

# **REQUEST FOR EXPRESSIONS OF INTEREST (CONSULTING SERVICES – INDIVIDUAL CONSULTANT SELECTION)**

## **Uzbekistan**

### **Institutional Capacity Building Project**

Credit No.: IDA 6431-UZ

**Assignment Title:** Selection of an Economist-Competition Specialist for designing guidelines to identify the presence and the abuse of dominant position in markets, with a focus on the legislation of the Republic of Uzbekistan

**Reference No.:** AMC-CS-INDV-DOMPOSITION

The Ministry of Finance of the Republic of Uzbekistan has received financing from the World Bank toward the cost of the Institutional Capacity Building Project and intends to apply part of the proceeds for consulting services on behalf of the Antimonopoly Committee of the Republic of Uzbekistan.

The consulting services (“the Services”) include the developing a comprehensive guideline including the following aspects: methodologies of how to assess dominance based on best practices and recommendations on how to improve the rules established by the Competition Act of Uzbekistan; methodologies of how to access abuse of dominance violations based on best practice and recommendations on improving the rules established by the Competition Act of Uzbekistan; specific discussion on excessive pricing as an abuse of dominance. Implementation period up to 3 months, ensuring full consistency with the Terms of Reference (TOR) attached in this REOI.

The detailed TOR for the assignment could be found at following source: [www.mf.uz](http://www.mf.uz), <https://www.linkedin.com/in/piu-icb-project-570420199/>.

The Ministry of Finance of the Republic of Uzbekistan on behalf of the Antimonopoly Committee of the Republic of Uzbekistan now invites eligible Individual Consultants (“Consultants”) to indicate their interest in providing the Services. Interested Consultants should provide information demonstrating that they have the required qualifications and relevant experience to perform the Services (reference to similar services, experience in similar assignments, availability, etc.) submitting a CV directly to the [piu\\_mof@mail.ru](mailto:piu_mof@mail.ru).

The shortlisting criteria are:

- PhD or Master degree in Economics, Development or other relevant field for the assignment;
- At least 10 years of experience with public policy advice, and with drafting of high-level analytical reports and technical papers;
- Experience advising competition authorities on international best practices and standards in the area of competition policy enforcement and introduction of competition policy

tools and practices as well as in developing recommendations for their improvement and putting in place methodologies for the implementation;

- Experience on competition law and economics, particularly in assessing abuse of dominant position, market dynamics and price strategies;
- Experience dealing with dominant position, abuse of dominant position, price regulation, excessive pricing and market intelligence guidelines;
- Fluency in English is required and Russian is preferred.

The attention of interested Consultants is drawn to Section III of the World Bank's "Procurement Regulations for IPF Borrowers" July 2016 ("Procurement Regulations"), setting forth the World Bank's policy on conflict of interest. In addition, please refer to the following specific information on conflict of interest related to this assignment: Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interests of the Ministry of Finance and the Agency of State Assets Management of the Republic of Uzbekistan.

Further information can be obtained at the address below during office hours from 9:00 a.m. to 18:00 p.m. Tashkent time.

Expressions of interest must be delivered in a written form in English, Russian or Uzbek languages to the address below (in person, or by mail, or by e-mail) by 24th September, 2020.

Project Implementation Unit under the  
Ministry of Finance of the Republic of Uzbekistan  
Attn: Foziljon Kalandarov, Manager of the Project  
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## TERMS OF REFERENCE

### **for selection of an Economist - Competition Specialist for creating guidelines to identify the presence and the abuse of dominant position in markets, with a focus on the legislation of the Republic of Uzbekistan**

#### **1. Background information**

Uzbekistan embarked on a series of economic reforms in 2016, which among other objectives aim to increase competition across multiple sectors, reduce number of State owned enterprises, improve the allocation of resources, increase enterprise productivity and, ultimately, improve the quality of goods and services available to the population.

Competition policy in Uzbekistan is enforced by the Antimonopoly Committee of the Republic of Uzbekistan (“Committee”). According to the Decree of the Cabinet of Ministers of the Republic of Uzbekistan №402 as of 15.05.2019 The Antimonopoly Committee of the Republic of Uzbekistan is a government body in the field of antitrust regulation, development of a competitive environment, control over the activities of natural monopolies and licensing of commodity exchanges.

The main tasks of the Antimonopoly committee of the Republic of Uzbekistan are:

- Implementation of a unified state policy in the field of ensuring a competitive environment in product and financial markets;
- Implementation of a systematic analysis of the state of the competitive environment in product and financial markets, the identification and suppression of abuse of dominant position, “cartel” agreements and collusion, unfair competition of business entities;
- Antitrust regulation of tenders, economic concentration and state aid;
- Ensuring non-discriminatory access of market participants to highly liquid goods (works, services), including those produced by natural monopolies;
- Assessment of the impact of legislative acts on competition, prevention of decision-making and implementation of actions of state bodies restricting competition.

Within the area of identification and prevention of abuse of dominant position, the current antitrust legislation in the country assigns to the Antimonopoly committee the following functions:

- Conducts study of the state of the competitive environment in commodity and financial markets and identifies the dominant position of an economic entity or group of persons, determines the composition of participants in a group of persons;
- Implements measures to identify and prevent abuse of dominant position, cartel agreements and collusion.
- Monitors the prices of goods and services produced by business entities or by a group of persons included in the State Register of business entities that occupy a dominant position in the product or financial market; forms and maintains state registers of business entities that occupy a dominant position in the commodity or financial market, and entities of natural monopolies.

The presence of markets with a limited competitive environment, primarily the spheres of natural monopolies, affects the functioning of related markets, often monopolizing them. Despite the fact that the legislation on natural monopolies prohibits them from using their position to limit competition in the markets that are not classified as natural monopolies, a number of related competitive markets are actually monopolized today, for example, in the field of railway transport - markets for the sale of train tickets, repair of freight cars, services of

restaurant cars, car cleaning, and others. Also, the abuse of dominant position including excessive pricing becomes an issue that needs quality solutions from the part of Antimonopoly Committee. As currently stated by the competition law framework, if there are signs of abuse of dominance, the Committee can take measures in accordance with the Regulation on the procedure for initiating and considering cases of violations of the law about competition, about natural monopolies, about consumer protection and on advertising approved by the Cabinet of Ministers of October 12, 2005 No. 225.

Among the several types of abuse of dominance covered by the Uzbek competition law, the Antimonopoly Committee of the Republic of Uzbekistan can investigate, prosecute and sanction monopolistically high prices.<sup>1</sup> Considering that prices are one the main sources of information used by companies to (i) understand their position in a given market, (ii) assess their level of productivity and capacity to generate profits, (iii) decide whether to invest or withdrawn, and (iv) compete for consumers and market share, tempering with prices can have significant impacts on market dynamics, often negative. Given information asymmetry, market players are often better placed than government authorities to identify production costs, assess supply and demand patterns and calibrate prices. In this context, given the complexity of this type of abuse, it is crucial that the Committee develops sound methodologies to avoid harming market dynamics through overenforcement.

Overall, considering that all unilateral conducts depend on an adequate identification of market power as well as a finding that a given behavior is likely to impede competition rather than promote it, it is vital the Antimonopoly Committee of the Republic of Uzbekistan gets necessary tools, expertise and internationally accepted practices on implementing abuse of dominance rules.

## 2. Objective

The Institutional Capacity Building Project (ICBP) brings together professionals in different areas of public management to develop innovative, integrated solutions to complex institutional problems. The practice utilizes a problem-driven, diagnostic approach, combining global comparative knowledge of reform successes and failures with keen understanding of the institutional challenges and opportunities of developing countries.

Antimonopoly Committee of the Republic of Uzbekistan is a recipient under Component 3: Improving Support Mechanisms for Reforms Technical Assistance to Regulatory Agencies and Other Public Sector Agencies performing economic regulatory functions of the ICPB.

Key objective of the assignment (the “Assignment”) under the Component 3 is to assist the Government of Uzbekistan to identify key regulatory and institutional methods to improve the system of enforcement of competition policy in Uzbekistan.

In general terms, Institutional Capacity Building Project (ICBP) in the competition sphere provides support to the Committee in:

1. Developing sound tools for antitrust policy by improving analytical, policy and methodology framework of the Antimonopoly Committee such as methodologies and guidelines in different directions of antitrust regulation;
2. Effective capacity building initiatives implementation and institutional strengthening for Antimonopoly committee employees;
3. Diagnostics of competition in different sectors and drafting sectoral competition development programs.

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<sup>1</sup> Market studies on excessive prices are also based on the decree of Cabinet of Ministers of the Republic of Uzbekistan №249 as of 30.03.2020 where the process steps are provided and described.

Under current terms of reference, the Antimonopoly Committee is looking to engage an economist with solid experience on market analysis, competition and regulated sectors to assist the government of Uzbekistan in reviewing criteria for assessing dominant position and assessing abuse of dominant position. The consultant should also review current excessive pricing revealing mechanism as part of abuse of dominant position practices and suggest the framework for improving the existing excessive price revealing mechanisms in Uzbekistan.

### **3. Scope of work**

The main objective of this assignment is developing a comprehensive guideline including the following aspects:

3.1 Methodologies of how to assess dominance based on best practices and recommendations on how to improve the rules established by the Competition Act of Uzbekistan, including:

- Define market power/dominance concept;
- Provide methodologies on how to assess dominance in practice;
- Map behavioral criteria of dominance;
- Identify gaps and deficiencies in current definition of dominance in the legislation of the Republic of Uzbekistan;
- Recommend improvements to the definition of dominance in the legislation of the Republic of Uzbekistan;
- Assess the current use of Registry of companies with dominant position and Registry of natural monopolies in Uzbekistan and provide alternative policies better aligned with a behavioral definition of dominance;

3.2 Methodologies of how to access abuse of dominance violations based on best practice and recommendations on improving the rules established by the Competition Act of Uzbekistan

- Provide definition of abuse of dominance: concept, economic reasoning and requirements for its presence, including the relevance of rule of reason and how it defers from objective illegality;
- Provide detailed definition, discussion and methodology to assess the presence of key types of abuse of dominance strategies, including predation; loyalty rebates, exclusive dealing, refusal to supply and margin squeeze, bundling / tying;
- Discuss the risks of dominant firms using their position in the dominated market to abuse/extend their dominance in related sectors;
- Discuss the negative impacts associated with abuse of dominance practices on consumers and on the economy;
- Evaluate whether existing frameworks and processes in the Republic of Uzbekistan provide sufficient provisions to effectively detect and/or prohibit abuse of dominant position;
- Provide recommendations on how existing rules and practices in the Republic of Uzbekistan related to detection of abuse of dominant position can be reformed and improved;

3.3. Specific discussion on excessive pricing as an abuse of dominance:

- Discuss the economic reasoning and international experience dealing with exploitive practices with a focus on “excessive high prices”. What are the benefits, what are the risks, and what has been the international experience applying this rule;
- Discuss and describe methodologies for detecting excessive prices as an abuse of dominant position:

- Analyze the methodologies for identifying excessive prices (e.g. costs method, comparative markets method); Discuss substitute goods pricing, benchmarking prices etc.
- Map the existing methodologies to assess excessive price mechanisms applied in Uzbekistan;
  - Identify gaps and deficiencies in the existing excessive price revealing mechanisms in Uzbekistan;
  - Suggest the framework for improving the existing excessive price revealing mechanisms used in Uzbekistan;
  - Focus on markets elasticity and appropriate detailed process for excessive price discovering going forward
- Differentiate ex-ante price regulation/monitoring from excessive prices linked to abuse of dominant positions;
- Highlight risks associated with and methodology to be applied to price gouging and experiences in times of crises/external shocks such as the Covid19; Explain also the differences between excessive price as an abuse of dominance and price gauging.

The guidelines should follow robust economic theory and leading international practice on the implementation of similar mandates.

## 4. Deliverables and timelines

### 4.1 Deliverable

The main deliverable is a guideline written in English, in Word format (.doc), covering all the topics described in section 2 “scope of the work”. The document must include (i) executive summary, (ii) bibliography, and (iii) any data, graphs, tables or figures used in the guideline in editable format (e.g. background excel sheets and power points should be shared).

### 4.2. Timeline

*Draft report:* No later than 40 calendar days after the signing of the contract. The AMC will provide detailed comments and feedback within 10 days. Consultant will have 15 calendar days to address any issues raised by AMC. Follow up interactions shall take place if needed, until a final version is agreed on.

*Final report:* No later than 90 calendar days contract signing.

The project shall start with a kick-off meeting, in which all key parties – national stakeholders, Antimonopoly Committee, the World Bank team and the procured Consultant – will participate

NO.	DELIVERABLE	DUE
1.	Kick-off meeting	The kick-off meeting with the national stakeholders
2.	Inception report outlining approach and planned timeline for the assignment	One week after the kick-off meeting explaining the approach to the assignment
3.	Draft Review Report*	Not later than 40 days following the contract signing
4.	The Committee comments	10 days following draft review report
5.	Second draft review report	15 days following receiving comments from the

		Committee
6.	Further discussion and coordination on the outstanding issues with the report	Not more than 25 days following second draft report
7.	Final report summarising the findings, final recommendations and reflecting the feedback provided by the national stakeholders	Not later than 90 days after contract signing
8.	Workshop for presentation of findings and recommendations to national stakeholders and Antimonopoly Committee	Within two weeks after final report submission

\*- During the draft report preparation consultants are able to reach out to Antimonopoly Committee for comments and clarification needed

## **5. Consultant required skills and experience**

Education:

- PhD or Master degree in Economics, Development or other relevant field for the assignment.

Experience:

- At least 10 years of experience with public policy advice, and with drafting of high-level analytical reports and technical papers
- Experience advising competition authorities on international best practices and standards in the area of competition policy enforcement and introduction of competition policy tools and practices as well as in developing recommendations for their improvement and putting in place methodologies for the implementation
- The Consultant shall also have good understanding and demonstrated knowledge of issues related to the development of competition enforcement capacities in developing countries with underdeveloped or nascent competition policy frameworks.
- Experience on competition law and economics, particularly in assessing abuse of dominant position, market dynamics and price strategies
- Experience dealing with dominant position, abuse of dominant position, price regulation, excessive pricing and market intelligence guidelines

Competencies:

- Excellent oral and written communications skills.
- Fluency in English required and Russian preferred.
- Ability to work effectively under pressure in a diverse, team-oriented environment
- Modern approach to delivery of policy/technical advice, and experience of working with public institutions/bodies
- Ability to lead strategic planning, results-based management and reporting
- Builds strong relationships with clients, focuses on impact and result for the client and responds positively to feedback
- Consistently approaches work with energy and a positive, constructive attitude

## **6. Commitment and payment**

The duration of the contract equals to 3 months starting from the effective date of the contract.

The ceiling of working days within period of 3 months starting from the Effective Date shall be 20 days. Travel time to or from the Governments' country shall not be calculated as working days.

## **7. Resources provided by the Agency:**

The project will be managed by the Committee with the Consultation from the World Bank and other stakeholders as will be communicated to the Consultant. The Consultant shall consult the World Bank prior to their meetings with counterparties related to the Assignment.

The Committee will secure adequate office space for the Consultant with internet connectivity in case it is necessary, at the premises of the Agency. The Committee will ensure efficient communication and interaction of the Consultant with the relevant state agencies necessary for performing the tasks from this TOR;

The Committee will secure the appropriate premises and technical equipment for seminars and meetings with managers and specialists of the state agencies within the framework of the performance of the tasks from this ToR.

The Committee will provide a working contact person for coordination. The Committee will make available their experts and any documents, data and information necessary for the implementation of this Assignment. The Committee will ensure coordination with ministries and agencies and other national stakeholders. The need for the formation of the working group with the involved stakeholders will be discussed between the World Bank and the Committee.

The Consultant will provide English version of all relevant materials and deliverables and will be responsible for presenting the work developed under the Assignment as/when necessary. The translation for the Consultant experts if those don't have Russian language capacity and of the deliverables and materials will be provided through the project funds with the support of World bank team.

## **8. Confidentiality Statement**

All data and information received from the Antimonopoly Committee for the purpose of this assignment are to be treated as confidential and are only to be used in connection with the execution of these Terms of Reference. All intellectual property rights arising from the execution of these Terms of Reference are assigned to the Antimonopoly Committee. The contents of written materials obtained and used in this assignment may not be disclosed to any third parties without the expressed advance written authorization of the Antimonopoly Committee.