

## ANNEX II: TERMS OF REFERENCE

**How to complete these standard Terms of Reference:** Please insert the information requested between the <> brackets, as appropriate for each tender procedure. Square brackets [ ] and parts shaded in grey indicate options to choose: they should be included when applicable. All other text should only need to be amended in exceptional cases, depending on the requirements of specific tender procedures. In the final version of each set of Terms of Reference, please remember to delete this paragraph, any other text with yellow highlighting, and to suppress all brackets.

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## 1. BACKGROUND INFORMATION

### 1.1. Partner country

< Name >

### 1.2. Contracting Authority

< Name >

### 1.3. Country background

< Provide an overview of the situation in the country as relevant to the proposed project. This should include any global or national economic and social factors that may affect the proposed project. >

### 1.4. Current situation in the sector

< Describe the current situation in the sector or institutional area in which the proposed project will operate. This section should be no longer than half a page. Include:

- national/local policies and strategies and/or economic data for the sector or institutional area;
- the origin and recent history of organisational structures, institutions and operating systems in the sector or institutional area;

and, if appropriate and not covered elsewhere in these Terms of Reference:

- responsibilities and mandate of institutions;
- human resource capacity and constraints;
- infrastructure development;
- market development;
- information systems and flows;
- priority setting and decision making;
- access to identified, priority social groups;
- financial structures and flows. >

### 1.5. Related programmes and other donor activities

< Identify and describe the link, if any, between the proposed contract and the work and programmes carried out by other providers of external assistance in the same sector >

## 2. OBJECTIVE, PURPOSE & EXPECTED RESULTS

### 2.1. Overall objective

The overall objective of the project of which this contract will be a part is as follows:

< objective >

## **2.2. Purpose**

The purpose[s] of this contract [is] [are] as follows:

- < purpose 1 >
- < purpose 2, etc >

For larger/complex projects there can be more than one purpose (i.e. one per project component).

## **2.3. Results to be achieved by the Contractor**

These may be presented either in order of importance or in chronological order, as appropriate.

- < result 1 >
- < result 2, etc >

## **3. ASSUMPTIONS & RISKS**

### **3.1. Assumptions underlying the project**

< Insert information from the Logical Framework prepared for the project as part of the Financing Proposal >

### **3.2. Risks**

< Insert information from the Logical Framework prepared for the project as part of the Financing Proposal >

## **4. SCOPE OF THE WORK**

### **4.1. General**

#### **4.1.1. Project description**

< As appropriate, but with a recommended maximum of 2 pages >

#### **4.1.2. Geographical area to be covered**

< As appropriate >

#### **4.1.3. Target groups**

< As appropriate >

### **4.2. Specific work**

< A clear and detailed list of the tasks to be undertaken in order to achieve the contract objective and/or Contractor's job description. The tasks should be listed either in order of importance or in chronological order. If any task need to be paid on the basis of a lump sum (to be proposed by the tenderer), it should be clearly specified. The list of the tasks should include any reports that the Contractor must prepare (in addition to the interim and final reports referred to in Section 7.1 of these Terms of Reference). Any tasks requiring specific expertise should be clearly identified. If appropriate, the time schedule for completing the various tasks should be stipulated here.

This section should contain only major managerial, economic, institutional, and technical requirements (+ criteria) regarding this project's activities. It may address the issue of splitting the project into phases, or organising it into distinct components. It should not be too prescriptive. It is up to tenderers to prepare their own detailed organisation and methodology and technical proposals to fulfil the general requirements set out in these Terms of Reference.

For contracts that include an element of supervision of progress of contractors on other contracts (e.g., works or supplies), the tasks of the supervisor should include a description of the types of checks to carry out. When the supervisor issues a certificate, he/she must be satisfied that relevant, reliable and sufficient evidence exists that:

- the tasks have been properly performed; and
- the amounts claimed by the contractor(s) to be supervised have actually been incurred, in line with the requirements of the contract he/she is supervising.

In preparing this section, focus should be placed on ensuring the sustainability and dissemination of project results. The Contractor must also comply with the latest Communication and Visibility Manual for EU External Action (see [https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions\\_en](https://ec.europa.eu/europeaid/funding/communication-and-visibility-manual-eu-external-actions_en)). The compliance with this shall be made an output of the contract and the contractors shall include in its reporting what have been accomplished. >

[Add as an option: The Contractor shall ensure the capitalisation and sharing of knowledge related to the implementation of the project. It concerns observations of technical and pedagogical value, which are interesting for other professionals, and which do not infringe with the obligations of article 14 of the General Conditions of the Contract. For sharing such information, the Contractor shall use the capacity4dev.eu web platform. ]

### 4.3. Project management

#### 4.3.1. Responsible body

< Identify the specific department of the Contracting Authority / partner country (or its agent, if appropriate) which will be responsible for managing the contract / project >

#### 4.3.2. Management structure

< Describe the management structure of the Contracting Authority / partner country administration, including all decision-making processes involved in managing this project. Include information on the basic management structure of the project (e.g. Project Management Unit, Steering Group) and project planning. Identify any decisions that may be taken by the Project Manager alone (as identified in Article 20 of the General Conditions) and any that must be authorised by, for example, a more senior colleague or project steering committee. >

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#### 4.3.3. Facilities to be provided by the Contracting Authority and/or other parties

< As appropriate >

## 5. LOGISTICS AND TIMING

### 5.1. Location

< Identify the location (i.e. city/town etc.) of the operational base for the project, any other location(s) where short-term inputs may be provided and/or where pilot projects may be established (e.g., regions or neighbouring countries with which cross-border cooperation is encouraged) >

### 5.2. Start date & period of implementation

The intended start date is <date> and the period of implementation of the contract will be <number> months from this date. Please see Articles 19.1 and 19.2 of the Special Conditions for the actual start date and period of implementation.

< If the intention is to award a contract for additional services depending on the outcome of the initial contract, such as for the second phase of a study or operation, this must be stated here. If it is possible to procure additional services by negotiated procedure, this must be clearly indicated, with their estimated cost. >

## 6. REQUIREMENTS

### 6.1. Staff

Note that civil servants and other staff of the public administration, of the partner country or of international/regional organisations based in the country, shall only be approved to work as experts if well justified. The justification should be submitted with the tender and shall include information on the added value the expert will bring as well as proof that the expert is seconded or on personal leave.

#### 6.1.1. Key experts

Key experts have a crucial role in implementing the contract. These terms of reference contain the required key experts' profiles. The tenderer shall submit CVs and Statements of Exclusivity and Availability for the following key experts:

Identify the profiles sought for a minimum of 1 key expert which will typically be the team leader. The number of key experts may be extended up to a maximum of 4 key experts. The skills required may include professional and technical skills, team management skills, communication and facilitation skills, and/or language skills. While it is not necessary to identify all key positions in detail, it is recommended to be as clear as possible to guarantee a fair technical evaluation. Remember to set the scores in the evaluation grid accordingly. The precise time inputs of the experts shall be left to the discretion of tenderers as part of their technical proposal. However, it may be useful to identify a minimum input for the contribution of key experts. ▼

When deciding on the profiles, equal access must be guaranteed and they must not create unjustified obstacles to competitive tendering. The profiles should be clear and non-discriminatory. For example, 'local expertise' may be required but not a 'local expert' (i.e. a national/resident of a country). Remember that participation in tendering procedures must be open on equal terms to all eligible persons (see point 11 in Contract notice). The minimum percentage of time which each expert should work in the partner country could be specified, e.g. 75 %, to avoid the scenario where experts spend a large proportion of their time outside the partner country to which they are supposedly giving technical advice.

The profile of the 'ideal expert' should not be described as it sets a threshold for acceptance of the offer. When choosing the criteria, consider the real minimum requirements and the availability of such experts on the market. The criteria should be as broad as possible. Quantifiable criteria should

**Deleted:** However no minimum input shall be defined for non-key experts

be drafted with vigilance. It is good practise to — where appropriate — add expressions such as ‘a University degree in Economics or a relevant, directly related discipline, or equivalent’ in order not to automatically disqualify offers with experts who have 40 years relevant experience but who lack a formal university degree; or ‘preferably 10 years experience...but a minimum of 5 years required’. The required years of experience should be decided with due care and not inflated. Focus instead on quality rather than on quantitative aspects. Please specify carefully what the minimum requirement is and what the preferred requirement is. Bear in mind that if an expert does not meet the minimum requirements, he/she must be rejected. This means that the entire tender is rejected.

**Consider carefully the possible consequences of the drafting of the profiles as the more precise and challenging the profiles are the fewer experts will meet the minimum requirements and the result is that competition will be restricted. Do not demand a profile which is not justified by the nature of activity to be carried out.**

**Any particular definitions used should be sufficiently clear or explained to avoid any ambiguity.**

**Selection criteria cannot be re-used to define the key-experts' profile.**

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#### **Key expert 1: Team Leader**

##### Qualifications and skills

< As appropriate. Please differentiate between minimum and preferred requirements if applicable.>

##### General professional experience

< As appropriate. Please differentiate between minimum and preferred requirements if applicable.>

##### Specific professional experience

< As appropriate. Please differentiate between minimum and preferred requirements if applicable.>

#### **[Key expert 2: < e.g. Senior legal expert >**

##### Qualifications and skills

< As appropriate. Please differentiate between minimum and preferred requirements if applicable.>

##### General professional experience

< As appropriate. Please differentiate between minimum and preferred requirements if applicable.>

##### Specific professional experience

< As appropriate. Please differentiate between minimum and preferred requirements if applicable.>

#### **Guidance notes on expert inputs:**

- 1) Working days: performance of the contract (and therefore payment) is based solely on working days. The Consultant will only be paid for days actually worked on the basis of the daily fee rate contained in the budget breakdown (Annex V). Tenderers must annex the ‘Estimated number of working days’ worksheet contained in the spread sheet for Annex V to their Organisation and Methodology (Annex III) to demonstrate the correspondence between the proposed methodology and the expert inputs.

It is unnecessary to stipulate the holiday provision for experts. This is for the tenderer to decide. See Article 22 of the General Conditions.

- 2) The annual leave entitlement of the experts employed by a service provider is determined by their employment contract with the service provider and not by the service contract between the Contracting Authority and the Consultant. However, the Contracting Authority can decide when experts take their annual leave since this is subject to approval by the Project Manager, who will assess any such request according to the needs of the project while the contract is in progress. For obvious reasons, a day of annual leave is not considered to be a working day. All this is clearly stated in the General Conditions, Articles 21 and 22.

Everything is based on working days to avoid difficulties in identifying working weeks, national holidays, etc. in the partner country of a given contract.

The fee rates for all experts must include all the "administrative costs of employing the relevant experts, such as relocation and repatriation expenses [including flights to and from the partner country upon mobilisation and demobilisation], accommodation, expatriation allowances, leave, medical insurance and other employment benefits given to the experts by the Consultant". This is why no further mention of an annual leave entitlement must be made in the service contract.

It may be important, though, to establish how many times each expert needs to travel (since travel is included in the fee rate, the number of flights will have an impact on that fee rate).

**Deleted:** During the technical evaluation, the only aspect to be considered for the non-key experts is whether the number of working days estimated for each month for each type of expert proposed in the Organisation and Methodology (Annex III) are sufficient for the requirements of the Terms of Reference to be achieved. This is judged on the basis of the profiles identified in the Terms of Reference and/or the Organisation and Methodology.

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All experts must be independent and free from conflicts of interest in the responsibilities they take on.]

#### 6.1.2. Non-key experts

[If only 1 key expert has been requested the Terms of Reference may have more elaborated information regarding the non key-experts; The profiles of the non-key experts for this contract are as follows: <as appropriate>.]

**Deleted:**

**Deleted:**

These profiles must be defined, if applicable, in the budget (for example, where junior is less than X years of experience and senior is more than X years or experience). However no minimum time input shall be defined for the contribution of non-key experts. During the technical evaluation, the only aspect to be considered for the non-key experts is whether the number of working days estimated for each month for each type of expert proposed in the Organisation and Methodology (Annex III) are sufficient for the requirements of the Terms of Reference to be achieved. This is judged on the basis of the profiles identified in the Terms of Reference and/or the Organisation and Methodology.

**Deleted:** ]

CVs for non-key experts should not be submitted in the tender but the tenderer will have to demonstrate in their offer that they have access to experts with the required profiles.

The Contractor must select and hire other experts as required according to the profiles identified in the Organisation & Methodology [and/or these Terms of Reference]. It must clearly indicate the experts' profile so that the applicable daily fee rate in the budget breakdown is clear. All experts must be independent and free from conflicts of interest in the responsibilities they take on.

The selection procedures used by the Contractor to select these other experts must be transparent, and must be based on pre-defined criteria, including professional qualifications, language skills and work experience. The findings of the selection panel must be recorded. The selected experts must be subject to approval by the Contracting Authority before the start of their implementation of tasks.

#### **6.1.3. Support staff & backstopping**

[As appropriate. The Contractor will provide support facilities to their team of experts (backstopping) during the implementation of the contract. ]

Backstopping and support staff costs must be included in the fee rates.

### **6.2. Office accommodation**

Office accommodation of a reasonable standard and of approximately 10 square metres for each expert working on the contract is to be provided by [the Contractor] [the partner country] [the Contracting Authority]:

[Option 1 (If the office accommodation is to be provided by the Contractor):

The costs of the office accommodation are to be covered by the fee rates.]

[Option 2 (If the office accommodation is to be provided by the partner country):

No need for clarification]

[Option 3 (If the office accommodation is to be provided by the Contracting Authority – exceptionally only:

The costs of the office accommodation are to be covered by the provision for incidental expenditure. The cost per square metre must be in line with the prevailing local market rate for office accommodation of a reasonable standard.]

### **6.3. Facilities to be provided by the Contractor**

The Contractor must ensure that experts are adequately supported and equipped. In particular it must ensure that there is sufficient administrative, secretarial and interpreting provision to enable experts to concentrate on their primary responsibilities. It must also transfer funds as necessary to support their work under the contract and to ensure that its employees are paid regularly and in a timely fashion.

< State what is required in terms of supplies, services, documentation, logistical support, etc. for the success of the contract, indicating the source (i.e., Contractor / partner country / Contracting Authority / ... ). Provide as much detail as possible, especially for items to be provided by the Contractor within the fee rates of its experts. >

### **6.4. Equipment**

No equipment is to be purchased on behalf of the Contracting Authority / partner country as part of this service contract or transferred to the Contracting Authority / partner country at the end of this contract. Any equipment related to this contract that is to be acquired by the partner country must be purchased by means of a separate supply tender procedure.

### **6.5. Incidental expenditure**

The provision for incidental expenditure covers ancillary and exceptional eligible expenditure incurred under this contract. It cannot be used for costs that should be covered by the Contractor as

part of its fee rates, as defined above. Its use is governed by the provisions in the General Conditions and the notes in Annex V to the Contract. It covers:

- Travel costs and subsistence allowances for missions, outside the normal place of posting, undertaken as part of this contract. If applicable, indicate whether the provision includes costs for environmental measures, for example CO<sub>2</sub> offsetting. **Do not give any financial estimates.**
- **< Item 2, etc. Do not give any financial estimates >**

The provision for incidental expenditure for this contract is EUR **<amount>**. This amount must be included unchanged in the Budget breakdown.

Daily subsistence costs may be reimbursed for missions foreseen in these terms of reference or approved by the Contracting Authority, and carried out by the contractor's authorised experts, outside the expert's normal place of posting.

The per diem is a flat-rate maximum sum covering daily subsistence costs. These include accommodation, meals, tips and local travel, including travel to and from the airport. Taxi fares are therefore covered by the per diem. Per diem are payable on the basis of the number of hours spent on the mission by the contractor's authorised experts for missions carried out outside the expert's normal place of posting. The per diem is payable if the duration of the mission is 12 hours or more. The per diem may be paid in half or in full, with 12 hours = 50% of the per diem rate and 24 hours = 100% of the per diem rate. Any subsistence allowances to be paid for missions undertaken as part of this contract must not exceed the per diem rates published on the website - [http://ec.europa.eu/europeaid/funding/about-calls-tender/procedures-and-practical-guide-prag/diems\\_en](http://ec.europa.eu/europeaid/funding/about-calls-tender/procedures-and-practical-guide-prag/diems_en) - at the start of each such mission.

The Contracting Authority reserves the right to reject payment of per diem for time spent travelling if the most direct route and the most economical fare criteria have not been applied.

Prior authorisation by the Contracting Authority for the use of the incidental expenditure is not needed **[with the exception of < specify the item >]. Please note that prior authorisation should only be requested exceptionally.**

**Guidance notes on estimating the provision for incidental expenditure:**

The general rule is that the items included under the incidental expenditures should be kept at a minimum. All costs relating to the provision of experts (including travel to/from the partner country and subsistence once there, apart from missions specified in these Terms of Reference) must be included in the fee rates. The explicit explanation in the notes to the budget breakdown is as follows:

- the provision for incidental expenditure does not cover travel to/from the partner country for experts (other than for missions within the contract).

These mobilisation and demobilisation costs are included in the fee rates. No distinction should be made between key/non-key experts. The only per diem rates and travel costs that should be covered by the provision for incidental expenditure are those relating to missions which are required by these Terms of Reference.

Remember that the amount given in the Terms of Reference as the provision for incidental expenditure is simply an upper limit on the incidental costs. It need not be estimated exactly and it does not matter that the actual costs are more or less than the estimated amounts of the components, within a reasonable margin of error.

No detailed calculation of the provision for incidental expenditure must appear anywhere in the Terms of Reference or in the tender dossier, otherwise the amounts identified become legally binding.

Please note that if the contract is to be implemented in high risk or particularly dangerous countries, the budget for the incidental expenditures must be increased with the cost for specific security measures such as extra insurance, training or extra security activities. The responsibility for the specific security measures is with the contractor through the signed contract which contains funds in the incidental expenditures which is outside of competition in the tender procedure. Please specify the security under point 6.5 above.

## 6.6. Lump sums

[Fee-based contracts may include activities paid under the basis of lump sums (e.g. of a fee-based contract for training, where the trainings would be paid on a fee-based basis, and where the development of the training material would be paid on a lump sum basis). If activities paid under lump sums are required, please highlight them in this section.]

[If not applicable: No lump sums are foreseen in this contract.]

## 6.7. Expenditure verification

The provision for expenditure verification covers the fees of the auditor charged with verifying the expenditure of this contract in order to proceed with the payment of any pre-financing instalments and/or interim payments.

The provision for expenditure verification for this contract is [EUR] [<ISO code of national currency> only for indirect management] < amount >. This amount must be included unchanged in the Budget breakdown.

This provision cannot be decreased but can be increased during execution of the contract.

# 7. REPORTS

## 7.1. Reporting requirements

Please see Article 26 of the General Conditions. Not obligatory for contracts of less than 12 months: [Interim reports must be prepared every six months during the period of implementation of the tasks. They must be provided along with the corresponding invoice, the financial report and an expenditure verification report defined in Article 28 of the General Conditions.] There must be a final report, a final invoice and the financial report accompanied by an expenditure verification report at the end of the period of implementation of the tasks. The draft final report must be submitted at least one month before the end of the period of implementation of the tasks. Note that these interim and final reports are additional to any required in Section 4.2 of these Terms of Reference.

Each report must consist of a narrative section and a financial section. The financial section must contain details of the time inputs of the experts, incidental expenditure and expenditure verification.

[Adapt as necessary: To summarise, in addition to any documents, reports and output specified under the duties and responsibilities of each key expert above, the Contractor shall provide the following reports:

Name of report	Content	Time of submission
Inception Report	Analysis of existing situation and work plan for the project	No later than 1 month after the start of implementation
6-month Progress Report	Short description of progress (technical and financial) including problems	No later than 1 month after the end of each 6-month implementation period.

	encountered; planned work for the next 6 months accompanied by an invoice and the expenditure verification report.	
Draft Final Report	Short description of achievements including problems encountered and recommendations.	No later than 1 month before the end of the implementation period.
Final Report	Short description of achievements including problems encountered and recommendations; a final invoice and the financial report accompanied by the expenditure verification report.	Within 1 month of receiving comments on the draft final report from the Project Manager identified in the contract.

]

## 7.2. Submission & approval of reports

< Number (for environmental reasons, request as few paper copies as possible) > copies of the reports referred to above must be submitted to the Project Manager identified in the contract. The reports must be written in English. The Project Manager is responsible for approving the reports.

< Please state here any other specific requirements. In direct management, as a standard practice the Partner country should be involved in commenting on and approving the reports. In the absence of comments or approval by the Partner country within the set deadline, the reports are deemed to be approved. >

## 8. MONITORING AND EVALUATION

### 8.1. Definition of indicators

< Specific performance measures chosen because they provide valid, useful, practical and comparable measures of progress towards achieving expected results. Can be quantitative: measures of quantity, including statistical statements; or qualitative: judgements and perception derived from subjective analysis. >

### 8.2. Special requirements

< As appropriate.>

\* \* \*