

INSTRUCTIONS TO APPLICANTS TO THE TOR

A. GENERAL

1. UNCDF hereby solicits Applications in response to this Terms of Reference (TOR) Applicants must strictly adhere to all the requirements of this TOR. No changes, substitutions or other alterations to the rules and provisions stipulated in this TOR may be made or assumed unless it is instructed or approved in writing by UNCDF.
2. Submission of an Application shall be deemed as an acknowledgement by the Applicant that all obligations stipulated by this TOR will be met and, unless specified otherwise, the Applicant has read, understood and agreed to all the instructions in this TOR.
3. Any Application submitted will be regarded as a voluntary act and offer by the Applicant and does not constitute or imply the acceptance of any Application by UNCDF. UNCDF does not guarantee that an award or contract will be made as a result of the TOR. UNCDF is under no obligation to award any form of contract or Agreement to any Applicant as a result of this TOR.
4. UNCDF implements a policy of zero tolerance on proscribed practices, including fraud, corruption, collusion, unethical practices, and obstruction. UNCDF is committed to preventing, identifying and addressing all acts of fraud and corrupt practices against UNCDF as well as third parties involved in UNCDF activities. (See https://view.officeapps.live.com/op/embed.aspx?src=https://popp.undp.org/sites/g/files/zskgke421/files/2023-10/AC_Internal%20Control%20Framework_Anti-Fraud%20Policy_0.docx)
5. In responding to this TOR, UNCDF requires all Applicants to conduct themselves in a professional, objective and impartial manner, and they must at all times hold UNCDF's interests paramount. Applicants must strictly avoid conflicts with other assignments or their own interests, and act without consideration for future work. All Applicants found to have a conflict of interest shall be disqualified. Without limitation on the generality of the above, Applicants, and any of their affiliates, shall be considered to have a conflict of interest with one or more parties in this TOR process, if they:
 - 5.1 Are or have been associated in the past, with an entity or any of its affiliates which have been engaged UNCDF to provide services for the preparation of the design, specifications, Terms of Reference, cost analysis/estimation, and other documents to be used for this TOR process;
 - 5.2 Were involved in the preparation and/or design of the programme/project related to the services requested under this TOR; or

- 5.3 Are found to be in conflict for any other reason, as may be established by, or at the discretion of, UNCDF.

In the event of any uncertainty in the interpretation of what is potentially a conflict of interest, Applicants must disclose the condition to UNCDF and seek UNCDF's confirmation on whether or not such conflict exists.

6. Similarly, the Applicants must disclose in their application their knowledge of the following:
 - 6.1 That they are owners, part-owners, officers, directors, controlling shareholders, or they have key personnel who are family of UNCDF staff involved in the management of this TOR and/or the Government of the country or any Implementing Partner receiving services under this TOR; and
 - 6.2 All other circumstances that could potentially lead to actual or perceived conflict of interest, collusion or unfair competition practices.

Failure of such disclosure may result in the rejection of the Application or Applications affected by the non-disclosure.

B. SUBMISSION OF APPLICATION

7. Sections of Application

Applicants are required to complete, sign and submit all documents stated in the TOR, and any other information that the Applicant may deem relevant to establish eligibility and compliance to the TOR criteria.

8. Clarification of Application

- 8.1 Applicants may request clarifications of any of the TOR documents prior to the Application submission date. Any request for clarification must be sent in writing by email using the email addresses provided in the TOR publication. UNCDF will respond in writing, transmitted by electronic means and will post copies of the response (including an explanation of the query but without identifying the source of inquiry) for the information of all other prospective Applicants.
- 8.2 UNCDF shall endeavor to provide such responses to clarifications in an expeditious manner, but any delay in such response shall not cause an obligation on the part of UNCDF to extend the submission date of the Applications, unless UNCDF deems that such an extension is justified and necessary.

9. Amendment of Applications

- 9.1 At any time prior to the deadline of Application submission, UNCDF may for any reason, such as in response to a clarification requested by an Applicant. All prospective Applicants will be notified in writing of all changes/amendments and additional instructions through

the posting of the changes in the same site as the TOR.

- 9.2 In order to afford prospective Applicants reasonable time to consider the amendments in preparing their Applications, UNCDF may, at its discretion, extend the deadline for submission of Applications, if the nature of the amendment to the TOR justifies such an extension.

C. PREPARATION OF APPLICATIONS

10. Cost

The Applicant shall bear any and all costs related to the preparation and/or submission of the Application, regardless of whether its Application was selected or not. UNCDF shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.

11. Language

The Application, as well as any and all related correspondence exchanged by the Applicant and UNCDF, shall be written in the language (s) specified in the TOR. Any printed literature furnished by the Applicant written in a language other than the language indicated in the TOR must be accompanied by a translation in the preferred language indicated in the TOR. For purposes of interpretation of the Application, and in the event of discrepancy or inconsistency in meaning, the version translated into the preferred language shall govern. Upon conclusion of an Agreement, the language of the Agreement shall govern the relationship between the Applicant and UNCDF.

12. Technical Application Format and Content

The Applicant shall structure the Application in accordance with the instructions in the TOR.

In the event that the Applicant is participating in the TOR together with other Joint Venture or Consortium members, the document requirements applicable to the Applicant shall also be required from the other Joint Venture or Consortium members.

In complying with the TOR requirements to submit curriculum vitae (CVs) of key personnel that will be assigned to support the implementation of the Agreement with UNCDF, the Applicant assures and confirms to UNCDF that the personnel being nominated are available for the duration of the Agreement that will be concluded with UNCDF. If any of the key personnel later becomes unavailable, except for unavoidable reasons such as death or medical incapacity, among other possibilities, UNCDF reserves the right to consider the Application non-responsive. Any deliberate substitution arising from unavoidable reasons, including delay in the implementation of the project of programme through no fault of the Applicant shall be made only with UNCDF's acceptance of the justification for substitution, and UNCDF's approval of the qualification of the replacement who shall be either of equal or superior credentials as the one being replaced.

13. Financial Proposal

The Financial Proposal shall be prepared using the format prescribed in the TOR. It shall list all major cost components associated with the services, and the detailed breakdown of such costs. All milestones, outputs and activities described in the Application must be priced individually, preferably by activity. Any milestone, output and activities described in the Application but not priced in the Financial Application, shall be assumed to be included in the prices of other activities or items, as well as in the final total amount.

14. Currencies

All prices shall be quoted in the currency indicated in the TOR. However, where Applications are quoted in different currencies, for the purposes of comparison of all Applications:

- a) UNCDF will convert the currency quoted in the Application into the UNCDF preferred currency, in accordance with the prevailing UN operational rate of exchange (UNORE) on the last day of submission of Applications; and
- b) In the event that the Application found to be the most responsive to the TOR requirement is quoted in another currency different from the preferred currency as per TOR, then UNCDF shall reserve the right to award the Agreement in the currency of UNCDF's preference, using the conversion method specified above.

15. Documents Establishing the Eligibility and Qualifications of the Applicant

The Applicant shall furnish documentary evidence of its status as an eligible and qualified partner, using the documents requested by UNCDF as well as the forms and templates provided in the TOR. In order to award an Agreement to an Applicant, its qualifications must be documented to UNCDF's satisfaction.

As a minimum requirement, the Applicant should not be included in the UN 1267/1989 List or the UN Ineligibility List, nor in any and all of UNDP's list of suspended and removed vendors.

Applications submitted by two (2) or more Applicants shall all be rejected if they are found to have any of the following :

- a) they have at least one controlling partner, director, owner or shareholder in common; or
- b) any one of them receive or have received any direct or indirect subsidy from the other/s; or
- c) they have the same legal representative for purposes of this TOR; or
- d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about, or influence on the Application of, another Applicant regarding this TOR process;
- e) they are subcontractors to each other's Application, or a subcontractor to one Application also submits another Application under its name as lead Applicant; or
- f) an expert proposed to be in the team of one Applicant participates in more than one Application received for this TOR process. This condition does not apply to subcontractors being included in more than one Application.

16. Joint Venture, Consortium or Association

If the Applicant is a group of legal entities that will form or have formed a joint venture, consortium or association at the time of the submission of the Application, they shall confirm in their Application that:

- (i) they have designated one party to act as a lead entity, duly vested with authority to legally bind the members of the joint venture jointly and severally, and this shall be duly evidenced by a duly notarized Agreement among the legal entities, which shall be submitted along with the Application; and
- (ii) if they are awarded the Agreement, the Agreement shall be entered into, by and between UNCDF and the designated lead entity, who shall be acting for and on behalf of all the member entities comprising the joint venture.

After the Application has been submitted to UNCDF, the lead entity identified to represent the joint venture shall not be altered without the prior written consent of UNCDF. Furthermore, neither the lead entity nor the member entities of the joint venture can:

- a) Submit another Application, either in its own capacity; nor
- b) As a lead entity or a member entity for another joint venture submitting another Application.

The description of the organization of the joint venture/consortium/association must clearly define the expected role of each of the entity in the joint venture in delivering the requirements of the TOR, both in the Application and in the Joint Venture Agreement signed among themselves. All entities that comprise the joint venture shall be subject to the eligibility and qualification assessment by UNCDF. However, UNCDF reserves the right to require more documents from, and/or to conduct stricter assessments on, the lead entity in the Joint Venture.

Where a joint venture is presenting its track record and experience in a similar undertaking as those required in the TOR, it should present such information in the following manner:

- a) Those that were undertaken together by the joint venture; and
- b) Those that were undertaken by the individual entities of the joint venture expected to be involved in the performance of the services defined in the TOR.

Previous contracts completed by individual experts working privately but who are permanently or were temporarily associated with any of the member firms cannot be claimed as the experience of the joint venture or those of its members but should only be claimed by the individual experts themselves in their presentation of their individual credentials.

If a joint venture's Application is determined by UNCDF as a responsive Application that meets the TOR criteria, UNCDF shall award the Agreement to the joint venture, in the name of its designated lead entity. The lead entity shall sign the Agreement for and on behalf of all other member entities.

17. Alternative Applications

Unless otherwise specified in the TOR, alternative Applications shall not be considered. An alternative application refers to any other solution that the Applicant may wish to offer to UNCDF,

distinct from what was originally required in the TOR, but also aimed at solving the same development issue cited in the TOR. Where the conditions for its acceptance are met, or justifications are clearly established, UNCDF reserves the right to award an Agreement based on an alternative Application.

18. Validity Period

Applications shall remain valid for the period specified in the TOR, commencing on the submission deadline date also indicated in the TOR. An Application valid for a shorter period shall be immediately rejected by UNCDF and rendered non-responsive.

In exceptional circumstances, prior to the expiration of the Application validity period, UNCDF may request Applicants to extend the period of validity of their applications. The request and the responses shall be made in writing and shall be considered integral to the Application.

19. Meeting to Answer Applicant Questions

When appropriate, and when the TOR requires, UNCDF will organize and conduct a meeting with all prospective applicants at the date, time and location specified in the TOR. All prospective Applicants are encouraged to attend. Non-attendance, however, shall not result in disqualification of an interested Applicant. Minutes of the Applicant's conference will be either posted on the UNCDF website, or disseminated to the individual firms who have registered or expressed interest on the TOR, whether or not they attended the conference. No verbal statement made during the conference shall modify the terms and conditions of the TOR unless such statement is specifically written in the Minutes of the Meeting, or issued/posted as an amendment in the same site as the location of the TOR.

D. SUBMISSION AND OPENING OF APPLICATIONS

20. Submission

20.1 The Technical Proposal and the Budget Proposals must be submitted at the same time and in the same platform but they shall be submitted as **separate** files/documents. The Applicant shall assume the responsibility for the misplacement or premature opening of Applications due to improper submission or labeling of the files.

20.2 Applicants must submit their applications in the manner specified in the TOR. Applicants must ensure that sufficient lead time has been provided in order to comply with UNCDF's deadline for submission. The official date and time of receiving the Application is the actual date and time when the said Application has been completely uploaded in the site / platform provided for.

20.3 Applicants must be aware that the mere act of submission of an Application, in and of itself, implies that the Applicant accepts the terms and conditions of the Agreement expected to be signed, as provided along with the TOR documents.

21. Deadline for Submission of Applications and Late Applications

Applications must be received by UNCDF at the address/site cited in the TOR, and no later than the date and time specified in the TOR.

The site/platform used by UNCDF for receiving applications are not enabled to receive applications beyond the deadline for submission. In the event of any technical issues, or in case an Applicant submits using other sites/platforms, UNCDF shall not consider any Application that are submitted after the deadline for submission of Applications. Any Application received by UNCDF after the deadline for submission of Applications by any and all means shall be declared late and rejected.

22. Withdrawal, Substitution, and Modification of Applications

22.1 Applicants are expected to have sole responsibility for taking steps to carefully examine in detail the full consistency of its applications to the requirements of the TOR, keeping in mind that material deficiencies in providing information requested by UNCDF, or lack clarity in the description of services to be provided, may result in the rejection of the Application. The Applicant shall assume the responsibility regarding erroneous interpretations or conclusions made by the Applicant in the course of understanding the TOR out of the set of information furnished by UNCDF.

22.2 An Applicant may withdraw, substitute or modify its application after it has been submitted by sending a written notice, duly signed by an authorized representative. The corresponding substitution or modification of the Application must accompany the respective written notice. All notices must be received by UNCDF **prior to the deadline for submission** and submitted in accordance with TOR. The respective documents shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION".

22.3 No Application may be substituted or modified in the interval between the deadline for submission of Applications and the expiration of the period of Application validity specified by the Applicant on the Application Submission Form or any extension thereof.

23. Confidentiality

Information relating to the examination, evaluation, and comparison of Applications, and the signing of an Agreement, shall not be disclosed to Applicants or any other persons not officially concerned with such process, even after signing of the Agreement.

Any effort by an Applicant to influence UNCDF in the examination, evaluation and comparison of the Applications or Agreement signing decisions may, at UNCDF's decision, result in the rejection of its Application.

In the event that an Applicant is unsuccessful, the Applicant may seek a meeting with UNCDF for a debriefing. The purpose of the debriefing is discussing the strengths and weaknesses of the Applicant's submission, in order to assist the Applicant in improving the Applications presented to UNCDF. The content of other Applications and how they compare to the Applicant's submission shall not be discussed.

E. EVALUATION OF APPLICATIONS

24. Preliminary Examination of Applications

UNCDF shall examine the Applications to determine whether they are complete with respect to minimum documentary and eligibility requirements, whether the documents have been properly signed, whether or not the Applicant is in the UN Security Council 1267/1989 Committee's list of terrorists and terrorist financiers, and in UNCDF's list of suspended and removed vendors, and whether the Applications are generally in order, among other indicators that may be used at this stage. UNCDF may reject any Application at this stage.

25. Evaluation of Applications

25.1 The evaluation team appointed for the TOR shall review and evaluate the Technical Applications on the basis of their responsiveness to the TOR requirement and other documentation provided, applying the evaluation criteria, sub-criteria, and point system specified in the TOR. Each responsive Application will be given a technical score against each of the criteria cited in the TOR. An Application shall be rendered non-responsive at this stage if it does not substantially respond to the TOR which also means that it fails to achieve the minimum technical score required in order to be shortlisted. Absolutely no changes may be made by UNCDF in the criteria, sub-criteria and point system indicated in the TOR after all Applications have been received.

25.2 In the second stage, only the Budget Proposals of those Applicants who have been shortlisted will be opened for evaluation for review.

25.3 UNCDF reserves the right to undertake any and all assessment exercise that it deems necessary, aimed at determining, to its satisfaction the validity of the information provided by the Applicant. Such may include, but need not be limited to, all or any combination of the following :

- a) Verification of accuracy, correctness and authenticity of information provided by the Applicant on the legal, technical and financial documents submitted;
- b) Validation of extent of compliance to the TOR requirements and evaluation criteria based on what has so far been found by the evaluation team;
- c) Inquiry and reference checking with Government entities with jurisdiction on the Applicant, or any other entity that may have done business with the Applicant;
- d) Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed;
- e) Physical inspection of the Applicant's offices, branches or other places where business transpires, with or without notice to the Applicant;
- f) Quality assessment of ongoing and completed outputs, works and activities similar to the requirements of UNCDF, where available; and
- g) Other means that UNCDF may deem appropriate, at any stage within the selection process, prior to signing the Agreement.

26. Clarification of Applications

To assist in the examination, evaluation and comparison of Applications, UNCDF may, at its discretion, ask any Applicant for a clarification on any part or contents of its Application.

UNCDF's request for clarification and the response shall be in writing. Notwithstanding the written communication, no change in the prices or substance of the Application shall be sought, offered, or permitted, except to provide clarification, and confirm the correction of any arithmetic errors discovered by UNCDF in the evaluation of the Applications.

Any unsolicited clarification submitted by an Applicant in respect to its Application, which is not a response to a request by UNCDF, shall not be considered during the review and evaluation of the Applications.

27. Responsiveness of Application

UNCDF's determination of an application's responsiveness will be based on the contents of the Application itself.

A substantially responsive Application is one that conforms to all the terms, conditions, TOR and other requirements of the TOR without material deviation, reservation, or omission.

If a Application is not substantially responsive, it shall be rejected by UNCDF and may not subsequently be made responsive by the Applicant by correction of the material deviation, reservation, or omission.

28. Nonconformities, Repairable Errors and Omissions

Provided that an Application is substantially responsive, UNCDF may waive any non-conformities or omissions in the Application that, in the opinion of UNCDF, do not constitute a material deviation.

Provided that an Application is substantially responsive, UNCDF may request the Applicant to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Application related to documentation requirements. Failure of the Applicant to comply with the request may result in the rejection of its Application.

Provided that the Application is substantially responsive, UNCDF shall correct any arithmetical errors in the Application, including, but not limited to, incorrect addition or subtraction of totals and subtotals, among others. The Applicant shall accept the correction made by UNCDF.

F. AWARD OF AGREEMENT

29. Right to Accept, Reject, or Render Non-Responsive Any or All Applications

UNCDF reserves the right to accept or reject any Application, to render any or all of the Applications as non-responsive, and to reject all Applications at any time prior to award of contract, without incurring any liability, or obligation to inform the affected Applicant(s) of the grounds for UNCDF's action. Furthermore, UNCDF shall not be obliged to award an Agreement to any of the shortlisted Applicants.

UNCDF shall also verify, and immediately reject their respective Application, if the Applicants are found to appear in the [UN's Consolidated List of Individuals and Entities with Association to Terrorist Organizations](#), in the List of Vendors Suspended or Removed from the UN Secretariat Procurement Division Vendor Roster, the UN Ineligibility List, and other such lists that as may be established or recognized by UNDP policy on Vendor Sanctions.

Applicants that fall under any of the below circumstances shall **not** be considered as eligible under this TOR:

- a) Those that have been the subject of bankruptcy, liquidation, judicial settlement, safeguarding, cessation of activity or any other similar situation resulting from a similar procedure;
- b) Those who are, or any of their staff or member of their board of directors, included in the United Nations' Consolidated List of Individuals and Entities with Association to Terrorist Organizations, in the List of Vendors Suspended or Removed from the UN Secretariat Procurement Division Vendor Roster, the UN Ineligibility List, and other such lists that as may be established or recognized by UNCDF policy on Vendor Sanctions;
- c) Those that are involved in any of the following activities:
 - Manufacture, sale or distribution of controversial weapons or their components, including cluster bombs, anti-personnel mines, biological or chemical weapons or nuclear weapons
 - Manufacture, sale or distribution of armaments and/or weapons or their components, including military supplies and equipment
 - Replica weapons marketed to children
 - Manufacture, sale or distribution of tobacco or tobacco products
 - Involvement in the manufacture, sale and distribution of pornography
 - Manufacture, sale or distribution of substances subject to international bans or phase-outs, and wildlife or products regulated under the CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. <http://www.cites.org>
 - Gambling including casinos, betting etc. (excluding lotteries with charitable objectives)
 - Violation of human rights or complicity in human rights violations
 - Use or toleration of forced or compulsory labor
 - Use or toleration of child labor
- d) Others as UNCDF may find reasonable and justified

UNCDF will conduct due diligence on selected applicants to determine if any of the

above is applicable.

30. Right to Vary Requirements

At the time of award of an Agreement, UNCDF reserves the right to vary or amend the scope work to be done under the Agreement.

31. Signing the Agreement

Within fifteen (15) days from the date of receipt of the Agreement, the successful Applicant shall sign and date the Agreement and return it to UNCDF.

Failure of the successful Applicant to comply with the requirement of TOR and this provision shall constitute sufficient grounds for the annulment of the award, and on which event, UNCDF may award the Agreement to other Applicants, or call for new Applications.