



RE-ADVERTISEMENT- CONSULTANCY SERVICES TO REVIEW THE MALABO CONVENTION ON CYBERSECURITY AND PERSONAL DATA PROTECTION AND RECOMMEND POSSIBLE AMENDMENTS TO ARTICLES. This is a re-advertisement to enhance competition, previous submission of proposals or bids for this activity are requested to re-submit according to this publication.

SECTION I: LETTER OF INVITATION

Procurement Reference Number: AUC/IED/C/006

10th August 2022

Dear Applicants,

RE-ADVERTISEMENT- CONSULTANCY SERVICES TO REVIEW THE MALABO CONVENTION ON CYBERSECURITY AND PERSONAL DATA PROTECTION AND RECOMMEND POSSIBLE AMENDMENTS TO ARTICLES.

This is a re-advertisement to enhance competition, previous submission of proposals or bids for this activity are requested to re-submit according to this publication.

The African Union Commission (AUC), seeks to recruit a competent and eligible Individual Consultant to provide **CONSULTANCY SERVICES TO REVIEW THE MALABO CONVENTION ON CYBERSECURITY AND PERSONAL DATA PROTECTION AND RECOMMEND POSSIBLE AMENDMENTS TO ARTICLES.**

The AUC now invites interested individual consultants to submit their technical proposals for the assignment as per attached Terms of Reference (TOR). The AUC policy requires consultants to provide professional, objective, and impartial advice, and at all times hold the Client's interest's paramount, without any consideration for future work, and strictly avoid conflicts with other assignments or their own interests.

- 1. Individual Consultant will be selected under the Fixed Budget selection method where the Consultant who has submitted the highest ranked technical proposal within the set pass mark and within the fixed budget stated, will be selected for award of contract. The available budget for this assignment does not exceed Eighteen Thousand, United States Dollars (USD 18,000), over a period of 60 working days.**
- 2. The title of the procurement for each assignment must appear as subject of e-mail submissions (CVs, covering letter and technical proposals, additional supporting documents) with a maximum size of the attachment not exceeding 10MB and send to: Email: tender@africa-union.org**
- 3. All submissions must be addressed to: The Chairperson, Tender Board, African Union Commission, Building C, 3rd floor, TENDER BOX, Roosevelt Street, P. O. Box 3243, Addis Ababa, Ethiopia.**
- 4. The Deadline for submission is 30th August 2022 at 15:00 hours Addis Ababa Time. Late applications will not be considered.**
- 5. Selection procedure shall be in accordance with the African Union Commission's "Procurement Manual version 2.0" dated July 2016 which is available on the Commission's website at: <https://au.int/>**
- 6. This call for Request for Expression of Interest (REoI) comprises of the following:**
 - a. Section I – This Letter of Invitation**
 - b. Section II - Terms of Reference**

Yours sincerely,

Head, Supply Chain Division

TERMS OF REFERENCE TO REVIEW THE MALABO CONVENTION ON CYBERSECURITY AND PERSONAL DATA PROTECTION AND RECOMMEND POSSIBLE AMENDMENTS TO ARTICLES

Procurement Reference Number: AUC/IED/C/006

Introduction

This document outlines the terms of reference for the review of the **Malabo convention on Cybersecurity and Personal Data Protection (The Convention)** and **recommendations for amendments to outmoded Articles and provisions.**

The convention was drafted following the request of the Extra-Ordinary Conference of African Union Ministers in charge of Communication and Information Technologies held in 2009 to develop jointly with the United Nations Economic Commission for Africa, a convention on cyber legislation based on the Continent's needs and which adheres to the legal and regulatory requirements on electronic transactions, cybersecurity, and personal data protection.

The Convention¹, that aims at promoting effective harmonization of African legal instruments in the area of electronic transactions, personal data protection and cybersecurity, was adopted in June 2014 by the AU Heads of State and Government. It calls upon AU Member States to recognise the need to protect critical infrastructure, personal data and to encourage free flow of information through a unified regulatory framework. So far only 10² instruments of ratification have been deposited. The Convention is yet to enter into force as per Article 36 of the Convention by reason of inadequate ratification from the required fifteen (15) African States.

In order to expedite the ratification of the Convention and its entry into force, the African Union Cybersecurity Experts Group (AUCSEG) carried out in 2021 a comprehensive review of the Malabo Convention with a view to recommend elements of the Malabo Convention to be considered for revisions and amendment. A taskforce meeting was also organized in 2021 to get more feedback on the recommendations. Among others, the main recommendation is to carry out further detailed analysis of the articles and come-up with concrete amended texts as well as suggesting further actions.

¹ [https://au.int/sites/default/files/treaties/29560-treaty-0048 - african union convention on cyber security and personal data protection e.pdf](https://au.int/sites/default/files/treaties/29560-treaty-0048_-_african_union_convention_on_cyber_security_and_personal_data_protection_e.pdf)

² Angola, Congo, Ghana, Guinea, Mauritius, Mozambique, Namibia, Rwanda, Senegal, and Zambia

Aim and Objectives

The aim of the review of the Articles of the **Malabo convention on Cybersecurity and Personal Data Protection** is to accelerate the process for securing the required number of instruments of ratification to occasion the entry into force; document the gaps in the Convention to responds to latest global standards and norms in cyberspace and the ever increasing cyber challenges in Africa and forward recommendations on articles to be amended, deleted, and/or added upon ratification of the Convention and its entry into force.

Scope of work

1. Undertake a detailed analysis of the articles of the Convention taking into account the review report findings and the proposed recommendations of the review process conducted in 2021.
2. Identify and document the potential gaps in the Convention
3. Suggest the potential priority Articles for amendments
4. Prepare the appropriate and formal legal texts for the amended Articles
5. Prescribe suggested actions in support to the ratification of the Convention and its entry into force

In line with the above the consultant shall:

1. Attend a kick off meeting of the study to be held upon awarding of the contract;
2. Participate in internal meetings with AUC if required;
3. Present the document to the Taskforce members and incorporate their comments and contributions.
4. Service the validation workshop of the draft report;
5. Write a final version of the report.

Expected Outcomes and Deliverables

1. Detail analysis on the articles of the Convention
2. Identification of the gaps and priority areas
3. List of priority Articles for Amendments and their revised legal wordings
4. A compiled report on possible amendments of the Articles of the Convention
5. List of suggested actions in support of the ratification process

Duration of Assignment

The duration of the assignment is sixty (60) days spread between a tentative period, June to September 2022

Expert profile

To carry out the assignment, the expert should meet the following requirements:

Qualifications and skills:

1. University Degree – PhD in Law.
2. Excellent Legal writing skills, ability to produce clear and concise recommendations and opinions.

General professional experience:

- At least 10 years of successful international working experience in the area of ICT related laws and Legislations in developed and/or developing countries. Extensive experience in the African context is an added advantage
- Involvement and understanding of existing ICT related legal frameworks in Africa
- Active in the Digital Policy discussions at the national, regional or continental level in Africa
- Ability to work in close collaboration with global and regional stakeholders.

Specific professional experience:

- At least 5 years of working experience in the field of Cyber Law and Digital Rights.
- Extensive experience in the African context is an added advantage

Schedule of Payments and Expected Deliverables

The following indicates the expected deliverables and the corresponding schedule of payments.

1. Inception Report: Due by second week of the start of the assignment and will include 20% payment relative to the total contract value;
2. Draft Report: Due after 45 working days and will include 40% payment relative to the total contract value;
3. Final Report: Due after 55 working days and will include 40% payment relative to the total contract value;

I. MANAGEMENT OF THE ASSIGNMENT

The AUC will be the contracting agency. The assignment will be carried out under the oversight of the AUC Department of Infrastructure and Energy.

II. LOGISTICAL ARRANGEMENTS

The consultant, upon recruitment, may elect to work on the assignment remotely and should be available for online meetings through the duration of the assignment, e.g., at the initiation and conclusion of each stage of the project deliverables and/or when/if required.

SELECTION CRITERIA

Proposals will be evaluated using the following criteria:

SN	Award Criteria	Allocated Points
1	Required Qualifications and Skills	
A	A minimum of post graduate Degree in Law in related disciplines such as: information technology law, cyber law, law and technology. PhD degree in Law will be an added advantage.	5
2.	Experience:	
A	At least 10 years of successful international working experience in the area of ICT related laws and Legislations in developed and/or developing countries. Extensive experience in the African context is an added advantage	10
B	Involvement and understanding of existing ICT related legal frameworks in Africa	5
C	Active in the Digital Policy discussions at the national, regional or continental level in Africa	5
C	Ability to work in close collaboration with global and regional stakeholders.	5
D	Excellent Legal writing skills, ability to produce clear and concise recommendations and opinions.	5
E	At least 5 years of working experience in the field of Cyber Law and Digital Rights.	5
F	Extensive experience in the African context is an added advantage	5
3.	Personal Capacity Statement i) Relevant experience related to the assignment (include samples of two (2) most recent similar works and/or references for the same) ii) Contacts of at least three (3) organizations previously worked for iii) Curriculum Vitae of the Consultant	15

4.	Language: Either English or French but both will be an added advantage.	5
3.	Technical Proposal not exceeding 8 pages on:	
a.	Understanding and interpretation of the TOR	20
b.	Methodology to be used in undertaking the assignment	10
c.	Time and activity schedule/Workplan	5
	Total Points	100

Minimum technical score is 70 points (pass mark).

Individual Consultant will be selected under the Fixed Budget selection method where the Consultant who has submitted the highest ranked technical proposal within the set pass mark and within the fixed budget stated, will be selected for award of contract. The available budget for this assignment does not exceed Eighteen Thousand, United States Dollars (USD 18,000), over a period of 60 working days.

Any travel necessary for the successful completion of the assignment, duly authorized in advance by the Commission will be paid for at the rate of the most direct economy return flight, as well as a subsistence allowance in accordance with the AUC Rules and Regulations.

Interested candidates are requested to submit the following documents for AUC's consideration:

a) Technical Proposal not exceeding 8 pages on:

- i) Understanding and interpretation of the TOR
- ii) Methodology to be used in undertaking the assignment
- iii) Time and activity schedule

b) Personal Capacity Statement

- i) Relevant experience related to the assignment (include samples of two (2) most recent similar works and/or references for the same)
- ii) Contacts of at least three (3) organizations previously worked for
- iii) Curriculum Vitae of the Consultant