



TERMS OF REFERENCE FOR CONSULTANCY SERVICES

TO DEVELOP HAND BOOK ON HIV AND THE LAW FOR COURT MEDIATORS.

Programme: Strengthening community systems and reducing human rights related barriers to HIV/TB services in Uganda.”

Location: UGANET

Starting date: Upon signature of Contract

Expected Duration of Assignment: 60 working days

August 2021

A. About UGANET

Uganda Network on Law Ethics and HIV/AIDS (UGANET) is a national non- governmental organization that was established to bring together organizations and individuals who are interested in advocating for the development and strengthening of an appropriate policy, legal, human rights and ethical response to Health and HIV/AIDS in Uganda. UGANET’s mandate lies in promotion of social justice on the foundation that the law, legal policies and human rights are critical enablers in influencing the success of Health, Gender equality and HIV interventions intended to prevent further spread and also mitigate the adverse social impact and suffering caused by gender inequality, HIV and other Health conditions.

B. About the project

UGANET in a consortium with International Community of Women Living with HIV East Africa Chapter (ICWEA) and HRAFP is implementing the Global Fund RSSH and Human Rights project entitled **“Strengthening community systems and reducing human rights related barriers to HIV/TB services in Uganda.”**

The project aim is to address human rights related barriers to HIV/TB services in Uganda. This will be achieved through different interventions – one of it being working with court mediators (6 regions, Central, West, East, North, Karamoja and West Nile) in Uganda. Mediators will be sensitized on human rights, Key and Vulnerable population, and gender, HIV and TB using the handbook.

C. Background

UNAIDS Country factsheets UGANDA | 2020 indicates that 1 400 000 [1 300 000 - 1 600 000] Adults and children living with HIV. UAC country progress report 2017 further indicate that in 2016, an estimated 1.3 million people were living with HIV, and only an estimated 26,000 Ugandans died of AIDS-related illnesses.¹ The fact sheet further indicate that Women aged 15 to 49 HIV prevalence rate 6.8 [6.3 - 7.4], Men aged 15 to 49 HIV prevalence rate 3.9 [3.3 - 4.2], HIV prevalence among young women 2.6 [1.4 - 3.7] and HIV prevalence among young men 1.1 [0.7 - 1.4]. There has been a gradual increase in the number of people living with HIV accessing treatment. These data show that women and girls are highly burdened by the disease. In addition, the country progress reports indicated that persistent disparities remain around who is accessing treatment and many people living with HIV experience stigma and discrimination.

Although there is a sufficient legal framework and policies in place in the country, HIV related stigma remains, a battle ground for the multi sectoral AIDS response. Ending HIV requires enabling legal and social environments that guarantee the health, dignity and security of all people living with or at risk of HIV and thus ensure that all those in need of HIV prevention, treatment, care and support have access to these services without fear of discrimination.ⁱ

¹ Uganda Population based HIV Impact Assessment of 2017

Courts are often the last avenue for redress for those who suffer HIV-related discrimination or those whose health and rights have been overlooked. In addition, the courts handling of cases of HIV positive persons who have come in conflict with the law shapes and sends an important message to the public on a case-by-case basis. The judiciary therefore is an essential partner in this quest for justice, equality, and redress in case of violation of rights.

In the context of HIV, the judiciary is confronted with new and complex scientific, legal and medical issues that they are not always equipped to consider and adjudicate. While some Judges have exercised bold leadership in passing decisions that have seen the emergence of protective jurisprudence on issues such as employment, treatment in prisons, segregation, confidentiality and access to medicines. Others have been strained to progress beyond HIV bias, blame, prejudice, and as such have delivered decisions that make HIV stigma even more difficult to address outside the courts.

According to Judicature Mediation Rules - The Justice, Law and Order Sector, no civil action will be heard by court unless the parties have first attempted mediation. Further, the rules make mediation Mandatory in the High Court and Courts subordinate. This means that no civil action will be heard by court unless the parties have first attempted mediation. Hence, mediators play a critical role in ensuring access to justice for all and as such, it is important to enhance capacity of mediators to address HIV-related legal and human rights issues therefore becomes fundamental to creating an enabling legal environment that supports national responses to HIV.

D. Objective

The main objective of this consultancy is;

- a. To develop a contextualized issues paper that analyses the role of mediators in HIV related cases
- b. To develop mediators' handbook on HIV/TB and the law that is aligned to the issue paper.

C. Scope of work

In order to achieve the above objective, the Consultants shall perform the following tasks:

1. Developing an inception report for the assignment:

The consultant will draft an inception report detailing the structure and methodology of the study. The consultant shall discuss the report and show a way forward on how the assignment shall be accomplished.

2. Develop an issues paper that analyses the Uganda country Situation on HIV, TB and human rights from the court mediator Perspective

- Conduct a preliminary review of the national HIV situation – the current status of the epidemic, the science and the response

- Analyze the International law and human rights frameworks as applicable to HIV in Uganda in connection with the role of court mediators
- Analyze any gaps in national law and human rights frameworks as applicable role of mediators in HIV- related matters in comparison with other jurisdiction
- Analyze the HIV related barriers and opportunities in the Law and human rights context from a mediator's perspective
- Conduct a comprehensive review of mediation notes where HIV was at the center of mediation.
- Analyze the strength, weaknesses, gaps and shortcomings of the existing methods and techniques of court mediation existing in Uganda
- Detail issues and make recommendation that identifies salient knowledge and application strength and gaps that will then be enhanced/ addressed by the mediators' handbook.

3. Develop a detailed Mediators' handbook on HIV/TB, Human rights and the law:

- The Consultant is expected to prepare a handbook/ a reference manual that will guide court mediators on their day to day court work where they interact with salient HIV/TB related legal dilemmas.
- The handbook should be presented coherently as a training resource for the use of mediator's trainers on the relevant law and legal issues related to HIV/TB and human rights.
- The handbook should be relevant to advocates, lawyers and other legal practitioners that seek to gain specific understanding of HIV-related legal issues and the potential role of the court mediators in advancing human rights in the context of the HIV and TB.
- Based on international legal and human rights standards, the handbook should contain examples of mediated cases in Uganda and from other different jurisdictions, good-practice advice and judicial rulings on HIV-related issues.

E. Proposed Methodology

1. Conduct a preliminary desk review.
2. Adopt a consultative and participative approach. This will include interviews with key stakeholders and conduct a few workshops with court mediators', judicial officers, legal practitioners, legal academia and other important stakeholders. The consultant will conduct the analysis of the findings. This will be done in consultation with UGANET,

ICAMEK and partners in this program. The Consultant will conclude with the submission of a draft report based on the findings.

3. Produce regular progress reports; The Consultant will submit regular progress reports that would provide details on the progress of the assignment, activities performed, any issues and problems identified and solutions proposed.
4. Perform other assignment related tasks.

F. Time Frame

The consultancy will run for a period of 60 days.

G. Deliverables

The consultant will produce and submit to the UGANET the following list of deliverables

- (a) A well thought through inception report that confirms full understanding of this TOR
- (b) A highly analytical and well researched Issues paper
- (c) A well organized and coherent court mediators' hand book in both electronic and hard copy formats
- (d) All well written stakeholder workshops and consultative reports

H. Reporting Arrangements

- The consultant will report to the UGANET Executive Director through the Head, Advocacy and Strategic Litigation manager.
- The consultant will maintain direct coordination with ICAMEK and UGANET technical staff.
- The consultant will start to work upon signing of the consultancy agreement

G. Qualification of the Consultant

It is envisaged that this exercise will be conducted by a highly competent judicial officer or senior lawyer given that it's a tool to be used by court mediators and legal trainers for the court mediators and as such; will demonstrate highly intelligible skills and expert understanding of this subject as described in the desired functional competencies below:

Required Skills and Experience

Academic Qualifications:

- Master's Degree or equivalent (5-year university education) in Law;

Working experience:

- At least 10 years of previous professional experience as a judge, a prosecutor, civil and human rights lawyer, court mediator, a legal academic with the experience of working

with court mediators and arbitrators or related areas or other similar profession related case mediation.

- At least 3 years of previous experience in teaching law on academic or professional training levels; providing professional trainings to mediators is an added advantage;
- Experience in developing training programmes curricula and reference training resources for legal professionals is an advantage.

Competencies:

- A demonstrated understanding of social justice adjudication including on issues of HIV, health and gender equality
- Very good knowledge and understanding of various tools, techniques and methods of legal/judicial reasoning and their practical application by courts;
- Knowledge of differences in techniques and approaches to judicial reasoning in various legal systems and countries;
- Current or previous working experience related to Uganda judicial system, courts and judges is an advantage;
- Knowledge/well-grounded on court users' needs is a strong asset;

Consulting team qualities:

- Proven commitment to the core values of the human rights principles, in particular, respecting differences of culture, gender, religion, ethnicity, nationality, language, age, HIV status, disability, and sexual orientation, or other status;
- Responsibility, creativity, flexibility and punctuality.

H. Scope of Proposal Price and Schedule of Payments

- a) The contract price will be a fixed output-based price regardless of extension of duration;
- b) The potential consultant should submit an all-inclusive bid with detailed costing for professional fees, operational costs, travel costs anticipated etc.
- c) Payment will be made by UGANET upon achievement of the corresponding milestones identified and outlined in this TOR in accordance with an approved work plan and budget.
- d) 50% payment of the agreed amount will be paid on submission and approval of the inception report.
- e) The final payment will be made when the final handbook is submitted to UGANET and approved.
- f) All payments will be subject to statutory deductions as per the laws of Uganda in force at the time.
- g) All payments will be made by cheque or any other means as may be convenient upon submission of an invoice by the Consultant.

I. Application Instructions:

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

1. Personal CV including experience in similar projects. Attach at least 1 reference handbook or training manual clearly indicating the applicants' role.
2. Expression of interest explaining why you are the most suitable person for the work and providing a brief proposal on how you will approach and conduct the work.
3. An expression costs involved (daily rate and expected remuneration) for undertaking the assignment.
4. At least one referee from the legal and judicial field for whom the candidate has ever conducted an analysis or study.
5. Interested persons are encouraged to send their expression of interest with all the required documents to applications@uganet.org copying owomugishab@ugnaet.org not later than **17th September,2021**. Only the successful candidate will be contacted

All applications should be addressed to;

Executive Director, UGANET
Plot 19, Valley Road Ministers' Village
Ntinda- Kampala.
Office Telephone: +25641457453 I