



## INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: **February 1, 2016**

**Country:** Republic of Moldova

**Description of the assignment:** **International consultant** on legislation and rules regarding whistleblowing and protection of whistleblowers

**Project name:** Strengthening the corruption prevention and analysis functions of the National Anticorruption Center (NAC)

**Period of assignment/services:** March – April 2016

Proposals should be submitted by February 15, 2016, **10 am 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

Although corruption is a major challenge for a sustainable development in Moldova and fighting corruption is declared one of the main government priorities, Moldova lacks a comprehensive law on protection of whistleblowers, after an unsuccessful attempt to pass such a law in 2008.

The National Anti-corruption Strategy 2011-2015, currently in force, provides for the encouragement of the corruption disclosure, including strengthening the efficiency of hotlines by setting clear responsibilities of the employees regarding the hotline activity; creating mechanisms for not disclosing the identity and protecting the persons who report to the competent authorities regarding the potential acts of corruption; regulating the obligation of examining anonymous petitions which contain information about the alleged corruption acts, etc. One of the indicators for this measure included adopting of law regarding the protection of the informers.

In 2013, the "Framework Regulation on Whistleblowers" was passed by the government. It envisages creating a system to provide civil servants with opportunities to report malpractice within public authorities and protect them from retaliation. Public servants may report acts of corruption and violation of conflict of interest and asset declaration procedures. Results of reporting are to be sent to the whistleblower within 30 days. The framework does not provide for legal protection for employees of private companies.

The framework requires all public authorities to set up internal regulation on whistleblowing. According to the Report of the Regional Anti-Corruption Initiative, 92 percent, corresponding to about 29 authorities, have adopted internal regulations. However, thus far, there is no system to track whistleblower reports. According to the same report, based on the communication with NAC, there is no mechanism to collect statistics of reports made to public institutions. The government does not track whistleblower cases reported according to the law on civil servants.<sup>1</sup>

According to the existing legislation, Law enforcement authorities have internal security departments to which people can report corruption. By 2009, nearly all central and many local public institutions had set up hotlines for reporting misconduct. In October 2013 a law passed, providing for the establishment of anti-corruption hotlines by public authorities at three levels: a free, 24-hour hotline managed by NAC; anti-corruption hotlines by public authorities and institutional information lines by public authorities. However, NGOs active in the field of anticorruption report certain drawbacks in functioning of anti-corruption hot lines.

According to the *The Acton plan for the implementaton of the Justice Sector Reform Strategy for the years 2011 -2016*, adopted as a precondition for signing the EU-Moldova Association Agreement, a national whistleblower system is envisaged to be set by 2016. It provides for strengthening the system of whistleblowing (inside and outside the system) by 2016 as a measure for the Strategic Direction of "Developing a culture of intolerance towards the phenomenon of corruption through selfgovernance bodies from the justice sector". The measure includes developing a study on whistleblowing; developing and adopting a law on amending regulatory framework; creating and implementing the mechanism of functioning of wgistleblowing system.

Based on the aforementioned strategic documents and also priorities of the government program, NAC initiated drafting a comprehensive law on whistleblowing and protection of whistleblowers.

*Strengthening the corruption prevention and analysis functions of the National Anticorruption Center (NAC)* project implemented by UNDP in partnership with the NAC and funded by the Government of Norway, intends to engage an international consultant to provide analytical support and expertise to NAC in drafting a comprehensive law on whistleblowing and protection of whistleblowers and provide a two-days training on international standards and best practices in the field for the staff of the NAC Prevention Division.

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

The main **objective** of the assignment is to offer consultancy to the National Anticorruption Center in drafting a comprehensive law on whistleblowing and protection of whistleblowers and provide a two-days training on international standards and best practices in the field for the staff of the NAC Prevention Division.

The assignment will consist of two missions. The first mission (tentatively scheduled for 9 – 18 March 2016) will involve the review of the draft law on whistleblowing drafted by NAC; review of the relevant background legislation and materials; in-depth interview involving relevant stakeholders from NAC, Prosecutor's Office, judiciary, Non-discrimination Council, etc. It may also

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<sup>1</sup>[http://rai-see.org/wp-content/uploads/2015/07/Whistleblower\\_Protection\\_in\\_SEE.pdf](http://rai-see.org/wp-content/uploads/2015/07/Whistleblower_Protection_in_SEE.pdf)

include interviews with key external partners, civil society experts and other relevant stakeholders to discuss possible solutions based on their familiarity and knowledge of the subject.

During the first mission the consultant will also provide a two-days training (4 hours per day) on international standards and best practices in the field for the staff of the NAC Prevention Division. Period of the training during the mission will be agreed prior to setting the mission's agenda.

The second mission, which will be undertaken in two weeks after the first mission, will involve the presentation of the final draft law and argumentation note to relevant stakeholders, including participation together with NAC in public debates to discuss the draft law and its validation. Final assessment report will be submitted to the NAC and UNDP after the second mission.

**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-year university education) in Law, International Public Law or other relevant field.

#### II. Years and sphere of experience

- At least 5 years of Professional experience in the field of whistleblowing and protection of whistle-blowers.

#### III. Competencies

- Proven extensive knowledge on the subject of whistleblowing and best practices of the protection of whistleblowers;
- Experience in working with anticorruption agencies/ judiciary/ prosecution and/or other relevant institutions will be a strong asset;
- Extensive demonstrated experience in drafting strategic documents, legislation, other normative acts, related to whistleblowing;
- Demonstrated international experience/consultancy in the field of whistleblowing;
- Experience in conducting training sessions on international standards and practices in the field of whistleblowing;
- Experience in implementing similar assignments in the newer EU Member or Candidate States or CIS region will be a strong asset;
- Effective communication and strong analytical skills;
- Initiative, creativity/ resourcefulness;
- Previous successful experience of working with UN agencies is an advantage;
- Knowledge of English; knowledge of Romanian or Russian languages will be 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;

- Flexibility;
- Punctuality.

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

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

1. Proposal: explaining why they are the most suitable for this position and providing examples reflecting the competencies for each of the qualification requirements (particularly providing details on the previously implemented similar projects and assignments and previous experience in the fields related to this consultancy as described in the terms of reference);
2. Financial proposal: in (USD, specifying a total lump sum amount and the number of anticipated working days);
3. Personal CV including past experience in similar projects and the contact details of at least 3 reference persons.

#### 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 Individual Consultant, prior to travel and will be reimbursed.

Two trips to Moldova are envisaged under this assignment.

#### 6. EVALUATION

Initially, individual consultants will be long-listed based on the following criteria:

Long-listing Criteria	Scoring	Max. Points Obtainable
Master's Degree or equivalent (5-year university education) in Law, International Public Law or other relevant field	(Master – 20 pts., PhD – 25 pts.)	25
At least 5 years of Professional experience in the field of whistleblowing and protection of whistleblowers	(5 years – max. 25 pts, more than 5 years – up to 40 pts, 5 pts – for each additional year)	40

Experience in working with anticorruption agencies/ judiciary/ prosecution and/or other relevant institutions will be a strong asset	(one year – max 10 pts., more than one year – up to 25 pts., 3 pts – for each additional year)	25
Demonstrated international experience/consultancy in the field of whistleblowing	(no – 0 pts., 2-5 assignments – up to 15 pts., more than 5 assignments – up to 30 pts)	30
<b>TOTAL</b>		<b>120</b>

The first three candidates who passed short-listing evaluation criteria with the best score shall be invited for a skype interview and pass cumulative analysis.

### 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.

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

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 Criteria</b>	<b>Scoring</b>	<b>Max. Points Obtainable</b>
Master's Degree or equivalent (5-year university education) in Law, International Public Law or other relevant field	(Master – 20 pts., PhD – 25 pts.)	25
At least 5 years of Professional experience in the field of whistleblowing and protection of whistleblowers	(5 years – max. 25 pts, more than 5 years – up to 40 pts, 5 pts – for each additional year)	40
Experience in working with anticorruption agencies/ judiciary/ prosecution and/or other relevant institutions will be a strong asset	(one year – max 10 pts., more than one year – up to 25 pts., 3 pts – for each additional year)	25
Demonstrated international experience/consultancy in the field of whistleblowing;	(no – 0 pts., 2-5 assignments – up to 15 pts., more than 5 assignments – up to 30 pts)	30
<b>Interview</b>		
Proven extensive knowledge on the subject of whistleblowing and best practices of the protection of whistleblowers	(no – 0 pts., to some extent – up to 15 pts., yes – up to 30 pts.)	30
Extensive demonstrated experience in drafting strategic documents, legislation, other normative acts, related to whistleblowing	(no – 0 pts., 2-5 acts – up to 20 pts., more than 5 acts – up to 40 pts.)	40

Experience in conducting training sessions on international standards and practices in the field of whistleblowing;	(no – 0 pts., 1-3 assignments – up to 15 pts., more than 3 assignments – up to 35 pts.)	35
Experience in implementing similar assignments in the newer EU Member or Candidate States or CIS region will be a strong asset	(no – 0 pts., 1-3 assignments – up to 10 pts., more than 3 assignments – up to 20 pts.)	20
Effective communication and strong analytical skills	(no – 0 pts., to some extent – up to 10 pts., yes – up to 20 pts.)	20
Previous successful experience of working with UN agencies is an advantage	(no – 0 pts., to some extent – up to 5 pts., yes – up to 10 pts.)	10
Knowledge of English; knowledge of Romanian or Russian languages will be an asset	(English – 5 pts; Romanian – additional 5 pts; Russian – additional 5 pts;)	15
Responsibility, capacity of collaboration and teamwork, flexibility, punctuality, initiative, creativity/ resourcefulness	(no – 0 pts., to some extent – up to 5 pts., yes – up to 10 pts.)	10
<b>Interview maximum points</b>		<b>180</b>
<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><u>S = Fmin / F * 200</u></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 candidates

The winning candidates will be the candidates, 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**