

CONSULTANCY TERMS OF REFERENCE CLARIFYING ENGAGEMENT IN COMMERCIAL CONTRACTS

March 2023

CONTEXT

Action contre la Faim France (ACF-Fr) has launched a brainstorming exercise regarding its business model and its positioning strategies. This required drawing the line between:

- The need to carry out and abide by humanitarian principles, the ethical and social values of ACF-Fr, on the one hand;
- The need to ensure we have an impact on the population we serve, which requires access to funding, on the other hand.

Global trends include the emergence of commercial contract funding by some institutional donors. This translates in i) the development of commercial tenders, with payment by results, pre-financing and a trend towards greater initial definition of programmes by donors, ii) the arrival of new for profit actors, competing for these contracts.

In this context, a dedicated group has worked on this topic.

Conclusions from the group include:

- A need to clarify what defines commercial contracts so as to have a common understanding within the organization;
- A need for clarification of what these funding opportunities involve in terms of risks and processes;
- A need to be informed of these funding opportunities' characteristics, in order to position ACF-Fr on contracts that are compatible with ACF-Fr's project management/monitoring/implementation practices, either at mission or HQ level.
- A need to adapt ACF-Fr's current set-up to be able to respond to relevant commercial contracts

As a result, the group's main recommendation is to **recruit a consultant/team of consultants to conduct a study and a preparedness audit.**

OBJECTIVES

General objective: provide ACF-Fr with a clear overview of the implications (including risks) and requirements of USAID, FCDO and World Bank commercial contracts as well as recommendations on changes that would need to be made to ACF-Fr's current systems

Specific objectives:

- Externally: provide ACF-Fr with a clear overview of USAID, FCDO and World Bank commercial contract specificities;
- Internally: provide ACF-Fr with an analysis of required changes and evolutions within its systems, processes and ways of working.

EXPECTED OUTCOMES

- ACF-Fr has a clear understanding of what defines a commercial contract.
- ACF-Fr has a clear overview of:
 - Potential impact (including risks) for the organisation of engaging in commercial contracts with USAID, FCDO and the World Bank;
 - Internal changes and requirements to be met before engaging in commercial contracts with USAID, FCDO and the World Bank, and the cost of these changes
- ACF-Fr is **better positioned to take a clear stance**:
 - On its willingness to enter or not the commercial contracting market with USAID, FCDO and/or the World Bank;
 - If so, on the strategy and ways to start in the most secured way possible. Based on the following expected deliverables, ACF-Fr will be able to pick the most relevant option.

EXPECTED DELIVERABLES

Three main deliverables:

1. **A definition** of commercial contracts. What defines a commercial contract and what does not enter the commercial contract category.
2. **A landscape analysis** of USAID, FCDO and World Bank “commercial contracts”. This shall entail:
 - a. A typology of contracts by donor. For each donor, the provision of:
 - i. The content of Invitation to Tender (what pieces are necessary to produce an offer, assessment of the « easiest » ITT package to engage in for instance)
 - ii. Associated risks;
 - iii. Specific procedures and requirements.
 - b. A rapid overview of what is done, and why, by other ACF network members and NGOs (the list of members and NGOs will be discussed at the beginning of the consultancy);
3. **A preparedness audit**, including:
 - a. An analysis of the necessary changes in our organisation to move towards this type of contract, by department. This shall cover the analysis of our current processes, as well as the changes needed to be able to respond to commercial contracts:
 - i. Finance (including but not limited to: finance management system, cash management/upfront payments and impact on cashflow)
 - ii. IT systems

- iii. Decision making process between HQ and Country offices from a tender process throughout the life-cycle of a contract
 - iv. Human Resources (HR management and contracts)
 - v. Legal requirements (including but not limited to: tax issues, French and local legislations, insurance coverage if needed)
 - vi. Operations and MEAL
- b. Recommendations on priority changes to meet recommendations provided in the landscape analysis. The consultant could provide several scenarios. The audit will need to take into account ACF-Fr's specificities regarding the budgeting process. It will also need to take into account its legal status (Association law 1901 recognized of public utility).
- c. An estimate of the cost of these priority changes

TIMELINE

This analysis will be carried out by the end of 2023.

ROLES AND COORDINATION

This project will be led by the Treasurers in close coordination with the financial director. This will also require coordination with the IDRU (International Donor Relations Unit) and other ACF-In members.

The consultant/team will report to Treasurers and to the Chief Financial Officer.

CONSULTANT(S) PROFILE

The Consultant or team of Consultants shall have:

EXPERIENCE

- Experience in working in business development in the public sector;
- Extensive professional experience in commercial tendering and financial bid preparation // Experience in supporting organisations to undertake commercial contracts by evaluating existing systems and processes and/or supporting pre-positioning strategies on budgeting and positioning within the market
- A specific knowledge of one or several of the donors listed, i.e. USAID, FCDO and/or the World Bank;
- Experience in organizational change.

SKILLS

- Proven ability to convert successful practices into new policy and process guidance;
- Strong analytical, research and writing skills with demonstrated ability to think strategically;
- Ability to work independently.



Recognizing the diversity of required skills, ACF-Fr is open to offers for one or two of the three donors for which a landscape analysis and a preparedness audit is required. Based on applications received, we may connect the most relevant profiles.

BIDING PACKAGE

To submit a bid for this consultancy please provide the following documents:

- A resume
- An outline of the method you will apply to conduct this consultancy
- A workplan
- Daily rate