of GIZ staff involved in the procurement functions and/or the Interim SCM Council or any Implementing partner receiving services under this EOI or tender; and
 - b) all other circumstances that could potentially lead to actual or perceived conflict of interest, collusion or unfair competition practices.
- **Failure to disclose such an information may result in the rejection of the proposal or proposals affected by the non-disclosure.**

Bids sent via Dropbox and WeTransfer will not be accepted.