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Department of Social Welfare and Development
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MEMORANDUM CIRCULAR

No. 20
Series of 2004

SUBJECT: Guidelines in the Preparation of Terms of Reference for Consultancy Services

RATIONALE

The Terms of Reference (TOR) is the key document in the preparation of bidding documents for the hiring of consultants. It explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities between/among the end-user/proponent office and the consultant, and the expected results and deliverables of the assignment. Adequate and clear TOR is important for the understanding of the assignment and its correct execution. They help reduce the risk of unnecessary extra work, delays, and additional expenses for the Department. In addition, they help reduce the risk of ambiguities during the preparation of consultant proposals, contract negotiation, and execution of services. The level of detail and quality of information contained in the TOR will help determine the selection method to be adopted in procurement.

However, it has been observed that there are TORs submitted to the Procurement and Supply Units, Administrative Service, for preparation of bidding documents which do not provide enough information to guide the Bids and Awards Committee (BAC) in reviewing consultant's proposals and in negotiating the contract. The BAC Secretariat is also faced with so many inquiries from interested applicants due to incomplete information in the TOR. Thus, to assist the different offices in TOR preparation, the following guidelines and format are prescribed.

LEGAL BASIS

1. **Republic Act No. 9184 – the New Procurement Reforms Act.** – prescribes the necessary rules and regulations for the modernization, standardization, and regulation of the procurement activities of the government.
2. **World Bank Manual on Consultancy Services** – provides guidelines in the hiring and contracting of consultants including preparation of Terms of Reference for WB assisted projects.

3. **Guidelines on Selection and Employment of Consultants by World Bank and Borrower** – defines the procedures for selecting, contracting, and monitoring consultants required for projects chargeable against loan and/or donations from World Bank, whether fully or partially funded by the Bank.
4. **Guidelines on the Use of Consultants by the Asian Development Bank and its Borrower** – provides guidelines governing selection, engagement and supervision of consultants for ADB financed project, whether fully or partially funded by the Bank.

COVERAGE

The guidelines shall be adopted for consultancy services provided by individuals or by firms, and whether for locally-funded and/or foreign-assisted programs and projects.

PARTS OF THE TOR¹

The TOR shall normally consists of the following:

- a. Background of the project;
- b. Objectives of hiring a consultant/consultants;
- c. Scope of work;
- d. Transfer of Technology/knowledge (if necessary);
- e. List of reports or specific deliverables by the Consultant/s;
- f. Timelines or period of performance, particularly schedule of submission of reports or completion of deliverables;
- g. Data, local services, personnel, and facilities to be provided by the end-user or proponent office;
- h. Institutional arrangements;
- i. Qualifications of the consultants required whether individual or firm. For firms, the qualification of the project team leader and staff must be specified (in a separate sheet as Annex A); and
- j. Approved budget ceiling, the terms of payment and the source of funds (in a separate sheet as Annex B).

SECTIONAL PARTS OF THE TOR²

1. **Background Information.** The TOR should contain sufficient background information on the project to enable consultant/s to present responsive proposals. The background of the project should summarize the main features of the project and describe the assignment's objectives and general purpose.

¹ The contents of the TOR is patterned after the World Bank Manual on Consultancy Services

² Ibid



In particular, it may include the following:

- a. Name of the Proponent Office;
 - b. Project location;
 - c. Rationale of the project;
 - d. Project history (what has been done so far and by whom);
 - e. List of relevant studies and basic data;
 - f. Need for consultants in the project and issues to be resolved; and
 - g. Brief description of the activities to be carried out by the consultants.
2. **Objectives.** The TOR should specifically describe the objectives and expected results/outputs of the consultant. The objectives of hiring a consultant may include the preparation of development programs, determination of project feasibility, among others.
3. **Scope of Work.** The scope of work shall detail all main activities or tasks to be conducted by the consultants as well as the expected results. The TOR should describe only the activities, not the approach or methodology by which the results are to be achieved, since these are the task of the proponents. Nevertheless, the TOR may provide suggestions on the approach or the methodology that consultants could or should use to execute the assignment and, under certain selection methods, can indicate the estimated staff months required.

On consultancy assignment which may require phased implementation, the TOR should be more detailed for the first phase than the subsequent phases. The TOR details for the subsequent phases may be refined on the basis of the outcomes of earlier phases.

In a TOR, the scope of work of the assignment is usually defined by addressing the following issues:

- a. definition, scope, limits, and criteria of acceptance of the consultant;
- b. desired level of detail (level of design, accuracy, composition of cost estimates, and so forth);
- c. span of projections (time horizon, life span of project components);
- d. necessary comparison of the assignment with similar projects;
- e. main issues to be addressed;
- f. alternatives to be considered;
- g. necessary surveys, special analyses, and models;
- h. special equipment requirements;
- i. institutional and legal framework of the project;



- j. transfer of knowledge, objectives, and scope
- k. language requirements;
- l. units of measurement to be used;
- m. need for continuity, such as data gathering; and
- n. quality management requirements (if needed).

The scope of work in particular should be consistent with the available budget. The TOR should take into account the organization of the proponent office or the project management and its level of technical expertise and institutional strength.

4. **Transfer of Technology.** If transfer of knowledge and training are required as part of the assignment, the end-user or proponent office shall decide whether to include a training program in the TOR.

If a training program is included, additional time and budget may be allocated. The TOR may indicate the format, frequency, and content of reports as well as the number of copies, the language, and the names of the prospective recipients of the reports. For all major reports, an executive summary may be requested from the consultant/s.

5. **Timelines or Schedule of Deliveries.** The TOR should indicate the estimated duration of the assignment, from the date of commencement to the date the end-user or proponent office receives and accepts the consultant's final report on a specified completion date. Other dates may be considered—for example, the date of effectiveness of the contract.

6. **Required Report.** The TOR should clearly define the output and deliverables required from the consultant, such as reports, maps, drawings, software, etc. The TOR may indicate the format, frequency, type (audio, VCD, CD, etc.) and content of reports as well as the number of copies, the language, and the names of the prospective recipients of the reports. For all major reports, an executive summary may be requested from the consultant/s. All reports/output in whatever form shall be the property of DSWD.

7. **Institutional Requirements.** The TOR shall clearly specify to whom the consultant will report to (the institutional arrangements for the supervision of consulting work). Additionally, the TOR shall include the facilities and counterpart staff to be provided or designated by the end-user or proponent Office.

The TOR should define the institutional setup surrounding the assignment; indicate the roles and responsibilities of everybody involved; and specify the type, timeframe, and relevance of everyone's participation, including the Proponent Office. The TOR should define the hierarchy and level of authority of counterpart personnel as well as the requested level of experience of the proponent office's personnel who will form part of the consultants' team.



8. **Qualifications of Consultants.** For individual consultants, they are normally employed on assignment when teams of personnel are not required; no additional outside professional support is required; and the experience and qualifications of the individual are the paramount requirement. Individual Consultants are selected based on their expertise and their qualifications, such as:

- a. Academic background
- b. Expertise
- c. Experience
- d. Capability to transfer knowledge or technology
- e. Personality traits
- f. Other specific requirements as may be indicated by the Proponent Office such as books written, manuscript published, among others

For consulting firms, the expertise and experiences of the Firm related to the assignment, as well as the qualifications and competencies of the key staff for the assignment must be indicated in the TOR.

9. **Remuneration and Terms of Payment** The payment of remuneration of Consultants may be time-based or lump-sum.

- a. **Time Based** is used when hiring a consultant for complex assignments for which remuneration is being determined on the basis of the time actually spent by the consultant in carrying out the services. Payment may be made monthly or for specified period of time.
- b. **Lump-sum Remuneration** is used when hiring a consultant to provide services for an agreed predetermined lump-sum price based on specific deliverables. The schedule of payments is linked to the delivery of certain outputs.

GUIDELINES

1. The TOR shall be prepared by end-users or the office requesting the services of the Consultant.
2. All TORs shall be reviewed and recommended for approval by the Finance Service for Central Office or Budget Unit for Field Offices for budgetary purposes.
3. The TOR shall be approved by the Head of the Cluster for Central Office or Regional Director for Field Offices, prior to the endorsement to Procurement Supply Division for Central Office (PSD-CO) or Procurement Unit for Field Offices (MD-FOs).

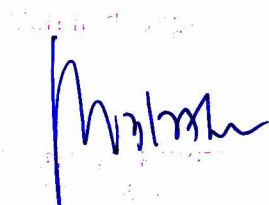


4. The mode of procurement, procedures and timelines on the hiring of consultant shall be based on the nature of engagement, type of consultancy, cost of engagement or threshold, the sources of funds and other existing guidelines of the Department. The consultancy services which are chargeable against General Appropriations Act, Fund 101, or GOP shall follow the guidelines or Implementing Rules and Regulations of R.A. 9184. The Consultancy Services chargeable against International Funding Institutions (IFIs) shall follow the respective guidelines of the Foreign Donor/Lending Institutions and/or Loan Agreement.
5. The PSD-CO or MD-FOs shall review and/or prepare the request for proposal (RFP) or bidding documents, if needed. The Proponent Office shall give enough time for the procurement/bidding process using the following the timeline as provided in the respective guidelines of the funding agency.
6. The BAC Secretariat shall post/advertise the hiring of the consultant/s based on the qualifications as indicated in the TOR.
7. The TOR shall be the basis in the review of the consultant's proposal and in the negotiation of contracts.
8. After the negotiation/discussion with the consultant, the agreed TOR including revisions and/or amendments to which it was mutually agreed upon by the contracting parties shall form part of the Contract.
9. The TOR may be revised after the awarding of the contract as agreed upon by both parties, i.e. the Consultant and the BAC with the Proponent Office.
10. The proponent office shall be the contract administrators and thus be responsible in the supervision of the work of the consultant based on the TOR. In case of failure of the consultant to perform his/her deliverables, the proponent office, in coordination with the Legal Service/Administrative Service/BAC Secretariat for Central Office and the Regional Directors for Field Offices shall be responsible in pursuing the appropriate sanctions on the Consultant.

This **Memorandum Circular** shall be effective immediately.

Done on the 31st day of **May 2004**, Quezon City.


CORAZON JULIANO SOLIMAN
Secretary
by 



QUALIFICATIONS OF CONSULTANT

I. Types of Consultancy : Individual Firm

II. Qualifications for Individual Consultants

- a. Academic background - indicate the area of discipline; if master's degree or PHD is required
- b. Experience/Expertise - indicate the area or field of expertise, the number of years of experience related to the project
- c. Capability to transfer knowledge or technology
- d. Personality traits – refers to work attitudes, professionalism, ability to work with people, respect for other cultures, willingness to work in the field, work values of initiatives, resourcefulness, and flexibility
- e. Other specific requirements as may be indicated by the Proponent Office such as books written, manuscript published, among others

III. Qualifications for consulting firm

1. Experience related to the assignment

- a. Experience in Similar Projects
- b. Similar Geographical Areas

2. Adequacy of the proposed work plan and methodology

- a. Understanding of Objectives
- b. Quality of Methodology (adoptability and appropriateness of methodology)
- c. Innovativeness/Comments on Terms of Reference
- d. Work Program
- e. Personnel Schedule
- f. Counterpart personnel and Facilities
- g. Proposal Presentation

3. Qualifications and competence of the key staff for the assignment

- a. General experience such as academic qualifications and number of years of working related experience
- b. Project related experience based on the number of relevant projects implemented
- c. Experience in working with international consulting firm or international organization/agency, whenever applicable

4. Suitability of the transfer of knowledge

Remuneration and Terms of Payment

I. Types of Remuneration

Time-Based

Lump Sum Remuneration

II. Source of Funds _____

III. Rate and Contract Cost is _____

A. The total contract cost is _____
 _____.

B. For time-based consultant

The rate is _____ per month payable every
 _____ of the month subject to the satisfactory
 completion of deliverables.

C. For Lump-sum based consultant

The cost of contract shall be paid in the following manner:

Deliverables	%	Amount
1.		
2.		
3.		

IV. Per Diem and Out of Pocket Cost (For consultancy chargeable against GOP, please see Executive Order No. 248, series of 1995. For consultancy chargeable against International Funding Institution, please see Memorandum Circular No. 17, series of 2003 on payment of per diem for Consultants under Foreign Assisted Projects.)

V. The remuneration or contract cost shall include applicable taxes.