**Ministry of Innovation and Technology
(MINT)

Terms of Reference for

Procurement of Consulting firm that develops legal framework and guideline on Data protection and National ID
 – MInT/DE/QCBS/C-17/21**

**Date: June 2022**

# Project Background and Objectives

# BACKGROUND

The digital transformation strategy of Ethiopia recognizes the importance to develop robust legal, technological, and governance frameworks that ensure consent with data protection laws and international best practices on the collection, processing, management, and storage of personal data that supports the creation of a symbiotically healthy digital ecosystem in the country. It is extremely important to preserve the principles of designing and developing Information systems via stringent policies, frameworks, and capable institutions.

The legal framework should perpetrate ‘privacy-by-design’ on developing any system in the first place. Second, it should either restrict the collection of sensitive biometric data or enforce its classification into different layers for security. Third, it must provide special provisions for children, youth, women, and people with disability. And Fourth it must ensure that the entire system complies with national and international laws & standards of identification, data protection, privacy, security, and interoperability.

Digital Ecosystem and Regulatory Unit (DERU) assumes the responsibility of developing such a robust framework with an aim of creating a symbiotic digital ecosystem that benefits from software systems while protecting the citizen and the nation from the profound risks related to data governance, data protection, and data security.

This assignment, hence, aims to develop a comprehensive legal framework and set of guidelines by consulting international standards of design and development as well as the recommendations for privacy.

# OBJECTIVE

## General Objective:

The ultimate objective of this assignment is to hire an experienced consulting firm on Information Technology and/or legal consultancy that develops legal frameworks (regulation and, as the case may be, directive addressing data protection, data security, governance, and compliance aspects of digital systems that process personal data (i.e. collect, store, and use personal data, especially biometrically linked data of individual as a primary means of automatic updates, identification, authentication and/or authorization in the form of a centralized database of biometric linkages information.

## Specific Objectives:

The consulting firm, to realize the major objective above, should:

* Assess the personal data protection in Ethiopia: the assessment should include the law and practice of personal data protection in major sectors such as health, education, ID, passport, agriculture, finance, law enforcement

* document the gap with respect to compliance to national laws, international laws, and best-practices of sensitive data governance, personal data protection, and citizen safety taking scope-restriction, non-mandatory, grievance & redressing, as well as inclusiveness
* Draft regulations
* Prepare a digital regulatory framework necessary to implement large scale digital systems including validity & renewal processes; detailed and restrictions on the processing of data; Details on consent mechanism/architecture, with provisions to revoke consent; and restrictions on sharing information including access and permission to third parties like banks, weredas, schools, etc.
* Consult international standards to identity design and development and follow recommendations for privacy including World bank principle of identification, privacy by design, digital identity guidelines, Good ID, ISO, International association of privacy professionals, and ISO 27001:2013 on information security
* Propose fundamental Institution’s capability to secure foundational technology infrastructure for data collection, storage, and use of biometric information & DNA information.

# SCOPE OF THE WORK

The main goal of this assignment is to conduct studies on personal data protection and the national ID in Ethiopia to draft regulations, and as the case may be, directives.

Specifically,

* The consultant/firm shall produce a study on the personal data protection eco-system in Ethiopia which shall provide analysis of the legal, regulatory, institutional frameworks, etc. The Consultant should produce a study that analyzes the current state of affairs of the protection of personal data in Ethiopia. For this purpose, the consultant shall identify relevant laws, analyze the provisions of those laws relevant to the processing of personal data,
* The consultant/firm shall produce draft regulation to implement the Proclamation on Personal Data Protection.
* The Consultant should prepare a detailed regulation. This regulation should include, but is not limited to, data protection officers; Transfer of personal data to a foreign jurisdiction; on data security; Processing of personal data of a child; the rights of data subjects; on processing of personal data in general and sensitive personal data in particular; Data Controllers and Data Processors; technical and organizational measures; record of processing operations; data protection impact assessment; prior authorization and consultation with the authority; data protection by design and default; Standards that ensure that personal data processed by data controllers and data processors are done according to the data protection principles; standards which should be applied to issue code of conducts by regulatory authorities across the various sectors
* Regarding the National ID, the Consultant should review the draft National ID Proclamation and prepare a zero draft of a proclamation on national ID which shall serve as foundational ID.
* Apart from the proclamation, the Consultant should also prepare regulations on the technical standard and infrastructure which apply to the National ID. The consultant/firm shall produce draft regulationto implement the National ID Proclamation.
* Regulation on Implementation of National ID Proclamation: The Consultant should produce a draft regulation which shall implement the Proclamation
* In both cases the consultant shall provide 3 copies of printed and softcopy of each document it produces

# DELIVERABLES /Specific Outputs expected from the consultant

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|  | **Deliverables**  | **Tentative deadline** |
| **1** | Submission of Inception report.  | X + 1 week  |
| **2** | **Study on Personal Data Protection Ecosystem in Ethiopia**: that analyzes the current situation on personal data protection in Ethiopia | X + 3 weeks |
| **3** | **Submission of draft regulation that includes provisions on:** data protection officers; Transfer of personal data to a foreign jurisdiction; on data security; Processing of personal data of a child; the rights of data subjects; on processing of personal data in general and sensitive personal data in particular; Data Controllers and Data Processors; technical and organizational measures; record of processing operations; data protection impact assessment; prior authorization and consultation with the authority; data protection by design and default; Standards that ensure that personal data processed by data controllers and data processors are done according to the data protection principles; standards which should be applied to issue code of conducts by regulatory authorities across the various sectors. | X + 7 weeks |
| **4** | **Review of draft national ID proclamation and amend it accordingly** | X + 12 weeks |
| **5** | **Submission of draft Regulation on National ID Proclamation:** The Consultant should produce a draft directive on administrative offences and measures. This directive should list out what constitutes offence and the kind of measure which shall be attached to offences. In addition to the foregoing, the directive should govern the manner how the Authority shall investigate complaints made to it. This should also include provisions on the manner the Tribunal should handle issues which fall within its jurisdiction. | X + 14 weeks |
| **6** | Submission final Regulation on National ID proclamation  | X+15 weeks |
| **7** | Submission of final deliverable | X+17 weeks |

# DURATION OF THE ASSIGNMENT

The standard duration of this assignment is 120 calendar days (Approximately 17 weeks). The delivery related to minutes of meeting and rapports is within 48 hours of the completion of the event. Training and awareness creation programs may be arranged in consultation with the team from MINT and participating agencies. Activities and respective costs associated with event management (cost of the venue, refreshment, working lunch, etc..) are totally excluded from the consulting firm and shall be executed by the Ministry

# RESPONSIBILITIES AND COMMITMENTS

# The consulting firm is responsible to undertake the following tasks:

* Prepare acceptable legal framework documents in hard copy and softcopy for each of the proposed and approved deliverables,
* Assign qualified professionals with relevant educational backgrounds and adequate work experience required for the job. The consulting firm is required to execute the assignment by proposed professionals or substitute equivalent when and if the substitute is evaluated and approved by MINT.
* The consulting firm should implement according to Internationally acceptable assessment methodology and each deliverable has to fit an acceptable legal format.
* Provide quality legal framework documents for each approved deliverable framework,
* Activities and respective costs associated with event management (cost of the venue, refreshment, working lunch, etc..) are totally excluded from the consulting firm and shall be executed by the Ministry

# The Ministry is responsible:

* To evaluate and approve all the necessary deliverables by the consulting firm
* To ensure that the consulting firm had the right mix of professionals throughout the period of the assignment
* To solve any problems and challenges escalated to the level of joint committee leading the assignment
* Organize event management activities (training events, workshops, etc…)
* Support the consulting firm to create a smoother & productive relationship with the stakeholder organizations
* Identify contact personnel from each participating organization for assessment and relationships
* Monitor and evaluate the progress of the assignment with respect to quality, time, and cost
* To approve deliverables and requests in a timely manner
* To approve payments in time as per the contractual agreement

# START AND COMPLETION DATES

The assignment begins within a week of the signing of the agreement with the firm and ends 120 days after the date of start.

# LANGUAGE

All deliverables of this assignment should be in English.

# Key Personnel

# Requirement of the consulting firm

* The consulting firm should have relevant work experience with the implementation of similar projects in the digital ecosystems in strategy development, framework development, and experience in Ethiopia or similar socio-economic setups. Client experience of at least three successful achievements in similar assignments is required.
* Regarding the Study on Personal Data Protection Ecosystem in Ethiopia, the Consulting firms should demonstrate significant local (Ethiopian) participation, experience, expertise, and capacity in associating with local consultants / consulting firms.

#  Requirement of key personnel

* **One Team coordinator** as a key contact with a minimum of Masters in law, Information science, or any related fields and at least eight years of experience in a related area that is available on the project for 4 months.
* **Two law professionals** with at least BA degree in general Law, Business law, or any related area with at least 6 years of experience in drafting legislations of different types and hierarchies and be able to work for 4 months.