



ORGANISATION OF EASTERN CARIBBEAN STATES
REQUEST FOR EXPRESSIONS OF INTEREST

Organisation of Eastern Caribbean States
Caribbean Digital Transformation Project (CARDTP)

Grant No.: IDA – D6520

Assignment Title: Consulting Services for Drafting the Harmonized Data Protection Legislation in the Eastern Caribbean Currency Union (ECCU)

Reference No.: *LC-OECS COMMISSION-202351-CS-QCBS*

The Organisation of Eastern Caribbean States (OECS) Commission has received funding from the World Bank toward the cost of the Caribbean Digital Transformation Project (CARDTP), and intends to apply part of the proceeds for Consulting Services for Drafting the Harmonized Data Protection Legislation in the Eastern Caribbean Currency Union (ECCU).

The consulting services (“the Services”) include providing technical legal advisory and drafting services to strengthen the data protection and privacy framework in the ECCU, through the design and development of primary legislation and any necessary regulations or subordinate instruments, to support the robust implementation and enforcement of a harmonized data protection and privacy framework in the ECCU. The assignment is expected to be undertaken during a sixteen (16) month period.

The OECS now invites eligible consulting firms (“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. The minimum required qualifications and experience are listed in section 6 of Terms of Reference (TOR). The detailed Terms of Reference (TOR) for the assignment are attached to this request for expressions of interest and can be found at the following website: www.oecs.org.

The shortlisting criteria are:

- At least one successfully completed similar assignment during the past five (5) years, including drafting Data Protection and Privacy legislation and regulations and promoting data policies
- At least five (5) years’ experience supporting the implementation and enforcement of a data protection and privacy framework
- Demonstrated knowledge of global data protection and privacy laws (including, GDPR, CCPA),

- Practical understanding of data protection and privacy regulatory compliance.

Key Experts will not be evaluated at the shortlisting stage.

The attention of interested Consultants is drawn to Section III, paragraphs, 3.14, 3.16, and 3.17 of the World Bank's Procurement Regulations for IPF Borrowers, Fourth Edition, November 2020 ('Procurement Regulations'), setting forth the World Bank's policy on conflict of interest.

To obtain the maximum degree of comparison among Expressions of Interests (EOIs) and facilitate the evaluation process, the EOI should be a maximum of 30 pages and include the following information included below:

- **Title page with name of firm submitting the EOI:** should contain name of firm (or joint venture and/or a sub-consultancy, if applicable), address, email, telephone, name of contact person and date of submission.
- **Expression of Interest:** including the firm's general and specific experience

Consultants may associate with other firms to enhance their qualifications but should indicate clearly whether the association is in the form of a joint venture and/or a sub-consultancy. In the case of a joint venture, all the partners in the joint venture shall be jointly and severally liable for the entire contract, if selected.

A Consultant will be selected in accordance with the Quality and Cost Based Selection method set out in the Procurement Regulations.

Further information can be obtained at the address below during office hours 08:30 a.m. – 4:00 p.m. (0830 to 1600 hours).

Ms. Jenna Flavien
Procurement Officer
Caribbean Digital Transformation Project
OECS Commission
Morne Fortuné
P.O. Box 1383
Castries
Saint Lucia
Telephone: 758-455-6424
Email: procurementbids@oecs.int

Copied to:

Mr. Imran Williams, imran.williams@oecs.int

An electronic copy of Expressions of Interest are to reach the OECS Commission by **December 5, 2022** addressed to:

Ms. Jenna Flavien, Procurement Officer
At the following email address:

procurementbids@oecs.int

copied to imran.williams@oecs.int

The email submissions should include the name and address of the Consultant and shall be clearly marked in the subject line as "**Expression of Interest – Consulting Services for Drafting the Harmonized Data Protection Legislation in the Eastern Caribbean Currency Union (ECCU)**".

The Terms of Reference for this consultancy is provided below.



Caribbean Digital Transformation Project

IDA – D6520

Scope of Services
Terms of Reference

Consulting Services for Drafting the Harmonized Data Protection
Legislation
in the Eastern Caribbean Currency Union (ECCU)

October 2022

1. Background

The Organisation of Eastern Caribbean States (OECS) Commission and the Governments of Grenada, Dominica, Saint Lucia, and St. Vincent and the Grenadines are implementing a World-Bank-financed Caribbean Digital Transformation Project ("CARDTP"), which aims to increase access to and use of digital services, technologies and skills by governments, businesses and individuals in the Eastern Caribbean countries.

Component 1 of CARDTP - Digital Enabling Environment seeks to develop an enabling environment for the region's digital economy increasing competition, investment, and innovation while promoting trust and security of online transactions. A sub-component contemplates, among others, the bolstering of the legal and regulatory environment, institutions, and capacity to build trust in online transactions and strengthen the security and resilience of digital infrastructure and systems, centred on data protection and privacy.

Currently, the Eastern Caribbean Currency Union (ECCU) lacks comprehensive data protection and privacy framework (e.g., policy, legislation, and regulation) at both the regional and national levels. The participating ECCU governments are either without distinct data protection legislation or have a data protection law that predates the current "data protection revolution," arguably precipitated by the European Union's General Data Protection Regulation ("GDPR"). It is therefore reasonable to conclude that many of these local enactments provide insufficient or limited levels of safeguards for the protection of personal data privacy and personal data, especially when viewed through the lens of today's hyper-processing of significant volumes of personal data and data flows across borders. The situation is further worsened by the fact that many of these laws have not been operationalized, whether in whole or in part, due to several challenges largely attributable to resource (i.e., personnel, financial, and tools) constraints. It becomes clear that there are heightened data protection and privacy risks to citizens of ECCU countries.

In this regard, the goals are:

- (a) to improve data protection and privacy maturity and increase international trade and investments among the ECCU's stakeholders and trade partners;
- (b) to build trust in digital services and help strengthen the security, privacy, and resilience of digital infrastructure and systems in the ECCU; and
- (c) to promote regional harmonization of data protection and privacy legislation, sound enforcement mechanisms, and international cooperation protocols in an effort to reduce trade barriers and bolster efficiencies in digital and cross-border transactions.

2. Objective of the assignment

The objective of the consultancy services is to provide technical legal advisory and drafting services to strengthen the data protection and privacy framework in the ECCU on behalf of the clients (OECS Commission and the Eastern Caribbean Central Bank ("ECCB")) through the design and development of primary legislation

and any necessary regulations or subordinate instruments to support the robust implementation and enforcement of a harmonized data protection and privacy framework in the ECCU. In that regard, the main outputs of this consultancy include drafting instructions and harmonized data protection and privacy legislation for the ECCU. The Consultant will report directly to OECS Commission and ECCB and will work closely with the implementing agencies for technical advice and information.

Each deliverable under the assignment must receive the consensus of key stakeholders and be prepared in a form and manner suitable and ready for consideration by the ECCB Monetary Council.

3. Scope of Services

The scope of the assignment includes all necessary activities to achieve the purpose of the consultancy and CARDTP goals. A key consideration is balancing economic goals with human rights, particularly protecting individual rights to data privacy and protection with appropriate agencies with adequate enforcement powers and independence. The Consultant will pay particular attention to each of the following themes:

- *governance arrangements*: fostering and sustaining trust in the data ecosystem, governance, and institutional arrangements as well as commercial, regulatory, and self-regulatory enforcement mechanisms, promoting an integrated approach across agencies, institutions, and organizations responsible for privacy and data protection, ensuring collection and use of quality data in an efficient, effective, and secure manner;
- *regional interoperability*: focusing on legal instruments and standards needed at the national and regional levels to support and expand the regional and international flow of personal data;
- *transparency*: ensuring that data privacy and protection are implemented and managed under clear rules that promote accountability for the fair handling and use of data according to best practice standards;
- *inclusion and sustainability*: ensuring that data privacy and protection practices do not risk exclusion for cultural, political, or other reasons, and promoting sustainability of the legislative ecosystem via globally recognized principles and best practices, including technology neutrality.
- *specific implementation risks*: considering local and regional contexts and the appropriateness and role of implementing entities, including assessing the role of the private sector in the design, management, adherence to the highest technical standards, deployment, and operation, including what measures might be needed to monitor and ensure accountability of public and private sector providers.

Preparation of Work Plan/Inception Report

The preparation of an inception report outlining the approach to be undertaken and critical considerations in successfully completing the assignment to include, at a minimum, a detailed, time-bound work plan, with indicative dates and resources required for execution, the methodology that will drive the execution of the consultancy and a preliminary assessment of the global data protection and privacy ecosystem and the implications for the ECCU.

Preparation of Drafting Instructions

- (a) a benchmarking and gap analysis report of the existing legal and regulatory environment that (i) reviews relevant constitutions, primary legislation and regulations, and compares them with global best practices, and (ii) recommends next steps (e.g., updates, amendments, etc.) considering local contexts (e.g., interoperability, readiness, weaknesses, risks, opportunities, barriers, and gaps), contemporary and emergent data protection laws, and other factors to successfully operationalize new data protection and privacy framework.
- (b) the preparation of drafting instructions that elaborate specific policy decisions that guide the text of the legislation for the drafting of the data protection and privacy legislation.
- (c) stakeholder consultations and an accompanying report and presentation, and, if required, a revised draft that articulates the findings, analysis, and recommendations resulting from the consultations.

Preparation of Draft Legislation

- (a) a review and analysis report of primary input documents for the draft legislation, which may include the revised ECCU data protection and privacy policy, data protection and privacy-related acts of the ECCU, other relevant legislation, and drafting instructions.
- (b) stakeholder consultations and an accompanying report and presentation, and, if required, a revised draft that articulates the findings, analysis, and recommendations resulting from the consultations.
- (c) the preparation of a final report (and accompanying presentation) outlining consultancy execution, barriers, enablers, and recommendations for implementation of the draft legislation.
- (d) A draft legislation and an accompanying explanatory memorandum, with a time-bound implementation plan with prioritization and sequencing of reforms needed to support the project objectives

4. Expected Deliverables and Schedule

| Deliverables | Timeline (after contract signing) | Payment % |
|---|--|----------------------|
| Inception Report | 10 days | 10% |
| Data Protection and Privacy Legislative and Gap Analysis | 2 months | 10% |
| Drafting Instructions and Preliminary Draft Arrangement of Sections of the Draft Legislation | 3.5 month | 10% |
| Preliminary Draft Legislation and Stakeholder engagement report | 5 months | 25% |
| Final Draft Legislation (including Arrangement) and Explanatory memorandum to accompany the draft legislation | 11 months | 25% |
| Regulations | 15 months | 10% |
| Final Report | 16 months | 10% |
| TOTAL | | 100% |

5. Duration of assignment

The assignment is estimated to be for a period of up to sixteen (16) months.

6. Qualifications

The selected Consulting Firm must have:

- At least one successfully completed similar assignment during the past five (5) years, including drafting Data Protection and Privacy legislation and regulations and promoting data policies
- At least five (5) years' experience supporting the implementation and enforcement of a data protection and privacy framework
- Demonstrated knowledge of global data protection and privacy laws (including, GDPR, CCPA),
- Practical understanding of data protection and privacy regulatory compliance.

The Consulting Firm shall have core team members who possess a range of skills and qualifications, including the key experts identified below with the corresponding qualifications, in order to successfully undertake the assignment.

1. Team Leader

- (a) Experienced legal practitioner with at least an LLB degree with admission to practice
- (b) At least eight (8) years of experience in designing data protection and privacy policies, particularly within the context of developing economies and emerging digital development
- (c) At least eight (8) years' experience in leading or managing large legislative or policy development projects
- (d) Demonstrated knowledge of privacy and data protection laws such as the GDPR and CCPA
- (e) Qualifications in one or more data protection certifications would be an advantage
- (f) At least eight (8) years' experience in research and conducting comparative and legal analysis
- (g) Certifications in project management, such as PMI, PRINCE2 would be an advantage
- (h) Professional experience in the Caribbean region would be an advantage

2. Legal/Legislative Specialist

- (a) Experienced legal practitioner with at least an LLB degree with admission to practice in a common law jurisdiction;
- (b) At least five (5) years of experience in designing data protection and privacy policies, particularly within the context of developing economies and emerging digital development;
- (c) At least five (5) years of demonstrated experience in developing drafting instructions for stakeholder consensus and use by a national drafting office;

- (d) Demonstrated knowledge in information security standards, principles, and requirements such as ISO 27001 and their relationship with data protection;
- (e) Demonstrated knowledge of the legislative policy development process and strategic understanding of critical success factors in developing data protection and privacy laws
- (f) Demonstrated knowledge of privacy and data protection laws such as the GDPR and CCPA,
- (g) Qualifications in one or more data protection certifications would be an advantage
- (h) At least five (5) years' experience in research and conducting comparative and legal analysis
- (i) Professional experience in the Caribbean region would be an advantage.