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

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Supporting the drafting and legislation of new tax laws and regulations for the Republic of Iraq	Project number/ cost centre: 21.2023.6-002.00

0. List of abbreviations

ToRs	Terms of reference
EU	European Union
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
FFM	Public Finance Management and Financial Markets (FFM)
MoF	Iraqi Ministry of Finance
GCT	Iraqi Commission of Tax
GCC	Iraqi Commission of Custom

1. Context

FFM Project operates in a highly fragile context that requires special attention to the framework conditions and interactions of the project with it. In order to ensure the effectiveness of development cooperation and the sustainability of the intervention, there is a need for a thorough analysis and observation of the dynamics, on the basis of which strategic and operational decisions are to be made. This also requires continuous review and adjustments of approaches, internal strategy, and project activities.

Almost two decades after the 2003 war, Iraq remains caught in a fragility trap, facing increasing political instability, growing social unrest, poor economic management, a lack of reforms, and weak institutional capacity. The economy is characterized by a large, dominant public sector and a much smaller, politically connected private sector. Iraq's economy remains highly centralized and heavily dependent on state-owned enterprises (SOEs), which have a complicated and largely opaque impact on the government's finances.

One of the challenges facing the country towards post conflict reconstruction and development is capacity gaps at institutional and human resources levels. It is a fact that government has a responsibility towards the citizenry as well as the citizenry also has responsibility towards government by paying their taxes. However, it important that governments in post conflict countries such as Iraq invest enough tax resources in the citizens to enable them attained their potential to lead the post conflict reconstruction agenda. In the context of post conflict reconstruction, the objective of capacity development is to enable the governments to mobilise available resources for economic development and poverty reduction.

Capacity has been defined in many ways to suit the emerging needs of a particular environment. However, OECD/DAC (2006) defines capacity as "the ability of individuals, organisations and societies to make effective and efficient use of resources, in order to achieve their own goals on a sustainable basis''. The Dakar Framework for Action (UNESCO, 2000b) and the Paris Declaration on Aid Effectiveness ("Paris Declaration for Aid Effectiveness,'' 2005) also emphasised the significant of capacity development at all levels of government, in the case of Iraq, national, regional, and local government levels, and the civil society. In the country such as Iraq, capacity development interventions over the past decades constitutes large portion of donor Aid brought into the country. Notwithstanding, the institutional and human resource capacities of the country is still despondently weak and rather deteriorating faster. That brings us to this question, are we providing the right capacity or just capacity? The ("Paris Declaration on Aid Effectiveness,"2005) called for change in approach to capacity development in post conflict countries from mere technical assistance.

It is now recognised that capacity development should not just focus on individuals but should also consider the capacity of the institutions in which individuals work. Again OECD-DAC acknowledge the new approach to capacity development in their publication: "Capacity development involves much more than enhancing the knowledge and skills of individuals. It depends crucially on the quality of the organisation in which they work. In turn, the operations of organisation are influenced by the enabling environment – the structures of power and influence and the institutions – in which they are embedded." (OECD, 2006 p. 7).

Situation Analysis The main revenue source of the government of Iraq is from oil and little attention is paid to investment in developing non-oil revenue sector. The country is one the most oil-dependent countries in the world. Over the years, revenues from oil sector accounted for about 99% of exports, 85% of the government's budget, and 42% of gross domestic product (GDP). This excessive dependence on oil revenue exposes the country to macroeconomic volatility, while budget rigidities restrict fiscal space and any opportunity for countercyclical policy. While Iraq's economic conditions are gradually improving as international oil markets recover, this recovery is fraught by major risks posed by structural bottlenecks. The country's non-oil revenue system is still very weak with staff largely untrained, couples with excessive tax avoidance and low tax compliance. The situation is being exacerbated by fragile political conditions and rampant corruption that continue to trigger unrest across the country.

The Government need to shift its focus on tax reform; building a transparent modern E-Customs system with adequate infrastructure and well-trained customs officer, this would enhance non-oil tax receipt and, enable the government to support development financing, especially in the areas of education, health and economic infrastructures. The country's non-oil revenue is minimal compared to even recurrent expenditures.

2. General objective of the assignment

The tax revenue generation system in Iraq is based on three distinct laws namely, Income Tax Act, Real Estate Act and Land Act that were reviewed since 1982 and there are no effective regulations to operationalise these various laws. The positions of the currents tax laws have outlifted their relevant in the present complex global and international business transactions. Thus, making interpretation and application of the laws to effectively collect tax very difficult and increasing tax revenue erosion.

In this regard, there is a need to consolidate the three Laws and develop appropriate regulations to operationalize the Laws. This will include developing new tax law and regulations, training, and capacity development of the legal department of the General of Commission of Tax and staff of the commission on the new law and its application in the current country context. In addition, selected staff of the Ministry of Finance will be trained on tax policy formulation and development of effective regulations and help operationalize the tax law.

GIZ shall hire the contractor for the anticipated contract term, from 01/08/2023 to 30/09/2024. The assignment place is Baghdad, Iraq.

3. Tasks to be performed by the contractor:

Work Package (WP) 1: Providing National and Regional Lawyer to support the drafting of new tax law for the Republic of Iraq**.**

Expert 1 – Regional Lawyer

The regional lawyer must have regional experience, preferably in Egyptian law regardless of the nationality of the expert.

Number of experts: 1

Tasks:

The contractor should be a regional consultant, with proven experience in the field of development of tax laws and regulations and providing training and training interpretation and application of tax regulations.

- Propose the drafting of new integrated Tax law to repeal the existing tax laws.
- Identify Jurisdictional challenges between the national and state government and proposed harmonized framework in the new law.
- Daily support of the Ministry of Finance (Federal Iraq) to draft effective regulations to operationalize the tax law. (In-person/physical attendance However, the timesheet will not be required)
- Facilitate stakeholders' workshop on draft integrated new tax law.
- Support the Ministry of Finance in developing relevant regulations.
- Discussion with the component leader on priority aspects and products to be elaborated.

Expert 2 - National Iraqi Lawyer

Number of Experts: 1

Tasks

- Review the existing tax laws and regulations and make recommendations to the Commissioner General of the General Commission of Taxes-Iraq
- Propose the drafting of new integrated Tax law to repeal the existing tax laws.
- Identify jurisdictional challenges between the national and state government and proposed harmonized framework in the new law.
- Daily support of the Ministry of Finance (Federal Iraq) to draft effective regulations to operationalize the tax law. (In-person/physical attendance However, the timesheet will not be required)
- Facilitate stakeholders' workshop on draft integrated new tax law.
- Visit at least three states for consultation on how to incorporate state taxes in the new law.
- Review all other relevant materials relating to non-oil revenue generation in the country and provide advice to the commissioner general.
- Support the Ministry of Finance in developing relevant regulations.
- Discussion with the component leader on priority aspects and products to be elaborated.

Work Package (WP) 2: Services and Deliverables

The vendor expected to conduct the following activities to achieve the below results within the timeline as per the following table:

Services	**Deliverables**	**To be rendered/ supplied by**	**Percentage of deliverables**
Organise Inception meetings with relevant stakeholders	Debriefing and submit Inception report	01/08/2023-15/09/2023	**15%**
Review the existing tax laws and regulations and, other relevant materials relating tax administration in Iraq and make recommendations to the Commissioner General of General Commission of Taxes-Iraq			
Visit at least three states for consultation on how to incorporate states taxes in the new law	Submit Field Report	16/10/2023-15/12/2023	20%
Facilitate Stakeholders work to launch the tax law reform	Stakeholders workshop completed		
Presentation of first consolidate tax Bill for	Draft law submitted with inputs from various	16/12/2023-31/05/2024	35%

stakeholders' discussion	stakeholders incorporated		
Organising Stakeholders' workshop to present the first draft new tax bill and accept inputs			
Identify jurisdictional challenges between the national and state government and proposed harmonized framework in the new law			
Final review of the law and apply any further amended requested by the parliament to approve the law	Submission of final draft tax Bill to the government	01/06/2024-30/06/2024	10%
Support the Ministry of Finance and GCT to draft effective regulations to operationalize the tax law	Draft regulation submitted for discussion	01/07/2024-30/09/2024	20%
Final draft regulations reviewed	Final regulations submitted		

The quality of each deliverable must be reviewed and approved by GIZ prior to submission to the counterpart.

Period of assignment: from August 1, 2023 until September 30, 2024

4. Concept

The bidder is required to show how the objectives defined in Chapter 2 are to be achieved, under consideration of further specific method-related requirements (technical-methodological concept) and (proposed staff), that should be explained through max 5 pages concept document.

1. Technical-methodological concept

1.1 Strategy:
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 **Error! Reference source not found.** Context) (1.1.1).

1.1.1 Interpretation of the objectives in the ToR <u>(Weighting 5%)</u>:
The bidder's understanding of what the ToR required from them.

1.2 Cooperation:
The bidder is required to present the actors relevant to the services for which it is responsible and describe the cooperation with them.

1.2.1 Presentation and interaction between the relevant actors in the contractor's area of responsibility <u>(Weighting 5%)</u>:
The applied bidders must explain how they will facilitate their services with MoF, GCT, GCC, the Iraqi parliament, and other entities.

1.2.2 Strategy for establishing cooperation and then cooperating with the relevant actors <u>(Weighting 5%)</u>:
The applied bidders must explain the communication strategy to ensure smooth operations and ensure quality and timely delivery of service in coordination with GIZ and MoF, GCT, GCC , Iraqi parliament.

1.4 Processes:
The bidder is required to describe the key processes for the services for which it is responsible and create a schedule that describes how the services according to Chapter 3 are to be provided. In particular, the bidder is required to describe the necessary work steps.

1.4.1 Presentation and explanation of the implementation plan: work steps, milestones, schedule <u>(Weighting 10%)</u>:
The applied bidders must explain their implementation process including the required activities described in Chapter 2 WP2.

2. Assessment of proposed staff

The bidder is required to provide personnel who are suited to filling the positions described, based on their CVs (see Chapter 6), the range of tasks involved, and the required qualifications.

2.2 Expert 1 (Qualification of Expert 1)

The below-specified qualifications represent the requirements to reach the maximum number of points.

2.2.1 Qualifications (weighting 8%):
The bid must hold one of the following degrees:
Bch, LLB/LLM Degree or MBA, MSc in Taxation or any relevant areas or related field and should be a member of Bar Association Identification Card (Valid ID).

2.2.2 Language skills (weighting 3%):
Proficient command of Arabic is required; Basic knowledge of Kurdish and English would be an asset.

2.2.3 General Professional Experience (weighting 10%):
10 years of professional experience in the in-Law Profession and working as a legal advisor.

2.2.4 Specific professional experience (weighting 10%):
Proven successful experience in tax regulations and tax law. Good knowledge of Egyptian tax law is added experience in the field of development of tax laws and regulations and providing training and training interpretation and application of tax advantage.

2.2.6 Regional experience (weighting 8%):
The contractor should prove his/her regional experience with Soft skills for all team members. In addition to their specialist qualifications, Experience with Egyptian tax law is added advantage. the following qualifications are required of team members:

- Team skills
- Initiative
- Communication skills
- Socio-cultural skills
- Efficient, partner-focused, and client-focused working methods
- Interdisciplinary thinking

2.3 Expert 2 (Qualification of Expert 1)

2.3.1 Qualifications (weighting 7%): The bid must hold one of the following degrees:
Bch, LLB/LLM Degree or MBA, MSc in Taxation or any relevant areas or related field and should be a member of Bar Association Identification Card (Valid ID).

2.3.2 Language skills (weighting 2%): Proficient command of Arabic is required; Basic knowledge of Kurdish and English would be an asset.

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2.3.3 General Professional Experience (weighting 10%): Minimum 5 years of professional experience in the in-Law Profession and working as a legal advisor on Tax law.

2.3.4 Specific professional experience (weighting 10%): Proven successful experience in tax regulations and tax law. Experience in working with GCT (Iraqi Commission of Tax) will be added advantage.

2.3.6 Regional experience (weighting 7%): Experience with Egyptian tax law is added advantage. Evidence of advice on the implementation of tax policy and legal reform in Asia.

5. Specification of Inputs (Annex 1.1)

Please Refer to Annex 1.1 and offer the proposal for Travel and other Expenses.

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 organized 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 15 pages (excluding CVs and technical proposals). 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 **Error! Reference source not found.** 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 (language).

As the contract to be concluded is a contract for works, please offer a fixed lump sum price that covers all relevant costs (fees, travel expenses etc.). The price bid will be evaluated on the basis of the specified lump sum price. In addition, please also provide the underlying daily rate.