TERMS OF REFERENCE

Reference Number: TIK/PLIF/008/2020

Description: A consultancy to Analyze the Parliamentary vetting of public officials in Kenya.

Posting Date: 21/04/2020

Deadline for Submission: 5th May 2020

ORGANIZATIONAL PROFILE

Transparency International Kenya (TI-Kenya) is a not-for-profit organization founded in 1999 in Kenya with the aim of developing a transparent and corruption-free society through good governance and social justice initiatives. TI-Kenya is one of the autonomous chapters of the global Transparency International movement that are all bound by a common vision of a corruption-free world. TI-Kenya’s vision is “A transparent, accountable and corruption-free Kenya.

Project Background

TI-Kenya through its Policy, Legal and Institutional Frameworks program is implementing a project on “Democracy, Governance and Human Rights” which aims to improve access to justice through effective key institutions within the justice sector that respect human rights and the rule of law. The project’s overall objective is to contribute to increased respect for human rights, gender equality and strengthened democratic governance at the national and local levels. One of the key outcomes of the projects relates to having improved consensus and legitimacy in electoral processes. TI-Kenya intends to do this through strengthening processes used to vet individuals for elective and appointed offices.

The single most important achievement of the 10th parliament was the new Constitution of Kenya, and the enhancement of its sovereignty, is its redemption from the shackles of executive powers. This was achieved through abolition of the president’s powers to prorogue the parliament; the power to dissolve Parliament; the power to assent to Bills; the fact that the president could not be impeached without parliament being dissolved and ensuring that Parliament vets constitutional and statutory heads.

The sovereignty of Parliament emanates from the sovereign power of the people, Article 1 of the Constitution affirms this position by stating that all sovereign power belongs to the people of Kenya and it shall be exercised in accordance with the Constitution. Indeed, the Constitution
affirms that when Parliament is exercising this power, it merely does so as delegated by the people.

Parliament, in laying ground for the approval of public officers in line with the Constitution 2010, the then Garsen MP, Danson Mungatana authored a Bill outlining the criteria to be used in vetting the officers as required in the new constitutional dispensation, the Public Appointments (Parliamentary Approval) Bill. The bill was enacted in 2011 and provides for a legislative framework through which nominees for appointment to public offices, for which Parliamentary approval is required under the Constitution or any other law, are vetted and approved for appointment by Parliament.

Unfortunately, to date cases abound in which parliament vetted nominees to public offices only to question the competence of such officers later when their indiscretions became apparent.

**Scope of work and deliverables**

The consultant will work closely with TI Kenya contact person in assessing the the Public Appointments (Parliamentary Approval) Act, 2011 and other governing legislations/Regulations, strengths and weaknesses of the Parliamentary vetting processes in Kenya and best practice globally.

**Specific deliverables**

1. A paper highlighting the legislative framework around parliamentary vetting elaborating:
   a. strengths and weaknesses of the act
   b. law versus practice with regards to how the act has been implemented so far (in the current and previous parliament
   c. best practice and practical recommendations for strengthening vetting processes in Kenya including specific amendments to the Act.

**Duration**

The consultant will be expected to carry out the assignment within 30 working days. The work is expected to start as soon as a contract is awarded.
Qualifications and attributes required

Individuals interested in this assignment must meet the following minimum requirements:

- Master’s Degree in Law, public administration or equivalent experience
- At least 10 years of experience in policy and legislative work especially around legal research.
- Experience in providing professional advice concerning constitutional implementation, litigation and generally governance issues.
- Ability to establish priorities, and to plan, coordinate and monitor own work.
- Good inter-personal skills, ability to work in a consultative and collaborative manner.
- Ability to establish and maintain effective partnerships and working relationships in a political environment

Application process

Qualified candidates are requested to submit one document of not more than 10 pages as an attachment (combining the application letter, CV, technical proposal including the methodology for the assignment, and financial proposal). Do not attach your testimonials or certificates. Only shortlisted candidate/s will be contacted.

Submission of Bids

The deadline for submission of expressions of interest is 5th May 2020. Applications should be sent by email to procurement@tikenya.org. Please indicate “TIK/PLIF/008/2020- Parliamentary vetting of public officials in Kenya” in the subject line of your email application.

Complaints Process

This call for Expression of Interest does not constitute a solicitation and TI-Kenya reserves the right to change or cancel the requirement at any time during the EOI process. TI-Kenya also reserves the right to require compliance with additional conditions as and when issuing the final solicitation documents. Submitting a reply to a call for EOI does not automatically guarantee receipt of the solicitation documents when issued. Invitations to bid or requests for proposals will be issued in accordance with TI-Kenya rules and procedures. Any grievances
and or complaints arising from the evaluation process and final tender award can be addressed, in writing, to the Executive Director and the TI-Kenya Tender Complaints Committee.

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