



Service Contract No.  
NDICI AFRICA/2023/448-759

## TERMS OF REFERENCE # 1

### FOR THE RECRUITMENT OF NON-KEY EXPERT IN FINANCE MANAGEMENT

#### SUMMARY

<b>CATEGORY</b>	SENIOR NON-KEY EXPERT
<b>POSITION</b>	FINANCIAL MANAGEMENT
<b>PURPOSE</b>	Support the MoJ in accessing the first transfer of the direct grant from the EUD
<b>EXPECTED OUTPUTS/ DELIVERABLES</b>	<ol style="list-style-type: none"><li>1. Establish a process of financial flow of the direct grant from the EUD to the MoJ and BI's.</li><li>2. Create a solid process for controlling the financial aspects of a PMU, like budgeting and management of funds, including internal controls.</li><li>3. Support MoJ to have a Financial Management guideline to indicate the processes to manage direct grants from the EUD throughout the Chilungamo II Programme.</li><li>4. Ensure adequate segregation of duties, authorization requirements and limits.</li><li>5. Create a needed capacity to MoJ to access transfers from EUD</li></ol>
<b>EXPECTED OUTCOME</b>	MoJ has a financial capacity to access the direct grant from the EU
<b>LOCATION</b>	LILONGWE, MALAWI
<b>INPUT</b>	20 WORKING DAYS
<b>TIMEFRAME</b>	FEBRUARY - MAY 2024



## CHILUNGAMO II (Access to Justice) Programme Lilongwe, Malawi



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### **BACKGROUND**

The European Union funds the “Provision of Technical Assistance to the Access to Justice Programme – Chilungamo II” to provide technical and administrative assistance to the Government of the Republic of Malawi in their implementation of the Chilungamo Programme II, which is a second phase of the previous programme Chilungamo I, implemented between 2018-2022. The Chilungamo I Programme’s main objective was to contribute to dignified life through accountable Government, informed democratic choice, and humane and effective delivery of justice.

Chilungamo II builds on previous interventions in the justice sector and continues to support justice reforms aiming at long-term and sustainable solutions to systemic issues with accessibility and effectiveness of key justice institutions. To this end, the project will support institutional capacity building, gradual decentralisation of services, and introduction and scaling of innovative solutions such as alternative sentencing and expansion of paralegal and mediation services. Seven Key Justice Institutions (KJI) are to be supported under this project, namely; Ministry of Justice, the Judiciary, the Police, the Prisons, the Malawi Human Rights Commission, the Office of the Ombudsman and the Legal Aid Bureau.

### **CURRENT SITUATION OF THE JUSTICE SECTOR IN MALAWI**

The Constitution of Malawi guarantees every person the right of access to justice which entitles him or her to recognition before the law; access to any court of law or any other tribunal with jurisdiction for final settlement of legal issues; and effective remedies by a court of law or tribunal for acts violating his or her rights and freedoms. Since the adoption of the current Constitution in 1994, the legal provisions that guarantee inclusive access to justice have been supported by the development and operation of a wide range of state and non-state institutions involved in the delivery of justice.

Despite the existence and operation of relevant legal standards and institutions, access to justice remains limited for most Malawians, especially women, the poor and other social groups whose access to justice remains disproportionately limited. This is exemplified by data from the Chilungamo Programme-supported 2018 Justice and Democratic Accountability Survey which, among other things, showed that in the period between 2013 and 2018, only 5.9% of the respondents had directly experienced the judicial system and that only 6.6% and 9.7 % percent of the respondents had used the courts and the police respectively. The data also show that limitations in access to justice affect certain socio-demographic groups disproportionately as exemplified by data showing that in the period between 2013 and 2018, legal aid, in its widest sense, had been provided to 23 % of male respondents, compared to 16% of women and 20% and 9% of rural and urban residents respectively. Similarly, while 64% of urban residents claimed to have had access to private lawyers in the case of rural residents the proportion fell to 23% among rural residents.

Vulnerable populations including women and child victims of crime have particular needs and face challenges when reporting sexual and other forms of violence to the police and during trials that make it difficult for them to participate fully during proceedings, leading to acquittals in many cases. Young offenders also face challenges in accessing legal assistance and are often detained in conditions that do not comply with international standards set out in the Convention on the Rights of the Child and elsewhere.



Failure to detain young offenders separately from adults often leads to sexual and other forms of violence that violate their rights, but also exposes them to hardened criminals and leads them into lives of crime.

## EUROPEAN UNION – MALAWI COOPERATION

The European Union is a longstanding leading development partner in the democratic governance sector (DGS) in Malawi. The Multiannual Indicative Programme to Malawi (MIP) includes Democratic and Economic Governance as Priority Area 2. Under this Priority area, the MIP includes ‘advancing democracy, human rights and the rule of law’ as Specific Objective 1 to address challenges related to human rights violations, gender inequality and gender-based violence, violence against children and limited access to justice for the marginalised and vulnerable groups.

Specific Objective 1 has two expected results linked to rule of law, human rights and access to justice:

- Expected result 2.1.2: Universal values of human rights for all, women and girls’ rights, including tools for the effective exercise of human rights such as civil registration and civic education, promoted.
- Expected result 2.1.3: Provision of fair justice, including access to legal assistance enhanced.

## OVERALL PROGRAMME OBJECTIVE

The Overall Objective of Chilungamo II (Access to Justice) is to **improve humane and effective delivery of justice for all, especially those living in marginalised and most vulnerable situations**. The Programme also seeks to contribute to the achievement of the objectives laid out in the Malawi’s rule of law and justice reform agenda and Democratic Governance Sector Strategy and to build on successes and lessons learnt from previous programmes and strategies.

To contribute to the Overall Objective, Chilungamo II (Access to Justice) includes the following two Specific Objectives (dealt in more detail below):

- Specific Objective 1: Enhance effectiveness and legal and coordination frameworks of the key justice institutions.
- Specific Objective 2: Improve access to justice for all, especially for the population living in the most vulnerable situations and women

## DESCRIPTION OF THE ASSIGNMENT

The DT-Global consortium is the implementing institutions responsible for providing the Technical Assistance (TA) to the Chilungamo II Programme. It will provide TA to assist the Ministry of Justice (MoJ) in establishing a Programme Management Unit (PMU) that will assist the MoJ in implementing the Direct Grant from the EU, and delivering all outputs envisaged under the Programme. The expert will support the Ministry of Justice in accessing the first grant, before the PMU is established. The PMU will be funded by the Direct Grant to the MoJ and will be set up at the headquarters of the MoJ.



## **THE OVERALL MISSION OBJECTIVE**

The overall objective of these Terms of Reference is to provide technical assistance the MoJ to have access to the first payment of the Direct Grant, so that the PMU can be established.

## **SPECIFIC OBJECTIVES**

1. Support MoJ to have a Financial Management guidelines indicating the processes to manage a Direct Grant from the EUD, throughout the Chilungamo II Programme.
2. Establish financial systems and work processes necessary for the efficient and effective execution of the Direct Grant.
3. Facilitate the efficient and effective administration, management and use of the economic, and organisation resources, as they are made available to the PMU and justice institutions implementing the project.
4. Ensure that all the financial procedures are following criteria of transparency and rules as set in the Practical Guide for Procurement and Grants for European Union external actions (PRAG)

## **SPECIFIC ACTIVITIES AND TASKS TO BE ADDRESSED BY THE EXPERTS**

The financial management expert will provide technical assistance and support to set up a PMU at the headquarters of the MoJ by the Direct Grant from EUD. The PMU will consist of at least 4 staff members, amongst which positions in financial management, task management, procurement and M&E are envisaged. Some of the specific tasks are:

1. Facilitate the MoJ to apply for the Direct Grant and comply with all the financial requirements.
2. Develop financial guidelines to administer the Direct Grant with a special emphasis in accountability.
3. Develop the procedures on how the MoJ can finance the Beneficiary Institutions (BI's or KJIs) and propose a model for accountability.



## TASKS TO BE CONDUCTED BY THE EXPERT

EXPERT	TASK	TIMELINES
Financial Management	Facilitate the MoJ to for apply the Direct Grant and comply with all the financial requirements.	6
	Develop financial guidelines to administer the Direct Grant with a special emphasis in accountability	6
	Develop the procedures how the MoJ can finance the BI's and propose a model for the accountability.	5
	Capacitate the administrative personnel in Moj to administer the direct grants.	3
TOTAL		20

## NON-KEY EXPERT REPORTING REQUIREMENTS AND DELIVERABLES

The expert will report to the Solicitor General and Secretary for Justice (SG) who is the overall supervisor of the DG Sector. The consultant will work closely with Mr. Joseph Saidi, who is a focal point assigned by the MoJ, as well as the Team Leader for the Chilungamo II Programme. For logistical support, the expert will work with the DT-Global support team under the Technical Assistance to the Chilungamo Programme.

## OUTPUTS TO BE ACHIEVED

The required outputs are:

- 1) Establish a process of financial flow of the Direct Grant from the EUD to the MoJ and BI's.
- 2) Create a solid process for controlling the financial aspects, like budgeting and management of funds, including internal controls.
- 3) Support MoJ to have a Financial Management guideline to indicate the processes to manage the Direct Grant from the EUD, throughout the Chilungamo II Programme.
- 4) Ensure adequate segregation of duties, authorization requirements and limits.
- 5) Capacitate the administrative personnel in Moj to administer the direct grants.

## SUPERVISION OF THE MISSION

For the formal approval of the deliverables, the expert shall report to the Team Leader who shall be responsible for the overall coordination of the work of the Non-Key Expert (NKE). It is the Contractor's and the Project team's responsibility to provide the NKE with the necessary background material.



## LOCATION AND DURATION OF THE ASSIGNMENT

Location of the assignment is Lilongwe, Malawi. **20 working days** over a duration of 3 months.

## QUALIFICATIONS REQUIRED — FINANCIAL MANAGEMENT EXPERT

### *Qualifications and Skills:*

- A university post graduate degree (Masters' degree) or its equivalent in Finance, Financial Management, Public Administration or related fields, or at least eight (8) years of relevant professional experience.

### *General Professional Experience:*

- At least (10) years of demonstrated Professional experience in the fields relevant to the outputs and tasks of this mission: Financial Management, EU procedures, EU procurement processes
- More than (8) years of demonstrated experience with government and public Institutions. Justice reform and access to justice is
- At least (6) years of demonstrated Professional experience in the application of the Practical Guide for Procurement and Grants for European Union external actions (PRAG)
- Demonstrated experience in financial accountability models

### *Specific Professional Experience*

- Prior senior experience in grant management
- Experience and familiarity with Malawi Government policies and their financial management systems
- Computer competence in Word, Excel, PowerPoint and Internet applications.
- Excellent reporting and writing skills in English