

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

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<b>DEVELOPMENT OF TRAINING FOR MEDIA ON WHISTLEBLOWER PROTECTION AND SUPPORT</b>	<b>Project number/ cost centre: 20.2106.1-001.00</b>
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## **0. List of abbreviations**

AG	Commissioning party
AN	Contractor
AVB	General Terms and Conditions of Contract for supplying services and work
BMZ	German Federal Ministry for Economic Cooperation and Development
FK	Expert
FKT	Expert days
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
KZFK	Short-term expert
NACS	National Anti-Corruption Strategy
SANEF	South African National Editors' Forum
TIP	Transparency, Integrity and Accountability Programme
ToRs	Terms of reference

## 1. Context

The Transparency, Integrity and Accountability Programme in South Africa (TIP) supports state and non-state actors to contribute towards the implementation of the National Anti-Corruption Strategy (NACS) in a whole-of-government and societal manner. The TIP provides capacity development for anti-corruption actors in the state, civil society and the business sector. The project supports:

- Active citizenry where citizens can contribute actively to activities and initiatives in favour of transparency, integrity and accountability (output 1);
- The strengthening of institutional capacity of collaborative mechanisms, particularly the National Anti-corruption Advisory Council to coordinate the implementation of the NACS (output 2); and
- Multi-stakeholder partnerships to improve transparency, integrity and accountability (output 3).

In addition to the whole-of-government and societal approach of the TIP, the programme actively pursues a human rights-based orientation including gender equality. The strategic reference points for the TIP are the NACS, Agenda 2030, the Medium-term Strategic Framework 2019-2024, Germany's approaches to governance, democracy and anti-corruption as well as Agenda 2063 (African Union) and Sustainable Development Goals 16.5 and 16.6.

The TIP is implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH on behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ). The TIP is co-financed by the Swiss State Secretariat for Economic Affairs. The programme is part of the newly established Peaceful and Inclusive Societies cluster of BMZ and the action field Good Governance.

The TIP was designed to support the implementation of the NACS. Outputs 1 and 3 of the TIP align with Pillar One of the NACS which aims to "Promote and encourage active citizenry, whistleblowing, integrity and transparency in all spheres of society". In order to give effect to this pillar, a conducive and supportive environment for whistleblowers is necessary.

Whistleblowers play a vital role in both the public and private sectors by shedding light on wrongdoing, paving the way for investigation and accountability measures. They are a vital part of the anti-corruption ecosystem. Their reports can assist in saving government and businesses money and therefore make a difference by improving institutional and collective wellbeing.

While society in general benefits from their actions, whistleblowers often face recrimination, which has knock-on effects that affect whistleblowers' lives in profound ways. The legislative framework attempts to address this by prescribing protections. However, such protections – even if robust on paper – fail to protect whistleblowers in practice.

The media has an important role to play in protecting whistleblowers. Investigative journalists rely on whistleblowers for tip-offs, but at the same time the Protected Disclosures Act puts in place requirements that must be met for such "public" disclosures to be protected. There is a greater risk for whistleblowers to disclose to the media rather than other channels in terms of legal protection. At the same time, associations with whistleblowers can also put journalists at risk for their personal safety. Once whistleblowers hand over information to journalists,

particularly when this is done anonymously or confidentially, journalists can become the target for recrimination. As a result, they can experience detriments that are similar to those experienced by whistleblowers. At the same time, they remain duty-bound to protect their sources, often at great personal cost.

The media also plays a role in shaping narratives around whistleblowing. Its coverage of whistleblower stories can help to draw attention and sympathy from the public when they undergo mistreatment. The media can also highlight stories where speaking up against malfeasance leads to positive outcomes. On the other hand, media coverage can contribute to stigma by reinforcing notions that whistleblowers are 'snitches' or untrustworthy.

However, whistleblowers approach the media for several reasons that benefit them as well. This could include fears for their personal safety (where having the information disclosed publicly can have a protective function) or because reports to other channels have proved fruitless. The relationship between the media and whistleblowers can be a symbiotic one. However, it can be difficult for journalists to discern who is a whistleblower acting in the genuine public interest with accurate information. This is because mala fide actors attempt to 'weaponise' the media to discredit adversaries publicly.

The ways journalists interact with whistleblowers differ widely. It is often informed by the policies of particular newsrooms. Journalists that are newer to the profession can learn about this from their formal education, though it does not appear that this is a topic formally taught at journalism schools in any great depth. Newer journalists also learn protocols/strategies for dealing with whistleblowers on the job from more senior journalists. There is therefore little standard information that journalists can rely on to guide them through working with whistleblowers. In addition, there is little guidance as it relates to applicable whistleblower protection laws as well as information about information security that can help to ensure that whistleblowers' information remains secret, or their anonymity protected. Often, concepts of whistleblowing and witness protection are intermingled in the media.

In extreme circumstances, which are unfortunately not unheard of in South Africa, journalists may need to protect their sources from the media organisation that the journalist works for.

There is a need to capacitate members of the media to respond to the matters described above. This can help journalists ensure that their reporting does not compromise whistleblowers' safety (personal/digital) or access to legal protection, nor add to the stigma around whistleblowing. Training should also appreciate the need for differentiated approaches based on the socio-economic circumstances of the whistleblower. In addition, training can help equip journalists to protect themselves from external threats when working with whistleblowers.

To address this resource/training deficit, the TIP has partnered with the South African National Editors' Forum (SANEF), a non-profit organisation whose members are editors, senior journalists and journalism trainers from all areas of the South African media, to develop a short training course that contains detailed, relevant information for journalists about how to interact with whistleblowers responsibly.

## **2. Tasks to be performed by the contractor**

The contractor is responsible for providing the following services:

### 2.1 Initial research

2.1.1 Consultation: The service provider shall identify a pool of up to ten relevant organisations to obtain inputs on the course content. This should include inputs on the course knowledge, format of the training session, design and content of course materials, and practical application of the course content to the work of journalists. This should include consultation with media houses about the methods they use to protect their sources, and how tensions between the interests of governance of media organisations and sources are managed.

2.1.2 Desk-based research: The service provider should conduct online research for reputable guidance on how these topics are approached by international/foreign media houses. If possible, international organisations such as OCCRP can also be approached for consultation. The service provider should also conduct an online survey to assess the training gaps of journalists in relation to the subject matter.

2.2 Development of course content: a guidance document intended for use by trainers which contains instructions about how to conduct the training. This includes:

2.2.1 Suggestions about proposed class size, level at which course is pitched (junior journalists/senior journalists, investigative journalists/other types of journalists), room set up requirements (e.g whiteboard needed, projector, etc).

2.2.2 Information forming the basis of the course ('course knowledge') that is thoroughly researched and up to date, including citations and suggestions for further reading. This can include PowerPoint presentations that trainers can use. This information should be enriched by including case studies and real-life testimonials from whistleblowers on their experiences of interacting with the media.

2.2.3 Suggested activities that can be conducted during the training session, including ice breakers, individual and group activities based on the course knowledge.

2.2.4 Frequently asked questions and suggested answers.

2.2.5 Instructions about how to incorporate the course materials into the training.

2.3 Development of course materials: this includes a short guidebook/hand out materials which summarises essential concepts and which can be used by participants as a reference resource. Course materials should be no more than 20 pages of text.

2.4 Conduct two training sessions. This should include at least one 'train the trainer' session where trainers are taken through the course in detail and capacitated to deliver training themselves.

2.5 Course knowledge should include at least the following topics:

2.5.1 Legal framework applicable to whistleblowing as it relates to the whistleblower-journalist interaction points. The aim should be for journalists to understand the extent of legal protection, factors which may compromise such protection, and what is not protected (with a focus on how interactions with the media can affect access to legal

protection). Journalists should also understand the difficulties that whistleblowers face in accessing legal protection, including deficiencies in the legal framework and the prohibitive cost of legal representation.

2.5.2 An understanding of the risks that whistleblowers face. This should include a discussion on ethical questions that may arise, such as having to forgo a story if publication would put the whistleblower at great risk. Journalists should be capacitated to provide basic help whistleblowers understand potential risks they face if the story is published, and mechanisms that can help to mitigate such risks.

2.5.3 Safer practices for meeting whistleblowers in person. This includes guidelines of assessing risk of meeting in public places/at newsrooms, etc. This should address both the safety of the whistleblower and that of the journalist (including colleagues, and others who might face threats.)

2.5.4 Safer practices for telephonic/digital communication and information security. This includes guidance on preferable communication modes (Signal versus WhatsApp for example), ways to preserve anonymity in online communication, ways to store information security, password protection and encryption as well as other technological and non-digital means. Consideration should be given to how to protect sources against the journalist's own media house, should the need arise.

2.5.5 Protecting journalists' safety: This should provide a holistic approach to identifying and managing risks from the journalist's perspective.

- The contractor is responsible for selecting, preparing, training and steering the international and national, short and long-term experts assigned to perform the advisory tasks.
- The contractor provides equipment and supplies (consumables) and assumes the associated operating and administrative costs. This includes the design, printing and delivery of the course materials.
- The contractor manages costs and expenditures, accounting processes and invoicing in line with the requirements of GIZ.
- The contractor reports regularly to GIZ in accordance with the current AVB of the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH.

Certain milestones, as laid out in the table below, are to be achieved during the contract term:

<b>Milestones/process steps/partial services</b>	<b>Deadline/place/person responsible</b>
Inception meeting	8 September 2023
Consultation with stakeholders	Completed by 20 September 2023
Draft training package	11 October 2023
Delivery of final training package in printed form	9 20 October 2023
First Training Workshop	November 2023
Second Training Workshop	November 2023

Final Report	20 December 2023
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Period of assignment: from 7 September 2023 until 20 December 2023.

### 3. Concept

In the tender, the tenderer is required to show *how* the objectives defined in Chapter 0 (Tasks to be performed) are to be achieved, if applicable under consideration of further method-related requirements (technical-methodological concept). In addition, the tenderer must describe the project management system for service provision.

Note: The numbers in parentheses correspond to the lines of the technical assessment grid.

#### Technical-methodological concept

**Note: Kindly ensure that the concept refers explicitly to the numbered items below.**

**Strategy (1.1):** The tenderer is required to consider the tasks to be performed with reference to the objectives of the services put out to tender (see Chapter 1 Context) (1.1.1). Following this, the tenderer presents and justifies the explicit strategy with which it intends to provide the services for which it is responsible (see Chapter 0 Tasks to be performed) (1.1.2). This is the high-level outline of how it intends to achieve the objectives as described in the Chapter 1 Context.

The tenderer is required to present its contribution to the **results-based monitoring system** (1.3.2).

The tenderer 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 0 (Tasks to be performed by the contractor) are to be provided. In particular, the tenderer is 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).

The tenderer is required to describe its contribution to knowledge management for the partner (1.5.1) and GIZ and to promote scaling-up effects (1.5.2) under **learning and innovation**.

#### Project management of the contractor (1.6)

The tenderer 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 tenderer 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 tenderer 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 service provider must make provision for the cross-cutting themes of gender, human rights and 'leave no one behind' in their concept. Not only should any harmful impacts of the service be identified and mitigated in the concept ("do no harm" principle), consideration should be given on how to advance the interests of vulnerable groups (gender, LNOB) through the service.

#### **4. Personnel concept**

The tenderer is required to provide personnel who are suited to filling the positions described, on the basis of their CVs (see Chapter 6), the range of tasks involved and the required qualifications.

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

##### **Team leader**

###### Tasks of the team leader

- 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, in particular identifying the need for short-term assignments within the available budget, as well as planning and steering assignments and supporting local and international short-term experts
- Regular reporting in accordance with deadlines

###### Qualifications of the team leader

- Education/training (2.1.1): Master's level university degree in Journalism, Media, Education, Governance, Political Studies, Law or relevant social sciences.
- Language (2.1.2): A1-level language business proficiency in English
- General professional experience (2.1.3): 10 years of professional experience in the journalism or media sector
- Specific professional experience (2.1.4): 5 years in training and/or education
- Leadership/management experience (2.1.5): 7 years of management/leadership experience as project team leader or manager in a company

##### **Key expert 1: Whistleblowing expert**

###### Tasks of key expert 1

- Develop content as it relates to whistleblower protection, synthesis with journalism content (by working with Key Expert 2). This includes:
  - Describing legal framework applicable to whistleblower protection as well as pitfalls
  - Setting out challenges facing whistleblowers, including stigma, as well as how the media can contribute towards stigma against whistleblowers
  - Providing case studies for inclusion in training material



- Ensuring that the voices and experiences of whistleblowers is represented in the training

#### Qualifications of key expert 1

- Education/training (2.2.1): Master's level university qualification in Law, Governance, Education or other relevant social sciences field of study.
- Language (2.2.2): A1 -level language proficiency in English
- General professional experience (2.2.3): 8 years' experience in law, ethics, anti-corruption.
- Specific professional experience (2.2.4): 3 years of experience working in the field of whistleblower protection and/or advocacy and/or journalism

#### **Key expert 2: Journalism/Media education expert**

##### Tasks of key expert 2

- Develop content as it relates to practical of journalism, synthesis with whistleblower related content (by working with Key Expert 1), including:
  - Setting out ethical duties in relation to working with whistleblowers
  - Setting out journalism practices that help to ensure safety of whistleblowers and journalists, including in-person safety as well as digital safety;
  - Generating guidelines for reporting on whistleblower cases to ensure that reporting does not contribute to stigmatisation of whistleblowers (such as considering terminology e.g. 'snitch')
  - Providing case studies for inclusion in training material
  - Ensuring that the training is responsive to the needs and experiences of journalists.
  - Conducting two training workshops.

##### Qualifications of key expert 2

- Education/training (2.3.1): Master's level university qualification in Journalism or Media.
- Language (2.3.2): A1 -level language proficiency in English
- General professional experience (2.3.3): 15 years' experience in journalism.
- Specific professional experience (2.3.4): 7 years of experience working in journalism education.

#### **Key expert 3: Design expert**

##### Tasks of key expert 4

- Design the course content into a user-friendly and appealing course manual
- Design the course materials

##### Qualifications of key expert 4

- Education/training (2.4.1): University Qualification in Graphic Design, Multimedia Design or Communications
- Language (2.4.2): A1 level good business proficiency in English
- General professional experience (2.4.3): 5 years experience in communications
- Specific professional experience (2.4.4): 2 years experience in designing printed media

### Soft skills of team members

In addition to their specialist qualifications, the following qualifications are required of team members:

- Team skills
- Initiative
- Communication skills
- Socio-cultural skills
- Efficient, partner- and client-focused working methods
- Interdisciplinary thinking

## 5. 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.

### Sustainability aspects for travel

GIZ would like to reduce greenhouse gas emissions (CO<sub>2</sub> emissions) caused by travel. When preparing your tender, please incorporate options for reducing emissions, such as selecting the lowest-emission booking class (economy) and using means of transport, airlines and flight routes with a higher CO<sub>2</sub> efficiency. For short distances, travel by train (second class) or e-mobility should be the preferred option.

If they cannot be avoided, CO<sub>2</sub> emissions caused by air travel should be offset. GIZ specifies a budget for this, through which the carbon offsets can be settled against evidence.

There are many different providers in the market for emissions certificates, and they have different climate impact ambitions. The [Development and Climate Alliance \(German only\)](#) has published a [list of standards \(German only\)](#). GIZ recommends using the standards specified there.

Specification of inputs

Fee days	Number of experts	Number of days per expert	Total	Comments
Team Leader	1	14	14	
Key Expert 1	1	8	8	
Key Expert 2	1	14	14	

Key Expert 3	1	5	5	
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## Workshops and training

The contractor implements the following workshops/study trips/training courses:

1. 'Train the trainer' workshop of up to 35 participants located in Gauteng. The service provider must book the venue and catering. Participants must use their own transport to reach the venue and no reimbursement will be provided for transport.
2. Training workshop in a province to be determined for up to 35 participants. The service provider must book the venue and catering. Participants must use their own transport to reach the venue and no reimbursement will be provided for transport.

These workshops must take place at dates to be determined in consultation with TIP and SANEF in October and November (no order of preference between the workshops).

## 6. Requirements on the format of the tender

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 (language).

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 (language).

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.

### Other Requirements

- Please submit your proposal (technical and price proposal) in separate files/folder to [ZA\\_Quotation@giz.de](mailto:ZA_Quotation@giz.de) no later than **18.08.2023**, all documents must be in PDF.
- Submission to any other email address may invalidate your bid.
- Please do not mention any price for this measure on your cover letter/Technical proposal.
- Please submit your tax clearance certificate with the bidding documents.
- Please submit your price proposal in ZAR.

- Our General Terms of Conditions (attached) shall not be changed/amended should you be the winner of this tender. These General Terms and Conditions will form part of the contract should you be awarded this contract. By submitting your proposal we will conclude that you have read and accepted these terms and conditions.
- Participating more than once in the same tender is not allowed and it will lead to your proposal as well as that of the other company where you appear more than once being disqualified. The responsibility rest with companies to ensure that their partners/experts are not bidding/participating more than once in the same tender.
- **Bidders are not allowed to communicate directly with any other person regarding this bid other than the procurement official/s. Failure to comply with this requirement may lead to your bid being disqualified.**
- Bidders must strictly avoid conflicts with other assignments or their own interests. Bidders found to have a conflict of interest shall be disqualified. Without limitation on the generality of the above, Bidders, and any of their affiliates, shall be considered to have a conflict of interest with one or more parties in this EOI and tender process, if they:
  - a) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by GIZ or the Interim Supply Chain Management Council to provide services for the preparation of the design, specifications, Terms of Reference, cost analysis/estimation, and other documents to be used for the procurement of the services in this selection process;
  - b) were involved in the preparation and/or design of the programme/project related to the services requested under this EOI and tender;
  - c) are serving or have been serving in the past three months in the structures of the Interim Supply Chain Management; or
  - d) are found to be in conflict for any other reason, as may be established by, or at the discretion of GIZ.
- In the event of any uncertainty in the interpretation of a potential conflict of interest, Bidders must disclose to GIZ, and seek GIZ's confirmation on whether or not such a conflict exists.
- Similarly, the Bidders must disclose in their proposal their knowledge of the following:
  - a) if the owners, part-owners, officers, directors, controlling shareholders, of the bidding entity or key personnel are family members of GIZ staff involved in the procurement functions and/or the Interim SCM Council or any Implementing partner receiving services under this EOI or tender; and
  - b) all other circumstances that could potentially lead to actual or perceived conflict of interest, collusion or unfair competition practices.
- **Failure to disclose such an information may result in the rejection of the proposal or proposals affected by the non-disclosure.**

- **Bids sent via Dropbox and WeTransfer will not be accepted.**