

TERMS OF REFERENCE FOR CONSULTANTS

Objectives and Purpose of the Assignment

ADB is providing technical assistance (TA) to the Government of Sri Lanka to strengthen the regulatory and institutional framework, relating to the commercial, investment, and contract enforcement of the justice sector, with the objective of increasing investors' confidence in doing business and ultimately improve foreign direct investments in the country. The TA is designed to have three outputs: (i) a 5-year Strategic Action Plan (SAP); (ii) reform in one to two priority areas identified under the SAP; and (iii) a knowledge product.

In preparing and developing the SAP, which will serve as a strategic document for the government and a roadmap in strengthening and improving the efficiency of the justice sector in the country, a needs assessment will be undertaken to understand the overall legal, regulatory and institutional framework of the justice sector, with specific focus on commercial, investment, and contract enforcement, and to identify the gaps and priority areas that require strengthening. Based on the SAP, one or two priority areas will be selected as the reform areas to be supported under the TA. Following the implementation of activities under outputs (i) and (ii) above, a knowledge product of publication quality will be prepared and disseminated to stakeholders and public at large.

A. International Consultant (Team Leader for Justice Sector Reform, 18 person months, intermittent)

Scope of Work

The international lead consultant will serve as the team leader for a team of consultants consisting of one international and one national consultant, to deliver outputs (i) – (iii) of the TA, including (i) preparation and finalization of a comprehensive needs assessment and a SAP through extensive consultations with all stakeholders, particularly the judiciary; (ii) implement one to two identified priority areas; and (iii) prepare, finalize and disseminate the knowledge product.

Detailed Tasks

1. Conduct comprehensive literature research, extensive consultations with all relevant stakeholders to understand the overall legal, regulatory, institutional framework, issues, reform challenges, and the potential development of the justice sector. Survey and research should include relevant materials from similar jurisdictions that have successfully undertaken and implemented similar reforms.
2. Prepare a needs assessment of Sri Lanka's justice sector, particularly in relation to commercial law aspects when compared to other similar middle income countries.
3. Prepare a draft framework document that will define the process and guide the preparation of the SAP.
4. Prepare the SAP and present the same through consultation meetings/workshops to the relevant stakeholders and recommend to MOJ and the ADB which areas are best suited to be supported under the TA.

5. Strategically introduce, as may be necessary and appropriate, international best practices that could be applied in Sri Lanka to enhance the efficiency and effectiveness of the justice sector and to make the sector more relevant to promote Sri Lanka as a viable investment destination.
6. Recommend medium and long term capacity building methods and initiatives particularly targeting the key justice sector officials such as judicial officials.
7. Conduct a strategic assessment of the systems, processes and resources of the sector including human and IT resources.
8. Participate in meetings, at the request of the MOJ, where matters relevant to the project are discussed or information of the project needs to be disseminated.
9. Recommend systemic improvements, particularly with regard to case management and trial processes.

Expected Outputs

1. Needs assessment report
2. Strategic Action Plan
3. Knowledge Products

Reporting

The international team leader will report to the TA supervising unit (TASU) counsel of the Office of the General Counsel (OGC). The team leader will work closely with the two other consultants. The team leader is also expected to spend approximately 75 days in Sri Lanka over the period of his/her contract assignment, and will work closely with relevant officials from MOJ, stakeholders, and SLRM.

Minimum Qualification Requirements

1. A master degree in law, preferably in Commercial Law
2. Preferably with 15 years of legal experience, with 10 years of experience in commercial law under common law
3. Substantive experience in justice sector reforms work
4. Familiarity with challenges faced by the justice sector, particularly in the areas of commercial law, in the Asian region

B. International Consultant (Legal and Project Management Specialist, 18 person months, intermittent)

Scope of Work

The legal and project management specialist must be knowledgeable of the Sri Lankan law and its legal system, and will provide overall TA management support for the work in Sri Lanka. He/she will have in depth knowledge of the challenges faced by the judiciary in Sri Lanka and will have the knowledge of the similar challenges face by the judiciaries in the Asian region.

The international consultant will report directly to the TASU counsel of OGC. The consultant will also work in a team, consisting of the team leader and the national consultant and will work closely with relevant officials from MOJ, stakeholders, and SLRM.

Detailed Tasks

1. Work with the international team leader in the planning and implementation of TA-related project activities in Sri Lanka
2. Facilitate the implementation of TA activities by ensuring effective coordination with concerned stakeholders
3. Provide expert knowledge on Sri Lanka legal system to support the international team leader in the drafting/preparation of the needs assessment and completion of the SAP
4. Work with the international team leader in developing the methodology for the needs assessment and prepare detailed questions for comprehensive interviews of key stakeholders
5. Interview, communicate, and coordinate with representatives of relevant institutions as well as all other stakeholders to complete the needs assessment and the SAP
6. Coordinate and communicate with relevant institutions as well as other stakeholders and legal practitioners to validate the information in the needs assessment and the SAP
7. Provide writing and editorial support for the knowledge products that will be published under the TA.
8. Participate in meetings, at the request of the MOJ, where matters relevant to the project are discussed or information of the project needs to be disseminated.
9. Provide inputs in the preparation of training materials and other documents to be used in workshops and training sessions
10. Plan, coordinate, and implement necessary workshops and/or training sessions
11. Perform other related tasks to achieve the TA outputs and outcomes

Expected Outputs

1. Needs assessment report
2. Strategic Action Plan
3. Knowledge Products

Minimum Qualification Requirements

1. Master degree in law, preferably in commercial law
2. 15 years of active practice under Sri Lanka legal system and extensive experience working on Sri Lanka justice sector
3. Familiarity with challenges faced by the justice sector in the Asian region, particularly in the areas of commercial law

C. National Consultant (Legal Specialist, 36 person months, full time)

Scope of Work

The national consultant is expected to provide overall legal and research support to the team of consultants for the conduct of the needs assessment and the preparation of the SAP.

Detailed Tasks

The national consultant will undertake the following tasks:

1. Conduct extensive legal research on Sri Lanka's current justice system in preparation for the needs assessment and SAP.
2. Review all documents and literature sources of the needs assessment and SAP and ensure that all statements, findings and recommendations are referenced and grounded in current literature
3. Identify and review current commercial laws in Sri Lanka
4. Assist in the interview, and coordinate with representatives of relevant institutions and stakeholders to complete the needs assessment and SAP
5. Document findings, analysis, and recommendations to include in the needs assessment in preparation of the SAP
6. Conduct any other related tasks to accomplish the needs assessment and the SAP, as required by the project team
7. Participate in meetings, at the request of the MOJ, where matters relevant to the project are discussed or information of the project needs to be disseminated

8. Plan, organize, and coordinate the workshops in consultation with the international consultants.
9. Perform other related tasks as may be required and assigned by the project team

Deliverables

1. Needs assessment report
2. Strategic Action Plan
3. Knowledge Products

Reporting

The national consultant will work closely with the team leader and the legal and project management specialist, and reports to the TASU counsel of OGC and at the Sri Lanka Resident Mission. The consultant will work full time and will hold office at the MOJ.

Minimum Qualification Requirements

1. A degree in law
2. A national of Sri Lanka
3. 5 years practice experience in commercial law or related field is preferred
4. Strong background in research and writing
5. Good command of the English language