



Montenegro

Request for Proposal (RFP 028/07)

Date: 26.11.2007.

Subject: Integrity and Capacity Assessments of the Justice Sector in Montenegro

Dear Sir/Madam,

UNDP invites locally registered companies to submit a proposal for the realization of **Integrity and Capacity Assessments of the Justice Sector in Montenegro**, as per enclosed Terms of Reference (TOR).

2. To enable you to submit a proposal, enclosed are:
 - i. Instructions to Offerors (Annex I)
 - ii. General Conditions of Contract.....(Annex II)
 - iii. Terms of Reference (TOR).....(Annex III)
 - iv. Proposal Submission Form(Annex IV)
 - v. Price Schedule(Annex V)
3. Your offer comprising of technical proposal and financial proposal, in separate sealed envelopes, should reach the following address no later than **23th November 2007 at 16:00 hours CET**:

UNDP Country Office Montenegro
Beogradska 24b,
81000 Podgorica, Montenegro
Montenegro
Ref.No
"NOT TO BE OPENED BY REGISTRY"

Fax: +382 81 231 644
E-mail: procurement.me@undp.org
boris.ristovic@undp.org

4. If you request additional information, we would endeavour to provide information expeditiously, but any delay in providing such information will not be considered a reason for extending the submission date of your proposal.
5. You are requested to acknowledge receipt of this letter and to indicate whether or not you intend to submit a proposal.

Yours sincerely,

Garret Tankosic - Kelly,
UNDP Resident Representative a.i./
UN Interagency Focal Point in Montenegro

Annex I

Instructions to Offerors

A. Introduction

The purpose of this tender is realization of Integrity and Capacity Assessments of the Justice Sector in Montenegro.

2. Cost of proposal

The Offeror shall bear all costs associated with the preparation and submission of the Proposal, the UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

B. Solicitation Documents

3. Contents of solicitation documents

Proposals must offer services for the total requirement. Proposals offering only part of the requirement will be rejected. The Offeror is expected to examine all corresponding instructions, forms, terms and specifications contained in the Solicitation Documents. Failure to comply with these documents will be at the Offeror's risk and may affect the evaluation of the Proposal.

4. Clarification of solicitation documents

A prospective Offeror requiring any clarification of the Solicitation Documents may notify the procuring UNDP entity in writing at the organisation's e-mail address or fax number indicated in the RFP. The procuring UNDP entity will respond **in writing by posting on the UNDP web site** www.undp.org.yu/montenegro/files/tenders to any request for clarification of the Solicitation Documents that it receives earlier than **four days** prior to the deadline for the submission of Proposals.

5. Amendments of solicitation documents

At any time prior to the deadline for submission of Proposals, the procuring UNDP entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Offeror, modify the Solicitation Documents by amendment and post it on the above mentioned UNDP web site. All prospective Offerors are encouraged to visit the UNDP web site regularly.

In order to afford prospective Offerors reasonable time in which to take the amendments into account in preparing their offers, the procuring UNDP entity may, at its discretion, extend the deadline for the submission of Proposals.

C. Preparation of Proposals

6. Language of the proposal

The Proposals prepared by the Offeror and all correspondence and documents relating to the Proposal exchanged by the Offeror and the procuring UNDP entity shall be written in the English language. Any printed literature furnished by the Offeror may be written in another language so long as accompanied by an English translation of its pertinent passages in which case, for purposes of interpretation of the Proposal, the English translation shall govern.

7. Documents comprising the proposal

The Proposal shall comprise the following components:

- (a) Proposal submission form;
- (b) Operational and technical part of the Proposal, including documentation to demonstrate that the Offeror meets all requirements;
- (c) Price schedule, completed in accordance with clauses 8 and 9;

8. Proposal form

The Offeror shall structure the operational and technical part of its Proposal as follows:

- (a) Management plan

This section should provide corporate orientation to include the year and state/country of incorporation and a brief description of the Offeror's present activities. It should focus on services related to the Proposal.

This section should also describe the organisational unit(s) that will become responsible for the contract, and the general management approach towards a project of this kind. The Offeror should comment on its experience in similar projects and identify the person(s) representing the Offeror in any future dealing with the procuring UNDP entity.

- (b) Resource plan

This should fully explain the Offeror's resources in terms of personnel (with CVs included) and facilities necessary for the performance of this requirement. It should describe the Offeror's current capabilities/facilities and any plans for their expansion.

- (c) Proposed methodology

This section should demonstrate the Offeror's responsiveness to the specification by identifying the specific components proposed, addressing the requirements, as specified, point by point; providing a detailed description of the essential performance characteristics proposed warranty; and demonstrating how the proposed methodology meets or exceeds the specifications.

The operational and technical part of the Proposal should not contain any pricing information whatsoever on the services offered. Pricing information shall be separated and only contained in the appropriate Price Schedules.

It is mandatory that the Offeror's Proposal numbering system corresponds with the numbering system used in the body of this RFP. All references to descriptive material and brochures should be included in the appropriate response paragraph, though material/documents themselves may be provided as annexes to the Proposal/response.

Information which the Offeror considers proprietary, if any, should be clearly marked "proprietary" next to the relevant part of the text and it will then be treated as such accordingly.

9. Proposal prices

The Offeror shall indicate on an appropriate Price Schedule, an example of which is contained in these Solicitation Documents, the prices of services and goods it proposes to supply under the contract.

10. Proposal currencies

All prices shall be quoted in Euros for domestic or in US dollars for international companies.

11. Period of validity of proposals

Proposals shall remain valid for sixty (60) days after the date of Proposal submission prescribed by the procuring UNDP entity, pursuant to the deadline clause. A Proposal valid for a shorter period may be rejected by the procuring UNDP entity on the grounds that it is non-responsive.

In exceptional circumstances, the procuring UNDP entity may solicit the Offeror's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. An Offeror granting the request will not be required nor permitted to modify its Proposal.

12. Format and signing of proposals

The Offeror shall prepare three copies of the Proposal, clearly marking one "Original Proposal" and (two) "Copy of Proposal" as appropriate. In the event of any discrepancy between them, the original shall govern.

The three copies of the Proposal shall be typed or written in indelible ink and shall be signed by the Offeror or a person or persons duly authorised to bind the Offeror to the contract. The latter authorisation shall be indicated by written power-of-attorney accompanying the Proposal.

A Proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Offeror, in which case such corrections shall be initialled by the person or persons signing the Proposal.

13. Payment

UNDP shall effect payments to the Contractor after acceptance by UNDP of the invoices submitted by the contractor, upon achievement of the corresponding milestones.

D. Submission of Proposals

14. Sealing and marking of proposals

The Offeror shall seal the Proposal in one outer and two inner envelopes, as detailed below.

(a) The outer envelope shall be:

- addressed to –

**UNDP Country Office Montenegro
Beogradska 24b,
81000 Podgorica,
Montenegro**

and,

- marked with –

"RFP: Integrity and Capacity Assessments of the Justice Sector in Montenegro"

(b) All inner and outer envelopes shall indicate the name and address of the Offeror. The first inner envelope shall contain the information specified in Clause 8 (*Proposal form*) above, with the copies duly marked "Original" and "Copy". The second inner envelope shall include the price schedule duly identified as such.



Note: if the inner envelopes are not sealed and marked as per the instructions in this clause, the procuring UNDP entity will not assume responsibility for the Proposal's misplacement or premature opening.

15. Deadline for submission of proposals

Proposals must be received by the procuring UNDP entity at the address specified under clause *Sealing and marking of Proposals* no later than **23th November at 16:00 hours CET**.

The procuring UNDP entity may, at its own discretion extend this deadline for the submission of Proposals by amending the solicitation documents in accordance with clause *Amendments of Solicitation Documents*, in which case all rights and obligations of the procuring UNDP entity and Offerors previously subject to the deadline will thereafter be subject to the deadline as extended.

16. Late Proposals

Any Proposal received by the procuring UNDP entity after the deadline for submission of proposals, pursuant to clause *Deadline for the submission of proposals*, will be rejected.

17. Modification and withdrawal of Proposals

The Offeror may withdraw its Proposal after the Proposal's submission, provided that written notice of the withdrawal is received by the procuring UNDP entity prior to the deadline prescribed for submission of Proposals.

The Offeror's withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of clause *Deadline for Submission of Proposals*. The withdrawal notice may also be sent by telex or fax but followed by a signed confirmation copy.

No Proposal may be modified subsequent to the deadline for submission of proposals.

No Proposal may be withdrawn in the Interval between the deadline for submission of proposals and the expiration of the period of proposal validity specified by the Offeror on the Proposal Submission Form.

E. Opening and Evaluation of Proposals

18. Opening of proposals

The procuring entity will open the Proposals in the presence of a Committee formed by the Head of UNDP Liaison office in Montenegro.

19. Clarification of proposals

To assist in the examination, evaluation and comparison of Proposals, the Purchaser may at its discretion, ask the Offeror for clarification of its Proposal. The request for clarification and the response shall be in writing and no change in price or substance of the Proposal shall be sought, offered or permitted.

20. Preliminary examination

The Purchaser will examine the Proposals to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the Proposals are generally in order.

Arithmetical errors will be rectified on the following basis: If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If the Offeror does not accept the correction of errors, its Proposal will be rejected. If there is a discrepancy between words and figures the amount in words will prevail.

Prior to the detailed evaluation, the Purchaser will determine the substantial responsiveness of each Proposal to the Request for Proposals (RFP). For purposes of these Clauses, a substantially responsive Proposal is one which conforms to all the terms and conditions of the RFP without material deviations. The Purchaser's determination of a Proposal's responsiveness is based on the contents of the Proposal itself without recourse to extrinsic evidence.

A Proposal determined as not substantially responsive will be rejected by the Purchaser and may not subsequently be made responsive by the Offeror by correction of the non-conformity.

21. Evaluation and comparison of proposals

A two-stage procedure is utilised in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal being opened and compared. The price proposal of the Proposals will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 1000 points in the evaluation of the technical proposals.

The technical proposal is evaluated on the basis of its responsiveness to the Term of Reference (TOR).

In the Second Stage all contractors, who have attained minimum 70% score in the technical evaluation will be compared and the weights will be applied to both technical and financial proposals in the 60:40 (respectively) proportion. The contract will be awarded to the contractor with total highest score

Consultancy Services MEPP - Technical Evaluation Criteria

Summary of Technical Proposal Evaluation Forms		Score Weight	Points Obtainable	Company / Other Entity				
				A	B	C	D	E
1.	Expertise of Firm / Organisation submitting Proposal	40%	400					
2.	Proposed Work Plan and Approach	25%	250					
3.	Personnel	35%	350					
Total			1000					

Evaluation forms for technical proposals follow on the next two pages. The obtainable number of points specified for each evaluation criterion indicates the relative significance or weight of the item in the overall evaluation process. The Technical Proposal Evaluation Forms are:

Form 1: Expertise of Firm / Organisation Submitting Proposal

Form 2: Proposed Work Plan and Approach

Note: The score weights and points obtainable in the evaluation sheet are tentative and should be changed depending on the need or major attributes of technical proposal.

Technical Proposal Evaluation Form 1		Points obtainable	Company / Other Entity				
			A	B	C	D	E
Expertise of firm / organisation submitting proposal							
1.1	Reputation of Organisation and Staff (Competence / Reliability)	100					

1.2	General Organisational Capability which is likely to affect implementation (i.e. loose consortium, holding company or one firm, size of the firm / organisation, strength of project management support e.g. project financing capacity and project management controls)	50					
1.3	Relevance of: - Specialised Knowledge - Experience on Similar Programme / Projects - Experience on Projects in the Region Work for UNDP/ major multilateral/ or bilateral programmes	250					
		400					

Technical Proposal Evaluation Form 2		Points Obtainable	Company / Other Entity				
			A	B	C	D	E
Proposed Work Plan and Approach							
2.1	Have the important aspects of the task been addressed in sufficient detail?	30					
2.2	Is the conceptual framework adopted appropriate for the task?	20					
2.3	Is the scope of task well defined and does it correspond to the TOR?	150					
2.4	Is the presentation clear and is the sequence of activities and the planning logical, realistic and promise efficient implementation to the project?	50					
		250					

Technical Proposal Evaluation Form 3		Points Obtainable	Company / Other Entity				
			A	B	C	D	E
Proposed Work Plan and Approach							
3.1	Senior Expert/s						
	Subtotal:						
	International Experience	80					
	Training Experience	80					
	Professional Experience in the area of team building and management development	90					
	total	250					
3.2	Junior expert/s						
	Subtotal:						
	International Experience	30					
	Training Experience	30					
	Professional Experience in the area of team building and management development	40					
	total	100					

		350					
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F. Award of Contract

22. Award criteria, award of contract

The procuring UNDP entity reserves the right to accept or reject any Proposal, and to annul the solicitation process and reject all Proposals at any time prior to award of contract, without thereby incurring any liability to the affected Offeror or any obligation to inform the affected Offeror or Offerors of the grounds for the Purchaser's action

Prior to expiration of the period of proposal validity, the procuring UNDP entity will award the contract to the qualified Offeror whose Proposal after being evaluated is considered to be the most responsive to the needs of the organisation and activity concerned.

23. Purchaser's right to vary requirements at time of award

The Purchaser reserves the right at the time of award of contract to vary the quantity of services and goods specified in the RFP without any change in price or other terms and conditions.

24. Signing of the contract

Within 3 days of receipt of the contract the successful Offeror shall sign and date the contract and return it to the Purchaser.

Annex II

General Conditions of Contract

1. LEGAL STATUS

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis UNDP. The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

2. SOURCE OF INSTRUCTIONS

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action which may adversely affect UNDP or the United Nations and shall fulfil its commitments with the fullest regard to the interests of UNDP.

3. CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

4. ASSIGNMENT

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

5. SUB-CONTRACTING

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform with the provisions of this Contract.

6. OFFICIALS NOT TO BENEFIT

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7. INDEMNIFICATION

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8. INSURANCE AND LIABILITIES TO THIRD PARTIES

- 8.1 The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.
- 8.2 The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.
- 8.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.
- 8.4 Except for the workmen's compensation insurance, the insurance policies under this Article shall:
 - (i) Name UNDP as additional insured;
 - (ii) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against UNDP;
 - (iii) Provide that UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.
- 8.5 The Contractor shall, upon request, provide UNDP with satisfactory evidence of the insurance required under this Article.

9. ENCUMBRANCES/LIENS

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

10. TITLE TO EQUIPMENT

Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

11. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS



UNDP shall be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of this Contract. At the UNDP's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to UNDP in compliance with the requirements of the applicable law.

12. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or the United Nations, or any abbreviation of the name of UNDP or the United Nations in connection with its business or otherwise.

13. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION

13.1 All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of UNDP, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of work under this Contract.

13.2 The Contractor may not communicate at any time to any other person, Government or authority external to UNDP, any information known to it by reason of its association with UNDP which has not been made public except with the authorization of UNDP; nor shall the Contractor at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

14. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

14.1 Force majeure, as used in this Article, means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force which are beyond the control of the Parties.

14.2 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Contract. The notice shall include steps proposed by the Contractor to be taken including any reasonable alternative means for performance that is not prevented by force majeure. On receipt of the notice required under this Article, UNDP shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

14.3 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

15. TERMINATION

15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16 "Settlement of Disputes" below shall not be deemed a termination of this Contract.

15.2 UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

15.3 In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract. The Contractor shall take immediate steps to terminate the work and services in a prompt and orderly manner and to minimize losses and further expenditures.

15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, UNDP may, without prejudice to any other right or remedy it may have, terminate this Contract forthwith. The Contractor shall immediately inform UNDP of the occurrence of any of the above events.

16. SETTLEMENT OF DISPUTES

16.1. Amicable Settlement

The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

16.2. Arbitration

Unless, any such dispute, controversy or claim between the Parties arising out of or relating to this Contract or the breach, termination or invalidity thereof is settled amicably under the preceding paragraph of this Article within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining, including its provisions on applicable law. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

17. PRIVILEGES AND IMMUNITIES

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

18. TAX EXEMPTION

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with UNDP to determine a mutually acceptable procedure.

18.2 Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNDP before the payment thereof and UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under

protest. In that event, the Contractor shall provide UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19 CHILD LABOUR

19.1 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

19.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20. MINES

20.1 The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

20.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21. OBSERVANCE OF THE LAW

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

22. AUTHORITY TO MODIFY

No modification or change in this Contract, no waiver of any of its provisions or any additional contractual relationship of any kind with the Contractor shall be valid and enforceable against UNDP unless provided by an amendment to this Contract signed by the authorized official of UNDP.

Annex III Anti Corruption Project Montenegro

Terms of Reference:

Integrity and Capacity Assessments of the Justice Sector in Montenegro

Background Information:

The war and collapse of former Yugoslavia accompanied with uncertainties in the process and economic reforms resulted in the sharp decline of economic activity, dramatic increase of unemployment and poverty¹ rates and rapid decrease of Human Development Index (HDI)² in Montenegro. Following the restoration of peace, and stability in the region, the Government of Montenegro has been carrying out a comprehensive reform programme aimed at establishing a liberal economic system and democratic processes.

Despite considerable progress in setting democratic and market institutions, governing structures are still hindered by poor reinforcement and implementation of newly adopted laws, insufficient institutional capacity, incompetent administration and lack of strategic coordination among state institution.

UNDP Anti Corruption project aims to address the capacity and weaknesses in the government institutions that have the mandate to fight corruption particularly, the Directorate on Anti-Corruption Initiatives (DACI), especially in the context of Action Plan for implementation of the Programme against Corruption and Organized Crime.

The public sector weaknesses emanate from the history of Montenegro. During communism, the public sector was not accountable, transparent and responsive to the populace. Consequently, in the period of transition, the State was not able to respond adequately to the changes that have occurred and the demands of the transformation to a free market, which to large extent lead to emergence of corruption. It could be said that until now existing institutional frameworks remain unable to address issues related to conflict of interest, transparency in the process decision making and corruption in effective manner.

This situation has created structural and capacity weaknesses in the public sector when aligning international obligations to fight corruption as provided for under the United Nations Convention against Corruption (UNCAC) and the Council of Europe's requirements to fight corruption and increase the rule of law under the Stabilisation and Association Agreements with Montenegro's laws and policies. These weaknesses in both the public and civil society sectors require a technical assistance project that builds capacity of both sectors through policy advice, training, research capabilities and harmonization of anti-corruption implementation initiatives, public campaigns and access to information. Civil society oversight role works where government respond positively hence the need to address that sector as well. The provision of technical support to carry out surveys that qualify and quantify corruption is essential because corruption is perceived to be on the increase but there is no concrete information available that

¹ Unemployment is very high in almost all countries across the region and it around 30% in Montenegro. Poverty rate in Montenegro is 12%. (Source Human Development Reports)

² HDI for 2004 in Montenegro was 0.799 which is at the level of HDI in 1991; at the beginning of political and economic crisis in the region, Similar in all other countries in the Balkans

can inform intervention strategies. The surveys will also act as points of dialogue between government and civil society.

There are well-founded fears that if corruption is not contained, it could easily spread due to weaknesses in the public sector and the opportunities for corruption emanating from privatization, increasing foreign investment and excessive bureaucratic bottlenecks specially in issuing business licences and permits. Unless corruption is contained at an early stage of Montenegro's independence, it could lead to organised crime, and threaten national security, integration into the European Union and sustainable development.

In Transparency International's 2007 Corruption Perception Index Montenegro ranks 84th, with a 3.3 mark on a scale of 10³, typical of countries with high levels of corruption. According to recent surveys conducted by local and international NGOs⁴ the corruption is seen as one of the main barriers to social and economic development. Many stakeholders are concerned that corruption undermines social cohesion and hampers the functioning of formal democratic institutions.

Growing corruption⁵ in the country, was seen by many foreign and local civil society organizations⁶ as well as opposition parties, as an obstacle to achieving more resolute and positive economic results, ultimately slowing down the reform process. Although important legislative and institutional changes have been implemented in the area of anticorruption, the gap between policy and practice has often remained large.

Objectives of the Project

1) To respond to the increased demand for accountability and transparency of state administration and will be carried out by selected local civil society partners. 2) To address the capacity and weaknesses in the government institutions that have the mandate to fight corruption particularly the Directorate on Anti-Corruption Initiatives (DACI) as well as the Ministry of the Interior and Ministry of Justice, which are responsible for the Implementation of the Programme against Corruption and the recently adopted Action Plan. In addition, this component would focus on the assessment and improvement of respective legislative framework

The activities of the project will be linked with other UNDP areas of intervention in the country, such as: poverty eradication, sustainable development, public administration, sustainable planning, etc.

Intended Outcomes:

- Increased awareness on corruption by the public.
- Increased advocacy on corruption and improved implementation of Access to Information law.
- Enhanced capacity of DACI, Ministry of the Interior and Ministry of Justice through training, rationalized prioritisation of Action Plan and policy advice.
- Laws consistent with UNCAC and other international instruments
- Increased availability of information on the prevalence of corruption.
- Increase of public confidence in national efforts to curb and reduce corruption.

General assignments of the Contractor:

Conduct an integrity and capacity assessment (baseline assessment) of the justice sector in Montenegro. This assessment aims at producing a clear and coherent picture of a country's current condition with respect to (1) access to justice, (2) timeliness and quality of justice delivery, (3) independence, impartiality and fairness of the judiciary, (4) levels, locations, types and costs of corruption within the justice sector, (5) coordination and cooperation across the

³ Transparency International, CPI for 2007, see <http://www.transparency.org/>

⁴ Surveys conducted by local NGOs; MANS and Group for Changes outlines that up to 88% of managers SMEs had faced corruption either as victims or as witnesses

⁵ The corruption survey undertaken by Group for Changes in February 2005 says that 80% of the Montenegrins recognize corruption as evident.

⁶ Report on Impact of Corruption on Economic Development and FDI in Montenegro, Group for Changes

justice sector institutions, and (6) the public's trust in the justice system, as well as (7) the functioning of the integrity safeguards.

Purpose: The assessment will provide the basis for the evidence-based planning for the justice sector stakeholders in the Republic of Montenegro, and become the basis for strategic planning and policy development in the justice sector. At the same time it will contribute to the establishing of a baseline against which the progress made in the implementation of these strategies and policies will be monitored and evaluated.

Tasks to be performed for the assessment report:

I. Desk Review

The desk review should include the following components:

- Short summary of the main findings of existing assessments of justice sector integrity and capacity;
- Assessment of laws and policies as directly or indirectly relevant to the functioning, organisation, independence, integrity, discipline of the justice sector institutions against the background of the United Nations Convention against Corruption and other relevant international standards and best practices;
- Institutional and process assessment, covering: (1) the number and types of staff per court in, (2) the number of cases received, disposed of and pending as per case type (2002-2007), (3) an appraisal of the effectiveness of control mechanisms and oversight bodies responsible for monitoring and guaranteeing the integrity of the relevant institutions and the respective staff, e.g. codes of conduct and the awareness hereof, effectiveness of the complaints system, and the credibility and effectiveness of the complaints review process;

II. Justice Sector Integrity and Capacity Surveys for Judges, Lawyers, Prosecutors, Court Staff, Police, Court Users and Businesses

1. Sampling

The research in both assessments will apply stratified random sampling. The size of the samples will be determined by the size of the population under investigation. Given the availability of sufficient funding, the confidence level should be 95% and the confidence interval 5%⁷.

⁷ Reference can be made to the sample size calculator available at <http://www.surveysystem.com/sscalc.htm>.

This would require the following standard population – sample size proportions:

Total (estimated) Population	Minimum Sample Size
100	80
200	132
300	169
400	196
500	217
1000	278
10,000	370
100,000	383

The estimated population (EP) of court users should be determined for each province separately by establishing the total number of first instance civil cases (P) handled by the courts in the province in 2005 and multiplying it by three

The general sample is composed by different categories of respondents; the sub-sample's sizes have to maintain roughly the same ratio that each category of respondents has in the general population.

According to the rationale above, the judges' population sampled has to be equal or greater than **180 judges**. The prosecutors' population sampled has to be equal or greater than **65 prosecutors**. The lawyers' population sampled has to be equal or greater than **200 lawyers**. The police officers' population sampled has to be equal or greater than **330 police officers**. The court users' population sampled has to be equal or greater than **380 court users**.⁸

2. Adoption of Instruments

The UNODC survey instruments will be revised in accordance with the comments received by a working group on assessing justice sector integrity and capacity and finalized with the support of UNODC, translations into Montenegrin will be carried out by the contractor, and, after approval by the UNDP, pilot tested in the field.

The contractor will pilot test the instruments by conducting at least 5 interviews with each category of respondents, identifying those questions which prove difficulty to understand and need further revision or should be deleted from the questionnaires.

3. Interviewing

Interviews will be conducted face-to-face by field researchers. Field researchers will be hired, trained and adequately remunerated by the sub-contractor. The contractor will ensure appropriate monitoring of field researchers through random checks. The contractor will have to follow the guidelines for interviews provided by UNODC.

Only in the case of judges and prosecutors, field researchers may leave the questionnaires with the respondents. In this case the field researcher will agree with the respective person when he/ she will return to pick up the filled out questionnaire. Upon return field researchers should ensure that all questions were understood and filled out correctly by the respective respondent. The same procedure might be adopted for other categories of respondents just under prior approval of UNODC.

4. Data Preparation

The responses will be recorded by the contractor into an electronic database provided by UNODC, allowing for statistical analysis and presentation in form of graphs and charts. The contractor will provide a copy of the database to UNODC and UNDP once completed. The contractor will have to follow the guidelines for data preparation provided by UNODC.

Copy of the electronic database with recorded responses should be provided to UNDP and UNODC not later than 3 weeks following the response collection.

5. Preliminary Data Description and Analysis

The contractor in consultations with UNODC will prepare graphic material describing the main findings resulting from the data collection. The contractor will provide a minimum 30 slides power point presentation and present it at

(Defendant, Respondent and Witness). Furthermore, the number of criminal cases (Q) needs to be added, after it has been multiplied by two (Accused and Witness) and the total population of prisoners awaiting trial (Y) has been subtracted. In short: $(P \times 3) + [(Q - Y) \times 2] = EP$.

⁸ Based on the available information concerning the size of the universe of the different stakeholder groups (250 judges, 83 prosecutors, 479 lawyers, 5200 police officers, as well as approximately 7000 criminal cases and 14.300 civil cases filed in 2006, which would account for an estimated population of court users of about 57,000 people)

the National Action Planning Meetings. The contractor and UNODC will facilitate the National Action Planning Meetings and record the interpretation of the data by the participants for the inclusion into the final report.

III. Preparation of Research Reports.

The baseline assessment will be a 100-150 pages report, and it should be prepared in English and in Montenegrin following the example of a sample report as well as the guidelines provided by UNODC. After approval by UNDP, the contractor will print the report in 1000 copies in Montenegrin and 700 in English. In addition, the report will be made available on CD-ROMs (1000 copies in Montenegrin and 500 in English).

The contractor will have to follow guidelines for preparation of the research report provided by UNODC, constantly during the drafting of the report.

1. Data Description

The data will be described in the above-mentioned categories, namely (1) access to justice, (2) timeliness and quality of justice delivery, (3) independence, impartiality and fairness of the judiciary, (4) levels, locations, types and costs of corruption within the justice sector institutions, and (5) the public's trust in the justice system. The data will be stratified according to sub national geographic areas, types and profiles of respondents and, where appropriate, according to courts. In addition, for the progress assessment the result of the research will have to be compared directly with the result of the previous study. The data will further be described, distinguishing between perceptions and experiences.

The contractor will have to follow the guidelines for the data description provided by UNODC, constantly during the drafting of the report.

2. Data Analysis

For the purpose of the analysis, the data will be integrated into experience and perception indexes for each of the above categories and then checked for eventually emerging correlations suggesting cause-consequence relations. The contractor will have to follow the guidelines for preparation of the data analysis provided by UNODC, constantly during the drafting of the report.

IV. Ethics Standards

Both, UNODC and the contractors fully and unconditionally subscribe to the following principles for ethical research, including:

- The contractor ensures that field researchers protect research subjects from needless risk of harm or embarrassment and proceed with their willing and informed cooperation.
- Field researchers should protect the confidentiality and privacy of the respondents. A secure interviewing environment must be identified (e.g a separate room or other location secure from third parties overhearing the interview). Interviews must always be conducted by only one field researcher. With regard to the interviewing of prisoners awaiting trial, privacy will to be ensured within the limits of the institutional requirements of the Indonesian Correctional Service.
- Proper presentation of the field researcher, including his/or her name, indication of the contractor as well as the sponsoring role of UNODC and the project context.
- Correct information on the estimated time needed for the interview.
- Honouring the commitment to anonymity. This means also that any of the data which can be linked to individuals, should be omitted from the report.

- Field researchers and data analysts should maintain objectivity and exercise professional integrity in performing and reporting the research, in particular any doubt concerning the validity of data should be indicated, including the reasons.

Timing and Duration:

Work on assessment should start no later than one week upon the signing of the official contract. First draft report⁹ should be submitted no later than three weeks following the field research completion. It would be expected that entire exercise should not exceed 16 weeks period.

Requirements and Qualifications:

The agency selected will have the following qualifications:

- At least 5 years of relevant experience;
- Being able to respond to strict time limits;
- Possession of high standards in their work and products.

Agency should also provide:

- Working concept (max. one page)
- References from previous relevant projects

Confidentiality:

The agency undertakes to maintain confidentiality on all information that is not the public domain and shall not be involved in another assignment that represents a conflict of interest to the prevailing assignment.

⁹ First draft report should include electronic database with recorded responses

Annex V

PRICE SCHEDULE

The Contractor is asked to prepare the Price Schedule as a separate envelope from the rest of the RFP response as indicated in Section D paragraph 14 (b) of the Instruction to Offerors.

All prices/rates quoted must be exclusive of all taxes, since the UNDP is exempt from taxes as detailed in Section II, Clause 18. '

The Price Schedule must provide a detailed cost breakdown. Provide separate figures for each functional grouping or category.

Estimates for cost-reimbursable items, if any, such as travel, and out of pocket expenses should be listed separately.

In case of an equipment component to the service provided, the Price Schedule should include figures for both purchase and lease/rent options. The UNDP reserves the option to either lease/rent or purchase outright the equipment through the Contractor.

The format shown on the following pages should be used in preparing the price schedule. The format includes specific expenditures, which may or may not be required or applicable but are indicated to serve as examples. In addition to the hard copy, if possible please also provide the information on diskette (IBM compatible).

Price Schedule:

Description of Activity/Item		Estimated Amount
1.	Remuneration	
1.1	Desk review	
1.2	Field work (interviews)	
1.3	Data preparation/description/analysis	
1.4	Preparation of Final report	
	TOTAL	