Terms of reference (ToRs) for the procurement of services below the EU threshold

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Developing Policy Document and Support on Legal and Economic Justification for Mass Public Transport Local Regulation in Batam City	Project number/ 12.9097.2-135.02

0. List of abbreviations 2

1. Brief information on the project 3

2. Context 3

3. Tasks to be performed by the contractor 4

4. Concept 7
Technical-methodological concept 7
Project management of the contractor (1.6) 8
Further requirements (1.7) 8

5. Personnel concept 8
Expert 1: Public Policy/Legal Expert (Team Leader) 9
Expert 2: Economist 9
Expert 3: Research Assistant 10

6. Costing requirements 10
Assignment of personnel and travel expenses 10

7. Requirements on the format of the bid 12

8. Organisational Matters 12

0. List of abbreviations

APBN	National budget
AVB	General Terms and Conditions of Contract (AVB) for supplying services and work 2018
BRT	Bus Rapid Transit
FS	Feasibility Study
GHG	Greenhouse gas
GIZ	The Deutsche Gesellschaft für Internationale Zusammenarbeit
GoI	Government of Indonesia
INDOBUS	Indonesian Bus Rapid Transit Corridor Development Project
MOT	Ministry of Transportation
NAMA	National Appropriate Mitigation Action
SECO	The State Secretariat of Economic Affairs of Switzerland
SUTRI	Sustainable Urban Transport Programme Indonesia
TOR	Terms of Reference
UNFCC	The United Nations Framework Convention on Climate Change

1. Brief information on the project

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is an international cooperation enterprise for sustainable development with worldwide operations. Its corporate objective is to improve people's living conditions on a sustainable basis.

The Sustainable Urban Transport Programme Indonesia (SUTRI), a Nationally Appropriate Mitigation Action (NAMA) registered with the UNFCCC, aims to tackle the challenges of growing urban traffic congestion and increasing urban transport-related greenhouse gas emissions by transforming urban transport in Indonesia with a mix of technical advisory services, capacity-building and investment provided through a national sustainable urban transport program. The implementation of SUTRI NAMA commenced in December 2017 funded by the Mitigation Action Facility (formerly known as NAMA Facility) and concluded in December 2022.

A technical assistance component, Indonesia Bus Rapid Transit Corridor Development Project (INDOBUS), is designed to particularly support the Bus Rapid Transit (BRT)-corridors in selected pilot cities of Indonesia and improve national framework conditions for BRT. It addresses sub-national and national levels through planning, project management, operations management, and funding plans as well as reform of the private minibus sector. The INDOBUS component is financed by the State Secretariat of Economic Affairs of Switzerland (SECO). The programme donors have appointed GIZ as the implementing agency in close partnership with the Ministry of Transportation (MoT) as the appointed counterpart by the Government of Indonesia. The project is scheduled to be completed in December 2024.

2. Context

The Government of Indonesia (GoI) has committed to improving urban mass transport in six metropolitan cities: Jakarta, Medan, Bandung, Semarang, Makassar, and Surabaya. The commitment was included as a national priority in the Mid-Term National Development Plan (RPJMN/Rencana Jangka Menengah Nasional) 2020-2024, further highlighted as a major project. In line with that national commitment, SUTRI NAMA and INDOBUS supports the GoI especially the Ministry of Transportation (MoT) through technical assistance supporting the development of sustainable urban mass transport, particularly in 6 pilot cities (Bandung, Semarang, Makassar, Pekanbaru, Surabaya, and Batam) in which four of the cities are national priority projects. The technical assistance for each six pilot cities include but is not limited to the formulation of a Pre-Feasibility Study (PFS)/Preliminary Study of Bus Rapid Transit (BRT), Feasibility Study (FS) of BRT, Parking Concept Design, NMT Concept Design, Potential GHG emission Reduction Study, etc.

In Batam, SUTRI NAMA and INDOBUS supported the foundation towards BRT development by completing the Pre-Feasibility Study (PFS) and Feasibility Study (FS) in Developing BRT Corridor. The study defined the technical design, capital project cost and recommended institutions for implementing and operating the BRT system. However, as the next stage, BRT corridor development as the output of FS, needs a more comprehensive commitment from both the central government and local governments. From the local government perspective, in realization of the high-quality BRT and other sustainable urban transport measures, it needs an extra effort compared to keeping up on the business-as-usual scenario. In developing a path towards a sustainable urban

transportation ecosystem, challenges that need to be addressed are the regulation framework and access to budget for implementation. One of the fundamental problems in promoting sustainable urban transportation is that public transportation does not typically generate sufficient revenue to cover its capital and operating costs. Even after two decades of considerable autonomy and decentralization era (*otonomi daerah*), municipalities typically lack the fiscal resources to finance and fund high-quality bus services. The lack of budget allocation and political commitment among city stakeholders is at the heart of this issue. On the other hand, the lack of policy in supporting the agenda is also a considerable bottleneck at city level which implicates the commitment to the city budget (APBD) and the mid-term plan (RPJMD).

Based on Local Government Law No.23/2014, the city government is responsible for implementing concurrent government affairs delegated to them by the central government. This includes the mandatory government affairs (related to basic services and non-related), and optional government affairs. The mandatory government affairs related to basic services are as follows: education, public health, public works, security, and social. Meanwhile, the transportation sector is categorized as a mandatory government affair non-related to basic service. Referring to regulations and budgeting practices, the city government prioritize activities/programs that are included in the mandatory government affair related to basic service group first so that it often poses challenges in allocating a sufficient budget for the transportation sector. This situation also encountered by Batam City Government who faces challenges in enhancing its city bus service, Trans Batam, as the Transportation Agency (Dishub) grapples with stagnant operational performance and a lack of improvement over the past 5 years. The struggle to enhance Trans Batam is attributed to the limited budget allocation from the City Budget (APBD) to Dishub. Therefore, a well-planned study that considers Indonesian law, related regulations, and precise calculations needs to be addressed by the Batam City Government to propose the transportation sector as one of the basic services.

The overall objective of the consultancy is to support Batam City Government in preparing the strategy and policy document for leveraging the dedicated municipal budget allocation to finance urban transport activities, including operationalizing the current bus system and future BRT. This study aims to define and emphasize the legal and economic justification for prioritizing allocation within the city budget for public transport development, serving as a fundamental reference for Regional Law (Perda) on Urban Mass Transportation. With that, GIZ is seeking a skilled and experienced contractor in the relevant field to provide a high-quality study for SUTRI NAMA & INDOBUS.

3. Tasks to be performed by the contractor

Task 1 Comprehensive Legal and Regulatory Analysis

The contractor shall conduct a thorough examination of Indonesian laws, regulations, and existing legal frameworks related to urban mass transportation, with a focus on Batam, in order to identify and propose amendments necessary for prioritizing public transportation sector.

Detail activities including but not limited to:

a) Regulatory Landscape Assessment:
   - Gather and analyze existing national and local regulations pertaining to transportation, highlighting provisions that designate basic services.

- Identify any legal constraints, gaps or ambiguities hindering the reclassification of the transportation sector as a basic service. Explore potential avenues for legal amendments or advocacy, with the understanding that these recommendations will serve as a basis to influence policy recommendations at both local, and if applicable, national levels.

b) Stakeholder Consultations:
   - Engage with relevant government authorities such as Batam Transportation Agency (Dishub Batam), legal division in municipal government, and other stakeholders to understand perspectives of the roles, responsibilities, potential barriers and perspectives of the transportation sector.
   - Facilitate, moderate, and engage in discussions on the relevant topic.

c) Drafting Legal Recommendations:
   - Formulate clear and concise legal recommendations for proposed amendments, focusing initially on the local level with consideration for potential expansion to the national level
   - Provide a draft of proposed changes to facilitate the inclusion of the transportation sector as a basic service.

Task 2 Economic Justification and Budgeting Framework

The consultant shall conduct an assessment to provide a sound economic justification and a robust budgeting framework that aligns with legal requirements, addresses current economic challenges, and fosters sustainable development in Batam's urban transportation sector.

Including but not limited to:

a) Baseline overview:
   - Review the current Municipal Budget (APBD) in Batam Municipal Government, providing an overview and formulating a justified budget proportion for the urban transportation sector. Ensure that the proposed budget proportion adheres to relevant legal regulations. Incorporate technical input by calculating budget justifications based on strategic planning outlined by Dishub Batam. This includes consideration of programs directly linked to the improvement and development of Trans Batam.
   - Benchmarking on the economic calculation on proportion of the annual municipal budget for the transportation sector
   - Conduct a detailed economic analysis of the current state of the transportation sector, considering revenue generation (fare and subsidy income if applicable), operational costs, and potential economic benefits.
   - Identify key financial challenges and opportunities for sustainable urban transport development.

b) Budgeting Framework Development:
   - Propose a strategic budgeting framework that outlines the allocation priorities within the city budget, emphasizing the transportation sector.
   - Provide guidelines for optimizing budget allocation to ensure the viability and effectiveness of public transport projects.
   - Conduct formulation on calculation for proper budget allocation in APBD for improvement of public transport sector

Task 3 Policy and Strategy Formulation

The contractor shall engage in collaboration and consensus among stakeholders, resulting in the creation of a robust policy document that provides a clear roadmap for prioritizing and advancing public transport initiatives in Batam.

Including but not limited to:

a) Stakeholder Engagement and Consensus Building:
   - Facilitate workshops and meetings with key stakeholders, including government officials, urban planners, and community representatives, to gather input and build consensus on the proposed strategy.
b) Policy Document Drafting:
   - Develop a detailed policy document outlining the legal, economic, and strategic justification for prioritizing public transport in municipal budget.
   - Include actionable recommendations and implementation plans.

In all tasks, the contractor should maintain a commitment to revise and refine their work based on the team's feedback, ensuring the final outputs demonstrate analytical rigor, stylistic coherence, and consistency with the overall objectives of the study.

General: Policy Document on Legal and Economic Justification for Mass Public Transport Local Regulation in Batam City.

Certain milestones, as laid out in the table below, are to be achieved by certain dates during the contract terms, and at locations:

Deliverable	Estimated Deadline	Specification
1. Inception Report	Week 4th after Kick-off (First/Advance payment upon approval)	• Timeline and implementation strategies • Stocktaking results on the baseline condition of the Batam City Government (current APBD, regulations, fiscal capacity, related urban transport program) • Initial Finding on Benchmarking on the economic calculation on proportion of the annual municipal budget for the transportation sector

2. Interim Report	Week 12th after Kick-off	• Initial draft
		  ○ on the formulation in justification budget proportion for the urban transportation sector
		  ○ economic analysis of the current public transportation sector

		considering revenue generation, operational costs, and potential economic benefits. • Draft of concept strategy for Dishub Batam based on the stock taking on workplan: • Documentation on the dialogue taken between stakeholders
3. Draft Final Report	16th week after Kick-off	• Draft of policy document • Draft input for local regulation
4. Final Report	20th week after Kick-off (Final payment upon approval)	

Period of assignment: From **March 2024 until 15 September 2024**

Place of Assignment: Jakarta and Batam

Deliverables shall be in electronic format, following the procedures and format defined by GIZ, and shall be submitted in Bahasa Indonesia with the executive summary in Bahasa Indonesia and English.

4. Concept

In the bid, the bidder is required to show how the objectives defined in Chapter 2 are to be achieved, if applicable under consideration of further specific method-related requirements (technical-methodological concept). In addition, the bidder must describe the project management system for service provision.

Technical-methodological concept

Strategy (1.1): The bidder is required to consider the tasks to be performed with reference to the objectives of the services put out to tender (see Chapter 1) (1.1.1). Following this, the bidder presents and justifies the strategy with which it intends to provide the services for which it is responsible (see Chapter 2) (1.1.2).

The bidder is required to present the actors relevant for the services for which it is responsible and describe the **cooperation (1.2)** with them.

The bidder is required to present and explain its approach to **steering** the measures with the project partners (1.3.1) and its contribution to the results-based monitoring system (1.3.2).

The bidder is required to describe the key **processes** for the services for which it is responsible and create an **operational plan** or schedule (1.4.1) that describes how the services according to Chapter 2 (Tasks to be performed by the contractor) are to be provided. In particular, the bidder s required to describe the necessary work steps and, if applicable, take account of the milestones and **contributions** of other actors (partner contributions) in accordance with Chapter 2 (Tasks to be performed) (1.4.2).

Project management of the contractor (1.6)

The bidder is required to explain its approach for coordination with the GIZ project. In particular, the project management requirements specified in Chapter 2 (Tasks to be performed by the contractor) must be explained in detail.

- The contractor is responsible for selecting, preparing, and steering the experts assigned to perform the advisory tasks.
- The contractor makes available equipment and supplies (consumables) and assumes the associated operating and administrative costs.
- The contractor manages costs and expenditures, accounting processes and invoicing in line with the requirements of GIZ.

The bidder is required to draw up a **personnel assignment** plan with explanatory notes that lists all the experts proposed in the tender; the plan includes information on assignment dates (duration and expert months) and locations of the individual members of the team complete with the allocation of work steps as set out in the schedule.

The bidder is required to describe its backstopping concept. The following services are part of the standard backstopping package, which (like ancillary personnel costs) must be factored into the fee schedules of the staff listed in the tender in accordance with Section 3.3.1 of the GIZ AVB:

- Service-delivery control
- Managing adaptations to changing conditions
- Ensuring the flow of information between the bidder and GIZ
- Assuming personnel responsibility for the contractor's experts
- Process-oriented steering for implementation of the commission
- Securing the administrative conclusion of the project

Further requirements (1.7)

The bidder needs to have the following experience:

a. Consulting firm with legal entity and licensed to operate in Indonesia
   Tertiary qualification in public policy, and project management experience and expertise suitable to a project of this scale and complexity to ensure superior coordination and consultation and high quality and timely deliverables
b. Experience in policy and, or regulation drafting work at least 2 years,
c. Experience working with Central or Local Government of Indonesia delivering related task (public policy and/or regulation review) at least 3 years
d. List of relevant work that had been concluded

5. Personnel concept

The bidder is required to provide personnel who are suited to filling the positions described, based on their CVs the range of tasks involved and the required qualifications.

The below specified qualifications represent the requirements to reach the maximum number of points.

Expert 1: Public Policy/Legal Expert (Team Leader)

Tasks of Expert 1

- Oversees the entire study, ensuring the legal and policy analyses align with Indonesian laws and regulations. They will coordinate with stakeholders, conduct regulatory landscape assessments, lead stakeholder consultations, and draft legal recommendations for amending laws to include the transportation sector as a basic service.
- Overall responsibility for the advisory packages of the contractor (quality and deadlines)
- Coordinating and ensuring communication with GIZ, partners, and others involved in the project
- Personnel management, as well as planning and steering assignments
- Regular reporting in accordance with deadlines.

Qualifications of Expert 1

- Education/training (2.1.1): University qualification (master's degree) in Public Policy, Law
- Language (2.1.2): B1-level language proficiency in English, and Native speaker of Bahasa Indonesia
- General professional experience (2.1.3): 10 years of professional experience in public policy, legal analysis, or related fields.
- Specific professional experience (2.1.4): 5 years of experience in legal consultancy related to urban development, transportation, or public services.
- Leadership/management experience (2.1.5): 3 years of management/leadership experience as a project team leader or manager in a company

Expert 2: Economist

- Focuses on economic aspects analysis, conducting a comprehensive financial analysis of the transportation sector, identifying revenue generation opportunities, analyzing operational costs, and performing cost-benefit analyses.
- Responsible for proposing a strategic budgeting framework that optimizes allocation for sustainable urban transport and presenting findings to support decision-makers in understanding the economic justification for prioritizing budget allocation.
- Overall responsibility for the advisory packages of the contractor (quality and deadlines) with coordination with the Team Leader
- Ensuring communication with GIZ, partners, and others involved in the project
- Regular reporting in accordance with deadlines

Qualifications of Expert 2

- Education/training (2.2.1): Master's degree qualification in Economics or Business and Finance, with a focus on transportation economics
- Language (2.2.2): B1-level language proficiency in English, and Native speaker of Bahasa Indonesia
- General professional experience (2.2.3): 7 years of experience in conducting financial analysis related to public service, including revenue generation, cost analysis, and financial modelling especially for urban transport projects.
- Specific professional experience (2.2.4): at least 3 yeast proven ability to assess financial sustainability and economic viability of public service projects, with an emphasis on transportation services.

Expert 3: Research Assistant

Tasks of Expert

- Supporting Team Leader and Economist: Provide support to the Team Leader and Economist by conducting thorough reviews of their work, ensuring accuracy, coherence, and adherence to established standards.
- Documentation of Stakeholder Discussions: Document and summarize discussions with stakeholders, ensuring that key points, feedback, and decisions are accurately recorded for future reference.
- Final Formatting: Assist in the final formatting of deliverables, ensuring a polished and professional appearance of reports, presentations, and documentation. This includes optimizing slides provided by the Team Leader and Economist to enhance visual clarity and understanding for stakeholders.
- Overall responsibility for the advisory packages of the contractor (quality and deadlines) with coordination with the Team Leader
- Ensuring communication with GIZ, partners, and others involved in the project
- Regular reporting in accordance with deadlines

Qualifications of Expert 3

- Education/training (2.3.1): University qualification (bachelor's degree) in relevant field
- Language (2.3.2): A2-level language proficiency in English, and Native speaker of Bahasa Indonesia
- General professional experience (2.3.3): 2 years of professional experience in public policy, government administration or law

6. Costing requirements

Assignment of personnel and travel expenses

Per-diem and overnight accommodation allowances are reimbursed as a lump sum up to the maximum amounts permissible under tax law for each country as set out in the country table in the circular from the German Federal Ministry of Finance on travel expense remuneration (downloadable at https://www.bundesfinanzministerium.de).

Accommodation costs which exceed this up to a reasonable amount and the cost of flights and other main forms of transport can be reimbursed against evidence.

All business travel must be agreed in advance by the officer responsible for the project.

Specification of inputs

Fee days	**Number of experts**	**Number of days per expert**	**Total**	**Comments**
Expert 1	1	45	45	Against timesheet
Expert 2	1	40	40	against timesheet
Expert 3	1	30	30	Against timesheet
Travel expenses	**Quantity**	**Price**	**Total**	**Comments**

Per-diem allowance in country of assignment				
• Per diem in Batam	27 (3 experts x 3 days x 3-times visit)	400.000	10.800.000	Based on GIZ regulation
Overnight allowance in country of assignment				
• Accommodation in Batam	18 (3 experts x 2 nights x 3-times visit)	1.200.000	21.600.000	Maximum cost, reimbursed against the evidence
Transport	**Quantity**	**Price**	**Total**	**Comments**
Domestic flights				Flights within the country of assignment during service delivery
• Jakarta – Batam (return)	3 experts (up to 3-times visit)	3.200.000	28.800.000	Maximum cost, reimbursed against the evidence
Travel expenses (train, car)				
• Car rental in Batam	9 (1 unit x 3 days x 3-times visit)	1.300.000	11.700.000	Maximum cost, reimbursed against the evidence
• Airport transfer	18 (3 people x 3-times)	300.000	2.700.000	Maximum cost, reimbursed against the evidence
Other costs	**Number**	**Price**	**Total**	**Comments**
Flexible remuneration	1	45.000.000	45.000.000	A budget of IDR 45.000.000 is foreseen for flexible remuneration. Please incorporate this budget into the price schedule. Use of the flexible remuneration item requires prior written approval from GIZ.

7. Requirements on the format of the bid

The structure of the tender must correspond to the structure of the ToRs. In particular, the detailed structure of the concept (Chapter 3) should be organised in accordance with the positively weighted criteria in the assessment grid (not with zero). The tender must be legible (font size 11 or larger) and clearly formulated. It must be drawn up in English.

The complete tender must not exceed 10 pages (excluding CVs). If one of the maximum page lengths is exceeded, the content appearing after the cut-off point will not be included in the assessment. External content (e.g. links to websites) will also not be considered.

The CVs of the personnel proposed in accordance with Chapter 4 of the ToRs must be submitted using the format specified in the terms and conditions for application. The CVs shall not exceed 4 pages each. They must clearly show the position and job the proposed person held in the reference project and for how long. The CVs can also be submitted in English.

Please calculate your financial tender based exactly on the parameters specified in Chapter 5 Quantitative requirements. The contractor is not contractually entitled to use up the days, trips, workshops or budgets in full. The number of days, trips and workshops and the budgets will be contractually agreed as maximum limits. The specifications for pricing are defined in the price schedule.

8. Organisational Matters

Payment modalities: Payment of the assignment will be made in two (2) terms. The final payment will be made after the completion of the assignment, considering a satisfactory result, evidence and timesheet provided by the contractor.

Failure to complete work: GIZ reserves the right to cancel the remainder of the contract if the deliverable output does not meet ToR requirements and standards of quality e.g. if Task 1 is completed unsatisfactorily, GIZ is only liable to pay for Task 1 and can cancel the contract for the remaining Tasks.