

Terms of Reference

Background

The National Agency for Fiscal Administration (NAFA) was created in 2004 to provide a better institutional platform for the many needed operational reforms to promote improved revenue collection in Romania. NAFA is responsible for the collection of most of the country revenues including those related to social security contributions and customs activities. NAFA plays a pivotal role in mobilizing revenues that finance government initiatives in infrastructure and services that benefit all citizens. NAFA has a solid track record of implementing reforms that enhance both service to the taxpayer as well as audit and collections initiatives that are based on risk management and control. NAFA also recognizes that as a young institution it must endeavor to continuously improve itself towards becoming a modern and well-functioning revenue administration based on voluntary compliance – that is supporting and educating taxpayers who choose to meet their filing and payment obligations while targeting non-compliant taxpayers for proper enforcement action.

While much progress has been achieved since its creation, more remains to be done. Despite NAFA's best efforts, overall tax compliance in Romania remains lower than international norms. This implies a relatively high fiscal burden on compliant taxpayers and creates injustice and unfair competition in the internal market. The current system of fiscal administration requires multiple interactions between NAFA and the taxpayer in order to complete even the most basic functions.

With assistance from the World Bank and other development partners, in 2013 NAFA has embarked on a five-year modernization program to make many productive advances and achieve an internationally recognized high level of performance. NAFA has decided that next reforms will focus on: (1) improving voluntary compliance; (2) fighting tax evasion; and (3) increasing collection efficiency. Specific initiatives to simplify procedures, to improve service, and to deal with non-compliance in both filing and payment will be specific areas of focus. The Revenue Administration Modernization Project (RAMP) is financed by the World Bank with the purpose to directly support these reform efforts.

Romania's economy is evolving rapidly with new challenges emerging continuously that must be addressed. Citizens and businesses increasingly see their time as a limited resource. They rightly demand that their interactions with public services deliver value and that issues are addressed through a single and efficient interaction. NAFA has made considerable progress over the last five years, introduced innovations, and attempted to keep pace with the service delivery demands of taxpayers but progress has been limited by existing technology, business processes, and organizational arrangements. RAMP supports a transformational strategy to take advantage technological advances to provide better public services for citizens and businesses and to do so at a lower cost to the taxpayer.

The overall objective of this assignment is to provide NAFA with timely, high quality development and implementation of a training program, covering areas in the Penal Code, including the recent modifications to the legislation. The Consultant will prepare, organize and undertake classroom training sessions in the area of the Penal Code for the target audience of NAFA personnel defined in this ToR.

Scope of the Required Services

The Consultant is expected to deliver training and to prepare the customized training materials, questionnaires, tests, handbooks and additional learning aids, tailored for adult learning experience. In addition to the learning activities the Consultant will be responsible and will bear all costs associated to all logistic arrangements necessary for the implementation of the training program.

The Consultant will be required to:

- Prepare the training manuals and training plan in the area of the Penal Code, tailored for the specific characteristics and professional background of experienced tax administration employees, as well as other related materials necessary for the proper implementation of the training program;
- Deliver the Penal Code training program in the form of 10 training sessions. All information presented to NAFA employees will be based on the provisions of the updated Penal Code;
- Collect feedback from participants and properly address the issues raised by the participants in the subsequent training sessions;
- Provide attendance certificates for the participants;
- Prepare detailed training reports for each session, comprising general findings and proposals for the forthcoming sessions;
- Submit the training reports to NAFA for approval, no later than 15 working days from the date of completion of each session;

The Consultant should prove access to sufficient qualified personnel to allow for flexibility in timing.

Scope of work

The entire training program will be based on the provisions of the updated Penal Code. The Consultant will define the training modules having in mind the following indicative structure:

- Module I covering Law no 241/2005 on preventing and fighting tax evasion, with subsequent amendments and Law no 656/2002 on preventing and sanctioning money laundering and the establishment of measures to prevent and combat terrorism financing, with subsequent amendments;
- Module II covering art. 112 and 112¹ on special and extended seizure from Law no. 286/2009 on Penal Code, with subsequent amendments, and practical aspects on its carrying into effect (for example, the prevalence of the Penal Code or of the Law no 85/2014 on procedures for preventing insolvency and for insolvency if the defendant is a legal entity that is subject to insolvency proceedings, the extension of existing lease contracts when a real estate is seized etc.);
- Module III covering Law no 286/2009 on Penal Code, with subsequent amendments: General Provisions -Title VI Criminal liability of legal entities, Special Provisions- Title III -Chapter 1 Crimes against authority, Title IV- Crimes against justice, Title V - Crimes of corruption and service;
- Module IV covering Law no 135/2010 on Penal Procedures Code, with subsequent amendments- General Provisions - Title II - On penal action and civil

action in criminal proceedings, Title III - Chapter 5 - On the civil party and its rights, Chapter 6 - On the civilly responsible party and its rights, Title IV- Chapter 2 - On hearing the parties, Chapter 7 - On the expertise and findings, Chapter 10 - on material evidence, Chapter 11 - On acts in writing, Title V- Chapter 3 - On precautionary measures, goods refund and restoring of the previous situation ; Special Provisions- Title IV - Chapter 1- On plea agreement, Chapter 2 -On procedure on criminal liability of legal entities, Title V - on the execution of criminal judgments;

All modules will include case studies that are relevant for the Romanian legal framework, including decisions of national courts as well as of the European Court of Justice. The Consultant should take into consideration the fact that all the participants to the training sessions are experienced, possessing both theoretical knowledge and also practical experience in the area and shall not limit the training content to a broad presentation of the text of the Penal Code. Consequently, the Consultant should provide in-depth analysis and discuss in detail any case raised by the participants.

The Consultant will plan and deliver the training sessions, taking into account NAFA's specific needs in the area and will propose the proper design of the program in order to provide the best transfer of knowledge to the participants within a balanced timeframe.

The training sessions should be designed as classroom training with maximum **15 participants**. Starting from the modules presented above the Consultant will have the freedom to best define each training session, based on his own experience and on the available time.

The duration of each training session covering all the above modules is 5 days.

Consultants are required to provide into their technical proposals the most suited design of the training sessions, an indicative schedule of the training activities as well as a tentative training curriculum. The schedule will be completed in the initial period of the assignment and the complete training plan will be finalized together with NAFA.

Estimated number of trainees: 150 NAFA staff from central and local level, grouped in 10 training sessions.

Target group:

- Mainly staff from NAFA Legal Directorate.

The number of participants might be subject to modifications, based on the findings from the initial period of implementation, when the comprehensive training plan will be finalized.

Location of the training sessions:

- București (approx. 60 persons – 4 sessions);
- Iași (approx. 30 persons – 2 sessions);
- Timisoara (approx. 30 persons – 2 sessions);
- Cluj-Napoca (approx. 30 persons – 2 sessions).

No changes will be accepted in the above locations.

Reporting, Communication, Payments

The Consultant will report directly to the RAMP Project Manager. The Consultant's staff will carry out their work in cooperation with the Project Management Unit team. Close

cooperation and coordination is needed with the representatives of the General Directorate for Organization and Human Resources within NAFA in preparing the training plan, scheduling the activities and the participants, monitoring training deployment and issuing diplomas.

The Consultant shall submit to the Purchaser, within 15 working days after each training session a **Training Report** describing the Consultant's activities in the provision of the training; main findings and outcomes of the training program; recommendations for NAFA.

Additionally the Consultant will submit to NAFA an **Inception Report** within maximum 4 weeks after the Contract signing date, containing the detailed training plan and curriculum, developed and validated together with the representatives of the General Directorate for Organization and Human Resources. The Inception Report will include as annexes the training manuals and other related materials and an outline training strategy.

A **Final Report** of the assignment will be submitted within 15 working days after the completion of the last training session and will include the main findings of the training program, lessons learned and recommendations for establishing the basis for a permanent training covering all the areas of the Penal Code.

All documents and reports will be submitted in both Romanian and English versions.

Within fifteen (15) working days from the submission by the Consultant of the Inception and Training Reports, and within twenty (20) working days from the submission by the Consultant of the Final Report respectively, the Client shall either issue an Acceptance document or request the Consultant to remedy any shortcomings in the supply of services or training.

Schedule of Work

The training sessions shall start in March 2017 the earliest.

Definition of indicative dates, locations, sessions and group composition for each module in order to cover all the target groups and all topics of interest for each group will be proposed by the Consultant in the technical proposal and will be consolidated in the first 4 weeks of the consultancy, when the detailed training plan will be finalized.

The price (lump sum related to tasks described) must comprise all direct and indirect expenditures related to designing, organizing, preparing and undertaking the training, including, housing, meals, accommodation both for the trainer(s).

The Consultant has the freedom to propose his best option for organizing the training sessions in the technical proposal submitted to NAFA, based on its own experience. Also, the entire training has been divided into 10 sessions, having in mind the total number of trainees and the maximum number of participants per session.

Data, Services and Facilities to Be Provided by NAFA

A third party service provider contracted by NAFA will be responsible to provide the logistics for the participants at the training sessions (transportation, accommodation, conference room, catering and related facilities). The Consultant will bear all such costs related to its own staff – trainers and support staff (if needed). To ensure an adequate implementation of the training sessions, appropriate coordination with the above-mentioned service provider will be required.

NAFA will make available the lists with participants included in the training program. In organizing the training program the Consultant will be assisted by representatives of NAFA's General Directorate for Human Resources.

Once the training manuals are approved by the Client, NAFA will be responsible for their multiplication and distribution to the training participants.

Duration of the assignment and timetable for the training sessions

The assignment is expected to start in the last quarter of 2016 (contract signing), while the actual training sessions would be organized starting with March through November 2017. The detailed training plan and curricula shall be developed within the first 4 weeks from contract signing.

Available dates and locations for the training sessions:

- March: 20 to 24 in București;
- March: 27 to 31 in Iași;
- April: 3 to 7 in București;
- May: 15 to 19 in Timișoara;
- May: 22 to 26 in Cluj – Napoca;
- May: 29 to June 2 in București;
- September: 18 to 22 in Timișoara;
- October: 9 to 13 in București;
- October: 16 to 20 in Cluj – Napoca;
- November: 13 to 17 in Iași.

Consultant's Qualifications

The Consultant will be selected to provide expert training in the area of the Penal Code and also to prepare and organize the training sessions and modules.

Therefore, the Consultant must have proven experience in the design, preparation and implementation of trainings in this particular area.

The Consultant should have successfully delivered trainings in Penal Code or other relevant law topics to at least 200 participants over the last two years.

Key experts

Experts who have a crucial role in implementing the contract are referred to as key experts.

The requirements for qualification and skills are identical for all the trainers to be involved in providing the training sessions.

The qualifications and skills of the key expert(s) for this contract should not be less than those listed below:

Key Expert(s) in the area of the Penal Code – Trainer(s)

General Qualifications

- Education at least Master's Degree, preferably Doctoral degree or equivalent in a relevant field for the assignment (Law);
- Fluency in Romanian.

Adequacy for the Assignment

- At least 15 (fifteen) years of overall professional experience;
- A minimum of 10 (ten) years of specific professional experience in the area of development and/or implementation of Penal Code;
- Proven experience in teaching the Romanian Penal Code at university level – at least 7 (seven) years.
- Written recommendation provided by employer/former beneficiary.
- Recognized expert with published papers in the Romanian Penal Code area.

Other experts

If, in the opinion of the Consultant, the performance of the tasks described in these terms of reference requires input from other experts, the Consultant is free to add these additional resources as non-key experts. The costs associated with these experts must be included in the financial proposal.

All experts (key and non-key) must not have any conflict of interest in the responsibilities accorded to them.

Support staff

The Consultant shall supply all support staff necessary for the proper fulfillment of his obligations. The costs of the support staff - if necessary - must be included in the financial proposal.