

COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA



REQUEST FOR TECHNICAL AND FINANCIAL PROPOSALS

CONSULTANCY SERVICE FOR

- A) THE CONDUCT OF REVIEW OF TERMS AND CONDITIONS
OF SERVICE FOR JUDGES**
- B) FORMULATION OF A CODE OF CONDUCT FOR JUDGES**
- C) CONDUCT OF A COMPREHENSIVE SALARIES, COST OF
LIVING SURVEY, HUMAN RESOURCES NEEDS AND
ORGANIZATIONAL STRUCTURE ASSESSMENT**
- D) FORMULATION OF AN ORGANISATIONAL STRUCTURE
AND**
- E) REVIEW OF THE STAFF RULES AND REGULATIONS OF
THE COMESA COURT OF JUSTICE**

JULY 2017

Introduction

1. The Court of Justice of the Common Market for Eastern and Southern Africa (COMESA Court of Justice) was established in 1994 under Article 7 of the COMESA Treaty (the Treaty) as one of the Organs of COMESA. The Court is comprised of two Divisions; the Appellate Division and the First Instance Division. The Court is composed of twelve Judges five of whom constitute the Appellate Division and seven constitute the First Instance Division.
2. The Court sits on ad hoc basis, meaning that Judges sit as and when there are cases to be heard. However, it holds Administrative Meetings on a regular basis to discuss strategic issues and make decisions on policy issues concerning the Court. Pursuant to Rule 17 of the Rules of Court, the Court may hold its court sessions and exercise its functions in any Member State.
3. Article 41 of the Treaty provides that the day-to-day operations of the Court are co-ordinated through a Court Registry which is headed by a Registrar who is the Chief Executive Officer of the Court. The Seat of the Court is currently in Khartoum, Sudan. The Registrar and other members of staff are permanent employees although the Court does from time to time use temporary employees and consultants.

Mandate of the Court

4. The Court's primary function is to uphold the rule of law in the enforcement of the COMESA Treaty by ensuring adherence to the law in the interpretation and application of the Treaty. Its general jurisdiction is to adjudicate as well as to give advisory opinions and arbitrate on any matters that may be referred to it under the Treaty. These matters may be between Member States, Member States and the Council, the Common Market and Member States, between legal and natural persons resident in Member States or between COMESA or its institutions and their employees.
5. Reference is made to the decision of the Twenty First Meeting of the Bureau of Council which:

“iii. Directed the Secretariat to conduct a comprehensive salaries, cost of living survey, human resources needs and organizational structure assessment aligned to the needs (of the Court) at its Permanent Seat at Khartoum, Sudan”

6. Further reference is made to the decision by the Eighteenth Meeting of the COMESA Ministers of Justice and Attorneys-General held in Khartoum, Sudan on 4th March, 2015 on "the Request for Payment of Gratuity by Outgoing Judges of the COMESA Court of Justice" to the effect:

"that the terms and conditions of service of the COMESA Court of Justice Judges be reviewed holistically by the Council of Ministers."

7. Article 41 (3) of the Treaty provides that “the terms and conditions of service of the Registrar and other staff shall, subject to this Treaty, be determined by the Council on the recommendation of the Court”.

8. The COMESA Court of Justice carries out its Human Capital functions according to the Staff Rules and Regulations as laid down by Council and the Authority. The Consultant shall therefore review the Staff Rules and Regulations and make appropriate recommendations that will reflect best practices. In doing so, the Consultant will take into account the practice in other comparable Regional Courts and Tribunals especially the East African Court of Justice, the African Court on Human and Peoples’ Rights and ECOWAS Community Court of Justice which the Court of Justice could benchmark with. The practice at the African Union will also be taken into account.

9. The current Staff Rules and Regulations do not contain a disciplinary procedure and there is therefore need to formulate and include one.

10. There is no policy document on the terms and conditions of service of Judges of the Court and currently, they only receive a Letter of Appointment that contains the terms of service. This is neither sufficient nor appropriate as there is no provision for review of these terms and conditions. There is, therefore, need to come up with a comprehensive policy document that will provide the terms and conditions of service as well as the procedure for review of these terms and conditions of service. Likewise, there is no Code of Conduct for Judges and ideally, these should be contained in the said policy document.

11. Activities

The activities to be carried out by the Consultant on the basis of the documentation availed by the Court of Justice will include the following;

- (i) Formulate a policy document on terms and conditions of service for Judges with procedure for review;
- (ii) Formulate a Code of Conduct for Judges to be contained in the said policy document;
- (iii) Prepare a proposal on the review of the terms and conditions of service of Judges;
- (iv) Review the current Court of Justice Staff Rules and Regulations and
 - a) recommend those that need to be updated based on current best practices in the market;
 - b) formulate a disciplinary procedure; and
 - c) develop an appropriate HR Policy and Procedures Manual.

- (v) Carry out a comprehensive salaries, cost of living survey, human resources needs and organizational structure assessment for the Court; and
- (vi) Formulate an appropriate organizational structure in line with (v) above.

12. Documentation

Documentation to be provided to the Consultant by the Court of Justice shall include the following;

- (i) Copy of the COMESA Treaty;
- (ii) The Report of the 18th meeting of the COMESA Ministers of Justice and Attorneys General;
- (iii) The Report of the 21st Meeting of the Bureau of Council of Ministers;
- (iv) Copy of the COMESA Staff Rules and Regulations 2010;
- (v) Copy of the Court of Justice Revised Staff Rules and Regulations (SRR) 2008;
- (vi) Copy of Letters of Appointment for the Judges;
- (vii) Copies of the COMESA Salary scales for all staff categories and allowances payable;
- (viii) Copy of any Policies and Procedures available; and
- (ix) Where available, the current Staff Rules and Regulations used by sister RECs to enable comparison and possible adoption of the best practices.

13. Output

The Consultant will produce a document containing the following:

- (i) A policy document outlining terms and conditions of service for Judges with procedure for review and a Code of Conduct;
- (ii) Proposed terms and conditions of service for Judges;
- (iii) Revised Staff Rules and Regulations;
- (iv) A HR Policy and Procedures Manual;

- (v) A comprehensive salaries, cost of living survey, human resources needs and organizational structure assessment for the Court; and
- (vi) An appropriate organisational structure.

14. Time lines

The report should be presented within two months of being awarded the contract.

15. Eligibility of Consultants

This consultancy is open to reputable Human Resource Management Consultancy firms domiciled in the COMESA region and which have sufficient experience in similar assignments. Proof of having undertaken similar assignments is critical.

16. Criteria for Evaluation of Consultants

Bidders must provide both Technical and Financial proposals. The evaluation shall be based on the following attributes:

- (i) The overall responsiveness and quality of the proposal in clearly stating an understanding of the work to be performed;
- (ii) Technical ability of the proposer to perform the required services;
- (iii) The experience and reputation of the proposer as represented in the response and the quality of the references;
- (iv) Cost of services. Fees and expenses will be a particularly important factor when all other evaluation criteria are relatively equal.

The Technical proposal will be assigned a weight of 80% and the financial proposal will be weighted at 20%.

	Evaluation attribute	Percentage Points
1	Firms Understanding of Client’s requirements	20
2	Approach and methodology	15
3	Specific Experience of the firm in carrying out similar assignments	40
4	Qualifications and Experience of proposed team Team Leader 10marks Support/Key Expert(2No.) 15marks	25
	Total	100

The proposed team should consist of a Team leader and a support expert(s). The Team Leader should have at least a Master’s degree in Human Resources Management, Organizational Development, Industrial Psychology or a related social science field.

The Support/Key Experts should have at least a Bachelor’s degree in Human Resources Management, Bachelor of Commerce or Business Administration with a specialization in Human Resource Management or a related social science field. A Master’s degree in Human Resources Management will be an added advantage.

The proposals must be submitted with a cover letter containing a confirmation that you have understood the Terms of Reference for the assignment

17. Submission of Applications

The bidder shall submit the proposal in **one external envelope containing inside two sealed envelopes** by the closing date of 25th August 2017 through courier services or hand delivery to:

**THE CHAIRMAN -PROCUREMENT COMMITTEE
COMESA SECRETARIAT
BEN BELLA ROAD
P.O BOX 30051
LUSAKA, ZAMBIA
Tel: 260 211 229725 - 32
Attention: Mr. Josephat Kinyele**

The outer envelope should be clearly marked in the top right hand corner “**RFP: CS/ADM/287- HR CONSULTANCY SERVICE FOR THE COMESA COURT OF JUSTICE**” DO NOT OPEN BEFORE **25th August 2017 at 15.00 HRS Lusaka time.**

NOTE: If the envelopes are not sealed and marked as per the instructions in this clause, COMESA will not assume responsibility for the proposal’s misplacement or premature opening and may – at its discretion – reject the proposal.

This first internal sealed envelope, which will be clearly marked “TECHNICAL PROPOSAL” must contain two (2) hard copies of the technical proposal with one marked ‘original’ and the other marked ‘copy’. The second internal envelope, which will be clearly marked “FINANCIAL PROPOSAL”, should contain the original and copy of the financial proposal. The envelope containing the financial proposal will ONLY be opened if the technical offer attains the pass score of seventy per cent (70%).

In the event of any discrepancy between the original and the copy, the original shall govern.

18. CLOSING DATE OF TENDER

Tenders must be submitted to the COMESA Secretariat on or before **25th August 2017 at 15:00 hrs LUSAKA TIME.**

19. AWARD OF CONTRACTS

COMESA reserves the right to wholly or partially reject or award these contracts to any bidder and has no obligation to award this tender to the lowest bidder

20. Pricing

All prices **MUST** be indicated in USD.

There will be no price variation after signing of contract except upon a mutual written agreement between the two parties;

The price quoted shall be considered to be for all the services required by COMESA as contained in this Request for Proposal.

Prices must be exclusive of all taxes within Zambia.

Prices must be valid for 90 days from the date of close of tender.

21. Payment:

Bidders are advised that the payments terms will be 10% after submission of an inception report; 30% after submission of a draft report and 60% after the submission of a final report of acceptable quality and standard to COMESA.

22. Technical Queries

Technical queries related to this tender should be submitted in writing to procurement@comesa.int with a copy to NMbatia@comesa.int.

23. Financial Proposal - Standard Bidding Form

Bidders are advised to use the standard tender Form below as sample format and modify it to cover all relevant costs or charges.

There will be no price variation tender.

Bidders are also advised to disclose any other relevant information on a separate sheet of paper

Financial proposal Form

	AMOUNT IN USD
TOTAL PROFESSIONAL FEE	
OTHER RELEVANT EXPENSES	
VAT AND ALL OTHER TAXES	EXCLUSIVE

Amount in words: _____

Submitted by:

Name : _____

Signature: _____

Date: _____

END