

ICC EOI 128355
Terms of Reference - Study on the ICC Procurement Process

A. Background

The International Criminal Court (hereafter “ICC” of the “Court”) is a permanent international court. The ICC is not part of the United Nations, but it maintains a cooperative relationship with the U.N. The ICC is composed of four organs. These are the Presidency, the Judicial Divisions, the Office of the Prosecutor (hereafter “OTP”) and the Registry. The ICC Head Quarter is based in The Hague, the Netherlands. The ICC operates the Country Offices in the Situation Countries (i.e. Central African Republic, Democratic Republic of Congo, Mali, Uganda, Côte d'Ivoire, Georgia). The ICC has annually circa 1,000 staff with an annual procurement spend circa €25 million.

In accordance with Rule 110.12 of the Financial Rules and Regulations (hereafter “FRR”) of the ICC, the Procurement functions include all actions necessary for the acquisition, by purchase or lease, of property, including products and real property, and of services, including works.

In accordance with the Rule 110.13 (a) of the FRR, the Registrar is responsible for all procurement functions of the Court. The Registrar shall establish the procurement systems of the Court and shall ensure that procurement functions are carried out in accordance with the relevant financial regulations and rules.

In accordance with the Administrative Instruction ICC/AI/2013/002 the Registrar designated the officials who may enter into contract on behalf of the Court with the respective maximum monetary value: the Registry Director of Division of Management Services together with the Chief of the General Services Section or Chief Procurement Unit Unlimited; the Registry Director of Division of Management Services up to €250,000; the Chief of the General Services Section up to €250,000; the Chief of the Procurement Unit up to €150,000; the Procurement Coordinator €10,000; and the Procurement Assistants and the Chiefs of Country Offices up to €3,000.

In accordance with the Administrative Instruction ICC/AI/2017/006 the Registrar, with the consent of the President and the Prosecutor, defined the terms of reference for the Procurement Review Committee (hereafter “PRC”) for advice on procurement actions leading to the award or amendment of procurement contracts above the threshold of €50,000. The PRC is an integral part of the Court’s internal controls and serves as an advisory board to the Registrar.

Pursuant to establishment of the Registry Strategic Plan 2019-2021, all the services in the Registry will embrace a culture of continuous improvement. In addition, in view of the importance of effective procurement to the overall efficiency of the Court, procurement has been identified as a service that will benefit from a more focused approach to continuous improvement. Effective procurement is not just about the process of obtaining individual goods and services of the right quality and price in a fair and transparent manner. Decisions made during the procurement process can also be drivers of long term efficiency and effectiveness across the Court. Procurement is itself a complex process that involves many stages including acquisition planning, requirements definition and various internal players in their different roles. This process involves time and cost for the Court and should in itself be subject to continuous improvement activity to ensure it too becomes more efficient and timely

The Office of the Director of DMS has been asked to commission an expert to carry out an initial study of Procurement to identify the potential opportunities for improvement from consideration of the new approach described in the below scope of work, taking into account the operational and cost implications and the suggestions put forward in the report.

The expert in procurement process engineering may be either an individual or an organization/company.

B. Scope of Assignment

1. The expert shall undertake a study to identify potential opportunities for improvement related to the procurement process and propose a new approach on how to achieve those opportunities: The following shall be taken into consideration:
 -) Maximize the ICC commercial leverage as well as reduce the cost and time of procurement. Identify, join and use United Nations (or Host State) framework contracts both for HQ and Country Offices wherever possible.
 -) Recognize the whole life costs of asset acquisition when making procurement decisions and, where appropriate, consider leasing vs buying.
 -) Improve the acquisition planning and standardise the requirements definitions and specifications by the certifying officers.
 -) Always consider whether individual procurements can be aggregated or synchronised to drive greater value for money and reduce costly procurement activity. For instance in ICT and facilities management related procurements
 -) Explore partnerships arrangements within the judicial institutions or other International Organisations in The Hague (and elsewhere) to reduce the cost, delay and risks associated with bidding or buying bespoke products or services.
 -) Adjust the threshold for formal procurement activity so that purchases of small value can be made with more proportionate means, for example through credit cards in line with best practices of other international organizations.
 -) Expand the range of services delivered through external service providers, possibly consolidating multiple services into a main contract as part of a holistic approach to the provision of services at the Court. For instance in ICT and facilities management related procurements.
 -) Enhance contract administration and contract management capacities, training skills and tools as part of best value for money.
 -) Implement a new approach to procurement that will require cultural changes within the Registry and by “purchasers” across the Court.
 - o Increasing use of contracts and services will mean that effective contract management and streamlined supply chain will become more important. The advantages that may come from a well procured contract can be quickly eroded by ineffective contract management.
 - o The presumption should be that all consumables are brought from framework contracts.
 - o A realization that the speed, convenience, cost and overall value for money provided by framework contracts invariably outweighs the marginal gains of obtaining bespoke solutions or products.
 - o Purchasers need to increasingly think about the outcome they want to achieve rather than the particular asset or service they wish to purchase.

2. The expert shall report to the Director DMS on the results and implementation of the new approach before the end of the project, which will have to be completed within 6 months from the appointment.

3. The expert shall consider in the study the environmental considerations.
 -) The ICC is a relatively small organization with a large footprint in terms of geographical presence and procured categories. It lacks the purchasing power and commercial leverage of larger organizations.
 -) The procurement framework within the Court is consistent with the UN best practices; however it can be occasionally lengthy and costly as a result of the legal framework and the security requirements to enable the agility required by the sensitive operations (e.g. OTP, Victims Witness Section) or unplanned situation countries activities.
 -) The human resources available for procurement activity are finite and remained stable over past years despite the growth of the Court activities.
 -) There is a growing market for complex services for clients and a move, particularly in IT, to offer services rather than the sale of assets.
 -) Procurement strategy is based on the assumption there is an active and wide market for goods or services being procured, this is not always the case in some situation countries or for some specific areas of activity, such as reparations awards and assistance to victims.

-) The lifetime costs of goods and services can affect the overall value for money of procurement decisions.
-) There are a number of judicial institutions and other international organizations (IOs) in The Hague with similar operational needs or procuring for the same goods and services which provide collaborative opportunities.
-) We are in a “relationship” with the UN and have host state agreements at the seat of the Court and with Country Offices that may offer procurement opportunities.
-) We may be able to use cooperation with States Parties to secure same discreet services at a discounted rate and with greater security and confidentiality.

C. Deliverables

Within the time frame specified and subject to any amendments made hereto by the Court with agreement from the expert, the expert shall submit the following to the Director DMS:

1. A proposal or business plan of the entire project along with timelines and expected milestones, to be submitted within three weeks from the date of signing the contract;
2. An intermediary report on the initial findings of the study, including preliminary results and recommendations on the procurement New Approach shall be presented by the expert at the date to be agreed by the Court. The initial findings of the study will include the below sections;
 -) The expert will be required to consider the current procurement business process and model to provide options and recommendations on how continuous improvement can be achieved, maximising efficiency and effectiveness of procurement services;
 -) Conduct an audit of what UN/Host state frameworks we can advantageously use, when they can be in place and the percentage of our services covered by them and make an assessment of the savings generated in terms of costs of goods and savings in terms of time and cost of procurement as a result.
 -) An analysis of what procurements can be made through a new approach to small value acquisitions, for example by corporate credit cards, together with an assessment of the proportion of procurements it applies to and any savings as a result.
 -) Identify future opportunities for new or consolidated procurements to reduce the number of contracts and drive value, again identifying potential scale and savings from such an exercise.
 -) Identify those cases where there are already facility service contracts in place which can be used to expand the range of services provided to organically move further to a facility management model, again identifying potential scale and savings from such an exercise.
3. A final report on the results of the study on procurement New Approach, including recommendations shall be presented by the expert on the results of the study at a date to be agreed by the Court before the end of the assignment. The final report shall include the below sections
 - i. Options and recommendations on how the current procurement business process and model at the Court could benefit from continuous improvement to maximise efficiency and effectiveness of procurement services.
 - ii. Conduct an audit of what UN/Host state frameworks we can advantageously use, when they can be in place and the percentage of our services covered by them and make an assessment of the savings generated in terms of costs of goods and savings in terms of time and cost of procurement as a result.
 - iii. An analysis of what procurements can be made through a new approach to small value acquisitions, for example by corporate credit cards, together with an assessment of the proportion of procurements it applies to and any savings as a result.
 - iv. Identify future opportunities for new or consolidated procurements to reduce the number of contracts and drive value, again identifying potential scale and savings from such an exercise.

- v. Identify those cases where there are already facility service contracts in place which can be used to expand the range of services provided to organically move further to a facility management model, again identifying potential scale and savings from such an exercise.
- vi. Identify a set of KPIs for procurement to provide a diagnostic set of tools to include the time and cost of a procurement exercise, the number of procurement exercises, the proportion and value of goods and services procured through framework contracts and small value procurement.
- vii. Specific client's needs (such as OTP, Victims & Witnesses Section and Trust Funds for Victims) will be considered to identify solutions, including procurement policy/procedures' adjustment

D. Reporting Line

The expert shall report to the Director of DMS.

The expert shall mainly work in close cooperation with the Chief of General Services Section (“GSS”) and the Head of the Procurement Unit (“PU”), and as required with the Chief of Finance Section, the Chief of the Registry Legal Office (“RLO”), The Chiefs of Country Offices in the Situation Countries and the Certifying Officers of OTP, VWS and TFV.

E. Expected Duration of Assignment

The task is expected to commence from the date of signing the contract and to have a duration of six months. The expert may be required to participate in meetings with Court officials after that time.

F. Place of Work

The expert shall not be required to be physically present at the Court's premises, and may work in his or her own domicile with use of technology (for example video-conferencing) where necessary. Business trips to The Hague, or other duty stations shall be subject to approval by the Office of the Director of DMS.

G. Qualification/Experience

The expert shall meet the following minimum criteria:

- a. Key personnel should have a minimum of a Master's Degree in a field related to business management, human resource management, law, statistics or related fields;
- b. Experience in the area of procurement and process analysis in the context of international public procurement process engineering;
- c. Ability to render consulting services in the most professional, effective and efficient manner;
- d. Key personnel should have excellent analytical skills, critical-thinking, and communication skills both in writing and presenting (all required reports shall be written in English and/or French); and
- e. Familiarity with the UN common system of procurement and supply chain would be advantageous. Certification such as CIPS, IACCM, NEVI or equivalent will be considered.

H. Expert's Profile

The expert is required to provide the following as part of the offer:

- a. Curriculum Vitae highlighting the qualifications and experience of key personnel, as outlined above;
- b. Brief explanation of the methodology to be used (1 – 2 pages long); and

- c. Pro Bono or Professional fee (not including travel costs and daily subsistence allowances which will be based according to the rates established at the Court) including frequency of payment for the full range of services required, broken down into all major cost components associated with the service.

I. Payment Terms

The Pro Bono services are preferred. Pre-approved travel costs and daily subsistence allowances which will be based according to the rates established at the Court.

For Fees based services for the total price shall be in a fixed lump-sum amount, and milestone payments corresponding to outputs shall be indicated in the proposal. Payments under the contract will be output-based and will be made upon satisfactory completion of each milestone and finally upon the satisfactory completion of the assignment.

The ICC general terms and conditions for the procurement of services will be applied.