

## Terms of Reference for Consultancy to Carry out Legislative Impact Assessment and Institutional Capacity on Anti-corruption in Kenya

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**REFERENCE NUMBER: TIK/CDO/008/2024**

**DESCRIPTION:** Research consultant to conduct legislative impact assessment and institutional capacity on anti-corruption in Kenya

**DEADLINE FOR SUBMISSION:** 30<sup>th</sup> July 2024

**POSTING DATE:** 15<sup>th</sup> July 2024

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### 1. ORGANIZATIONAL SUMMARY

Transparency International Kenya (TI-Kenya) is a not-for-profit organization founded in 1999 in Kenya to develop 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 bound by a common vision of a corruption-free world. TI-Kenya's vision is "A corruption-free society". TI-Kenya works towards a transparent, corruption-free society through its three programme-focused strategic result areas; Citizen Demand and Oversight; Natural Resources and Climate Governance; and Public Finance Management.

### 2. PROJECT BACKGROUND

TI-Kenya is implementing the Restore Ethical and Accountable Leadership (REAL) phase II project with support from Uraia's Strengthening Public Accountability and Responsiveness in Kenya (SPARKe) Programme. REAL II project is a continuation of the REAL I project aimed to advocate for increased constitutionalism and adherence to the rule of law while enhancing public awareness and citizen engagement in the fight against corruption. REAL phase two (2) will seek to increase responsiveness and accountability in Kenya's public spaces through proactive anti-corruption behavior.

### 3. PURPOSE AND SCOPE OF THE ASSIGNMENT

Kenya has faced significant governance and ethical leadership challenges, contributing to widespread corruption. The country has struggled to maintain high standards of integrity and honesty among public officials, leading to a lack of confidence in government institutions and a negative impact on socio-economic development. The prevalence of corruption has been linked to various issues, including poor

leadership and bad governance, electoral disputes, nepotism, and favoritism, which have hindered the effective delivery of public services, access to justice, and the distribution of resources. Additionally, the lack of transparency in leadership has been identified as a major driver of corruption. TI-Kenya's 2021 report on citizen perception of ethical leadership revealed eroded public trust, concerns about government officials' integrity, and the need for ethical leadership practices to combat corruption and promote good governance. Despite numerous legislative measures and the establishment of various anti-corruption bodies, corruption levels continue to rise. Kenya's position in the annual Transparency International's Corruption Perception Index dropped from a score of 32 per cent in 2022 to 31 per cent in 2023. The Ethics and Anti-Corruption Commission (EACC)'s National Ethics and Anti-Corruption Survey 2023 cited two major reasons why the fight against corruption is not headed in the right direction which included: high level of corruption (34.1%) and no action taken against the corrupt (12.3%). In the recent past there has been a worrying trend of unsuccessful prosecutions in high-level graft cases, with a number of cases either dragged inordinately, withdrawn by the prosecution or resulting in acquittals with no publicly known efforts to review the withdrawn cases or appeal the cases lost. Additionally, there have been attempts to water down existing anti-corruption legislations like the Conflict-of-Interest Bill 2023 and the Anti-corruption and Economic Crimes Act 2003. Morals, values and ethos seem to be slowly eroding with corruption culture being embedded into our society. There's thus a need to assess the effectiveness and efficiency of the existing anti-corruption mechanisms and frameworks.

It is against this backdrop that TI-Kenya intends to conduct a comprehensive study on the legislative impact and institutional capacity for Anti-corruption in Kenya. The exercise also seeks to understand the place of morals and ethics in combating corruption in Kenya.

#### 4. SPECIFIC OBJECTIVES OF THE ASSIGNMENT

The objective of this assessment is to:

- i. Evaluate the impact of anti-corruption legislation and institutions in Kenya, focusing on their effectiveness in preventing and combating corruption, and identifying areas for improvement in their institutional capacity.
- ii. Assess the place of ethics and moral values in combating corruption in Kenya

#### 5. SCOPE

The assessment will cover the following key areas:

a. **Legislative Impact Assessment;**

- i. Review and analyze existing anti-corruption laws and policies
- ii. Evaluate the implementation and enforcement of these laws
- iii. Assess the impact of these laws on reducing corruption levels
- iv. Identify gaps and inconsistencies in the legal framework

**b. Institutional Capacity:**

- i. Review key anti-corruption institutions' mandate, structure, and resources (e.g., Ethics and Anti-Corruption Commission, Office of the Director of Public Prosecutions, Judiciary).
- ii. Assess the operational capacity, including human resources, technical skills, and financial resources
- iii. Evaluate the effectiveness of inter-agency coordination and cooperation.
- iv. Identify challenges and areas for capacity enhancement

**c. Assess the place of ethics and moral values in combating corruption in Kenya**

- i. Explore the significance and extent of the application of moral and ethical values in controlling/curbing corruption in Kenya

**d. Recommendations:**

Based on the findings, provide recommendations for improving the legislative framework and institutional capacity to enhance the effectiveness of anti-corruption efforts in Kenya

## 6. KEY DELIVERABLES

- i. Inception report outlining detailed methodology, work plan, and timeline.
- ii. Interim report providing preliminary findings and insights from the assessment
- iii. Draft the final report. A comprehensive report including detailed findings, analysis, and recommendations
- iv. Final report incorporating stakeholder feedback, with executive summary, conclusion, and actionable recommendations.
- v. Presentation: Make a presentation summarizing key findings and recommendations for relevant stakeholders

## 7. TIMELINE

The assessment will be conducted for 60 calendar days.

## 8. CONSULTANCY QUALIFICATION

The consultant should be a person with the following competencies:

- i. Advanced degree in law, public policy, or closely related field;
- ii. Be an advocate of the High Court of Kenya;
- iii. Demonstrated expertise in anti-corruption legislation and legal frameworks;
- iv. Proficient in data collection and analysis, with experience in conducting surveys and interviews;
- v. Experience in facilitating high-level workshops/meetings;
- vi. Extensive knowledge and experience in conducting similar exercises;

- vii. A demonstrated high professionalism and an ability to work independently and in high-pressure situations under tight deadlines;
- viii. Strong interpersonal and communication skills;
- ix. High proficiency in written and spoken English;
- x. Deadline-driven with a focus on results; And
- xi. A person of high integrity who will model TI-Kenya’s core values including; gender equality, diversity, and inclusion

Applications should include the following requirements combined into one document: (max –15 pages)

- i. A cover letter that provides reasoning for why the applicant is best suited to deliver against the Terms of Reference
- ii. Technical bid with the methodology proposed.
- iii. A brief work plan and financial proposal to deliver against the Terms of Reference

## 9. APPLICATION PROCEDURE

If you meet the above requirements, kindly send:

- a.) An expression of interest (EOI) documenting your understanding of the assignment
- b.) Proposals including detailed methodology, work plan, team composition, expected outputs, and tax-inclusive budget.
- c.) Profile with resume and latest samples of your past work and your portfolio (including your profile, CV, and references)
- d.) A sample of recently completed similar work or work on governance (attach soft copies or online link to the documents).
- e.) Kindly attach Tax Compliance Certificate, for company(s) please also attach the business permit, CR12 form and Registration Certificate.
- f.) Please indicate “**TIK/CDO/008/2024 - REAL II-Anti-corruption legislative Impact Assessment**” in the subject line of your email application.

**N/B:** All applications be submitted in one single PDF document shared to [consultancyapplication@tikenya.org](mailto:consultancyapplication@tikenya.org). The deadline for submission of expressions of interest is **30<sup>th</sup> July 2024**

**Confidentiality of information:** All documents and data collected will be treated as confidential and used solely to facilitate analysis. Interviewees will not be quoted in the reports without their consent.

**Content:** All the required documents and reports in their draft and final versions shall be submitted to TI-Kenya within agreed timelines and remain the explicit property of TI-Kenya.

## 10. 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 per TI-Kenya rules and procedures. Any grievances and or complaints arising from the evaluation process and the final tender award can be addressed, in writing, to the Executive Director and the TI-Kenya Tender Complaints Committee.

**Executive Director**

**Transparency International Kenya**

**Bishop Magua Center | Off Ngong Road – George Padmore Lane |**

**Ground Floor, Wing B, Office No. UG7 | P.O. Box 198-00200, Nairobi**

**Email [complaints@tikenya.org](mailto:complaints@tikenya.org)**