

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



RESEARCH ON STRENGTHENING THE CAPABILITIES OF LAW ENFORCEMENT AGENCIES TO OPTIMALLY EXECUTE THEIR FUNCTIONS TO ACHIEVE RESULTS	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
DoJ&CD	Department of Justice and Constitutional Development
DPCI	Directorate of Priority Crimes Investigations
DPME	Department of Planning, Monitoring and Evaluation
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
IPID	Independent Police Investigative 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
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 Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State, referred to as State Capture Commission (SCC) recommended that stronger action be taken to address systemic corruption, among others. The Cabinet approved the National Anti-Corruption Strategy 2020 -2030 (NACS) comprising of pillars which support the achievement of the vision of a corruption-free society. NACS adopted a "whole of government" and "whole of society" approach **to fight systemic corruption**.

In line with the NACS, the President established the National Anti-Corruption Advisory Council (NACAC) on 29 August 2022. NACAC members will serve for a term of three years commencing from 01 September 2022 with the key mandates to advise the President on the mandate, function, form and structure of the new anti-corruption agency that will spearhead the fight against systemic corruption and to coordinate the implementation of the NACS to prevent and combat corrupt practices. These policy reforms are in line with the United Nations Convention against Corruption (UNCAC). The reforms require state parties to establish a body or bodies that prevent and combat corruption in the context of a multi-agency approach through strengthening existing law enforcement architecture. Such a body is expected to be granted full independence to enable it to carry out its mandate without any interference and be provided with all the necessary resources and specialized staff to carry out its functions.

In its next twelve months (September 2024 – August 2025) NACAC will prioritize its work toward three key strategic focal areas: the establishment of an independent anti-corruption entity; strengthening the investigative and prosecutorial capabilities of existing Law

Enforcement Agencies (LEAs); and communication and engagement of state and non-state actors (Stakeholders) on the implementation of the NACS.

The GIZ-TIP in partnership with the Department of Planning, Monitoring and Evaluation (DPME) under the guidance of the NACAC seeks to appoint a suitable service provider who will conduct research and make recommendations on the strengthening of the capability of existing LEAs. The outcome of the research will be used to ensure optimal execution of their functions and achieve the desired results.

The LEAs have often struggled to get to grips with the country's surging corruption cases and have as a result performed sub optimally in dealing with systemic corruption. To mitigate this risk the envisaged research will assess the capability of existing LEAs to execute their functions in order to achieve results optimally; and identify strategic areas to strengthen and bolster their efforts.

The research will probe the conditions that enable law enforcement agencies to function optimally, and also probe the disabling conditions and limitations that hinder the (optimal) functionality of the law enforcement agencies. It will further provide evidence-based recommendations on how to strengthen the capability of LEAs to optimally execute their functions to achieve results.

2. Tasks to be performed by the service provider

The service provider will be expected to undertake the following activities:

- Conduct a desktop review of existing laws and regulations governing all the law enforcement agencies and their mandates; to assess context, purpose, key claims, assumptions, gaps, and limitations that either enable or disable the optimal functioning of the LEAs. The law enforcement agencies and respective institutions to be included in this study are the following: the Directorate for Priority Crime Investigations (DPCI/Hawks); Special Investigation Unit (SIU); National Prosecution Authority (NPA); Investigating Directorate of the NPA; Asset Forfeiture Unit (AFU); South African Police Service (SAPS); SAPS Crime Intelligence; State Security Agency (SSA); Financial Intelligence Centre (FIC); National Intelligence Coordinating Committee (NICOC); as well as the Department of Justice and Constitutional Development (DOJ&CD) given its ministerial oversight role on the Law Enforcement Agencies.
- Develop a robust analytical framework based on a literature review to guide the assessment of the capability of existing LEAs.
- Review existing sources of information to assess **the organizational capability of LEAs to execute their investigative and prosecution functions** as well as inter-agency collaboration.
- Conduct key informant interviews with a select number of practitioners who have actually worked with the NPA and DPCI/Hawks and also clients of the SIU's systemic investigation unit, including selected government institutions, businesses cooperating with LEAs and academic experts.
- Produce a research report with key findings and recommendations with an executive summary
- Validate analysis and findings with relevant stakeholders.
- Present the final products to the project team.

Project Deliverables

The main project deliverables will be:

4.1 A detailed research report with recommendations on the assessment of the capability of Law Enforcement Agencies to optimally execute their investigative and prosecutorial functions to achieve results about corruption.

4.2 The report will also contain recommendations on how to strengthen the capability of Law Enforcement Agencies to optimally execute their functions to achieve results about corruption.

In the process of undertaking this assignment, the service provider must regularly consult and provide updates on key milestones of the project with the project partners, DPME, NACAC, as agreed in the project schedule.

Milestones/process steps/partial services	Deadline/place/person responsible
Inception meeting and propose project timelines	01 Dec 2024
Submit project implementation schedule with timeframes and milestones	15 Dec 2024
Participate in the first stakeholder onboarding workshop	15 Jan 2024
Provide a first draft version of the 'roadmap' for the assessment of the capabilities of the LEAs for discussion	30 Jan 2024
Conduct actual research on LEA capabilities	30 March 2024
Present the draft research report	15 April 2024
Present the second draft after receiving feedback from the project tea	25 April 2025
Participate in the validation workshop with stakeholders for the final handover of the research products	30 April 2025

Period of assignment: from 01 Dec 2024 until 30 April 2025.

2. Concept

In the tender, the tenderer is required to show *how* the objectives defined in Chapter 1 (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 1) 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 1) Tasks to be performed) (1.1.2).

The tenderer is required to present the actors relevant (1.2.1) for the services for which it is responsible and describe the **cooperation (1.2.2)** 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 2. (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 (1.6.1) 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** (1.6.2) 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 (1.6.3) as set out in the schedule.

3. 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 7), 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 law, management, economics, corporate governance, ethics, public administration 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 research on governance and institutional development matters
- Specific professional experience (2.1.4): 10 years in providing technical and strategic advice to national governments on institutional development
- 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 similar 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 law or related field
- Language (2.2.2): C2 -level English language proficiency
- General professional experience (2.2.3): 5 years in conducting research on law enforcement agencies
- Specific professional experience (2.2.4): 5 years in providing technical advice on strengthening law enforcement agencies

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 working with law enforcement agencies
- Specific professional experience (2.3.4): 5 years providing legal advice in complex law enforcement related matters

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

4. 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
Designation of TL/key expert/short-term expert pool	3	65	65	All 3 experts included
Designation of TL/key expert/short-term expert pool				
<i>Add further lines for personnel or delete as necessary</i>				

Travel expenses	Quantity	Number per expert	Total	Comments
Per-diem allowance in country of assignment <i>If an on-site assignment takes place over the weekend, per diem allowances for weekends can be reimbursed between the fee days.</i>	6	3	6 300.00	@ ZAR350 per day
Overnight allowance in country of assignment <i>If an on-site assignment takes place over the weekend, overnight allowances for weekends can be reimbursed between the fee days.</i>	3	3	13 500.00	@ ZAR1500 per night
Transport	Quantity	Number per expert	Total	Comments
International flights <i>Enter destination country</i>				Travel to the place of service delivery
Domestic flights	2	3	30 000.00	Flights within the country of assignment during service delivery
CO₂ compensation for air travel Link to working aid and table for determining the budget and Guidance for GIZ service providers on avoiding, reducing and offsetting GHG emissions on setting the budget.				A fixed budget of EUR is earmarked for settling carbon offsets against evidence.

Workshops, events and trainings

The contractor implements the following workshops/study trips/training courses:

- Stakeholder workshop
- Validation and hand over workshop

5. Inputs of GIZ or other actors

GIZ and/or other actors are expected to make the following available:

- Transportation on site with own project vehicle
- Logistics for workshops: 2

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. Annexes

1.0 Other Requirements

- Please submit your proposal (technical and price proposal) in separate files/folder to ZA_Quotation@giz.de no later than **24th 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