



Request for Proposal (RFP03/2011)

Date: 19/01/2011

You are requested to submit a proposal in MKD, VAT exempted for **Carrying out/facilitating of the procedure for Grant of Public Private Partnership Agreement in the field of Communal Affairs for the municipality of Ilinden**

1. as per attached Terms of Reference (TOR).
2. To enable you to submit a proposal, attached are:
 - i. Instructions to Offerors (Annex I)
 - ii. Terms of Reference (TOR)..... (Annex II)
 - iii. Proposal Submission Form(Annex III)
 - iv. General Conditions of Contract..... (Annex V)
3. Your offer comprising of technical proposal and financial proposal, in separate sealed envelopes, should reach the following address no later than **27 January 2011 by 17:00.**

UNDP

RFP 03/2011 **for procedure for GRANT**

Str. 8ma Udarna Brigada 2, Skopje

4. If you request additional information, we would endeavor to provide information expeditiously, but any delay in providing such information will not be considered a reason for extending the submission date of your proposal.
5. You are requested to acknowledge receipt of this letter and to indicate whether or not you intend to submit a proposal at the following e-mail address: procurement.mk@undp.org

Instructions to Offerors**A. Introduction****1. General**

Purpose of RFP

2. Cost of proposal

The Offeror shall bear all costs associated with the preparation and submission of the Proposal, the UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

B. Solicitation Documents**3. Contents of solicitation documents**

Proposals must offer services for the total requirement. Proposals offering only part of the requirement will be rejected. The Offeror is expected to examine all corresponding instructions, forms, terms and specifications contained in the Solicitation Documents. Failure to comply with these documents will be at the Offeror's risk and may affect the evaluation of the Proposal.

4. Clarification of solicitation documents

A prospective Offeror requiring any clarification of the Solicitation Documents may notify the procuring UNDP entity in writing at the organization's mailing address procurement.mk@undp.org. Written copies of the organization's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Offerors and will be posted on UNDP web site www.undp.org.mk (Q&A ref.RFP 03/2011)

5. Amendments of solicitation documents

At any time prior to the deadline for submission of Proposals, the procuring UNDP entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Offeror, modify the Solicitation Documents by amendment.

Any amendment will be posted at UNDP web site.

In order to afford prospective Offerors reasonable time in which to take the amendments into account in preparing their offers, the procuring UNDP entity may, at its discretion, extend the deadline for the submission of Proposals.

C. Preparation of Proposals**6. Language of the proposal**

The Proposals prepared by the Offeror and all correspondence and documents relating to the Proposal exchanged by the Offeror and the procuring UNDP entity shall be written in the English language.

7. Documents comprising the proposal

The Proposal shall comprise the following components:

- (a) Proposal submission form;
- (b) Operational and technical part of the Proposal, including documentation to demonstrate that the Offeror meets all requirements;
- (c) Price proposal shall be structures around deliverables and each deliverable shall have detailed budget break down

8. Export License

n/a

The bidder/vendor shall include in their proposal:

- A statement whether any import or export licenses are required in respect of the goods to be purchased or service to be rendered including any restrictions on the country of origin, use/dual use nature of goods or services, including and disposition to end users;
- Confirmation that he has obtained licenses of this nature in the past and have an expectation of obtaining all the necessary licenses should their bid be successful.

9. Proposal form

The Offeror shall structure the operational and technical part of its Proposal as follows:

- Company profile/experience
- Proposed Methodology
- Experts proposed

10. Proposal prices

The price proposal shall be presented in MKD, VAT exempted , per deliverables and each deliverable shall have detailed budget break down

11. Proposal currencies

All prices shall be quoted in MKD, VAT exempted.

12. Period of validity of proposals

Proposals shall remain valid for hundred twenty (120) days after the date of Proposal submission prescribed by the procuring UNDP entity, pursuant to the deadline clause. A Proposal valid for a shorter period may be rejected by the procuring UNDP entity on the grounds that it is non-responsive.

In exceptional circumstances, the procuring UNDP entity may solicit the Offeror's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. An Offeror granting the request will not be required nor permitted to modify its Proposal.

13. Format and signing of proposals

A Proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Offeror, in which case such corrections shall be initialled by the person or persons signing the Proposal.

14. Payment

UNDP shall effect payments to the Contractor after acceptance by UNDP of the invoices submitted by the contractor, upon achievement of the corresponding milestones.

D. Submission of Proposals

15. Sealing and marking of proposals

The Offeror shall seal the Proposal in one outer and two inner envelopes, as detailed below.

(a) The outer envelope shall be:

- addressed to –

UNDP
Ref. RFP03 –Procedure for GRANT
Str. 8ma Udarna brigada 2
1000 Skopje

- #### **(b) Both inner envelopes shall indicate the name and address of the Offeror. The first inner envelope shall contain the information specified in Clause 8 (*Proposal form*) above. The second inner envelope shall include the price schedule duly identified as such.**

Note, if the inner envelopes are not sealed and marked as per the instructions in this clause, the procuring UNDP entity will not assume responsibility for the Proposal's misplacement or premature opening.

16. Deadline for submission of proposals

Proposals must be received by the procuring UNDP entity at the address specified under clause *Sealing and marking of Proposals* no later than **27 January 2011 by 17:00**.

The procuring UNDP entity may, at its own discretion extend this deadline for the submission of Proposals by amending the solicitation documents in accordance with clause *Amendments of Solicitation Documents*, in which case all rights and obligations of the procuring UNDP entity and Offerors previously subject to the deadline will thereafter be subject to the deadline as extended.

17. Late Proposals

Any Proposal received by the procuring UNDP entity after the deadline for submission of proposals, pursuant to clause *Deadline for the submission of proposals*, will be rejected.

18. Modification and withdrawal of Proposals

The Offeror may withdraw its Proposal after the Proposal's submission, provided that written notice of the withdrawal is received by the procuring UNDP entity prior to the deadline prescribed for submission of Proposals.

The Offeror's withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of clause *Deadline for Submission of Proposals*. The withdrawal notice may also be sent by telex or fax but followed by a signed confirmation copy.

No Proposal may be modified subsequent to the deadline for submission of proposals.

No Proposal may be withdrawn in the Interval between the deadline for submission of proposals and the expiration of the period of proposal validity specified by the Offeror on the Proposal Submission Form.

E. Opening and Evaluation of Proposals

19. Opening of proposals

The procuring entity will open the Proposals in the presence of an Evaluation Committee formed by the Head of the procuring UNDP entity.

20. Clarification of proposals

To assist in the examination, evaluation and comparison of Proposals, the Purchaser may at its discretion, ask the Offeror for clarification of its Proposal. The request for clarification and the response shall be in writing and no change in price or substance of the Proposal shall be sought, offered or permitted.

21. Preliminary examination

The Purchaser will examine the Proposals to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the Proposals are generally in order.

Arithmetical errors will be rectified on the following basis: If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If the Offeror does not accept the correction of errors, its Proposal will be rejected. If there is a discrepancy between words and figures the amount in words will prevail.

Prior to the detailed evaluation, the Purchaser will determine the substantial responsiveness of each Proposal to the Request for Proposals (RFP). For purposes of these Clauses, a substantially responsive Proposal is one which conforms to all the terms and conditions of the RFP without material deviations. The Purchaser’s determination of a Proposal’s responsiveness is based on the contents of the Proposal itself without recourse to extrinsic evidence.

A Proposal determined as not substantially responsive will be rejected by the Purchaser and may not subsequently be made responsive by the Offeror by correction of the non-conformity.

22. Evaluation and comparison of proposals-cumulative method

A two-stage procedure is utilized in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal being opened and compared. The price proposal of the Proposals will be opened only for submissions that passed the minimum technical score of 70% or 490 points of the obtainable score of 700 points in the evaluation of the technical proposals.

The technical proposal is evaluated on the basis of its responsiveness to the Term of Reference (TOR).

The price proposal of the Proposals will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 700 points in the evaluation of the technical proposals (expertise of the firm in similar projects, methodology and approach and qualifications of the staff with relevant experience) and the price has allocated 300 points.

The offer with the lowest price will receive the total 300 points. Other offers with higher prices will receive their respective scores according the following formula:

$$300 \times \frac{\text{Lowest Bid}}{\text{Proposed Bid}}$$

The company will be awarded a contract with the highest aggregate score based on technical and financial proposal.

Technical Evaluation Criteria

Summary of Technical Proposal Evaluation Forms	Score Weight	Points Obtainable	Company / Other Entity				
			A	B	C	D	E

1.	Expertise of Firm / Organisation submitting Proposal	37 %	190					
2.	Proposed methodology and Approach	28%	250					
3.	Personnel/Proposed Experts	270 %	260					
Total			700					

Summary of Technical Proposal Evaluation Forms		Score Weight	Points Obtainable	Company / Other Entity				
				A	B	C	D	E
1.	Experience/expertise of the Company in assignments/projects of the same nature (PPP, communal affairs, IMC etc.)		<u>190</u>					
1.1	Years of company's existence		20					
	3-5	1- 7	6					
	6-8	8 – 14	13					
	> 8	15 – 20	20					
1.2	Number of assignments/projects of the same nature		20					
	3 – 5	1- 7	6					
	6 – 8	8 – 14	13					
	> 8	15 – 20	20					
1.3	Same nature of assignments/ complexity and value		150					
	Assignments/projects of the same nature in complexity – PPP on local level	1 – 50	50					
	Assignments/projects of the same nature complexity – PPP on local level in communal affairs	51 – 100	100					
	Assignments/projects of the same nature in complexity – PPP on local level in communal affairs and IMC	101 – 150	150					
2.	Proposed Methodology including Work Plan		<u>250</u>					
	Presentation of the methodological approach for the		120					

	preparation of the feasibility study, as well as, a structure of the feasibility study.							
	Action Plan that describes explains in sufficient and practical detail all the steps and activities for implementation of the methodology versus time dynamics divided in two phases		70					
	Clear explanation of the approach for achieving benefit of the community and social objectives in the PPP		35					
	Draft structure of the Paper on the process of establishment of the PPP		25					
3.	Personnel (CVs) of the key staff		260					
3.1	Local expert in local government, communal affairs and PPP		90					
	University Degree in Public Administration, Economy, Management, Environment or other relevant field	7	10					
	Master is an asset	10						
	Specific knowledge and experience in Macedonian local governance and PPP is a prerequisite		10					
	Minimum of seven years of relevant experience in local governance, public enterprises and communal affairs and at least two years experience in PPP		40					
	7 years		25					
	8 - 10 years		30					
	>10 years		40					
	Minimum of three methodologies of the same nature developed by the expert (PPP, communal affairs, IMC etc.)		20					
	3-5		10					
	6-8		15					
	>8		20					

	Experience in field assessment, drafting documents and preparing reports for international organizations;		10					
3.2	Local expert in financial management and PPP		90					
	University Degree in the field of economy, finance, business management etc.	7	10					
	Master is an asset	10						
	Specific knowledge/experience in Macedonian financial management, finance of local governance and PPP is a prerequisite		10					
	Minimum of seven years of relevant experience in financial management of local governments and at least two years experience in PPP		40					
	7 years		25					
	8 - 10 years		30					
	>10 years		40					
	Minimum of three methodologies of the same nature developed by the expert (PPP, communal affairs, IMC etc.)		20					
	3-5		10					
	6-8		15					
	>8		20					
	Experience in field assessment, drafting documents and preparing reports for international organizations;		10					
3.3	Local expert in legal affairs and processes related to local government and PPP		80					
	University Degree in Law	5	7					
	Master is an asset	7						
	Specific knowledge/experience in Macedonian financial management, finance of local		10					

	governance and PPP is a prerequisite							
	Minimum of seven years of relevant experience in legal affairs and processes related to local government and at least two years experience in PPP		35					
	7 years		25					
	8 - 10 years		30					
	>10 years		35					
	Minimum of three methodologies of the same nature developed by the expert (PPP, communal affairs, IMC etc.)		20					
	3-5		10					
	6-8		15					
	>8		20					
	Experience in field assessment, drafting documents and preparing reports for international organizations;		8					
	Total		<u>700</u>					

F. Award of Contract

23. Award criteria, award of contract

The procuring UNDP entity reserves the right to accept or reject any Proposal, and to annul the solicitation process and reject all Proposals at any time prior to award of contract, without thereby incurring any liability to the affected Offeror or any obligation to inform the affected Offeror or Offerors of the grounds for the Purchaser's action

Prior to expiration of the period of proposal validity, the procuring UNDP entity will award the contract to the qualified Offeror whose Proposal after being evaluated is considered to be the most responsive to the needs of the organisation and activity concerned.

24. Purchaser's right to vary requirements at time of award

The Purchaser reserves the right at the time of award of contract to vary the quantity of services and goods specified in the RFP without any change in price or other terms and conditions.

25. Signing of the contract

Within 30 days of receipt of the contract the successful Offeror shall sign and date the contract and return it to the Purchaser.

26. Performance security

n/a

26. Vendor protest

Our vendor protest procedure is intended to afford an opportunity to appeal to persons or firms not awarded a purchase order or contract in a competitive procurement process. **It is not available to non-responsive or non-timely proposers/bidders or when all proposals/bids are rejected. In the event that you believe you have not been fairly treated, you can find detailed information about vendor protest procedures in the following link:** <http://www.undp.org/procurement/protest.shtml>.

TERMS of REFERENCE for

Company to facilitate the procedure for Grant of Public Private Partnership Agreement in the field of Communal Affairs for the municipality of Ilinden

Project: 00070096 “Inter-municipal cooperation for better service provision and EU accession”

Location: Skopje

Duration: 100 days in the period between 10th of February and 20th of May 2011.

PROJECT BACKGROUND

One of the main objectives of decentralization is to improve public service delivery to better meet the needs of the citizens. A major challenge to the achievement of this objective in the country is the great diversity and disparities among municipalities to perform specific functions.

To mitigate the lack of capacities in performing of competencies and delivery of certain services, municipalities are increasingly considering alternative service delivery mechanisms, such as inter-municipal cooperation, Public Private Partnerships (PPP), outsourcing of services through delegation of competencies etc.

Municipality of Ilinden is one of municipalities in the country that is not hesitating to search for and apply alternative mechanisms of service delivery and thus provide more efficient and affordable services to their citizens. The concept of inter-municipal cooperation is known to the Municipality of Ilinden. In cooperation with Municipality of Gazi Baba and Petrovec an inter-municipal water supply communal enterprise was established.

The Municipality of Ilinden was established in 1996. The total area of the Municipality is 97, 02 km², the total number of inhabitants according to the last National Census carried out in 2002 is 15.894. The Municipality of Ilinden is located in the immediate vicinity of the City of Skopje, more precisely 10km from the City Center and located on the eastern part of the Skopje valley, on the Skopje-Kumanovo-Veles triangle. Municipality of Ilinden borders the Municipality of Gazi Baba, the Municipality of Arachinovo, the Municipality of Kumanovo and the Municipality of Petrovec. It includes 12 populated areas, as follows: Ilinden, Marino, Kadino, Mralino, Ajvatovci, Bunardzik, Miladinovci, Bujkovci, Mrshevc, Buchinci, Tekija and Deljadrovci. The total population live in 4.298 households in an average of 3,7 members in one family, where the population density is 150 people per km².

On 28th of July 2010, the municipality of Ilinden was certified with the **ISO 9001:2008 standard** for implementation and maintenance of the standard in the field of **Services of the local administration competencies**.

In the municipality of Ilinden is functioning public communal enterprise (PCE) "Ilinden" which is established in 1998. The PCE employs 51 employees 8 of which are working on the part-time basis. Gender structure of employees is 10 women and 41 men. Within its scope of work the PCE is delivering public services in the field of: solid waste management; public hygiene; arranging and maintaining parks and other green spaces; arranging and maintaining streets, roads and footpaths; street lighting maintenance and winter maintenance of streets and roads. In the field of solid waste management the PCE is serving 4100 individual users and legal entities. The PCE collects transports and disposes 16 – 20 tone per day, or 500 tones per month. Abovementioned amount of waste is transported and disposed at the regional landfill "DRISLA" which is located 25 km from the municipality of Ilinden. Within the territory of the municipality of Ilinden there is one waste transfer station.

In the efforts to improve the quality and efficiency of the delivery of services in the area of communal affairs, as well as to increase the social benefit, the Municipality of Ilinden explores the possibilities of establishing a PPP for the collection, selection, transportation and disposal of solid waste. Despite the fact that the current Law on Concessions and Other Types of PPP provides an opportunity to the municipalities to establish PPP and deliver certain services through the private sector, in the country there is a lack of experience and knowledge on the side of the local authorities for the feasibility of such endeavors, legal establishment as well as for their operation.

On the other hand, UNDP continuously is providing expertise and technical support to the municipalities for delivery of services through alternative mechanisms, by piloting of innovative approaches. PPP is seen as a mechanism which potentials are not sufficiently utilized by the municipalities and a good showcase of successful PPP could further trigger other municipalities to consider using it. In order the PPP to become more attractive for the business sector, the inter-municipal cooperation should be applied where the economy of scale as one of the potential benefits will be recognized. In that direction, procedure for establishment of the PPP should be carried out where the potentials for its implementation among Ilinden and neighboring municipalities through the IMC should be analyzed as well.

SCOPE OF WORK

The key objective of this assignment is supporting establishment of Public Private Partnership in the field of Communal Affairs (collection, selection, transportation and disposal of solid waste) in the municipality of Ilinden. More precisely, as stipulated in the “Law on concession and other types of PPP” the facilitation of the procedure shall result with Grant of Public Private Partnership Agreement. Another objective of the initiative is to provide experience and guidance for replication of such initiatives and policy directions for full implementation of the respective law.

The Assignment shall be accomplished through development of the feasibility study, tendering procedure, evaluation and selection of the best offer to establish PPP and preparation of the draft agreement. Within this assignment, it is expected the team of experts from the company to prepare a paper/report with lessons learnt from the process of establishment of PPP from legal and operational perspective.

This assignment is foreseen to be executed in **two phases**. The second phase of the assignment is to be executed successively and conditionally to the outputs of the first phase.

In the **first phase** the selected company and its team of experts will conduct analysis and will develop PPP feasibility study, which should provide Municipality of Ilinden (and potential partner municipality/ies) with relevant information for making an informed decision whether and under which conditions to outsource the function of solid waste management to a private partner. PPP feasibility study should provide a comparative analysis of different scenarios as well as the feasibility and cost-effectiveness to share this function with the neighboring municipalities, through Inter-municipal Cooperation.

The **second phase** of this assignment will be executed only upon adoption of the previously developed feasibility study by the Council of the Municipality of Ilinden (and Council of potential partner municipality/ies) and initiates procedure for establishment of PPP. The team of experts will develop necessary documents for tendering, evaluation and selection of the best offer to establish PPP, and will develop a draft agreement with continuous facilitation of the overall process. In the case the feasibility study is not adopted by the Council of the Municipality of Ilinden, the assignment will be terminated.

The assignment shall be implemented based on the positive national legislation and principles of implementation of PPP such as transparency, nondiscrimination, proportionality and efficiency. The PPP should be considered as model, wherein both the government and private players work together for social welfare, eliminating the prime focus of private players on profit. In such a partnership, there has to be an equitable distribution of value to all stakeholders. In addition, important social benefits should be incorporated into a project by defining quality criteria of services to be provided to citizens or to employ measures that will tailor the project to the specific needs of local communities. Finally, the feasibility study should offer to the contracting authority defined results and social objectives it needs to achieve.

In many cases a PPP may offer the best approach for implementing projects. Therefore the feasibility study and the paper should intend to review the rules and practices that ensure that PPPs are considered as an advantage to assist the public authorities in the preparation and implementation of the projects as well as an opportunity for absorption of EU funds (IPA, Cohesion and Structural Funds).

The overall assignment is to be implemented in close cooperation between the selected company's team of experts, administration of the Municipality of Ilinden, representatives of the communal enterprise of the municipality of Ilinden, representatives of neighboring municipality/ies as well as the UNDP - IMC Programme team.

Presentation of findings and recommendations

The lessons learnt from the process of establishment of PPP from legal and operational perspective as well as experiences and guidance for replication of such initiatives and policy directions for full implementation of the respective law, shall be presented on the **joint workshop** by the team of experts.

DUTIES AND RESPONSIBILITIES

In the course of implementing this assignment, the company shall be responsible for the following:

1. Review all relevant laws (existing legislative framework) regulating public-private partnership, inter-municipal cooperation, and outsourcing of services;
2. Identify any relevant requirements/legal provisions needed for PPP and IMC in the above mentioned area and develop possible scenarios/procedures for meeting the requirements/legal provisions;
3. Study the experience of the existing practices for PPP in the country and draw lessons learnt and the existing challenges to municipalities;
4. Study the experience of the existing practices for PPP in the specific area in the developing countries and draw lessons learnt and the existing challenges to municipalities considering the social objectives and community benefits;
5. Identify all Public and private sector actors in solid waste management (with special attention to inter-municipal cooperation as an option);
6. Prepare a draft feasibility study ;
7. Present the draft document at a discussion meeting with the involved municipality/ies, representatives from private sector and representatives from UNDP and incorporate comments and suggestions in the document;
8. Present the draft document in front of the Council members of the involved municipality/ies;
9. Prepare tendering, evaluation and selection documents as well as the draft agreement;
10. Prepare a paper with lessons learned from the process of establishment of PPP and its presentation on the joint workshop;
11. Participate at the one-day study visit in the region

EXPECTED OUTPUTS

The team of experts is expected to deliver the following deliverables:

- Feasibility study for establishment of PPP, shall be developed within the following but not limited structure, in accordance to the Law on Concessions and other Types of PPP:
 - Risk related to the implementation

- Economic and financial effects
- Benefit of the community and social objectives
- Comparison of the benefits associated with implementation
- Legal status of movable and immovable property
- Analyze of benefit for establishment of PPP through the mechanism of Inter-municipal cooperation which will involve additional neighbouring municipality/ies
- Tendering, evaluation and selection documents;
- Draft agreement and
- Paper on the process of establishment of the PPP focused, but not limited on:
 - Macedonian and European experiences
 - Lessons learnt from the process of establishment of PPP from legal and operational perspective with emphasize on social benefits.
 - Recommendations for improvement of the legal and operational framework.
 - Practices that ensure that PPPs assist the public authorities in the preparation and implementation of the projects as well as an opportunity for absorption of EU funds.

Note: The proposed Paper structure is subject of consultation and agreement between the company and UNDP.

Final versions of the required deliverables shall be delivered in both Macedonian and English language.

QUALIFICATIONS AND EXPERIENCE

Company requirements:

- The proposal shall include Registration of the company as legal entity (prove of its existing of at least three years);
- The proposal shall include company's profile (short background and experience);
- The company must provide reference list of previous similar works/projects (at least three) with contact details and permission for reference check indicating the e-mail addresses or fax numbers for contact persons.

Qualifications of personnel:

The team shall consist of minimum:

1. Local expert in local government, communal affairs and PPP

- University Degree in Public Administration, Economy, Management, Environment or other relevant field (master is an asset);
- Minimum of seven years of relevant experience in local governance, public enterprises and communal affairs and at least two years experience in PPP (CV to be submitted);
- Specific knowledge and experience in Macedonian local governance and PPP is a prerequisite;
- Practical experience in methodology work (please indicate, within the application form, at least three methodologies of same nature developed by the expert);
- Experience in field assessment, drafting documents and preparing reports for international organizations;
- Fluency in both written and spoken English.

2. Local expert in financial management and PPP

- University Degree in the field of economy, finance, business management etc. (master is an asset);
- Minimum of seven years of relevant experience in financial management of local governments and at least two years experience in PPP (CV to be submitted);
- Specific knowledge/experience in Macedonian financial management, finance of local governance and PPP is a prerequisite;
- Practical experience in methodology work (please indicate, within the application form, at least three methodologies of same nature developed by the expert);
- Experience in field assessment, drafting documents and preparing reports for international organizations;
- Fluency in both written and spoken English.

3. Local expert in legal affairs and processes related to local government and PPP

- University Degree in Law (master is an asset);
- Minimum of seven years of relevant experience in legal affairs and processes related to local government and at least two years experience in PPP (CV to be submitted);
- Specific knowledge/experience in Macedonian legal affairs, local governance and PPP is a prerequisite;
- Practical experience in methodology work (please indicate, within the application form, at least three methodologies of same nature developed by the expert);
- Experience in field assessment, drafting documents and preparing reports for international organizations;
- Fluency in both written and spoken English.

In a case the positive legal framework related to PPP and environment requires involvement of additional expert for preparation of the necessary documents, this involvement shall be proposed within the methodology and accordingly mentioned in the financial proposal. If this is the case, the selected company/legal entity is responsible for engagement of the expert with required expertise and professional background.

One member of the proposed team shall have the role of Team Leader who will communicate with the UNDP Financial scheme and legal specialist (Component Leader).

Note: CVs must be linked with the roles and position of the personnel proposed

TERMS AND CONDITIONS FOR PROVISION OF SERVICES

Reporting:

The Company shall report for the progress and implemented activities to the UNDP Programme Manager through the Team Leader. The Company shall submit monthly progress reports (depending on the intensity of the activities) and final project progress report.

Developed plans and materials per output must be approved by the UNDP Programme Manager prior implementation.

Communication

During the fulfillment of the assignment, the company shall ensure regular communication with the UNDP Financial Scheme and Legal Specialist (Component Leader) and UNDP Programme Manager prior to the delivery of expected results.

The contractor shall ensure quality and timely delivery of the expected results and will regularly inform the UNDP Programme Manager of the progress as well as any obstacles that might occur.

Working materials

Final versions of the required documents that derive from the deliverables shall be delivered in both Macedonian and English language.

Timeframe:

The consultancy of the company/team of experts should be completed within in the period: mid of January – end of May 2011.

All activities defined in the chapter Duties and Responsibilities and all deliverables defined in the chapter Expected Outputs must finish within maximum **4 (four) months** of the effective date of contract signature.

In the process of application the Company should provide an **Action Plan** for implementation of the assignment divided in to two phases anticipated in the chapter Scope of Work. The proposed Action Plan of the selected Company is subject of consultation and agreement of all involved parties.

Payments

The payment for the service will be done in **two installments** after completion of each of the anticipated phases in the chapter Scope of Work. In that direction, the company shall provide a budget breakdown in accordance to the costs of the activities defined in the Action Plan within first and second phase.

In the case the feasibility study is not adopted by the Council of the Municipality of Ilinden, the assignment will be terminated and only the first installment of the total payment will be paid to the company. The implementation of the second phase activities and thus payment of the second installment depends of the adoption of the developed feasibility study by the Council of the Municipality of Ilinden (and Council of potential partner municipality/ies) from the first phase.

REQUIRED DOCUMENTS FOR SUBMISSION (mandatory)

- Company's profile and legal registration;
- Reference list of at least three previous works/projects of the same nature (by size and complexity) with contact details and permission for reference check indicating the e-mail addresses or fax numbers for contact persons;
- CVs (clearly stating the educational background and years of work experience) of the key personnel: Local expert in local government, communal affairs and PPP, Local expert in financial management and PPP and Local expert in legal affairs and processes related to local government and PPP. In a case additional expert for preparation of the necessary

documents for legal framework related to PPP and environment is required; the CV shall be submitted, too.

- Clear presentation of the methodological approach for the preparation of the feasibility study, as well as, a structure of the feasibility study which is subject of this assignment.
- Draft structure of the Paper on the process of establishment of the PPP.
- An Action Plan for implementation of the methodology versus time dynamics divided in two phases in accordance to the chapter Scope of Work.
- Financial offer expressed in MKD, VAT expressed separately. The financial offer shall clearly presents the costs of the first and second phase. **The financial offer must be submitted in a separate sealed envelope.**

For the assignment requested by this TOR, individual companies or consortia registered for provision of consultancy services can compete.

In case of consortia, the offeror must provide the evidence of cooperation with the consortia partners (e.g. Letter of intent, Partnership agreement or similar). In the case of applications submitted by a consortium, the technical evaluation shall be applied to the consortium as a whole.

In case of consortia, the offeror shall clearly indicate the Leading Company for this assignment with whom the Contract will be signed. The Leading Company is responsible for coordination, the quality and timely delivery of the required products.

The contractor shall prove that it possesses the requisite knowledge, skills, personnel, resources and experience and that it is fully qualified, ready, willing and able to provide the services of this assignment.



Annex IV

General Conditions for Professional Services

1. LEGAL STATUS

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis UNDP. The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

2. SOURCE OF INSTRUCTIONS

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action which may adversely affect UNDP or the United Nations and shall fulfil its commitments with the fullest regard to the interests of UNDP.

3. CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

4. ASSIGNMENT

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

5. SUB-CONTRACTING

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform with the provisions of this Contract.

6. OFFICIALS NOT TO BENEFIT

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7. INDEMNIFICATION

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8. INSURANCE AND LIABILITIES TO THIRD PARTIES

- 8.1 The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.
- 8.2 The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.
- 8.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.
- 8.4 Except for the workmen's compensation insurance, the insurance policies under this Article shall:
 - (i) Name UNDP as additional insured;
 - (ii) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against UNDP;
 - (iii) Provide that UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.
- 8.5 The Contractor shall, upon request, provide UNDP with satisfactory evidence of

the insurance required under this Article.

F. 9. ENCUMBRANCES/LIENS

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

10. TITLE TO EQUIPMENT

Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the

Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

11. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS

UNDP shall be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of this Contract. At the UNDP's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to UNDP in compliance with the requirements of the applicable law.

12. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or the United Nations, or any abbreviation of the name of UNDP or the United Nations in connection with its business or otherwise.

13. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION

13.1 All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of UNDP, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of work under this Contract.

13.2 The Contractor may not communicate at any time to any other person, Government or authority external to UNDP, any information known to it by reason of its association with UNDP which has not been made public except with the authorization of UNDP; nor shall the Contractor at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

14. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

- 14.1 Force majeure, as used in this Article, means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force which are beyond the control of the Parties.
- 14.2 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Contract. The notice shall include steps proposed by the Contractor to be taken including any reasonable alternative means for performance that is not prevented by force majeure. On receipt of the notice required under this Article, UNDP shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.
- 14.3 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

15. TERMINATION

- 15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16 "Settlement of Disputes" below shall not be deemed a termination of this Contract.
- 15.2 UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.
- 15.3 In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract. The Contractor shall take immediate steps to terminate the work and services in a prompt and orderly manner and to minimize losses and further expenditures.
- 15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, UNDP may, without prejudice to any other right or remedy it may have, terminate this Contract forthwith. The Contractor shall immediately inform UNDP of the occurrence of any of the above events.

16. SETTLEMENT OF DISPUTES

16.1. Amicable Settlement

The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL

Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

16.2. Arbitration

Unless, any such dispute, controversy or claim between the Parties arising out of or relating to this Contract or the breach, termination or invalidity thereof is settled amicably under the preceding paragraph of this Article within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, such

dispute, controversy or claim shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining, including its provisions on applicable law. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a

result of such arbitration as the final adjudication of any such controversy, claim or dispute.

PRIVILEGES AND IMMUNITIES

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

TAX EXEMPTION

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with UNDP to determine a mutually acceptable procedure.

18.2 Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNDP before the payment thereof and UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19 CHILD LABOUR

19.1 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

19.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

MINES

20.1 The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

20.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

OBSERVANCE OF THE LAW

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

AUTHORITY TO MODIFY

No modification or change in this Contract, no waiver of any of its provisions or any additional contractual relationship of any kind with the Contractor shall be valid and enforceable against UNDP unless provided by an amendment to this Contract signed by the authorized official of UNDP.