



TERMS OF REFERENCE (TORS) FOR CONSULTANT

TO DEVELOP POLICY BRIEF ON THE PROCUREMENT CHALLENGES AFFECTING IMPLEMENTATION OF CONSTITUENCY DEVELOPMENT FUND

1. INTRODUCTION

With support from the USAID-funded Local Impact Project, Caritas Zambia in collaboration with CSO DAN is implementing the “Action to Accelerate Decentralisation through Advocacy” project. The project intends to deliver on two objectives: 1. Galvanize CSO-DAN member organizations to carry out advocacy on decentralisation; 2. Promote opportunities for dialogue and collaboration among key stakeholders in the decentralisation sector.

The “Action to Accelerate Decentralisation through Advocacy” project is premised on the fact that the policy and legal framework on decentralisation is still unstable and unpredictable. Sometimes, it contributes largely to creating undesirable challenges and bottlenecks in the spheres of decentralisation. The project will take advantage of the high political will and commitment so far exhibited by the current administration to realise the decentralisation policy objectives and accelerate decentralisation through the full implementation of the Decentralisation Implementation Plan. As such the project will mainly focus on accelerating decentralisation by influencing policy and legislative change through advocacy.

The advocacy will to a great extent be informed by the Policy Briefs that will be developed and disseminated quarterly to the key stakeholders. The Briefs will be developed by analyzing existing legislative and policy legal frameworks that provide for the implementation of decentralisation policy and other emerging issues on decentralisation. Thus, Caritas Zambia working in collaboration with the CSO-DAN secretariat will conduct national-level evidence-based advocacy on key decentralisation issues as highlighted in the policy briefs. The purpose of this strategy is to advocate for policy and legal reforms to strengthen the enabling environment in support of decentralisation. Other methods and approaches strategized to implement this project are the effective promotion of meaningful and educative spaces for dialogue and collaboration among key stakeholders and to strengthen CSO-DAN member organizations advocacy campaign on decentralisation.

2. BACKGROUND AND OVERVIEW

Procurement is the overarching function that describes the activities and processes to acquire goods and services. Importantly, and distinct from “purchasing”, procurement involves the activities

involved in establishing fundamental requirements, and sourcing activities (“sourcing”) such as market research and vendor evaluation and negotiation of contracts. It can also include the purchasing activities required to order and receive goods.

In Zambia, all procurement activities under the CDF are vested in the Local Authority as a procurement entity. According to the CDF guidelines, procurement of goods, works and services using the Constituency Development Fund (CDF) must be per the Public Procurement (PPA) Act No. 8 of 2020 and its Regulations. The Procurement Unit in the Local Authority shall be responsible for all procurement activities under the Fund. The Controlling Officer and/or the Procurement Committee shall approve procurements depending on the value of the procurement. Therefore, the Local Authority Procurement Unit shall procure goods, works, or services, where possible from the Ward, Constituency, District, or Province using procurement methods as prescribed in the Procurement Act and its regulations. Non-adherence to the provisions of the Act No. 8 of 2020 shall attract necessary legal sanctions.

During the process of procurement, a public officer or approvals authority shall be guided by considerations of the following basic principles when undertaking or approving a procurement:

- a. the need for economy and efficiency in the use of public funds in the implementation of projects, including the provision of related goods and services;
- b. the best interests of a procuring entity in giving all eligible bidders equal opportunities to compete in providing goods executing works or providing services;
- c. the need to get value for money for goods, works or services;
- d. the importance of integrity, accountability, fairness, and transparency in the procurement process;
- e. honesty and fairness; and
- f. the need to ensure that national, social, economic and environmental interests are protected.

Community participation as provided for under the public procurement regulations of 2022

(Part V: methods of procurement)

Community Participation

52. (1) A procuring entity may involve a community to participate in the supply and delivery of goods, works, and services in the circumstances specified under section 53 of the Act.

(2) A community may participate in the supply and delivery of goods, works, and services in the following manner:

- (a) direct community participation; or

(b) organised community participation through the appointment of community-based service providers.

Establishment of a project management committee

53. (1) A community that intends to participate in the supply and delivery of goods, works and services shall constitute a project management committee which consists of five part-time members elected by the community.

(2) The functions of the project management committee are to -

(a) participate in the preparation, management, and implementation of the project;

(b) monitor the implementation of the project; and

(c) report to the controlling officer of the procuring entity or any other designated representative.

Conditions for community participation

54. A procuring entity that intends to use community participation as a method of procurement shall -

(a) prepare a project proposal in line with its strategic plan which shall include -

(i) setting out the key result areas and the specific roles of the target community; and

(ii) the objectives, estimated budget, and the target community beneficiaries; and

(b) ensure that the project -

(i) is aligned with the procuring entity's mandate and strategic plan;

(ii) has positive social outcomes with the community as its main beneficiary;

(iii) requires community involvement, in whole or in part, for success and continued implementation; and

(iv) is included in the annual procurement plan for that procuring entity.

Procedure for Direct Community Participation

55. (1) A procuring entity that calls for direct community participation may -

(a) organise a meeting with the community to inform the community of the activity, the scope of the participation, and the benefit of the project to the community;

(b) explain to the community the document containing obligations of both parties, the amount to be paid to the community, the period in which participants shall be paid, payment modalities, and any other details relating to goods, works, or services;

(c) establish a list of community members committed to participate in the procurement proceedings and each of the community members shall affix the signature or fingerprint to that list;

(d) identify a contact person for the procuring entity and require the community to elect or nominate a representative for purposes of communication and conducting other transaction processes between the procuring entity and the community;

(e) avail technical equipment needed for the execution of the community project, where applicable;

(g) in the supervision of works execution, use the procuring entity's public officers, and may hire a consultant to offer technical assistance to the community, where appropriate;

(h) require a participant to provide full identification and where applicable, the participant's bank account where the payment may be deposited; or

(i) Engage a procurement agent or procurement service provider per regulation 32 to organise community participation, where the procuring entity is unable to do so.

(2) Where there is a change of representatives under sub-regulation (1)(d), each party shall communicate the change to the other party.

Services of community-based service provider

57. (1) A procuring entity that intends to use the services of a community-based service provider shall -

(a) use the appropriate method provided under the Act and these Regulations;

(b) post the invitation for bids to use the services of a community-based service provider in at least two conspicuous public places and on the notice board of the procuring entity, within the community project implementation area; and

(c) ensure that the community-based service provider -

(i) is registered with a non-governmental organization, cooperative society, or any other recognized association in the Republic;

(ii) has an office or members who are residents, within the community where the community project is implemented;

(iii) has a bank account opened in the name of that community-based service provider or a mobile payment service provider account; and

(d) has a physical address.

(2) A procuring entity may use a pre-determined rates approach in which a community service provider shall bid for the goods, works, or services to determine the successful bidder, where the goods, works or services are simplified.

(3) The community-based service provider shall prepare a monthly report during project implementation and submit a final report to the procuring entity on completion of the project.

(4) For purposes of this regulation - “community-based service provider” means organised

community members intending to act as a service provider or contractor for a project or its component and may include community service organisations, non-governmental

organisations, community-based organisations, or registered organized community groups.

3. OBJECTIVES OF THE STUDY

The overall objective of developing this policy brief is to have a detailed assessment of adherence to the principles of procurements and the provisions of the procurement regulations of 2022. Further, the policy brief would seek to understand comprehensively how good procurement practices can enhance the benefits of CDF for the communities.

1.1. Specific tasks for the Consultant:

1) Within the context of CDF, to assess whether the procuring entities based in different local authority jurisdictions are adhering meaningfully to the provisions of procurement regulations of 2022 as provided for under part V.

2) Specifically, interrogate how good procurement practices help to enhance the benefits of CDF for the communities.

3) Consider the measures so far put in place by the government about procurement and assess their impact on the CDF-supported projects procurement process.

4) Bring out issues affecting the enhancement of transparency and accountability in the CDF procurement process and how they affect meaningful service delivery to the constituents

5) Identify possible areas of policy and legal reforms to better the procurement process

4. THE CONSULTANT IS EXPECTED TO PROVIDE THE FOLLOWING DELIVERABLES:

a) Initial discussion and agreement on the ToRs with CARITAS on the scope, deliverables, time frame, and procedures of the policy brief paper.

- b) Submission of inception report/proposal confirming the consultant's understanding of the Terms of Reference as well as their technical and financial proposal for this piece of work.
- c) Undertake desk review/literature review on related subject matter.
- d) Conduct field visits of any 3 local authority jurisdictions within the provinces of Lusaka and Central Province.
- e) Develop a Study Report.
- f) Develop a Policy Brief paper
- g) Produce the final report accommodating the inputs and feedback provided.
- h) Finalize the policy brief paper incorporating the feedback from CARITAS Zambia and CSO-DAN.
- i) Together with the CSO-DAN Secretariat (Caritas Zambia), organize a policy brief dissemination press briefing with the media and concerned stakeholders.

5. TIMEFRAME

The length of this consultancy assignment will be 15 working days starting from 10th February 2024 and completing the task by 24th February 2024.

6. REPORTING

The Consultant will work closely with CARITAS ZAMBIA Democracy and Governance Specialist.

7. CONSULTANT/FIRM'S PROFILE

The consultant should be an expert with the following competencies:

- At least 3 years of demonstrated experience in policy brief development
- Experienced in policy work with local and national government
- Can travel to the above-mentioned locations to study the practices physically
- Excellent communication and coordination skills
- Fluency in written and spoken English.

The last day to submit the technical proposals and budgets is before the close of business on 7th February 2024. Send your proposals to the following email: caritaszambiazec@gmail.com

For any clarifications kindly contact Caritas Zambia Democracy & Governance Specialist at +260 977541482 or email: governance@caritazambia.org