

Terms of reference (ToRs) for the procurement of services below the EU threshold

Development of Handbook on Data Protection and Privacy for Developers of Artificial Intelligence (AI) in India: Practical Guidelines for the Responsible Development of AI

**Project number/
cost centre:
19.2010.7-008.00**

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0. List of abbreviations

AI	Artificial Intelligence
AVB	General Terms and Conditions of Contract (AVB) for supplying services and work 2018
BMZ	German Federal Ministry for Economic Cooperation and Development
DSCI	Data Security Council India
NASSCOM	National Association of Software and Services Companies
SDG	Sustainable Development Goals
ToRs	Terms of reference

1. Context

FAIR Forward – Artificial Intelligence for All

Artificial Intelligence (AI) is a key technology driving the global digital revolution. It offers a range of new opportunities to break down existing barriers to human development and social inclusion and help to achieve the Sustainable Development Goals (SDGs). On behalf of the German Federal Ministry for Economic Cooperation and Development (BMZ), the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) implements the project “FAIR Forward – Artificial Intelligence for All” which strives for a more open, inclusive and sustainable approach to AI on the international level. The specific objective of this project over a three-year project phase (09/2019-06/2022) is to improve the conditions for local development of Artificial Intelligence across its five partner countries (South Africa, Rwanda, Uganda, Ghana, India). For this purpose, FAIR Forward – Artificial Intelligence for All pursues three main goals: (1) Strengthen local technical know-how on AI – Capacity development in Africa and Asia; (2) remove entry barriers to AI – Access to training data and AI technologies for local innovation; (3) develop policy frameworks ready for AI – Ethical AI, data protection and privacy.

Data Security Council India

Data Security Council of India (DSCI), is a not-for-profit, industry body on data protection in India, setup by the National Association of Software and Services Companies (NASSCOM), committed to making the cyberspace safe, secure and trusted by establishing best practices, standards and initiatives in cyber security and privacy. To further its objectives, DSCI engages with governments and their agencies, regulators, industry sectors, industry associations and think tanks for policy advocacy, thought leadership, capacity building and outreach activities.

To strengthen thought leadership in cyber security and privacy, DSCI develops best practices and frameworks, publishes studies, surveys and papers. It builds capacity in security, privacy and cyber forensics through training and certification program for professionals and law enforcement agencies and engages stakeholders through various outreach initiatives including events, awards, chapters, consultations and membership programs. DSCI also endeavours to increase India’s share in the global security product and services market through global trade development initiatives. These aim to strengthen the security and privacy culture in India

Data Protection and Privacy in AI Development in India

The Indian National Strategy for Artificial Intelligence formulates the goal to position India among the leading countries on the global AI map. India aims to leverage transformative AI technologies to ensure social and inclusive growth in line with a unique brand of **#AIforAll**. The development and use of AI systems often requires large amounts of data including personal and non-personal data. As such, this creates potential risks to the legal and ethical use of data as well as to fundamental rights including the right to equality, the prohibition of discrimination and the right to privacy. **In order to address these risks, the Indian AI strategy proposes establishing data protection and privacy frameworks as well as promoting international standards of AI ethics.**

Moreover, clearly formulated regulations and ethical standards reduce uncertainty in the development of AI technologies: Existing regulations and international AI principles often

remain abstract. Clear guidelines serve to clarify ambiguities and help AI developers to focus their time and resources on technical innovation.

2. Tasks to be performed by the contractor

The “Handbook on Data Protection and Privacy for Developers of Artificial Intelligence in India”, which is to be produced under these terms of reference, **shall condense applicable regulations and ethics in one place. It shall translate regulations and AI ethics into practical data protection guidelines for AI developers to follow them in their AI development process.**

In order to guarantee widespread adoption, the development of the Handbook shall be **embedded in a multi-stakeholder process to receive target-oriented guidance on what is actually needed**, to provide a forum for a diverse group of actors to contribute and to generate ownership from the eventual users, i.e. AI developers in India.

In order to achieve these goals, the consultancy firm is responsible for providing the following services within a **total of up to 75 expert days**.

Work package #1: Developing the Handbook on Data Protection and Privacy for Developers of Artificial Intelligence in India: Practical Guidelines for the Responsible Development of AI

The consultancy is expected develop a **“Handbook on Data Protection and Privacy for Developers of Artificial Intelligence in India: Practical Guidelines for the Responsible Development of AI” (or: the Handbook)**. The Handbook addresses all pertinent questions that Indian AI developers face in terms of legal, regulatory and ethical requirements with respect to data protection and privacy. The objective is to develop **the go-to source for AI developers** when it comes to data protection and AI. An example of a similar initiative is the “Assessment List for Trustworthy Artificial Intelligence (ALTAI) for self-assessment” that was developed by the High-Level Expert Group on Artificial Intelligence (AI HLEG) of the European Union.

The final version of the Handbook should be the result of a multi-stakeholder process and is co-published by the contractor in collaboration with the Data Security Council India (DSCI) and GIZ. To ensure wide adaptation, it is planned to release the handbook under an open license allowing for redistribution and further development (e.g. Creative Commons Attribution Share-Alike). The consultancy is expected to make sure, that copyright of all elements of the handbook allows for such an open licensing.

Initial discussions with various Indian AI stakeholders demonstrate the demand for practice-oriented guidelines to effectively integrate regulations and ethics in the development of AI applications in India. Ethical questions and legal regulations gain relevance and purpose in the discussion of AI when they are actively applied and used by AI practitioners and developers. **The Handbook translates AI principles and legal regulations into an accessible and actionable checklist that guides developers and deployers of AI in implementing such principles in practice.** As such, it provides AI developers with an easy way to make a self-assessment of their development process. Some data protection and privacy guidelines are difficult to define clearly because of a lack of regulation and/or different interpretations: the Handbook shall therefore include a section on what contact points for

legal advice already exist in India and make additional recommendations e.g. on support networks to be established.

In doing so, the Handbook seeks to ensure that developers and users equally benefit from AI without being exposed to unnecessary risk.

The target group of the Handbook is comprised of the diverse group of Indian AI developers who work at start-ups, businesses, as entrepreneurs, or at research organizations, think – tanks, universities and non-governmental organizations (NGOs).

Having said that, it is the aim of the Handbook **to support especially entrepreneurial AI developers** who require insights into the Indian regulations on data protection and privacy and ethics for AI development. This is because the necessary knowledge and expertise cannot be easily obtained by individual AI practitioners and entrepreneurs themselves due to the legal complexity, lack of regulation and ambiguous legal interpretation: The Handbook is supposed to mitigate regulatory uncertainties that could pose an avoidable entry barrier especially for small and early-stage AI developers. This checklist removes entry barriers and saves time and resources for AI developers otherwise spent on extensive research and/or possibly a legal specialist. In contrast, larger corporations are either familiar with existing regulation and/or have the resources to hire external expertise. Still, the target group broadly includes any Indian AI developer looking for expertise on regulatory and legal aspects of privacy and data protection.

Work package #2: Organizing and facilitating the multi-stakeholder process for the development of the Handbook

The development of the Handbook shall be a multi-stakeholder process in order to (1) better address existing demand and practical requirements, (2) create ownership with users in the Indian AI ecosystem and enable mechanisms of further updating of the handbook, and (3) encourage widespread use after its conclusion. For this purpose, the consultancy is expected to drive and facilitate the inclusive multi-stakeholder process for the development of the Handbook.

This includes the setup and organization of a multi-stakeholder working group in collaboration with DSCI and GIZ. The working group should include AI developers from a diverse group of organizations including start-ups, and other businesses, research organizations, think – tanks, universities and non-governmental organizations (NGOs), as well as other needed support structures e.g. networks/structures of legal support to AI developers or governmental support structures.

The consultancy organizes and facilitates at five workshops: at least two virtual workshops, a launch event and two promotional events

1. First virtual workshop with key stakeholders to present the assignment and receive initial input on relevant questions incl. practical demands and priority of topics of handbook on data protection
2. Second virtual workshop with key stakeholders to present the first draft of the handbook and receive feedback by invited stakeholders

3. Virtual panel discussion with key stakeholders to present and announce the launch of the Handbook as well as discuss how to ensure future updating of the handbook (sustainability).
4. Two promotional events at conferences or workshops with AI developers to showcase how the Handbook can be used

Before and after the workshops, the consultancy conducts more in-depth interviews with relevant stakeholders (also beyond the working group) in order to prepare the agenda and topics of the virtual workshop and to receive substantial input for the development of the Handbook.

Methodological approach

The assignment will be carried out by the contractor in collaboration with DSCI and GIZ. The Handbook should integrate relevant legal and regulatory documents from India, relevant documents on AI ethics worldwide (e.g. G20 AI Principles, OECD AI Principles, Assessment List for Trustworthy Artificial Intelligence (ALTAI) by EU etc.), and the input from the multi-stakeholder workshops.

It is expected that the contractor provides the following services as part of the methodological approach:

- Conduct a desk literature review to gain a good understanding of relevant regulatory and legal documents for AI developers in India pertaining to data protection and privacy as well as the global debate on data protection and privacy with respect to AI development (incl. relevant international documents)
- Devise a list of relevant stakeholders to participate in the working group with a balanced representation of government, private sector and civil society (close coordination with GIZ and DSCI necessary)
- Engage and interview relevant AI stakeholders (AI developers, policymakers, universities, start-ups, businesses) in India to assess the specific demand for the planned Handbook and receive the most relevant and up-to-date information on relevant legal and regulatory processes that complements desk research;
- Write an interim draft version of the Handbook and provide a presentation of the draft during a multi-stakeholder workshop
- Collect comments on the first draft of the Handbook and make consequential revisions to the final version;
- Assume primary responsibility for drafting the final Handbook, and work closely with the designated staff of DSCI, GIZ and, if appropriate, additional stakeholders to carry out the task;
- Prepare, conceptualize and facilitate / moderate of multi-stakeholders meetings and workshops as a part of the development of the Handbook. This includes organization as well as technical steering of discussions in close consultation with DSCI and GIZ
- Prepare, organize and conduct two promotional events at conferences or workshops with AI developers to showcase how the Handbook can be used (e.g. workshop at large developer conference etc.)

Certain milestones, as laid out in the table below, are to be achieved by certain dates during the contract term:

Milestone	Deadline
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Organize and facilitate a first virtual workshop with key stakeholders to present the assignment and receive initial input on relevant questions incl. practical demands and priority of topics of handbook on data protection	November 2020
Develop and submit to DSCI and GIZ a first draft of the Handbook based on own research, interviews and insights from first workshop	January 2020
Organize and facilitate a second virtual workshop with key stakeholders to present the first draft of the handbook and receive feedback by invited stakeholders	February 2021
Set up a final feedback mechanism for invited stakeholders to add final comments to the revised Handbook	March 2021
Organize a virtual panel discussion with key stakeholders to present and announce the launch of the Handbook (third virtual workshop)	April 2021
Implement two promotional events (fourth virtual workshop and one physical workshop) at conferences or workshops with AI developers to showcase how the Handbook can be used	By May 2021
Submit final report, which includes a) lessons learned, b) recommendations for sustainability and mechanisms for further updating and c) additional recommendations on the way forward	May 2021

Period of assignment: From 10.11.2020 until 30.05.2021.

The Contractor is expected to obey local and any other applicable data protection laws and regulations throughout the entire assignment, including especially confidential treatment of any personal data the Contractor receives from GIZ.

3. Concept

In the bid, the bidder is required to show how the objectives defined in Chapter 2 are to be achieved, if applicable under consideration of further specific method-related requirements (technical-methodological concept). In addition, the bidder must describe the project management system for service provision.

Technical-methodological concept

Strategy: The bidder is required to consider the tasks to be performed with reference to the objectives of the services put out to tender (see Chapter 1) (1.1.1). Following this, the bidder presents and justifies the strategy with which it intends to provide the services for which it is responsible (see Chapter 2) (1.1.2). In particular, the bidder is required to submit a conceptual proposal for the development of the Handbook and the associated tasks.

The bidder is required to present the actors relevant for the services for which it is responsible (1.2.1) and describe the **cooperation** with them (1.2.2).

Project management of the contractor

The bidder is required to describe:

- Its personnel assignment plan (who, when, what work steps) incl. explanation of expert distribution vis-a-vis the topics (Chapter 2) (1.6.2)
- Contractor's backstopping strategy focusing on performance monitoring of relevant contributing actors, quality assurance and knowledge management (1.6.3)

4. Personnel concept

The bidder is required to provide personnel who are suited to filling the positions described, on the basis of their CVs (see Chapter 6), the range of tasks involved and the required qualifications.

The assignment is designed for one (1) team leader and a maximum of two (2) experts that together cover the qualifications specified below to develop "**Handbook on Data Protection and Privacy for Developers of Artificial Intelligence in India: Practical Guidelines for the Responsible Development of AI**" and all associated tasks (see Chapter 2).

Note: Instead of having two (2) experts it is also possible to offer a smaller number of experts, if the team covers all of the required tasks and qualifications.

The below specified qualifications represent the ideal profiles to reach the maximum number of points in the evaluation of the bid. The qualifications do not constitute minimum requirements. Bidders who do not meet all requirements are still eligible to apply and be evaluated.

Team leader

Tasks of the team leader

- Overall project management and oversight of implementation (quality and deadlines)
- Coordinating and ensuring communication with DSCI, GIZ, partners and others involved in the project
- Planning and steering of personnel/implementing partners incl. identifying the need for short-term assignments within the available budget and supporting short-term experts
- Regular reporting in accordance with deadlines

Qualifications of the team leader

- Education/training (2.1.1): University qualification (German 'Diplom'/Master) in economics, law, business administration, public policy, computer science, data science or related field
- Language (2.1.2): Excellent business language skills in English and good skills in Hindi
- General professional experience (2.1.3): 10 years of professional experience in the public, non-profit and private sector
- Specific professional experience (2.1.4): 7 years in the development of and consultancy for policies related to data protection, privacy, AI ethics, and/or data strategies including managing multi-stakeholder consultation processes

- Leadership/management experience (2.1.5): 5 years of management/leadership experience as project team leader or manager in a company
- Regional experience (2.1.6): 5 years of experience in projects in India, of which 2 years in projects in international project
- Development Cooperation (DC) experience (2.1.7): some experience in DC projects
- Other (2.1.8): Substantial experience in the area of artificial intelligence, AI ethics, data protection and privacy in India as well as familiarity with the global public debate on ethics of artificial intelligence and data protection

Expert 1: Technology expert / AI expert

Tasks of expert 1

- Together with the team leader, conduct the required research and writing tasks
- Contribute relevant technical advice (e.g. with respect to technical feasibility, data science, Artificial Intelligence, particularly technical prerequisites of regulations in the Handbook etc.) to the analysis and the development of the Handbook with
- Together with the team leader, organize the workshops and events with key stakeholders
- Together with the team leader, develop and finalize the Handbook

Qualifications of expert 1

- Education/training (2.2.1): University qualification (Master) in computer science, information technology, computer engineering, data science or related field
- Language (2.2.2): Excellent business language skills in English and good skills in Hindi
- General professional experience (2.2.3): 7 years of professional experience in the public, non-profit or private sector
- Specific professional experience (2.2.4): 5 years of experience in the area of artificial intelligence, data science and/or information technology including practical experience in the development and use of emerging technology systems, preferably Artificial Intelligence
- Leadership/management experience (2.2.5): 2 years of experience in project management
- Regional experience (2.2.6): 2 years of experience in project management in India

Expert 2: Legal expert

Tasks of expert 2

- Together with the team leader, conduct the required research and writing tasks
- Contribute relevant legal and policy advice (e.g. with respect to national regulation, legal and ethical considerations) to the analysis and the development of the AI Handbook
- Together with the team leader, organize the workshops and events with key stakeholders
- Together with the team leader, develop and finalize the Handbook

Qualifications of expert 2

- Education/training (2.3.1): University qualification (Master) in law, public policy or related field
- Language (2.3.2): Excellent business language skills in English and good skills in Hindi

- General professional experience (2.3.3): 10 years of professional experience in the public, non-profit and private sector
- Specific professional experience (2.3.4): 5 years of experience in the area of public policy and/or law including proven experience in the drafting of legislative and regulatory texts in the field of legislation for data-related policies, including data protection
- Leadership/management experience (2.3.5): 2 years of experience in project management
- Regional experience (2.3.6): 2 years of experience in project management in Indian contexts

5. Costing requirements

Assignment of personnel

Team leader: Assignment in country of assignment for 25 expert days

Expert 1: Assignment in country of assignment for 25 expert days

Expert 2: Assignment in country of assignment for 25 expert days

Total of up to 75 expert days

Required Qualification / experience for the consulting agency

The Agency should have the following administrative and financial requirements for conducting the assignment:

- Average annual turnover for the last three financial years should be at least 40,000 Euros.
- Number of employees as at 31.12.2019 should be at least 10 persons.
- Agency must have worked on at least 2 reference projects with a minimum commission value of 5000 Euros.
- Have legal status enabling the organization to perform the above-mentioned tasks.

The agency should have the following experiences for conducting the assignment:

- Minimum 2 years of Legal experience working with data privacy or data protection
- Minimum 2 years of Technology expertise in areas of emerging technology such as Artificial Intelligence, Robotics, Blockchain etc....
- Minimum 2 years of Experience in drafting a technology-based knowledge product such as high-level reports, discussion papers, handbook
- Minimum 3 years of Experience in stakeholder management and project management
- Minimum 3 years of Experience working with government agencies

Travel - One physical workshop

Out of the five workshops to be implemented (see work package 2), one is foreseen as a physical conference / workshop with AI developers showcasing the use of the data protection handbook (physical, if COVID 10 permits, otherwise virtual workshop as well)

Therefore, the bidder is required to calculate the travel by the team leader (= 1 person) based on the following expected travel:

- **One conference / workshop with high participation of AI developers (e.g. start-ups) in order to show them how to use the handbook – Location New Delhi / Bangalore**
 - The trip should be calculated with 2 (two) days and one overnight stay plus a buffer of 1 (one) day and 1 (one) overnight (=1 national flight cost, or other transportation, (2x overnight accommodation, 3x daily allowance)

Please list the expenses separately by daily allowance, accommodation expenses, international flight costs and other travel expenses.

Please note: National accommodation and allowance will only be paid on a need's basis (= if workshop is not in same town in which person is located which fulfils this assignment).

In case travel and other restrictions related to the COVID-19 pandemic do not allow a physical workshop to show the use of handbook, the workshop will need to be organized as a virtual workshop.

Other costs

- Conference fee for trip mentioned above- please calculate at 10.000 INR estimate. (only if COVID-19 permits).

6. Requirements on the format of the bid

The structure of the bid must correspond to the structure of the ToRs. In particular, the detailed structure of the concept (Chapter 3) is to be organised in accordance with the positively weighted criteria in the assessment grid (not with zero). It must be legible (font size 11 or larger) and clearly formulated. The bid is drawn up in English.

The complete bid shall not exceed 10 pages (excluding CVs).

The CVs of the personnel proposed in accordance with Chapter 4 of the ToRs must be submitted using the format specified in the terms and conditions for application. The CVs shall not exceed 4 pages. The CVs must clearly show the position and job the proposed person held in the reference project and for how long. The CVs can also be submitted in English.

If one of the maximum page lengths is exceeded, the content appearing after the cut-off point will not be included in the assessment.

Please calculate your price bid based exactly on the aforementioned costing requirements. In the contract the contractor has no claim to fully exhaust the days/travel/workshops/ budgets. The number of days/travel/workshops and the budget amount shall be agreed in the contract as 'up to' amounts. The specifications for pricing are defined in the price schedule.

Annexures

1. Formal Obligation to Data Confidentiality