



European Union



Government of the Republic of the Philippines



**Governance in Justice Programme II (GOJUST II) Philippines
ACA/2020/ 418-821**

TERMS OF REFERENCE/Request for Proposal (RFP)

NON-KEY EXPERT (NKE) MISSION No. 3

**TITLE: *ASSESSMENT OF COURT REMOTE HEARINGS/ VIDEOCONFERENCING
HEARINGS IN THE PHILIPPINES***

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Endorsement of finalised ToR/RFP:

For internal use only:

Endorsed by:

Means of endorsement:

Date:

PART ONE: TECHNICAL ASPECTS

1. BACKGROUND

The Government of the Republic of the Philippines with the support of the European Union is implementing the Justice Sector Reform Programme: Governance in Justice II (GOJUST II). GOJUST II is funded by the European Union to the value of EUR 19,000,000 and implemented by British Council and United Nations Office for Project Services (UNOPS). GOJUST II builds on and continues the work of the predecessor programme, GOJUST that was implemented from April 2016 to September 2020. GOJUST II is implemented in joint co-financing with the Spanish Agency for International Development Cooperation (EUR 1,000,000). The overall objective of GOJUST is: *to contribute to inclusive and sustainable socio-economic development through improved access to justice for all in the Philippines. Specifically, it aims to develop more responsive and accountable justice services.* It includes two components focusing on justice and human rights, respectively. The programme is being implemented from December 2020 to June 2025.

GOJUST II seeks to achieve four major result areas, as follows:

- Result 1 Justice sector coordination mechanisms are improved
- Result 2 Strengthened institutional efficiency and effectiveness in the delivery of justice services
- Result 3 Increased access to the justice system for vulnerable groups, including women
- Result 4 Justice policy and practice is informed by evidence and responds to justice needs

Justice and Human Rights policies are at the heart of the Philippine Development Plan 2017-2022, which for the first time includes a dedicated chapter on justice, chapter 6, titled “Pursuing Swift and Fair Administration of Justice”. The chapter enshrines the principle of coordination as a mechanism for bringing about long term and sustainable justice sector reform. The focus is on the enhancement of “civil, criminal, commercial and administrative justice” and the improvement of sector efficiency and accountability while also directing the Commission on Human Rights (CHR) “to intensify its efforts to facilitate access to justice by improving, monitoring and evaluation, empowering the people living in poor and marginalised situations to seek response and remedies for injustice, improving legal protection, awareness and aid, enhancing civil society and parliamentary oversight, addressing human rights violations in the justice sector and, strengthening linkages between formal and informal justice providers.”

The justice component will continue and expand some previous GOJUST activities such as improved coordination between and within the justice sector agencies and case management automation interventions to strengthen capacities to decongest overburdened courts, prosecution offices, and reducing pre-trial detention. GOJUST II will also focus on new result areas such as increased access to justice for vulnerable groups and evidence-based policy research and advocacy to inform policy making for improved justice outcomes.

The programme is managed by a Programme Steering Committee (PSC) led by representatives from Supreme Court, the Department of Justice, and the Department of Interior and Local Government. A Programme Director has also been appointed to be the main focal point and point of coordination for the smooth implementation of the programme.

In line with the Indirect Management component of the Financing Agreement, a Pillar-Assessed Contribution Agreement (ACA/2020/ 418-821) for the provision of *Technical*

Assistance for the Justice Sector Reform Programme: Governance in Justice II (GOJUST II) was awarded to the **British Council** on 7 December 2020 for a period of implementation of 54 months. The contract requires the provision of a Technical Assistance Team consisting of four (4) key experts that will be responsible for the four (4) result areas. In addition, the contract also includes the provision of 3,200 working days of non-key experts that will support the work of the key experts in the delivery of results under the programme.

Background of the mission

The 2017-2022 Philippine Development Plan (PDP) recognizes that Information and Communications Technology (ICT) is a vital tool for nation-building and good governance. The use of ICT and other new technologies has been more pronounced at the start of the Covid-19 pandemic. Automation and use of new technologies have become an imperative not just to maximize the process efficiencies that can be achieved but also in order to ensure that the justice agencies are able to cope with the cases during the pandemic when quarantine rules have required them to switch to a digital platform.

History of remote hearings/ videoconferencing hearings in the Philippines

“Videoconference is an ICT which allows communicating at a distance using an audio-video link.”¹ In other countries, videoconference technology has been used in many courts for “witness testimony, expert testimony, victim hearings in criminal cases but also civil cases” since the 1990s.²

As early as November 21, 2000, the Supreme Court has authorized the use of remote hearing when it adopted the Rules on the Examination of a Child Witness (A.M. No. 004-07-SC) which introduced the option of using a live-link television testimony in criminal cases where the child is a victim or a witness upon motion of the prosecutor, counsel, or guardian *ad litem*, or *motu proprio* by the court.³ Since 2000, only a few pilot courts have been able to use the technology due to limited available equipment. In 2001, the Rules on Electronic Evidence also allowed courts to authorize the presentation of evidence through electronic means subject to the procedures provided in the Rules (A.M. No. 01-7-01)

On 25 June 2019, the Supreme Court expanded the use of remote hearing for high-risk PDLs and PDLs who are seriously ill in the Guidelines on the Use of Videoconferencing Technology for the Remote Appearance or Testimony of Certain Persons Deprived of Liberty (PDLs) in Jails and National Penitentiaries (A.M. No. 19-05-05-SC). The Guidelines authorized a two-year pilot in Davao City Hall of Justice and the Davao City Jail, the Davao City Hall of Justice and the Special Intensive Care Area (SICA) in Camp Bagong Diwa in Bicutan, and the Davao City Hall of Justice and the New Bilibid Prison in Muntinlupa. The first phase of GOJUST supported the pilot in Davao City Hall of Justice and the Davao City Jail. The Guidelines provided for grounds when videoconferencing hearings can be availed and procedure for the conduct of videoconferencing hearings. The Guidelines also provide for minimum technology required to ensure compliance with constitutional requirements and due process safeguards. Based on a January 20, 2020 report to the Court Administrator submitted by the Executive Judge of the Davao City Hall of Justice and other stakeholders, the pilot was a success and they recommended further roll-out of the project.

¹ Laurence Dumoulin & Christian Licoppe, *Paper Presented at the 2015 International Conference in Public Policy*, <<https://www.ippapublicpolicy.org/file/paper/1435654716.pdf>>, citing Surette, 2006, 182-184, Dunn, Norwick, 2006, and Wiggins, 2006, accessed on February 13, 2022, p. 5.

² *Ibid*

³ Section 25.

On 8 March 2020, the Philippine government declared a state of public health emergency throughout the Philippines because of the confirmed local transmission of the Novel Coronavirus disease (Covid-19) (Proclamation No. 922, March 8, 2020) and a state of calamity throughout the Philippines (Proclamation No. 929, March 16, 2020). Pursuant to the declarations, the Philippine government imposed an enhanced community quarantine and stringent social distancing rules. The imposition of varying degrees of community quarantine during the Covid-19 pandemic resulted in “reduced court operations, suspension of hearings nationwide, except on urgent matters, and the physical closure of courts.”⁴

On 27 April 2020, the Supreme Court authorized the further pilot testing of videoconferencing hearings in criminal cases involving persons deprived of liberty in some court stations nationwide. GOJUST supported the pilot of the guidelines by providing equipment for the use of courts and for the use of persons deprived of liberty in detention facilities.

According to a Philippine News Agency article citing then Court Administrator Jose Midas Marquez, “a total of 110,369 video conference hearings were heard from May 4 to October 16, with a success rate of 88 percent while the remaining 12 percent were affected by connectivity issues. Out of the 88,888 persons deprived of liberty released amid the coronavirus disease 2019 (Covid-19) pandemic from March 16 to October 16, Marquez said 46,032 PDLs were released through video conference hearings.”⁵

Based on the successful pilot, the Supreme Court adopted Guidelines on the Conduct of Videoconferencing (A.M. No. 20-12-01-SC). The Guidelines defines videoconferencing as “court hearings and proceedings, including the taking of testimony, conducted through videoconferencing technology, or the use of video, audio, and data transmission devices to allow participants in different physical locations to simultaneously communicate by seeing and hearing each other.”⁶ The Guidelines allow for fully remote or partially remote hearings and identify grounds when videoconferencing hearings can be undertaken.

While the Guidelines were drafted in the context of the Covid-19 pandemic, the Supreme Court intended the Guidelines to apply even after the pandemic and in other emergency situations. The Supreme Court also expanded the application of the Guidelines to instances when the litigant or witness is an Overseas Filipino Worker or a Filipino residing abroad, and when “in the sound judgment of the court, there are compelling reasons that justify the resort to videoconferencing.”⁷

Implementing process improvements and reforms should be an iterative, non-linear process. There should be constant review and assessment to allow for new analysis and understanding of the problem and the identification of alternative solutions. More than a year has passed since A.M. No. 20-12-01-SC was adopted and it is ripe for assessment and review.

This mission will review the legal framework and the implementation of remote hearing/ videoconferencing hearings in the Philippines looking at the following parameters:

- Constitutional and due process standards
- Effectivity of implementation vis-à-vis the different phases of the court processes and different types of cases
- Feedback from different stakeholders

⁴ A.M. No. 20-12-01-SC, Guidelines on the Conduct of Videoconferencing.

⁵ Benjamin Pulta, Video Conference Hearings Post 88 % Success Rate: SC, Philippine News Agency, <<https://www.pna.gov.ph/articles/1119754>>, October 26, 2020, accessed February 13, 2022.

⁶ A.M. No. 20-12-01-SC, Section 2 (a).

⁷ Id, Section 3 (b) (ix).

- Impact on outcome of the court proceedings
- Impact on access to justice
- Gender equality and social inclusion considerations
- Impact on children and other disadvantaged/marginalized individual/groups
- Opportunities for technology improvement
- Capacity building requirements
- Comparative review of Philippine experience and global best practice on remote hearing/ videoconferencing hearings

2. DESCRIPTION OF THE ASSIGNMENT

2.1. Global objective

The overall objective of this mission is to review, assess, and evaluate the legal framework and implementation of remote hearings/ videoconferencing hearings in the Philippines and recommend measures to improve the policy and legal framework, technological solutions, and implementation modalities.

2.2. Specific objective(s)

Specifically, the non-key expert is expected to achieve the following objectives:

- To enhance the legal and governance framework of remote hearings/ videoconferencing hearings in the Philippines;
- To improve the effectivity of the use of remote hearings / videoconferencing hearings in different phases and types of court proceedings through procedural reform, technological improvement, and capacity building; and
- To ensure access to justice, especially by women, children and other vulnerable/ marginalized individuals or groups in the use of remote hearing/ videoconferencing hearings and provide recommendations on how to mitigate potential negative impact of the use of remote hearings/videoconferencing hearings

2.3. Requested services, including suggested methodology

The scope of work of the consultant shall include the support for the following activities, among others:

- Kick-off meeting with the Technical Assistance Team and the Supreme Court;
- Review related literature relating to but not limited to the following:
 - Constitutional and legal framework relating to remote hearings/ videoconferencing hearings in the Philippines
 - International standards and best practices relating to remote hearings/ videoconferencing hearings
 - Technology improvements relevant to remote hearings/ videoconferencing hearings
- Conduct key informant interviews, focus group discussions, and surveys targeting the following but not limited to the following:
 - Judges and court personnel, including court-annexed mediators
 - Officials of the Supreme Court (SC) and Office of the Court Administrator (OCA), and the Philippine Mediation Center

- Officials of other relevant justice agencies such as the:
 - National Prosecution Service (NPS),
 - Philippine National Police (PNP),
 - Bureau of Jail and Penology (BJMP),
 - Bureau of Corrections (BuCor),
 - Public Attorney's Office (PAO)
 - Prosecutors,
 - Public attorneys,
 - Private practitioners (solo and law firm practitioners),
 - The Integrated Bar of the Philippines, including public interest lawyers
 - Corrections facility administrators,
 - Law enforcers,
 - Law schools, especially those that are implementing the Clinical Legal Aid Program (CLEP),
 - Persons deprived of liberty (PDL's) and other litigants,
 - Other relevant stakeholders.

- Analyze the legal framework of remote hearing/ videoconferencing hearings

- Review status of implementation of remote/ videoconferencing hearings in the Philippines, with a particular focus on, but not limited to, the following:
 - Compliance with the constitutional and legal framework;
 - Implementation of remote hearing/ videoconferencing in the different stages of the judicial process, taking note of delays and possible impact on court dockets
 - Experience of different stakeholders, taking into account gender equality and social inclusion concerns;
 - Experience of women, children, and other disadvantaged individuals and groups that have participated in the hearings
 - Impact of use of remote/videoconferencing hearings on outcomes;
 - Cost-benefit analysis to explore the impact of remote/ videoconferencing hearings on the justice system; and
 - Impact of remote hearings/ videoconferencing hearings on judicial well-being

- Comparative review of legal framework and implementation using international standards and best practices

- Prepare report containing findings and practical short-term, medium, and long-term recommendations in terms of the legal framework, technology adopted, and modality of implementation, with emphasis on the following:
 - Compliance with constitutional standards;
 - Enhancing the legal and governance framework;
 - Improving access to justice and ensuring gender equality and social inclusion
 - Appropriate use of videoconferencing hearings both in a pandemic and emergency situations and in "normal" times
 - Enhancing increased adoption by stakeholders;
 - Human resource concerns, e.g., competency and capacity building requirements;
 - Technology improvement to ensure compliance with constitutional and legal requirements;
 - Storage and archiving;
 - Cybersecurity; and
 - Data Privacy.

The study should also provide recommendations to GOJUST on areas of further study or technical support, if any; and

- Presentation of findings to the Technical Assistance Team (TAT) and to the Supreme Court.

2.4. Required outputs

The output of this engagement is the following:

- a) An Inception Report containing the methodology and detailed workplan for the delivery of the assessment submitted to the TAT, no later than 5 days after the commencement of the assignment.
- b) A Mission Report for the Assessment Mission structured as follows:
 - Executive summary
 - Introduction and Background
 - Main findings related to the overall and specific objectives of this assignment
 - Key Recommendations
 - Conclusion.
 - Relevant Annexes to include the following:
- c) In Annex to the Mission report, the following will be presented:
 - Guide Questionnaire for Focus Group Discussions,
 - Survey Questionnaire,
 - Survey Results,
 - List of People Interviewed,
 - A presentation ready, summary slide deck of the assessment objectives, methods, key conclusions and recommendations,
 - A presentation and discussion of the slide deck with the GOJUST team,
 - A written report, containing a detailed account of purpose, methods, conclusions and recommendations,
 - Terms of Reference for the relevant further activities recommended,
 - Proposed amendments to the legal framework, if needed,
 - Proposed specifications for technology improvement.

3. EXPERTS ROLE

3.1. Number of requested experts and number of days required per expert

The following type of expertise is required:

Position	Designation	Type of Expertise	Duration (working days)
1	Team Leader	Senior National Law and Technology Expert	55
1	Team Member	Senior International Law and Technology Expert	35

The consultant team will consist of two experts to be filled by a Senior National Law and Technology Expert and a Senior International Law and Technology Expert. The Team

Leader will be responsible for overall planning, coordination and management of the mission as well as the overall analysis, conclusions and recommendations as drafted and presented in the final mission report.

For guidance of suppliers, an indicative breakdown of the assignment is given below:

ACTIVITIES	NO. OF DAYS	
	Senior National Law and Technology Expert (Team Leader)	Senior International Law and Technology Expert
PRELIMINARY ACTIVITIES		
Kick-Off Meeting with the Technical Assistance Team and the Supreme Court	1	1
Review background materials on the remote hearing/ videoconferencing hearings in the Philippines	2	2
Conduct consultation meetings with key officials of the Supreme Court	2	2
Prepare inception report (including methodology for assessment)	1	2
Prepare survey instrument and interview questions Key Informant Interviews (KIIs) and Focus Group Discussions (FGDs)	2	1
DATA GATHERING ON STATUS OF IMPLEMENTATION OF REMOTE HEARING / VIDEOCONFERENCING HEARINGS IN THE PHILIPPINES		
Conduct key informant interviews (KIs), focus group discussions (FGDs), and surveys with judges and court personnel, prosecutors, public attorneys, private practitioners (solo practitioners and firms), persons deprived of liberty (PDL's), jail officials, public interest lawyers, representatives of the Integrated Bar of the Philippines, and other relevant stakeholders	20	5
Analyze results of survey and interviews	5	5
Analyze legal framework of remote hearing/ videoconferencing hearings in the Philippines	2	2
Validate results with stakeholders	1	1
REVIEW OF BEST PRACTICES ON REMOTE HEARING/ VIDEOCONFERENCING HEARINGS GLOBALLY, ESPECIALLY IN SIMILARLY SITUATED COUNTRIES		
Review global best practice on remote hearing/ videoconferencing hearings and provide recommendations both in terms of technology improvement and procedure	5	5

REPORT DRAFTING		
Prepare Draft Report Including Annexes	10	5
Review/Meeting with TAT and key stakeholders	1	1
Prepare Final Report	2	2
PRESENTATION OF FINDINGS		
Present Final Report to Supreme Court	1	1
	55	35

3.2. The experts should have the following skills and competences:

- Fluent in spoken and written English;
- Excellent analytical competence, technical skills, and detail oriented;
- Excellent interpersonal skills;
- Active listening skills and strong writing skills; and
- Ability to coordinate and communicate with key stakeholders.

Profile required (Education, General and Specific Experience)

Senior National Law and Technology Expert (Team Leader)

Qualifications and skills

- A bachelor's degree in law;
- Master's degree in law and technology or related field, or equivalent experience;
- Member of the Philippine Bar
- Extensive knowledge of Philippine court procedures, precedents, legal practices and documents, government regulations, Administrative Orders, agency rules, government organisations and functions;

General professional experience

- A minimum of ten (10) years of relevant professional experience, 5 of which in developing countries

Specific professional experience

- Experience in working on and/ or evaluating projects that leverage technology solutions for law-related work; and
- Experience in working with the judiciary and other justice institutions preferred.

Senior International Law and Technology Expert (Team Member)

Qualifications and skills

- A bachelor's degree in law;
- Master's degree in law and technology or related field, or equivalent experience;

General professional experience

- A minimum of ten (10) years of relevant professional experience, 5 of which in developing countries

Specific professional experience

- Experience in working on projects to leverage technology solutions for law-related work;
- Experience in implementing and/ or assessing the implementation of remote hearing/ videoconferencing hearings, preferred; and
- Experience in working with the judiciary and other justice institutions preferred.

4. LOCATION AND DURATION

4.1. Starting period

The estimated start date for this assignment is 20 April 2022.

4.2. Foreseen finishing period or duration

The main mission period is 9 months from 20 April 2022 to 19 January 2023. The latest date for completion of the final Mission Report and annexes is to be completed not later than March 2023.

4.3. Location(s) of assignment

All working days for preparatory work, comprehensive desk review and report writing are foreseen to be performed by the expert from his/her home base, i.e., at his/her usual place of residence, both at the initial stages of the mission and later on during the whole assignment.

5. REPORTING

5.1. Content

The content of the reports required for this assignment are described in section 2.4 above.

5.2. Language

All reports and correspondence must be in English.

5.3. Submission/comments timing

All reports must be submitted by the Team Leader electronically in the format provided at the start of the mission. Comments by the TAT and key stakeholders on the various reports, will be provided to the expert as soon as possible. Draft final reports must be submitted before the debriefing by the consultant to the TAT.

6. ADMINISTRATIVE INFORMATION

The main contact person for this mission shall be the following:

- a) For technical matters: Senior Advisor Ingrid Rosalie L. Gorre (ingridrosalie.gorre@britishcouncil.org); and
- b) For administrative matters: Programme Officer Henri Palma: henri.palma@britishcouncil.org.ph

The list of persons to be visited, their contact numbers and location shall be agreed upon with the team leader during the first week of the consultant's engagement.

* Please note that all meetings and working can be done online should it be required under any unforeseeable Covid-19 complication.

PART II: CONTRACTUAL AND ADMINISTRATIVE MATTERS

The purpose and scope of this part and supporting documents is to explain in further detail the requirements of the British Council and the procurement process for submitting a tender response. For the purpose of this request for proposals, a 'tender response' will mean a CV and cover letter.

1. OVERVIEW OF THE BRITISH COUNCIL

1.1. The British Council is the UK's international organisation for cultural relations and educational opportunities. We create friendly knowledge and understanding between the people of the UK and other countries. We do this by making a positive contribution to the UK and the countries we work with – changing lives by creating opportunities, building connections and engendering trust.

1.2. We work with over 100 countries across the world in the fields of arts and culture, English language, education and civil society. Each year we reach over 20 million people face-to-face and more than 500 million people online, via broadcasts and publications. Founded in 1934, we are a UK charity governed by Royal Charter and a UK public body

1.3. The British Council employs over 10,500 staff worldwide. It has its headquarters in the UK, with offices in London, Manchester, Belfast, Cardiff and Edinburgh. Further information can be viewed at www.britishcouncil.org.

2. TENDER CONDITIONS AND CONTRACTUAL REQUIREMENTS

This section of the RFP sets out the British Council's contracting requirements, general policy requirements, and the general tender conditions relating to this procurement process ("**Procurement Process**").

2.1. Contracting requirements

2.1.1. The contracting authority is the British Council which includes any subsidiary companies and other organisations that control or are controlled by the British Council from time to time (see: <http://www.britishcouncil.org/organisation/structure/status>).

2.1.2. The appointed supplier will be expected to deliver the goods and/or provide services at the British Council office in 7F The Curve, 32nd Street corner 3rd Avenue, Bonifacio Global City, Taguig City 1635, Philippines unless an alternative venue has been provided.

2.1.3. The British Council's contracting and commercial approach in respect of the required goods and/or services is set out at **Annex I** (Agreement for the purchasing of professional or consultancy services (short form)) ("**Contract**"). By submitting a tender response, you are agreeing to be bound by the terms of this RFP and the Contract without further negotiation or amendment.

2.1.4. The Contract awarded will be for a duration of **a maximum of 55 and 35 working days from 20 April 2022 to 19 January 2023.**

2.1.5 In the event that you have any concerns or queries in relation to the Contract, you should submit a clarification request in accordance with the provisions of this RFP by the Clarification Deadline (as defined below in the Timescales section of this RFP). Following such clarification requests, the British Council may issue a clarification change to the Contract that will apply to all potential suppliers submitting a tender response.

2.1.6. The British Council is under no obligations to consider any clarifications / amendments to the Contract proposed following the Clarification Deadline, but before the Response Deadline (as defined below in the Timescales section of this RFP). Any proposed amendments received from a potential supplier as part its tender response shall entitle the British Council to reject that tender response and to disqualify that potential supplier from this Procurement Process.

2.2. **General Policy Requirements**

2.2.1. By submitting a tender response in connection with this Procurement Process, potential suppliers confirm that they will, and that they shall ensure that any consortium members and/or subcontractors will, comply with all applicable laws, codes of practice, statutory guidance and applicable British Council policies relevant to the goods and/or services being supplied. All relevant British Council policies that suppliers are expected to comply with can be found on the British Council website (<https://www.britishcouncil.org/organisation/transparency/policies>). The list of relevant policies includes (but it is not limited to): Anti-Fraud and Corruption, Child Protection Policy, Equality, Diversity and Inclusion Policy, Fair Trading, Health and Safety Policy, Environmental Policy, Records Management, and Privacy.

2.3. **General tender conditions ("Tender Conditions")**

2.3.1. Application of these Tender Conditions – In participating in this Procurement Process and/or by submitting a tender response it will be implied that you accept and will be bound by all the provisions of this RFP and its Annexes. Accordingly, tender responses should be on the basis of and strictly in accordance with the requirements of this RFP.

2.3.2. Third party verifications – Your tender response is submitted on the basis that you consent to the British Council carrying out all necessary actions to verify the information that you have provided; and the analysis of your tender response being undertaken by one or more third parties commissioned by the British Council for such purposes.

2.3.3. Information provided to potential suppliers – Information that is supplied to potential suppliers as part of this Procurement Process is supplied in good faith. The information contained in the RFP and the supporting documents and in any related written or oral communication is believed to be correct at the time of issue but the British Council will not accept any liability for its accuracy, adequacy or completeness and no warranty is given as such. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of the British Council.

2.3.4. Potential suppliers to make their own enquires – You are responsible for analysing and reviewing all information provided to you as part of this Procurement Process and for forming your own opinions and seeking advice as you consider appropriate. You should notify the British Council promptly of any perceived ambiguity, inconsistency or omission in this RFP and/or any in of its associated documents and/or in any information provided to you as part of this Procurement Process.

2.3.5. Amendments to the RFP – At any time prior to the Response Deadline, the British Council may amend the RFP. Any such amendment shall be issued to all potential suppliers, and if appropriate to ensure potential suppliers have reasonable time in which to take such amendment into account, the Response Deadline shall, at the discretion of the British Council, be extended.

2.3.6. Compliance of tender response submission – Any goods and/or services offered should be on the basis of and strictly in accordance with the RFP (including, without limitation, any specification of the British Council's requirements, these Tender Conditions and the Contract) and all other documents and any clarifications or updates issued by the British Council as part of this Procurement Process.

2.3.7. Format of tender response submission – Tender responses must comprise the following documents:

- A cover letter addressing why you would be a suitable candidate for the assignment (1 page).
- A CV highlighting qualifications/experiences as required in **Clause 9** of this RFP.

2.3.8. Modifications to tender response documents once submitted – You may modify your tender response prior to the Response Deadline by giving written notice to the British Council. Any modification should be clear and submitted as a complete new tender response in accordance with clause 2.3.7 and these Tender Conditions.

2.3.9. Rejection of tender responses or other documents – A tender response or any other document requested by the British Council may be rejected which:

- contains gaps, omissions, misrepresentations, errors, uncompleted sections, or changes to the format of the tender documentation provided;
- contains hand written amendments which have not been initialled by the authorised signatory;
- does not reflect and confirm full and unconditional compliance with all of the documents issued by the British Council forming part of the RFP;
- contains any caveats or any other statements or assumptions qualifying the tender response that are not capable of evaluation in accordance with the evaluation model or requiring changes to any documents issued by the British Council in any way;
- is not submitted in a manner consistent with the provisions set out in this RFP;
- is received after the Response Deadline.

2.3.10. Disqualification – If you breach these Tender Conditions, if there are any errors, omissions or material adverse changes relating to any information supplied by you at any stage in this Procurement Process, if any other circumstances set out in this RFP, and/or in any supporting documents, entitling the British Council to reject a tender response apply and/or if you or your appointed advisers attempt:

- to inappropriately influence this Procurement Process;
- to fix or set the price for goods or services;
- to enter into an arrangement with any other party that such party shall refrain from submitting a tender response;
- to enter into any arrangement with any other party (other than another party that forms part of your consortium bid or is your proposed sub-contractor) as to the prices submitted; or
- to collude in any other way
- to engage in direct or indirect bribery or canvassing by you or your appointed advisers in relation to this Procurement Process; or
- to obtain information from any of the employees, agents or advisors of the British Council concerning this Procurement Process (other than as set out in these Tender Conditions) or from another potential supplier or another tender response,

the British Council shall be entitled to reject your tender response in full and to disqualify you from this Procurement Process. Subject to the “Liability” Tender Condition below, by participating in this Procurement Process you accept that the British Council shall have no liability to a disqualified potential supplier in these circumstances.

2.3.11. Tender costs – You are responsible for obtaining all information necessary for preparation of your tender response and for all costs and expenses incurred in preparation of the tender response. Subject to the “Liability” Tender Condition below, you accept by your participation in this procurement, including without limitation the submission of a tender response, that you will not be entitled to claim from the British Council any costs, expenses or liabilities that you may incur in tendering for this procurement irrespective of whether or not your tender response is successful.

2.3.12. Rights to cancel or vary this Procurement Process - By issuing this RFP, entering into clarification communications with potential suppliers or by having any other form of communication with potential suppliers, the British Council is not bound in any way to enter into any contractual or other arrangement with you or any other potential supplier. It is intended that the remainder of this Procurement Process will take place in accordance with the provisions of this RFP but the British Council reserves the right to terminate, amend or vary (to include, without limitation, in relation to any timescales or deadlines) this Procurement Process by notice to all potential supplier in writing. Subject to the “Liability” Tender Condition below, the British will have no liability for any losses, costs or expenses caused to you as a result of such termination, amendment or variation.

2.3.13. Consortium Members and sub-contractors – It is your responsibility to ensure that any staff, consortium members, sub-contractors and advisers abide by these Tender Conditions and the requirement of this RFP.

2.3.14. Liability – Nothing in these Tender Conditions is intended to exclude or limit the liability of the British Council in relation to fraud or in other circumstances where the British Council’s liability may not be limited under any applicable law.

3. CONFIDENTIALITY AND INFORMATION GOVERNANCE

3.1. All information supplied to you by the British Council, including this RFP and all other documents relating to this Procurement Process, either in writing or orally, must be treated in confidence and not disclosed to any third party (save to your professional advisers, consortium members and/or sub-contractors strictly for the purposes only of helping you to participate in this Procurement Process and/or prepare your tender response) unless the information is already in the public domain or is required to be disclosed under any applicable laws.

3.2. You shall not disclose, copy or reproduce any of the information supplied to you as part of this Procurement Process other than for the purposes of preparing and submitting a tender response. There must be no publicity by you regarding the Procurement Process or the future award of any contract unless the British Council has given express written consent to the relevant communication.

3.3. This RFP and its accompanying documents shall remain the property of the British Council and must be returned on demand.

3.4. The British Council reserves the right to disclose all documents relating to this Procurement Process, including without limitation your tender response, to any employee, third party agent, adviser or other third party involved in the procurement in support of, and/or in collaboration with, the British Council. The British Council further reserves the right to publish the Contract once awarded and/or disclose information in connection with supplier performance under the Contract in accordance with any public sector transparency policies (as referred to below). By participating in this Procurement Process, you agree to such disclosure and/or publication by the British Council in accordance with such rights reserved by it under this paragraph.

3.5. The Freedom of Information Act 2000 (“FOIA”), the Environmental Information Regulations 2004 (“EIR”), and public sector transparency policies apply to the British Council (together the “**Disclosure Obligations**”).

3.6. You should be aware of the British Council’s obligations and responsibilities under the Disclosure Obligations to disclose information held by the British Council. Information provided by you in connection with this Procurement Process, or with any contract that may be awarded as a result of this exercise, may therefore have to be disclosed by the British Council under the Disclosure Obligations, unless the British Council decides that one of the statutory exemptions under the FOIA or the EIR applies.

3.7. If you wish to designate information supplied as part of your tender response or otherwise in connection with this tender exercise as confidential, you must provide clear and specific detail as to:

- the precise elements which are considered confidential and/or commercially sensitive;
- why you consider an exemption under the FOIA or EIR would apply; and
- the estimated length of time during which the exemption will apply.

3.8. The use of blanket protective markings of whole documents such as “commercial in confidence” will not be sufficient. By participating in this Procurement Process you agree that the British Council should not and will not be bound by any such markings.

3.9. In addition, marking any material as “confidential” or “commercially sensitive” or equivalent should not be taken to mean that the British Council accepts any duty of confidentiality by virtue of such marking. You accept that the decision as to which information

will be disclosed is reserved to the British Council, notwithstanding any consultation with you or any designation of information as confidential or commercially sensitive or equivalent you may have made. You agree, by participating further in this Procurement Process and/or submitting your tender response, that all information is provided to the British Council on the basis that it may be disclosed under the Disclosure Obligations if the British Council considers that it is required to do so and/or may be used by the British Council in accordance with the provisions provision of this RFP.

3.10. Tender responses are also submitted on the condition that the appointed supplier will only process personal data (as may be defined under any relevant data protection laws) that it gains access to in performance of this Contract in accordance with the British Council's instructions and will not use such personal data for any other purpose. The contracted supplier will undertake to process any personal data on the British Council's behalf in accordance with the relevant provisions of any relevant data protection laws and to ensure all consents required under such laws are obtained.

4. TENDER VALIDITY

Your tender response must remain open for acceptance by the British Council for a period 15 days from the Response Deadline. A tender response not valid for this period may be rejected by the British Council.

5. PAYMENT AND INVOICING

The British Council will pay correctly addressed and undisputed invoices within 30 days in accordance with the requirements of the Contract. Suppliers to the British Council must ensure comparable payment provisions apply to the payment of their sub-contractors and the sub-contractors of their sub-contractors. General requirements for an invoice for the British Council include:

- A description of the good/services supplied is included.
- The British Council Purchase Order number is included.
- It is sent electronically via email in PDF format to henri.palma@britishcouncil.org.ph or by post to: British Council, 7F The Curve, 32nd Street corner 3rd Avenue, Bonifacio Global City, Taguig City 1635, Philippines

6. MANDATORY REQUIREMENTS / CONSTRAINTS

As part of your tender response, you must confirm that you meet the mandatory requirements / constraints, if any, as set out in the British Council's specification forming part of this RFP. A failure to comply with one or more mandatory requirements or constraints shall entitle the British Council to reject a tender response in full.

7. KEY BACKGROUND DOCUMENTS AND FURTHER INFORMATION

Please insert here project documents if you wish for tender's reference.

8. TIMESCALES

8.1 Subject to any changes notified to potential suppliers by the British Council in accordance with the Tender Conditions, the following timescales shall apply to this Procurement Process:

Activity	Date / time
RFP Issued to bidding suppliers	16 March 2022
Deadline for clarification	23 March 2022
Deadline for submission of tender responses by potential suppliers (Response Deadline)	30 March 2022, 11.59 p.m. (Manila time)
Deadline for submission of work cost proposal by shortlisted suppliers	5 April 2022
Final Decision	12 April 2022
Contract concluded with winning supplier	13 to 19 April 2022
Contract start date (tentatively)	20 April 2022
Work delivery and reporting	Approximately 90 working days from April 2022 to January 2023

9. INSTRUCTIONS FOR RESPONDING

9.1. The documents that must be submitted to form your tender response are listed at Clause 2.3.7 to this RFP. All documents required as part of your tender response should be submitted to Henri Palma (henri.palma@britishcouncil.org.ph) by the Response Deadline, as set out in the Timescales section of this RFP.

9.2. The following requirements should be complied with when submitting your response to this RFP:

- Please ensure that you send your submission in good time to prevent issues with technology – late tender responses may be rejected by the British Council.
- Do not submit any additional supporting documentation with your RFP response except where specifically requested to do so as part of this RFP. PDF, JPG, PPT, Word and Excel formats can be used for any additional supporting documentation (other formats should not be used without the prior written approval of the British Council).
- All attachments/supporting documentation should be provided separately to your main tender response and clearly labelled to make it clear as to which part of your tender response it relates.
- If you submit a generic policy / document you must indicate the page and paragraph reference that is relevant to a particular part of your tender response.
- Unless otherwise stated as part of this RFP or its Annexes, all tender responses should be in the format of the relevant British Council requirement with your response to that requirement inserted underneath.
- Where supporting evidence is requested as 'or equivalent' you must demonstrate such equivalence as part of your tender response.
- Any deliberate alteration of a British Council requirement as part of your tender response will invalidate your tender response to that requirement and for evaluation purposes you shall be deemed not to have responded to that particular requirement.
- Responses should be concise, unambiguous, and should directly address the requirement stated.
- Your tender responses to the tender requirements and pricing will be incorporated into the Contract, as appropriate.

10. CLARIFICATION REQUESTS

10.1. All clarification requests should be submitted to:

- a) For technical matters: Senior Advisor Ingrid Rosalie L. Gorre, ingridrosalie.gorre@britishcouncil.org, and
- b) For administrative matters: Programme Officer Henri Palma, henri.palma@britishcouncil.org.ph

by the Clarification Deadline, as set out in the Timescales section of this RFP. The British Council is under no obligation to respond to clarification requests received after the Clarification Deadline.

10.2. Any clarification requests should clearly reference the appropriate paragraph in the RFP documentation and, to the extent possible, should be aggregated rather than sent individually.

10.3. The British Council reserves the right to issue any clarification request made by you, and the response, to all potential suppliers unless you expressly require it to be kept confidential at the time the request is made. If the British Council considers the contents of the request not to be confidential, it will inform you and you will have the opportunity to withdraw the clarification query prior to the British Council responding to all potential suppliers.

10.4. The British Council may at any time request further information from potential suppliers to verify or clarify any aspects of their tender response or other information they may have provided. Should you not provide supplementary information or clarifications to the British Council by any deadline notified to you, your tender response may be rejected in full and you may be disqualified from this Procurement Process.

11. EVALUATION CRITERIA

11.1. You will have your tender response evaluated as set out below:

Stage 1: Tender responses will be checked to ensure that they have been completed correctly and all necessary information has been provided. Tenders responses correctly completed with all relevant information being provided will proceed to Stage 2. Any tender responses not correctly completed in accordance with the requirements of this RFP and/or containing omissions may be rejected at this point. Where a tender response is rejected at this point it will automatically be disqualified and will not be further evaluated.



Stage 2: The completed Qualification Questionnaire (*if used*) will then be reviewed to confirm that the potential supplier meets all of the qualification criteria set out in the questionnaire. Potential suppliers that meet the qualification criteria will proceed to Stage 3. Potential suppliers that do not meet the qualification criteria set out in the Qualification Questionnaire (*if used*) may be excluded from the Procurement Process at this point. Where a potential supplier is excluded at this point, its tender response will be rejected in full and not evaluated further and the supplier will automatically be disqualified from this Procurement Process.



Stage 3: If a bidder succeeds in passing Stages 1 and 2 of the evaluation, then it will have its detailed tender response to the British Council's requirements evaluated in accordance with the evaluation methodology set out below. Information provided as part of Qualification Questionnaire (if used) responses may also be verified as part of this stage.

11.2. Award Criteria – Responses from potential suppliers will be assessed to determine the most suitable tender submission using the following criteria and weightings. Competitive costing criteria will only be used after the selection of a supplier according to technical criteria. The selected supplier will be asked to submit a separate financial proposal detailing daily fee rates.

We **may** contact prospective candidates for an interview between **6 to 11 April 2022**.

Criteria	Weighting	Max points
Please insert criterial here and put weighting		
Qualification and Skills	30%	10 x 0.3
General Professional Experience	30%	10 x 0.3
Specific Professional Experience	30%	10 x 0.3
Competitive costing	10%	10 x 0.1
Total	100%	10 x 1

11.3. Scoring Model – Tender responses will be subject to an initial review at the start of Stage 3 of the evaluation process. Any tender responses not meeting mandatory requirements or constraints (if any) will be rejected in full at this point and will not be assessed or scored further. Tender responses not so rejected will be scored by an evaluation panel appointed by the British Council for all technical criteria i.e. all criteria other than commercial costs, using the following scoring model:

Points	Interpretation
10	Excellent – Overall the response demonstrates that the bidder meets all areas of the requirement and provides all of the areas evidence requested in the level of detail requested. This, therefore, is a detailed excellent response that meets all aspects of the requirement leaving no ambiguity as to whether the bidder can meet the requirement.
7	Good – Overall the response demonstrates that the bidder meets all areas of the requirement and provides all of the areas of evidence requested, but contains some trivial omissions in relation to the level of detail requested in terms of either the response or the evidence. This, therefore, is a good response that meets all aspects of the requirement with only a trivial level ambiguity due the bidders failure to provide all information at the level of detail requested.
5	Adequate – Overall the response demonstrates that the bidder meets all areas of the requirement, but not all of the areas of evidence requested have been provided. This, therefore, is an adequate response, but with some limited ambiguity as to whether the bidder can meet the requirement due to the bidder's failure to provide all of the evidence requested.
3	Poor – The response does not demonstrate that the bidder meets the requirement in one or more areas. This, therefore, is a poor response with significant ambiguity as to whether the bidder can meet the requirement due to the failure by the bidder to show that it meets one or more areas of the requirement.

0	Unacceptable – The response is non-compliant with the requirements of the RFP and/or no response has been provided.
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11.4. Commercial Evaluation – Your “Overall Price” (as calculated in accordance with requirements of clause 2.3.7) for the goods and/or services will be evaluated by the evaluation panel for the purposes of the commercial evaluation. Prices must not be subject to any pricing assumptions, qualifications or indexation not provided for explicitly by the British Council as part of the pricing approach. In the event that any prices are expressed as being subject to any pricing assumptions, qualifications or indexation not provided for by the British Council as part of the pricing approach, the British Council may reject the full tender response at this point. The British Council may also reject any tender response where the Overall Price for the goods and/or services is considered by the British Council to be abnormally low following the relevant processes set out under the EU procurement rules. A maximum offer score of 10 will be awarded to the tender response offering the lowest “Overall Price”. Other tender responses will be awarded a mark by application of the following formula: (Lowest Overall Price/Overall Price being evaluated) x 10 (rounded to two decimal places) = commercial score.

11.5. Moderation and application of weightings – The evaluation panel appointed for this procurement will meet to agree and moderate scores for each award criteria. Final scores in terms of a percentage of the overall tender score will be obtained by applying the relevant weighting factors set out as part of the award criteria table above. The percentage scores for each award criteria will be amalgamated to give a percentage score out of 100.

11.6. The winning tender response – The winning tender response shall be the tender response scoring the highest percentage score out of 100 when applying the above evaluation methodology, which is also supported by any required verification evidence (to include, without limitation, any updated information or references relating to any Qualification Question responses) obtained by the Authority relating to any self-certification or other requirements referred to in the Qualification Questionnaire (*if used*). If any verification evidence requested from a supplier, or a relevant third party as may be referred to by the supplier in the Qualification Questionnaire (*if used*) as a party prepared to provide such information, is not provided in accordance with any timescales specified by the British Council and/or any evidence reviewed by the British Council (whose decision shall be final) does not demonstrate compliance with any such requirement, the British Council may reject that tender response in full and disqualify the potential winning supplier from the Procurement Process at that point.

List of Annexes forming part of this RFP (issued as separate documents):

Annex I - Agreement for the Purchasing of Professional or Consultancy Services (short form)