

Committee on Development and Intellectual Property (CDIP)

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WIPO'S PRACTICES FOR THE SELECTION OF CONSULTANTS FOR TECHNICAL ASSISTANCE

prepared by the Secretariat

1. The Committee on Development and Intellectual Property (CDIP) at its eighteenth session held from October 31 to November 4, 2016, approved a six point proposal which *inter alia* requested the Secretariat “to present a document containing WIPO’s existing practices relating to the selection of consultants for technical assistance.” This request is contained in paragraph 4 of Appendix I of the Summary by the Chair of the seventeenth session of the CDIP. This document responds to the above-mentioned request.

I. BACKGROUND

2. WIPO works in close cooperation with governments, intergovernmental and non-governmental organizations and various other public and private stakeholders worldwide to deliver technical assistance, helping them realize the benefits of IP for socio-economic, technological and cultural development.

3. The Development Agenda (DA) recommendations adopted in 2007 set out certain principles that guide WIPO’s work in the area of technical assistance. Accordingly, WIPO TA’s activities are provided in a development-oriented, demand-driven and transparent manner. They are country specific and take into consideration the needs and priorities of Member States and their different levels of development. In addition, as stated in the WIPO Medium-Term Strategic

Plan for 2016-2021¹, WIPO's technical assistance activities are guided by the Strategic Goal III: Facilitating the Use of IP for Development. This Strategic Goal is horizontally spread across all the programs and sectors of the Organization.

4. In delivering its technical assistance, WIPO does not only rely on its own human resources and expertise, but it also engages a number of external experts to assist the Organization in the effective implementation of its activities and projects.

5. The general framework for engaging external consultants is provided by the WIPO Office Instruction No. 45/2013 "WIPO Policy on Individual Contractor Services" (hereinafter, WIPO Policy on ICS) and the WIPO's Financial Regulations and Rules, particularly in its Chapter 5². This framework, including some general principles and selection procedures, is contained in Section II of this document.

6. Furthermore, given its particular nature, the Organization applies *de facto* practices to the selection of consultants for technical assistance. Those practices have been compiled in Section III of this document and are applicable to the following non-exhaustive categories of WIPO's technical assistance: (i) national IP strategies and development plans; (ii) technical and administrative infrastructure; (iii) capacity building; (iv) legislative assistance; (v) DA-related projects; and (vi) public-private partnerships.

II. GENERAL PRACTICES APPLICABLE TO THE SELECTION OF INDIVIDUAL CONTRACTOR SERVICES

Principles

7. In accordance with Regulation 5.11 (Chapter 5, Section C) of WIPO's Financial Regulations and Rules and Section III, paragraph 7 of WIPO Policy on ICS, the following are general principles applicable to the use of non-staff contracts:

- (i) Competitive and effective selection procedures³;
- (ii) Effective provision of services to the Organization
- (iii) Best value for money (confirmed via market information for the skill set of the non-staff resource)⁴;
- (iv) Integrity, confidentiality and transparency in implementation;
- (v) The best interests of the Organization; and
- (vi) Prudent engagement practices.

Formal Procedures

8. Program Managers are responsible for the selection of the consultants in accordance with section IV, paragraph 9 of WIPO Policy on ICS and Regulation 5.9, Rule 105.4 (Chapter 5, Section B) of WIPO's Financial Regulations and Rules. They follow the selection of procedures established in Section V and Annex of WIPO Policy on ICS. The main elements highlighted in these procedures are: (i) the need for an approval in the work plan of the activity requiring

¹ WIPO Medium-Term Strategic Plan for 2016-2021 (document WO/PBC/25/18) available at: http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=347458

² WIPO's Financial Regulations are available at : http://www.wipo.int/export/sites/www/about-wipo/en/pdf/wipo_financial_regulations.pdf

³ This principle is also established in Regulation 5.11, Rule 105.14 (Chapter 5, Section C) of WIPO Financial Regulations and Rules.

⁴ Section V, paragraph 14 of WIPO Policy on ICS

acquisition of non-staff resources; (ii) the obligation to include detailed Terms of Reference containing reasonably foreseeable specifications (objectives and targets, tangible and measurable outputs of work assignment, delivery dates and performance indicators for the evaluation of results); and (iii) the obligation to adhere to the following specific formal procedures in relation with the honorarium:

<i>Selection Procedure</i>	<i>Honorarium for annual value (in Swiss francs)</i>	<i>Formal Procedures</i>
Direct acquisition ⁵	Up to 20,000	(i) Desk review of existing WIPO contracts for similar acquisitions / or an informal survey of the market for similar acquisitions; and (ii) Program Manager shall record the results of his or her review in writing in the ICS file ⁶ .
Request for Offer	From 20,000 to 50,000	(i) Three candidates to be identified and requested to provide offers for the work in question; (ii) Optional interviews; and (iii) Offers included as part of the ICS file together with a reasoned statement.
Advertise-Response-Evaluate	from 50,000 to 100,000	(i) Advertisement in an appropriate platform or use of an appropriate selection service ⁷ ; (ii) A broad sampling of candidates identified and compared with one another; (iii) Interviews strongly encouraged; (iv) Mandatory reference checks; and (v) All notes of the reference checks as well as the reasoned statement retained to attach to the PR as part of the ICS file.
International Advertising (IA)	More than 100,000	(i) Formal advertisement on a web site / magazine or similar medium; (ii) Obligatory evaluation of the candidates; (iii) Obligatory interviews of shortlisted candidates; and (iv) Three references checked and the reasoned statement attached to the PR as part of the ICS file.

Gender

9. While selecting consultants, the Secretariat follows the provisions of the WIPO Office Instruction on Policy on Gender Equality (Office Instruction No. 47/2014) in order to ensure

⁵ Section VI, paragraph 16(a) and Annex of WIPO Policy on ICS

⁶ Section II, paragraph 6(h) of WIPO Policy on ICS: "*The file: The term "file" means the set of documents and evidence required to be attached to a request for non-staff resources. This includes (but is not limited to) resumes, offers, market information, memos, evaluation reports or relevant emails.*"

⁷ Annex, paragraph 3 of WIPO Policy on ICS: "*(...) For highly specialized services such as academic or scientific studies which do not lend themselves to advertisement, the Program Manager shall undertake as broad a market survey as practicable in order to ensure that the price WIPO pays is within the normal range for such work.*"

gender equality and the empowerment of women within its mandate and in line with the commitment of the United Nations⁸.

III. SPECIFIC PRACTICES FOR THE SELECTION OF CONSULTANTS FOR WIPO'S TECHNICAL ASSISTANCE

10. Considering the different nature of the technical assistance categories mentioned in the background section of this document, the Organization takes a “no one size fits all” approach to address the needs of each specific activity it undertakes. The following steps highlight certain common WIPO's practices for hiring consultants for technical assistance:

A. Needs assessment

11. A process to define if there is a need to hire an external consultant for WIPO's technical assistance activities is the starting point of the selection procedure. In this process, the following criteria are appropriately considered and assessed:

- (i) Non-availability of needed technical expertise at WIPO or significant added value over internal staff;
- (ii) Needs to complement the knowledge and expertise of the internal team undertaking the activity;
- (iii) Specific local knowledge required by requestor;
- (iv) Specific language skills not covered by internal staff;
- (v) Time restraints to deliver the assistance vis-à-vis to the Division / Section workload;
- (vi) Cost-efficiency considerations; and
- (vii) Need for independent evaluations (e.g. DA projects).

B. Preparation of the Terms of Reference

12. Once the need for hiring an external consultant for the delivery of technical assistance has been established, the concerned program manager prepares the Terms of Reference (ToR). The ToR define the purpose and structure of the activity and are drafted taking into account the criteria identified during the need assessment, as described above. The following elements are generally included therein, comprising those emanating from the above-mentioned formal procedures:

- (a) Scope of the work;
- (b) Intended objectives of the consultancy;
- (c) Specific task and duties to be undertaken by the consultant to reach those objectives;
- (d) Expected outputs (deliverables) and outcomes;
- (e) Expected impact of the work undertaken;
- (f) Timeline and duration;
- (g) Budget devoted to the assignment;
- (h) Essential and desirable qualifications of the expert, including previous experience in the field at a national and international level, local knowledge and language skills as referred above;
- (i) Specific expertise needed for a particular assignment (if applicable);
- (j) Experience of the consultant in similar assignments;

⁸ WIPO Office Instruction No. 47/2014 on Policy on Gender Equality available at: http://www.wipo.int/export/sites/www/women-and-ip/docs/en/wipo_policy_gender_equality_en.pdf

- (k) Place of the assignment;
- (l) Number of field missions (if applicable);
- (m) Particular demands from requestors;
- (n) Specificities in relation to the quality, reporting and monitoring; and
- (o) Specificities related to peer reviews.

C. Identification of candidates

13. The main source for the identification of potential candidates is the Roster of Consultants available at <http://www.wipo.int/roc/en/index.jsp> established in accordance with DA Recommendation 6. The roster integrates information and data on consultants / experts hired by the Organization to undertake specific technical assistance activities. Other sources used for identifying potential candidates are the following: (i) expressed recommendations of the requestor; (ii) existing network of consultants who have worked with the recruiting Division / Sector or in other WIPO divisions / sectors; (iii) suggestions from previous consultants; (iv) search among the specialized experts from the academia; and (v) recommendations from other UN Specialized Agencies. To facilitate this process, a number of divisions maintain an informal pool of high performing consultants. As a matter of practice, WIPO seeks national candidates for delivering technical assistance in a given country. When no candidate fills all the requirements at a national level, it attempts to seek candidates at a regional level or, in their absence, among candidates from developing countries.

14. Moreover, for technical assistance activities to be undertaken in the context of the Accessible Books Consortium, as expert trainers in accessible book production are limited, an international procurement process was conducted by the ABC Secretariat and the WIPO's Procurement Section in 2017 to identify companies that could provide training and technical assistance in accessible book production techniques. Likewise, recommendations from experts in accessibility standards are particularly considered.

D. Selection Process

15. Besides the formal procedures described above, steps to identify the consultant vary depending on the identified needs by WIPO and the specific requirements of the requestor of technical assistance. They might include: (i) exchanging points of view with the identified candidate(s) on the objectives and scope of the consultancy; (ii) assessing the candidate's technical capacity, availability and agreement of the ToR; (iii) assessing the candidate's impartiality and balance of view on the topic; and (iv) consulting with the beneficiaries.

16. Along with the assessment of the compliance with the ToR, the following elements are taken into account for the final selection: (a) gender⁹ and geographical balance; (b) the candidate's capability to understand the geopolitical sensitiveness of the context in which the consultancy will be undertaken; (c) the candidate's ability to build linkages and setting positive synergies in the execution context; (d) the candidate's ability to balance the interests of various stakeholders; (e) the candidate's pedagogical skills (where applicable); (f) the results from previous assignments delivered by the candidate to WIPO, including technical quality, execution time, modality of interaction with the local authorities and other stakeholders, among others. Moreover, the DA recommendation 6 states that "WIPO's technical assistance consultants shall continue to be neutral and accountable, by paying particular attention to the existing Code of Ethics and by avoiding potential conflicts of interest". In this context, as mentioned above, the Secretariat endeavors to avoid engaging experts who may potentially have professional

⁹ As referred in the General Practice of Section II above.

interests, or past association with the activity or in the institution where the activity is being implemented. However in some cases, in the interest of the debate, consultants may be requested to express the views of specific groups of interest holders.

17. Furthermore, in activities related to providing business solutions to national IP offices, WIPO uses the knowledge and expertise of focal points working in those IP Offices using WIPO's systems to support other beneficiary offices in their region. This approach has proven to be very effective, both in terms of results and costs. One of the reasons of this success is that IP Office staff themselves, once trained, are the best providers of specialized technical assistance to other IP Office staff on the use of WIPO systems designed to meet their office needs. It is a win-win scenario as the office agreeing to loan the expert also benefits from the expert's increased knowledge in managing the office systems.

E. Peer Review

18. When an activity is of a particular complexity, a peer review by other qualified and recognized experts is conducted to ensure that the work delivered is of high-quality, balanced and reliable. Peer reviews might take place at an early stage and / or after completing the consultancy work.

F. Monitoring and Evaluation

19. There is a continuous monitoring of the partial outcomes set in the consultancy timeline in order to ensure the quality of the overall activity. Likewise, within the scope of the self-assessment and the evaluation of the activity, an evaluation of external consultants is systematically undertaken. This exercise might be conducted during the assignment and after its completion. In some cases, *interim* evaluations are also carried out to assess the progress of the final deliverables. Satisfaction with the quality of the work is a precondition for its acceptance. The acceptance's decision is taken in consultation with the beneficiaries. Finally, as mentioned above, WIPO pays particular attention to the performance of consultants in previous assignments. Positive assessment of the consultants' work is a determining factor for engaging them in future assignments.

20. *The CDIP is invited to take note of the information contained in this document.*

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