**Terms of reference**

**Procurement Evaluation in Mykolaiv**

# BACKGROUND AND CONTEXT

**General overview**

The European Union Anti-Corruption Initiative (EUACI) in Ukraine is a joint EU and Government of Denmark financed program aimed at supporting Ukraine to reduce corruption at the national and local level through the empowerment of citizens, civil society, businesses, and state institutions. In May 2020, the EUACI entered phase II, which runs till mid-2024.

The overall objective of EUACI Phase II is the reduction of corruption in Ukraine on the national and local levels through the empowerment of citizens, civil society, business, and state institutions.

This assignment concerns the EUACI's support of Integrity Cities (Component 2). The component aligns with the government's encouragement of e-government functions by using ICT to improve government efficiency, effectiveness, transparency, and accountability at all levels.

It is in this context that the EUACI is seeking a Consultant (Consulting firm or a consortium of organizations) that can work closely with the EUACI and its partner city to deliver the comprehensive evaluation of purchases by “MykolaivOblteploenergo” heating utility company, procurement monitoring within the Department of Housing and Communal Service and the Department of Capital Construction, “MykoalivVodokanal” utility company of the Mykolaiv City Council, and provide practical recommendations on how to tackle the identified managerial and integrity risks.

These Terms of Reference (ToR) give more details about the assignment.

**The partnership with Integrity Cities**

The six integrity cities with which the EUACI has entered into a partnership under its component 2 are Chernivtsi, Chervonohrad, Mariupol, Mykolaiv, Nikopol and Zhytomyr.

During phase I and II, the EUACI worked with these cities to further strengthen their systems and tools for enhancing integrity, transparency, and accountability. The partnership continues in the current second phase of EUACI, focusing on the continued development of the various integrity tools launched during phase one and implementation of new tools agreed expressly for phase two.

These Terms of Reference (ToR) are intended to meet the partner cities' need for technical assistance with the procurement improvement of the Department and Communal Enterprise of the City Council and recommendations for addressing the risks identified.

# OBJECTIVE

The goal is to identify possible corruption risks and violations of legislation during the process of announcing bids and concluding agreements for purchasing goods, works, and services at the “MykolaivOblteploenergo,” heating utility company and to monitor compliance with the updated procurement processes within the Department of Housing and the Department of Capital Construction, and the “MykolaivVodokanal” water utility company, that will ensure the transparency and the efficiency of public spending for the City Council.

# SCOPE OF WORK

The scope of work includes all activities necessary to ensure the achievement of the above objective, including, but not necessarily limited to

**Kick-Off**

1. Present the work plan, assignment implementation strategy, and considerations to EUACI Component Team during the Kick-Off meeting.

**Main tasks**

1. Review of Current Procurement Practices at the “MykolaivOblteploenergo,” heating utility company,

a. Conducting a comprehensive analysis of procurements announced by the utility company through the electronic public procurement system Prozorro for 2023, presentation of a report with consolidated information on procurements by the announced cost, subject of the procurement, counterparties, as well as information on possible violations of the law when announcing such procurements and detected corruption risks;

b. Conducting an analysis of agreements for the purchase of goods, works, and services concluded by the utility company in 2023, presentation of a report with consolidated information on the results of the analysis of contracts for price compliance with the market level, the presence of essential conditions and other necessary conditions of the contract, quality and the effectiveness of conducting a preliminary market analysis before concluding an agreement, etc.;

c. Compilation of analytical reports for separate agreements with information on the results of the analysis of price compliance with the market level, the presence of essential conditions and other necessary conditions of the contract, the quality and objectivity of the preliminary market analysis before concluding the agreement, information about the counterparty, etc.;

d. Develop a set of clear and actionable recommendations for improving the public procurement process at the utility company, eliminating identified corruption risks, and centralizing procurement activities in the city council.

e. Create draft normative legal acts and relevant orders that regulate the procurement sphere and the set of samples of contracts, documents, and procedure updates.

1. Procurement monitoring within the Department of Housing and Communal Service, the Department of Capital Construction of the Mykolaiv City Council, and the MykolaivVodokanal water supply utility company:
2. Conduct regular weekly monitoring of procurements announced by the bodies mentioned above through the electronic public procurement system Prozorro from April 10 till June 10, 2024 for their compliance with adopted updated policies and procedures, including indicating information on possible violations of the law when announcing such procurements and detected corruption risks;

The consultant must conduct **at least one visit** to work with key stakeholders in the Mykolaiv City Council.

# DELIVERABLES:

The Deliverables are presented below in Table 1 with a tentative schedule.

All results are expected to be provided in Ukrainian unless otherwise agreed. Electronic copies are sent by email to the particular EUACI contact person.

Table 1: Summary of deliverables/outputs and the tentative timeline for delivery.

| **#** | **Deliverable/Output** | **Timeline** | **Note** |
| --- | --- | --- | --- |
| 1 | Consultant's **updated work plan** showing tentative timing for the start and completion of the activities listed in the scope of work section.  | 1 week after contract signing | To be submitted to the EUACI contact person by e-mail ahead of presentation during Kick-Off meetingUkrainian versions |
| 2 | Report based on the results of a comprehensive analysis of procurements announced by the heating utility company through the Prozorro electronic public procurement system in January 2023 - December 2023 | 5 weeks after the contract signing | Ukrainian version* The results of analysis of purchases by declared value, subject of purchase, counterparties;
* Information on established violations of legislation when announcing purchases;
* List of identified corruption risks.
 |
| 3 | Report on the results of a comprehensive analysis of agreements for purchasing goods, works, and services concluded by the heating utility company in January 2023 - December 2023 | 7 weeks after the contract signing. | The report should contain:* Information on the results of the analysis of contracts on the subject of compliance of prices with the market level;
* Information on the existence of essential conditions and other necessary conditions of the contract;
* Information on the quality and objectivity of conducting a preliminary market analysis before concluding agreements.
 |
| 4 | A report with recommendations for improving procurement and contractual work at the heating utility company | 9 weeks after the contract signing.  | The report should contain:* Information on detected violations and corruption risks;
* Recommendations on ways to eliminate identified corruption risks and prevent future breaches of legislation during procurement;
 |
| 5 | Brief Reports based on the results of comprehensive monitoring of procurements in particular Departments and MykolaivVodokanal | Weekly (During the term of the contract) | The report should contain:* brief information on detected violations and corruption risks;
* brief assessment of the compliance with the updated procedures
 |
| 6 | **Final report** | 10 weeks after the contract signing | A summary of the consultants and outputs delivered under the contract. English version: |

The timelines indicated in the table above are indicative. The Consultant will reflect on and update the timelines for different activities while preparing and updating the Consultant’s work plan. During the Kick-Off meeting with the EUACI Component Team, the Consultant’s work plan will be discussed, including the proposed timeline for the different activities and the submission of deliverables.

#  TIMING

The expected duration of the assignment is 10 weeks, with a tentative start on the 10 of April 2024 and completion on the 19 of June 2024.

#  METHODOLOGY

The Consultant will work under the supervision of Mykolayiv's Head of the Integrity Support Group.

Based on consultations with the Component II EUACI and other EUACI staff and the needs identified in the documentation provided by partners, the Consultants will prepare work plans and send them to the EUACI for approval at least a whole work week ahead of time.

# PAYMENT

Payment will be made in a maximum of two instalments.

The first installment, representing a maximum of 30% of the total contract value, will be made after receipt of the Consultant's updated work plan, Deliverable 1, and invoice.

The second and final payment will be made upon receipt and approval of the Final Report and all other supporting documents, including a Final Invoice.

# QUALIFICATIONS AND COMPETENCE OF STAFF

The assignment described above must be completed by a qualified procurement expert team.

The Consultant's core team shall include the following profiles:

* One **Team Leader** responsible for overseeing and quality assuring the entire process, the processing and analysis of collected data, and the quality of key deliverables.
* **Infrastructure Procurement Experts** with experience in public procurement, especially in the sphere of household works and infrastructure
* **Procurement Lawyer** with deep knowledge of Ukrainian legislation on local government
* **Procurement Expert in the Field of Heat Supply** with experience in public procurement, especially in the sphere of private or communal heating companies

The more specific requirements for the above four profiles are provided below.

It will be up to the Consultant to decide how many additional team members will be required and their roles and responsibilities.

The Consultant will be required to submit an implementation plan, a description of the Consultant's team, describing how the Consultant will organize and complete the tasks.

**TEAM LEADER REQUIREMENTS**

**General qualifications**

* Master's degree or equivalent in public administration, law, finances, or another related field that demonstrates the ability to perform the duties and responsibilities as described.
* Proven track record (no fewer than 5 years) of managing teams in public or private procurement for legal entities (preferably state or municipally owned) over the past 10 years.

**Adequacy of the Team Leader**

* A track record of a minimum of one earlier assignment as Team Leader for procurement assessments and business processes reviews for legal entities (preferably state or municipally owned) that range from project design, data collection, data analysis and presentation, and writing and presentation of reports

**Experience in the region and language**

* Relevant working experience in the region.
* Fluency in Ukrainian and English.

**REQUIREMENTS FOR THE PROCUREMENT LAWYER:**

**General qualifications**

* Master’s degree in law or a similar field.
* Proven expertise in state governance is an asset
* Proven track record (no fewer than 5 years) of working in teams that conduct public procurement for legal entities (preferably state or municipally-owned).

**Adequacy for the assignment**

* A minimum of two recent assignments from projects of a similar nature within the past three years.

**Experience in the region and language**

* Relevant working experience in the region.
* Fluency in Ukrainian.

**REQUIREMENTS FOR THE INFRASTRUCTURE PROCUREMENT EXPERTS**

**General qualifications**

* Minimum of Bachelor’s degree in accounting, procurement, or business management, law, or finance.
* 5+ years of experience as a procurement expert or in a similar position that provides advice to SOEs or local authorities or work at SOEs or local authorities at the procurement managerial position with procurement of services for a state or communal infrastructure.

**Adequacy for the assignment**

* A minimum of 3 recent assignments from projects of a similar nature within the past three years.

**Experience in the region and language**

* Relevant working experience in the region.
* Fluency in Ukrainian.

**REQUIREMENTS FOR THE PROCUREMENT EXPERT IN THE FIELD OF HEAT SUPPLY**

**General qualifications**

* Minimum of Bachelor’s degree in accounting, procurement, or business management, law, or finance
* 3+ years of experience as a procurement expert or in a similar position that provides advice to SOEs or local authorities or work at SOEs or local authorities at the procurement managerial position with procurement of services for private or communal heating utility company

**Adequacy for the assignment**

* A minimum of 3 recent assignments from projects of a similar nature within the past three years.

**Experience in the region and language**

* Relevant working experience in the region.
* Fluency in Ukrainian.

# ESTIMATED BUDGET AND LEVEL OF EFFORT

The maximum budget available for this assignment **is approx. EUR 18 900.**

This amount includes subsistence allowance for fieldwork in the partner city as well as costs related to local travel, and other project-related costs such as for example printing.

**Bids will be evaluated in accordance with the criteria provided below:**

|  |  |  |
| --- | --- | --- |
| # | Criteria | Weight |
| 1 | Budget  | 20% |
| 2 | Methodology  | 50% |
| 3 | Participant(s) CV(s) | 30% |

**HOW TO APPLY**

The proposals with

1) budget proposal;

2) methodology of project implementation;

3) CV(s) of the tender participant(s)

shall be submitted in electronic format only within the below deadline to the email: oleoho@um.dk, indicating the subject line **«Procurement Evaluation in Mykolaiv».**

Any clarification questions for the bid request should be addressed: oleoho@um.dk, no later than **5 April, 18:00** Kyiv time.

The deadline for submitting proposals is **8 April 2024, 18:00** Kyiv time.

**Bidding language: English or Ukrainian.**