

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



Ministry of Homeland Security and Technology
Republic of Maldives

**DIGITAL MALDIVES FOR ADAPTATION, DECENTRALIZATION AND
DIVERSIFICATION (D'MADD) PROJECT
P177040**

TERMS OF REFERENCE

for

Hiring a Consultant for TA to Craft a Digital Identity and Services Bill

Reference No: MV-MOECCT-DMADD-361679-CS-QCBS

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1. INTRODUCTION

The Digital Maldives for Adaptation, Decentralization and Diversification (D'MADD) Project (P177040) aims to support the Maldives' digital transformation. The project is funded by a World Bank grant and implemented by the Ministry of Homeland Security and Technology (MoHST). Key stakeholders include the National Centre for Information Technology (NCIT), the Communications Authority of Maldives (CAM), and the Department of National Registration (DNR).

The Project aims to enhance the enabling environment for the digital economy in Maldives, improve identification for in-person and remote service delivery, and leverage data and analytics for green, resilient, and inclusive development. It is designed around three components, and the proposed activities are conceived following the country's priorities and funding needs in the medium term. The components are as follows:

Component 1: Enabling environment for improved digital connectivity and competitiveness.

- 1.1. Improving regulatory frameworks, oversight, and enforcement for a competitive broadband market
- 1.2. Empowering public institutions for digital transformation in Government

Component 2: Digital identification for improved online and in-person service delivery.

- 2.1. Legal and institutional enablers and safeguards for secure data and identity management
- 2.2. Modernizing the foundational ID system and credential
- 2.3. Strengthening the digital authentication ecosystem

Component 3: Digital technologies and data platform for climate resilience

- 3.1. Establishing a climate data platform
- 3.2. Leveraging digital technologies and tools for climate adaptation

2. BACKGROUND

The MoHST is seeking the services of an international consultancy firm to provide expert assistance in developing a comprehensive Digital Identity and Services Bill. This bill aims to establish a robust legal framework that governs the provision and use of digital services, focusing on digital identity.

As the MoHST aims to align its digital ecosystem with global best practices, it recognizes the need for specialized expertise and a global perspective. Accordingly, the MoHST requires the services of a firm to support the Ministry in preparing the supporting legal framework based on international best practices for the Digital Identity System to undertake the tasks and provide the deliverables contemplated in the Terms of Reference (TOR).

The chosen firm will collaborate closely with the MoHST, NCIT and other relevant stakeholders to design and craft the bill, ensuring its compliance with national policies, legal requirements, and international standards. The firm's expertise will be crucial in addressing the complexities of digital identity verification, authentication mechanisms, data protection and sharing, privacy, user consent, interoperability, and accountability. This opportunity allows the selected consultancy firm to contribute to establishing a robust legal framework that promotes digital inclusion, safeguards individual rights, and fosters secure and trustworthy digital services.

3. OBJECTIVE

While the NCIT is implementing the Maldives' digital identity (efaas.gov.mv) system, the Maldives currently lack the enabling laws and regulations to support a practical, robust, inclusive, and well-governed digital identity system.

The objective of the consultant would be to prepare a draft Digital Identity and Services Bill that would build trust between the government (as the identity provider) and the people/businesses (the users and beneficiaries of the system) and enable people to authenticate themselves securely and conveniently when obtaining/providing online digital services. The bill is intended to establish a framework that provides assurance to the public that their personal information is safe and secure and that identity verification and authentication follows a consent-driven approach. To this end, the bill should enable the creation of a data exchange layer that offers a resilient and secure solution for data interchange for the purposes of digital identification and service delivery, fostering a collaborative ecosystem.

4. SCOPE OF WORK AND ACTIVITIES

The following scope of work outlines, in general, the activities and responsibilities expected from the Consultant to successfully achieve the stated deliverables in Section 5. A well-rounded Digital Identity and Services Bill must balance privacy, security, governance, and innovation while safeguarding user rights. The bill should secure the deployment of digital identity systems in both public and private sectors, providing a legal framework adaptable to future advancements. The drafting of the Bill should be undertaken in close collaboration with MoHST and NCIT and informed by regular consultations with a wide range of stakeholders.

Pre-drafting Phase (Research and Planning)

- 4.1. A comprehensive work plan for crafting the Digital Identity and Services Bill.
- 4.2. Conduct a comprehensive analysis of the Maldives' existing legal and regulatory frameworks related to digital identity and e-governance, such as the Electronic Transactions Act (Law 2/2022), the Draft Privacy and Personal Data Protection Bill and other international regulations such as eIDAS (electronic identification and trust services), the views of significant stakeholders and conduct such other necessary due diligence concerning the drafting of the Digital Identity and Services Bill;
- 4.3. Review international legal frameworks and case studies of countries successfully implementing digital identity legislation.

Initial Drafting Phase

- 4.4. Identify the significant components of the bill, such as but not limited to the following aspects:
 - Definitions and Scope
 - Digital Identity Management
 - Privacy and Data Protection
 - Security and Cybersecurity Measures
 - Governance Framework
 - Cross-Border and International Considerations
 - User Rights and Responsibilities
 - Liability and Accountability
 - Service Provision and Access
 - Digital Identity in Emerging Technologies
 - Consumer Protection
 - Innovation and Flexibility
 - Public Awareness and Education
 - Penalties and Remedies for Non-compliance.

- 4.5. Stakeholder engagement (In-person): Consult with the key stakeholders, including government agencies, civil society organizations, legal experts, and technology professionals, to gather input and requirements for the bill.
- 4.6. Draft the bill's initial version based on feedback from the relevant stakeholders and findings from the stakeholder consultation workshop.

Public Consultation and Review Phase

- 4.7. Support MoHST and NCIT in conducting public consultations with government and non-governmental stakeholders in the Maldives on the draft bill.
- 4.8. Review public feedback and comments and compile a review report

Final Draft and Legal Review Phase

- 4.9. Based on the comments received from the public consultation process, prepare the bill's final draft in English, which should then be translated into Dhivehi.
- 4.10. Provide advice on any issues that may be apparent in existing “enabling” legislation, as well as explanatory notes and recommendations for implementation.

5. DELIVERABLES AND TIMELINE

Based on the above-described general scope of work for this assignment, in close coordination with D’MADD project’s Project Management Unit (the PMU) and MoHST, the Consultant shall be responsible for delivering the below outputs:

DELIVERABLES	DURATION (CALENDAR DAYS)
<p>Pre-drafting Phase (Research and Planning)</p> <ul style="list-style-type: none"> • A comprehensive work plan for crafting the Digital Identity and Services Bill • Analysis report of existing legal and regulatory frameworks related to digital identity and e-governance in the Maldives. • Review report of the international legal frameworks and case studies of countries successfully implementing digital identity legislation. 	20

Initial Drafting Phase <ul style="list-style-type: none"> • In-person stakeholder consultation workshop • Analysis report on consultations with key stakeholders, including government agencies, civil society organizations, legal experts, and technology professionals, to gather input and requirements for the Bill • Initial draft of the bill with key components 	30
Final Public Consultation and Review Phase <ul style="list-style-type: none"> • Public consultations review report on the bill • The bill's final draft incorporating public consultation feedback 	20
Final Draft and Legal Review Phase <ul style="list-style-type: none"> • The bill's final draft in English • The bill's final draft in Dhivehi (translation of the English version) • Recommendations for implementation 	20
Total Duration	90 days

6. PAYMENT SCHEDULE

Payment will be made to the consultant after the completion of each deliverable, conditional upon the MoHST and NCIT's approval.

DELIVERABLES	PERCENTAGE OF PAYMENT (%)
<ul style="list-style-type: none"> • A comprehensive work plan for crafting the Digital Identity and Services Bill • Analysis report of existing legal and regulatory frameworks related to digital identity and e-governance in the Maldives. • Review report of the international legal frameworks and case studies of countries successfully implementing digital identity legislation. 	30
<ul style="list-style-type: none"> • In-person stakeholder consultation workshop • Analysis report on consultations with key stakeholders, including government agencies, civil society organizations, legal experts, and technology 	25

<ul style="list-style-type: none"> professionals, to gather input and requirements for the Bill Initial draft of the bill with key components 	
<ul style="list-style-type: none"> Public consultations review report on the Bill The bill's second draft incorporating public consultation feedback 	20
<ul style="list-style-type: none"> The bill's final draft in English The bill's final draft in Dhivehi (translation of the English version) Recommendations for implementation 	25
Total %	100

The selected firm shall be entitled to an advance payment of 10% of the total contract amount. This payment will be made upon the signing of the contract and submission of an advance payment guarantee. The advance payment guarantee must be issued by a reputable bank and be acceptable to the World Bank. The advance payment must be claimed within 45 days from the date of contract signing. The advance payment will be deducted from subsequent payments as per the payment schedule outlined in this contract.

7. INTELLECTUAL PROPERTY

All information of this project (documentary, audio, digital, cyber, project documents, etc.) belonging to the client, which the consultant may come into contact within the performance of his/her duties under this consultancy shall remain the property of the client who shall have exclusive rights over their use. Except for purposes of this assignment, the information shall not be disclosed to the public nor used in whatever manner without the Client's written permission in line with the national and International Copyright Laws applicable. All the material used in the project should be provided to the client with copyrights cleared.

8. INSTITUTIONAL ARRANGEMENTS, REPORTING AND SUPERVISION

8.1. The consultant will work under the guidance and direction of the MoHST, and the D'MADD PMU will coordinate the assignment.

8.2. The Consultant must be able to travel to the Maldives where physical presence is needed and will be agreed upon with adequate time (Minimum Twice).

- 8.3. Unless approved and agreed by the D'MADD PMU, the consultant shall not directly communicate, obtain, or share any documentation with any other party except MoHST.
- 8.4. The consultant shall regularly report to the Project Manager of the D'MADD Project PMU and MoHST on the status of the assignment. The consultant will work in a place agreed with the PMU and must participate in all the relevant meetings.
- 8.5. All reports shall be submitted as stipulated in the deliverables. They will be submitted as drafts, and upon review by the NCIT and MoHST, the Consultant shall revise the draft reports. Once the NCIT/ MoHST accepts the revised reports, they will be termed final reports by the NCIT/ MoHST to process the payments.
- 8.6. All draft documents should be in Microsoft Word, and all final documents should be in Adobe Acrobat format, with relevant signatures where needed.
- 8.7. The NCIT/ MoHST and PMU shall approve all materials developed under this TOR.
- 8.8. The Consultant shall ensure that all outputs are delivered on time and in accordance with the quantity, quality, and timeframe in the proposal submitted by the consultant based on the TOR.

9. QUALIFICATIONS AND EXPERIENCE

The firm should be a recognized consultancy firm with a proven track record in developing legal frameworks for digital identity and services. The key experts should be knowledgeable about emerging technologies, international data protection regulations, and privacy frameworks. Strong project management, analytical, and communication skills are essential for effective collaboration with diverse stakeholders and for delivering a comprehensive and forward-looking Digital Identity and Services Bill.

9.1. Requirement of the Firm

- The firm should have a thorough understanding of digital identification, data protection/ cybersecurity matters, and experience advising on law reform processes, drafting bills/legislations, and advising on data protection matters, with demonstrable knowledge and experience in similar assignments described in this TOR.
- The firm should have at least have five (5) years of experience providing relevant advice in highly developed, complex legal and sectoral contexts. Minimum of two (2) completed drafting bills/legislation projects. Relevant

experience in emerging economies and developing countries will be an advantage. Knowledge of and experience in the legal system in the Maldives is highly desirable.

Note: The maximum number of firms to be shortlisted will be 8. If the total number of qualified firms exceeds 8, the ranking will be determined based on the number of completed drafting bills/legislation projects.

9.2. The selected firm(s) shall provide a team of three (3) key experts with the following qualifications and experience:

- The **Legal Expert (Team Leader)** shall possess a bachelor's degree in law and a minimum of 10 years of relevant experience in the legal profession, including drafting digital identity bills or data protection/cybersecurity/electronic transactions, law reform, and other matters relating to the establishment of legal services related to digital transformation and services. Experience in the region or developing countries would also be an advantage.
- The **Digital Development Expert** shall possess a minimum of a bachelor's degree in IT/IS/Computer science/ Data science and at least five (5) years of experience in the IT profession in Digital ID, data protection, and privacy. Specific experience advising on digital transformation, public consultation processes, data protection, and advising data processors, data controllers, and/or data protection authorities is essential. Experience in developing countries and the region would be an advantage.
- **Qualified Local legal expert** shall possess at a minimum of a Bachelor's Degree in Law and shall be admitted to practice law in the Maldives. He or she shall demonstrate at least 5 years of legal experience in the Maldives, preferably also including drafting primary and secondary legislation. Knowledge of the acceptable practices, norms and standards in drafting primary and subordinate legislation and rules in Maldives is essential.

10. REQUIRED DOCUMENTS

10.1. Reference letters and certifications as proof of qualifications and experience in Section 9. The reference letters may include project experience letters and contract services successfully provided by a firm.

11. SUBMISSION

- 11.1. The deadline for submission of the bid proposal is before 10:00AM on 4th November 2024.
- 11.2. You may submit your Expression of Interest via email, postal mail, or hand delivery in sealed envelopes addressed to the project office.

Project Manager

Digital Maldives for Adaptation, Decentralization and Diversification (DMADD)
Project

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