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Pravna podrška pregovorima - Policy & Legal Advice Centre

Terms of Reference (ToR) for a Short-Term assignment

Technical assistance requested:	1 (one) Senior and 1 (one) Junior Non-Key Expert in the area of Negotiating Ch. 8, State Aid; Harmonisation of state aid rules with the European Union in environmental and energy sector
Project Title:	Policy and Legal Advice Centre (PLAC III), Serbia
Ref:	EuropeAid/139295/DH/SER/RS
Service Contract No.:	(CRIS) 2018/404-529
Main beneficiary:	The Ministry of European Integration of the Republic of Serbia and the Negotiating Team
Target Beneficiaries:	Negotiating Group Ch. 8; Ministry of Finance
Budget Line / Expert Category:	One Senior and One Junior Non-Key Expert
Duration of the assignment:	50 working days (WD), from September 2019 until April 2020 (30 WD SNKE and 20 WD for JNKE)

1. Relevant background information

Background information in relation to PLAC III project:

The scope of PLAC III project is to provide support to relevant national institutions in charge of alignment of national legal acts with the Union *acquis* and to contribute to further building of capacities of relevant national structures for successful carrying out of accession negotiations.

The PLAC III project should achieve two results:

RESULT 1- Enhanced compatibility of national legislation with EU legislation and its effective implementation

RESULT 2 - Enhanced capacities of the relevant national structures for successful carrying out of accession negotiations

In general, the project aims at fostering the process of accession negotiations of the Republic of Serbia by supporting the effective alignment of national legislation with the Union *acquis* and its implementation and by further building the capacities of involved carriers of the EU integration process in the Republic of Serbia. After completion of screening process in 2015, Serbian public administration has entered into much more demanding and obliging exercise of accession negotiations, whereby each step and every decision should result in approaching actual membership in the EU. For this scenario to happen in accordance with planned dynamics, preparedness, adequate institutional capacity of public administration with highly competent staff is of crucial importance. In the core period of the negotiations, PLAC III Project shall support domestic line institutions and the negotiating structures both in performance of quality operational work in relation to harmonisation process and in the effective coordination during various stages and phases in the process for different negotiation chapters.

2. Background information in relation to Chapter 8 – Competition Policy - State Aid

The Negotiating Chapter 8 is one of the most crucial and difficult chapters in the process of the Republic of Serbia's accession negotiations with EU, especially in the area of state aid. The aim for Republic of Serbia (RS) is to harmonise its legislation and establish a strong state aid control system in order to enable the strengthening of free competition.

In the Screening Report from for Chapter 8 – Competition policy, the European Commission recommended the opening of the negotiations on Chapter 8 after Serbia fulfils certain benchmarks. One of the benchmarks is that Serbia ensures the State Aid Authority's operational independence and assign it the powers and the resources necessary for the full and proper application of State aid rules, in line with obligations under SAA.

In the Country Progress Report for 2019 the EC states that Serbia has some level of preparation/is moderately prepared in the area of competition policy. No progress has been made in the field of legislative alignment and enforcement of state aid rules. It is expected that Inter alia, Serbia should pay particular attention to and step up its efforts to make the Commission for State Aid Control (CSAC) more independent and effective.

The report states that: "In the coming year Serbia should in particular:

- make significant progress in the alignment of its legislation on State aid, in particular repealing the exemption of companies in the process of privatisation from State aid rules, in line with its obligations under the Stabilisation and Association Agreement (SAA); take additional steps to align existing schemes, in particular the fiscal state aid schemes (namely the Law on corporate income tax, the Law on personal income tax and the Law on free zones) with the acquis;
- increase substantially the budget of the Commission for State Aid Control (CSAC), as well as its enforcement powers, to ensure its independence and effectiveness;
- align the law on multilateral interchange fees and special operating rules for card-based payment transactions with the acquis and SAA obligations."

The assistance from PLAC III will contribute to and enhance harmonisation with relevant EU regulations and their proper implementation and provide a support in meeting the opening benchmarks set for Chapter 8, especially regarding to alignment of the existing fiscal aid schemes.

Considering the obligations under the SAA, the selected experts' assistance will contribute to improved capacities, in particularly a higher level of knowledge of state aid rules by the Commission for State Aid Control and its professional service Department for State Aid Control and relevant state aid grantors. In this respect, the assistance provided under this assignment will complement the activities planned under IPA Project titled "Support to Commission for State Aid Control", which started in February 2019 and aimed at further harmonisation of national legislation with the acquis and development of the capacities for its enforcement.

There is no overlapping between the PLAC III and this project.

3. Description of the assignment:

3.1 Specific objectives

The specific objective of this assignment is to provide the expert assistance to the Ministry of Finance more specifically, the support to the Department for State Aid Control in implementing EU state aid acquis in area of financing in environmental and energy sector. The assistance will enhance harmonisation with relevant EU regulations and their proper implementation and provide support in meeting the opening benchmarks set for Chapter 8, especially regarding to alignment of the existing aid schemes in environmental and energy sector.

In the scope of this objective, these activities are foreseen:

- Drafting Guidelines on harmonisation of the unaligned schemes in environmental and energy sector in line with EU state aid rules
- Prepare an analysis including practices of financing of environmental and energy sector in selected EU member states and prepare information on relevant EU cases in those areas
- Hold a workshop to present the analysis and the draft Guidelines on harmonisation of the schemes in line with EU state aid rules

3.2 Requested services

The Senior NKE in the area of state aid is expected to provide the following services:

1. Prepare a comparative analysis of financing of environmental and energy sector in RS and EU member states (at least three MS, to be determined during the kick off) and an analysis of the position of the existing schemes and individual aid in RS in relation to the EU state aid rules.
2. Draft guidelines on harmonisation of financing of environmental and energy sector in line with EU state aid rules.
3. Prepare and hold a workshop to present the EU Commission's most relevant assessments and decisions on Member States' notified measures in the light of Article 107 and 108 of the TFEU as well as case law of Court of Justice of the European Union (ECJ) in this area and to present the draft Guidelines.

The Junior NKE in the area of state aid is expected to provide the following services:

1. Collect, identify, process and analyse data and information on relevant cases of financing environmental and energy sector in RS and EU member states (as agreed) in relation to the EU state aid rules, which would serve as an input to the comparative analyses (see point 3.2.1) and to the Draft guidelines on harmonisation of financing environmental and energy sector in line with state aid rules (see point 3.2.2).
2. Drafting an inventory of the existing state aid schemes in environmental and energy sector in the Republic of Serbia
3. Prepare and hold the WS (see point 3.2. item c) and present the outputs of the assignment.

3.2. Outputs

Senior NKE is expected to deliver the following outputs:

1. A comparative analysis of financing of environmental and energy sector in RS and EU member states and analyses of the position of the existing schemes and individual aid in RS in relation to the EU state aid rules drafted
2. A guideline on harmonisation of financing of environmental and energy sector in line with EU state aid rules drafted
3. Workshop held

Junior NKE is expected to deliver the following outputs:

1. A report on collection and process of data/information on relevant cases of financing environmental and energy sector in RS and EU member states in relation to the state aid rules (an input for the draft comparative analysis and the draft guidelines) including an inventory of the existing state aid schemes in environmental and energy sector in the Republic of Serbia
2. Workshop held

3.3 Reporting

The SNKE shall provide the following reports by using the templates of the Project:

- **Final Mission Report**, no later than 1 week after completion of tasks under this assignment. This report will include description of all activities and outputs provided by the SNKE and JNKE in the context of this assignment.
- A brief interim report - only upon a request of the PLAC III team: TL and/or KE 2

Submission of reports:

- Draft mission report shall be submitted to the Team Leader of the Project for review and comments at the end of the mission.
- Final version of the mission report reports prepared in the agreed quality shall be submitted to the Team Leader of the Project for a review, comments and the final approval.
- The reports shall be signed by the NKEs and the Team Leader, responsible for endorsing the reports.
- The reports and all prepared documents shall be submitted in a hard copy and electronic version to the Team Leader of the project.

3.4 Specifics

Both NKEs shall work under the guidance and follow the instructions of the Team Leader. The NKEs shall collaborate with the project team, other experts involved and representatives of the relevant beneficiary institutions.

Each of the short-term missions, the timing and duration shall be agreed with the Beneficiary and the PLAC team prior to each planned mission.

3.5 Expert input

3.6.1 Total working days

50 working days (WDs) in total have been planned for experts. 30 WD for Senior Non-Key Expert and 20 working days (WD) for Junior Non-Key Expert for this assignment.

3.6.2 Period of the assignment and Starting day

It is expected that the work will be performed during several missions in the period from September 2019 until April 2020 and starting, at the earliest 23 September 2019 onwards. However, the starting date will be confirmed at the later stage.

3.6.3 Location/Place of assignment

The SNKE and JNKE has to deliver 100% of the input in Belgrade, Serbia.

4. Experts' Profile - Senior NKE (30 working days):

4.1 Qualifications and skills (25 points)

- A level of education, which corresponds to completed university studies of at least 3 years attested by a diploma such as law, economy, finance or similar, relevant to the assignment
- Computer literacy

- Be proficient in report drafting
- Excellent communication and analytical skills
- Proficiency in English language
- Be independent and free from conflicts of interest in the responsibilities they take on

4.2 General professional experience (25 points)

- At least 8 (eight) years of general postgraduate professional experience related to the Union acquis gained in an EU member state, candidate or potential candidate country

4.3 Specific professional experience (50 points)

- At least 2 years of postgraduate professional experience in harmonisation of the national State Aid legislation with the Union State Aid acquis
- Postgraduate professional experience in a State Aid regulatory authority of an EU Member State, candidate or potential candidate country will be an advantage

5. Experts' Profile - Junior NKE (20 working days):

5.1 Qualifications and skills (25 points)

- A level of education, which corresponds to completed university studies of at least 3 years attested by a diploma such as law, economy, finance or similar, relevant to the assignment
- Computer literacy
- Be proficient in report drafting
- Excellent communication and analytical skills
- Proficiency in English language
- Be independent and free from conflicts of interest in the responsibilities they take on

5.2 General professional experience (25 points)

- At least 5 (five) years of general postgraduate professional experience related to Union acquis gained in an EU member state, candidate or potential candidate country.

5.3 Specific professional experience (50 points)

- Postgraduate professional experience in harmonisation of the national State aid legislation with the Union acquis
- Knowledge of Serbian legal system will be an advantage

6. Applications

Applications (EU format CV and application letter, both in English) need to be submitted by e-mail to mbayard@dmiassociates.com and ehoward@dmiassociates.com no later than 18 September 2019, 17:00 hrs, titled: **"Application for the position – Senior or Junior NKE in the area of Ch. 8, Harmonisation of state aid rules with that of the European Union, in environmental and energy sector."**

Please note that all the pre-selected experts are requested to sign a Statement of Availability (SoA) in which they acknowledge and confirm the availability to accomplish this assignment within the indicated period, at the indicated starting date (if any) and within the number of working days requested

References must be available on request. Only short-listed candidates will be contacted.

The Project is an equal opportunity employer. All applications will be considered strictly confidential.

Advertised posts are not available to civil servants or other officials of the public administration in the beneficiary country, Serbia.

For more information, please contact Project Manager at DMI Associates Marion Bayard: mail to mbayard@dmiassociates.com or Elizabeth Howard ehoward@dmiassociates.com