

To: Offerors

Date: April 4, 2023

From: Procurement and Partnerships Team, INVEST Project; Implemented by DAI Global LLC

Subject: Request for Proposals (RFP) INVEST-124: Vietnam International Arbitration Center – Arbitrator Skills Training

Due: 1:00 PM Eastern Daylight Time (EDT) on **May 2, 2023**

Dear Offerors:

Enclosed is a Request for Proposals (RFP) to support the implementation of DAI’s INVEST project funded by the United States Agency for International Development (USAID). DAI invites firms to submit a proposal to work in support of USAID/Vietnam.

I. RFP Process and deadlines: This solicitation will result in the award of one firm fixed price subcontract. We anticipate issuing a single subcontract award expected to be within a budget range of **\$250,000 to \$280,000**.

1. Submission of Questions – Questions must be submitted in English no later than **1:00 PM EDT on April 11, 2023** via email to INVEST_Procurement@dai.com.
2. Submission of Proposal – Proposals must be submitted in English no later than **1:00 PM EDT on May 2, 2023** via email to INVEST_Procurement@dai.com, copying [Katherine Tilahun@dai.com](mailto:Katherine_Tilahun@dai.com) and [Danny Mannka@dai.com](mailto:Danny_Mannka@dai.com). The subject line of the email should be your organization name, followed by “Submission under RFP INVEST-124: Vietnam International Arbitration Center – Arbitrator Skills Training.” Please certify in your submission email a validity period of 60 days for the price(s) provided. In order to submit a proposal, offerors must have at least initiated the process to obtain a [SAM UEID](#). If the UEID has not yet been issued, offerors should note that in the submission and update INVEST at INVEST_Procurement@dai.com once it is issued. Please limit file submissions to 10 megabytes or less.

II. Composition of Proposal: Your organization’s proposal should comprise the following submission documents. The Technical Proposal and Cost Proposal should be prepared as separate files for independent evaluation, as follows below. Technical proposals should be submitted as a ten (10) slide presentation, using 12-point standard font size. Graphics may be included, so long as text is clearly legible with a minimum font size of 10. If text or graphics are of poor resolution, the information provided may be excluded from consideration. Submissions in PowerPoint or PDF are acceptable, although PDF is preferred along with an accompanying PowerPoint document. Please provide a copy of your cost proposal in Excel format; offerors may use the attached cost/budget template.

Part 1 – Technical Proposal

Please limit your technical proposal to no more than ten (10) slides. The technical proposal is composed of the following three (3) sections:

1. **Technical Approach** – Offerors will detail their approach to fulfilling the accompanying Statement of Objectives (SOO). The approach should address how the offeror will complete all deliverables and milestones within the stated timeline.
2. **Institutional Capacity** – Offerors should provide details about the experience, networks, expertise, and capacity of their firm (or firms if a partnering arrangement is proposed) to implement the proposed approach and complete the work as described. This should also include past performance information for similar activities as those planned under this proposal and note any previous experience working as partners if a partnering arrangement is proposed.
3. **Management Plan/Staffing Structure** – Offerors should include details of the personnel assigned to the activities described in the technical approach along with their proposed roles and responsibilities, as well as a clear management plan in narrative form for the development, review, and submission of deliverables, including a milestone schedule that indicates their proposed timeline for implementation. Offerors are permitted to engage in partnering arrangements if it will aid in providing the best value to USAID, regardless of whether organizations belong to the [USAID Finance and Investment Network](#) managed by INVEST. If a partnering arrangement is being proposed, please describe the nature of the arrangement, the specific technical value contributed by each member of the team, and the appropriate management, oversight, and coordination controls to ensure successful delivery.

In addition to the above, please include the following inputs to your Technical Proposal, which will not be counted as part of the 10-slide limit and format may be PDF or Word:

- Two (2) examples of past performance (i.e., case studies) relevant to this activity (limited to two (2) pages per example)
- CV(s) of any individuals proposed in the staffing plan to conduct this activity (limited to two (2) pages per individual).

A cover page should be included and will be considered a non-counting page. Offerors should list the names of all firms participating in the bid on the cover page. No additional annexes or documentation are requested nor should be submitted.

Part 2 – Cost Proposal

The subcontract type for the presumptive work will be Firm Fixed Price, awarded as a subcontract by DAI Global, LLC.

Please include your total proposed fixed price along with details for specific deliverable pricing. Offerors must also include a cost breakdown of the hourly rates for proposed personnel, any other direct costs, indirect costs, and fees if applicable, with a build-up to

their total proposed price or include substantiating price reasonableness documentation/justification. Cost breakdowns included will be utilized to determine price reasonableness. Offerors should use the attached cost/budget template for guidance, but are not required to use it, as long as the cost proposal captures the necessary elements (i.e., deliverables table with breakdown of how the deliverable totals were calculated). The successful offeror will need to demonstrate that the proposed rates, fees, etc. are reasonable and will be required to provide documentation during subcontract negotiations to substantiate costs, as needed. Please limit file submissions to 10 megabytes or less.

III. **Evaluation of Proposal:** DAI will use best value determination for the award of this Request for Proposals (RFP). A best value determination means that, in DAI's estimation, the selected offer will provide the greatest overall benefit to USAID in response to the requirements stated in this RFP. DAI may also exclude an offer from consideration if it determines that an Offeror is "not responsible," i.e., that it does not have the management and financial capabilities required to perform the work required. DAI reserves the right to check the past performance, references, and other pertinent offeror information in making award decisions. Proposals will be evaluated against a stated number of factors including: the overall proposed approach, past performance, specific qualifications in the identified approach and sectors, and other evidence substantiating the bidder's ability to deliver, including budget and time frame considerations.

1. **Technical Proposal:** The Technical Proposal will be scored and evaluated separately from the cost proposal. Technical panel reviewers will evaluate offerors on the following factors, consistent with the offerors' technical proposal. The Technical Proposal will be evaluated against the following criteria:
 - a. **Technical Approach (40 Points):** Points for this section will be awarded based on the information presented in the technical approach. The offeror will be scored based on the presentation of a clear approach which reflects the requirements of this specific activity and incorporates the offeror's competencies. Key parts of the technical approach are: (1) clear description of how the offeror will develop curriculum and content well-suited for arbitrators and counsels in Vietnam; (2) the offeror's approach to partnering with the Vietnam International Arbitration Center (VIAC) throughout the activity; (3) the offeror's thoughtful approach to transfer curriculum, materials, and knowledge to VIAC for long-term sustainability of the training. The offeror should also describe how it will monitor its performance, including setting targets and measuring progress.
 - Institutional Capacity (25 Points):** Points for this section will be awarded based on information presented in the corresponding section and any submitted case studies (i.e., examples of past performance). Offerors will demonstrate the following: 1) Previous experience developing curriculum and delivering training for legal professionals on international arbitration in similar contexts; 2) Capacity

to communicate and write in Vietnamese (required); 3) Ability to engage international experts and trainers in line with the requirements listed in the SOO. Preference will be given to offerors with rich experience in arbitrator skills training and capacity to grant internationally recognized certificates in international arbitration.

b. Management Plan/Staffing Structure (35 Points): Points for this section will be awarded based on the qualifications of proposed staff in line with the requirements of the SOO, clear delineation of the roles and responsibilities of each proposed staff member and each proposed firm (if firms are partnering), and the demonstrated efficacy and clarity of the management plan. Proposals should provide a clear management plan in narrative form for the development, review, and submission of all associated deliverables, including a proposed milestone schedule. If the offeror is submitting a proposal with partners, the proposal should describe the nature of the arrangement (i.e., added technical value), the division of labor among the partners, and the appropriate management controls to ensure successful delivery. The Management Plan should clearly outline where staff are located and, if any portion of the team or consortium is remote, offerors should provide a detailed approach to conducting activities remotely. Offerors must demonstrate through their proposed staff the ability to communicate fluently in English and Vietnamese as well as produce deliverables and other correspondences in English and Vietnamese as required throughout the activity.

2. **Cost Proposal:** Total price and associated cost build-up will be evaluated separately from the technical approach, with due consideration for realism, price reasonableness, and allowability consistent with U.S. government cost principles. Evaluation for this section will be dependent upon all information presented by the Offeror in their deliverable table and supporting cost information, as well as its alignment with the proposed technical approach.

IV. **Note Regarding Parastatal Organizations:** Under U.S. Government regulations USAID and INVEST are not able to fund parastatal organizations, even as second-tier subcontractors (partners). The USAID definition of parastatal is “Foreign government-owned parastatal organizations are firms operated as commercial companies or other organizations --including nonprofits--or enterprises in which foreign governments or the foreign agencies have a controlling interest” (ADS Chapter 302). A controlling interest could include organizations where the largest single shareholder is a government entity.

V. **Offeror’s Agreement with Terms and Conditions:** Please visit the [INVEST Procurement Hub](#) website (scroll down to “Terms and Conditions”) for RFP Terms and Conditions.

The completion of all RFP requirements in accordance with the instructions in this RFP and submission to DAI of the technical and price proposals will constitute an offer and indicate the Offeror’s agreement to the terms and conditions of this RFP and any

attachments hereto. DAI is not required to accept and/or evaluate proposals that do not conform to the instructions of the RFP, and additionally, DAI may reject all proposals and not award a subcontract for this RFP. DAI reserves the right to award a subcontract without discussion and/or negotiation; however, DAI also reserves the right to conduct discussions and/or negotiations, which among other things may require an Offeror(s) to revise its proposal (technical and/or price). By submitting an offer, Offerors agree to comply with the general terms and conditions for an award, including Representations and Certifications compliance. Offerors must provide full, accurate, and complete information in response to this solicitation. By submitting an offer, Offerors certify that they have not/will not attempt to bribe or make any payment to DAI employees in return for preference. Issuance of this RFP in no way obligates DAI to award a subcontract, nor does it commit DAI to pay any costs incurred by the Offeror in preparing and submitting the proposal. DAI reserves the right to award a subcontract to one organization or to issue multiple awards to different organizations based on the results of our evaluation.

Thank you,

DAI INVEST Procurement and Partnerships Team

INVEST_Procurement@dai.com

**Statement of Objectives under RFP INVEST-124:
USAID/Vietnam Alternative Dispute Resolution**

**Vietnam International Arbitration Center –
Arbitrator Skills Training**

Introduction

USAID seeks to unlock the potential of private capital to drive inclusive growth. Increasingly, private investors and businesses are looking to emerging markets for better returns and new market opportunities. Specifically, USAID can leverage its resources – grants, technical assistance, guarantees, and convening power – to help raise awareness of investment opportunities, lower transaction costs, and mitigate the risk of investments that generate positive social, economic, and environmental impact.

Through INVEST’s flexible buy-in mechanism, USAID Missions and Operating Units can access an unprecedented network of firms and individuals that have the range of technical expertise needed to identify opportunities and effectively mobilize private capital toward development priorities. Using a lean approach tailored to high potential opportunities, relevant parts of the network will come together to research, develop, and build specific solutions that align private capital with development needs.

Background

Alternative Dispute Resolution (ADR) in commercial and investment activities is an exercise through which contract-related disputes are resolved by facilitated negotiation, conciliation/mediation, and arbitration. The creation of an effective ADR ecosystem is critical for the development of an enabling business environment that invites both domestic and foreign investment to support economic growth.

In recent years, especially after the issuance of the 2010 Law on Commercial Arbitration, ADR in Vietnam has gained momentum and is becoming an increasingly attractive method of resolving disputes for both domestic and foreign investors. As an alternative to lengthy civil litigation procedures in court systems, ADR proceedings are often quicker, less costly than litigation, and procedures are often completed in private and conducted confidentially, avoiding the risk of adverse publicity and reputational damage that could arise from a court case.

Foreign investors in Vietnam often tend to favor arbitration, because they are concerned about the apparent lack of transparency in the local legal system, the risks associated with political interference, and the local courts’ limitations when dealing with complex and technical cases. In addition, because of the requirements of the new Free Trade Agreements to which Vietnam is a signatory, the need for a strong ADR system is becoming increasingly pressing. However, local businesses still prefer judicial litigation over ADR due to lack of awareness and knowledge about ADR. According to a media report, arbitration cases only accounted for approximately 1% of commercial disputes handled by Vietnam’s civil courts in 2017.

The lack of trust in the ADR mechanism also causes the under-utilization of ADR in Vietnam. Although the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, (commonly known as the “New York Convention 1958”) came into force in Vietnam on 11 December 1995, there remains significant uncertainty as to the extent to which arbitration awards that align with international ADR standards can be enforced in Vietnam. A notably high percentage of applications for the enforcement of foreign arbitral awards have been rejected by the Vietnamese courts.

In addition, local ADR service quality is not up to international standards. Limited capacity of Vietnamese arbitrators and mediators, and poor operation of ADR centers appear to hamper more widespread adoption

of ADR in Vietnam. According to USAID’s 2021 rapid assessment on Commercial ADR, arbitration centers in Vietnam do not have sufficient qualified arbitrators, especially in specialized areas such as energy, engineering, finance, intellectual property rights, etc.

USAID INVEST has partnered with Vietnam International Arbitration Center (VIAC, viac.vn/en), a leading Vietnamese arbitration and mediation institution, to improve ADR services in Vietnam. VIAC brings international credibility and has administered thousands of domestic and international disputes in various fields of commerce, such as sale of goods, logistics, insurance, construction, finance and banking, joint venture projects, energy, and infrastructure with involvement of businesses coming from almost all provinces in Vietnam, and from over 60 countries and territories around the world. VIAC was established under Decision No. 204/TTg dated 22 April 1993 of the Prime Minister of the Society of Vietnam on basis of the merger of the Foreign Trade Arbitration Council (established in 1963) and the Maritime Arbitration Council (established in 1964).

In partnership with VIAC, USAID INVEST aims to enhance the capacity of local ADR stakeholders, including arbitrators and judges in Vietnam; raise awareness about ADR among business communities in Vietnam; and improve its online arbitration infrastructure to handle cases more efficiently and effectively. This statement of objectives focuses on enhancing the capacity and professional skills of arbitrators in Vietnam.

In partnership with VIAC, USAID INVEST aims to enhance the capacity and professional skills of arbitrators in Vietnam by developing training resources with VIAC’s Vietnam Institute for Arbitration Research and Training¹ (VIART).

Objective and Activities

Through this Statement of Objectives (SOO), INVEST is looking for a partner or consortium to support VIAC in developing and delivering skill training courses for their arbitrators and tribunal counsels with the aim that VIAC will continue providing this training in the future. As such, it is anticipated that the materials will be fully transferred to VIAC, and the offeror will provide guidance for future trainers. These programs once developed will continue to build the skills of Vietnam’s arbitrators and equip tribunal secretaries in Vietnam. The successful offeror will work closely with INVEST, VIAC, and its training institute, Vietnam Institute for Arbitration Research and Training² (VIART) to complete the components below.

Develop skill training courses

The successful offeror will work with VIAC to develop the training curriculum and content for a five-day training course that will cover the topics below. The training will target VIAC’s [Listed Arbitrators](#) and VIAC’s Counsels.

Training Topics

1. Core Issues of International Commercial Arbitration: Review international arbitration agreement, applicable laws in international arbitration, and the mandate of the arbitral tribunal in international arbitration.
2. Conducting International Arbitration Proceedings: Equip trainees with skills to know: how to deal with jurisdictional objection (arbitrability, competent & competence); why, when, and how to make disclosures and how to deal with arbitrator challenge (conflicts of interests); how to draft the Procedural Order No. 1 (PO1) and to conduct an oral hearing using management techniques and

¹ <http://viart.org.vn/en/about-us.html>

² <http://viart.org.vn/en/about-us.html>

deal with delay tactics during arbitration; to manage panel dynamics; to deal with difficult attorneys during arbitration.

3. Interviewing and Cross-Examining Witnesses: Equip trainees with basic and recognized techniques to coordinate the submission/production of documents/evidence, the interviews and cross-examinations (i.e., witness conferencing or “hot-tubbing”) and weigh the collected evidence following cross-examination. Review the roles of factual witnesses and expert witnesses in arbitration for cases seated in Vietnam and other jurisdictions, as well as do’s and don’ts for arbitrators.
4. Drafting Arbitral Awards: Introduce drafting styles to review guidelines and best practices for drafting awards, different approaches in civil and common law, and how legal systems and traditions can influence drafting techniques. Equip trainees with knowledge of how to improve the quality of award, to properly reflect the reasons behind the arbitral decisions, and to identify the level a “reasoning” necessary to render a fully convincing award and secure its enforceability.
 - a. This content should also focus on sections of the award that can be challenging during the drafting process such as: Jurisdiction and applicable law, damages, auxiliary remedies: interest and costs.
5. Any additional content regularly taught in arbitration continuing legal education (CLE) courses deemed relevant and useful by the offeror.

All materials (i.e., facilitation guides for trainers, pre-read packets for trainees, presentations, case studies, guides and references, draft awards, participant surveys, etc.) will be prepared in English and translated to Vietnamese, so that the training can be delivered in English with interpretation to Vietnamese using simultaneous interpretation.

The successful offeror will employ training methods best suited to the content and participants – VIAC’s listed arbitrators and counsels – and should prioritize interactive training methods, such as role-playing or working group sessions. For example, a mock hearing or mock meeting of deliberations; drafting a PO1 to manage proceedings etc. to practice relevant arbitrators/presiding arbitrators' skills.

Deliver in-person training

Following the development of the curriculum and content, the successful offeror will deliver the in-person training to 35-40 participants in Hanoi. Some of the participants will be involved with continuing training efforts with VIART. The successful offeror will organize and manage logistics for the five-day in-person training, including securing the venue (meeting rooms, refreshments, etc.), arranging simultaneous interpretation, and making travel arrangements for 10 trainees from Ho Chi Minh City to join the training in Hanoi (airfare, transportation, and lodging).

Table 1. Additional Information on Training Logistics

<i>Venue Requirements</i>	No. of people: Up to 40 trainees plus 03 VIAC staff Refreshments and lunch provided Four-star hotel or equivalent
<i>Travel Arrangements</i>	No. of people: 10 trainees Airfare from/to: Ho Chi Minh City / Hanoi. Must be economy class travel. Transportation from/to: Hanoi airport to hotel Lodging requirements: - Breakfast included - Per Night Rates not to exceed 3,000,000 VND (shared room) or 2,500,000 VND (single room)

No per diem will be provided for trainees.
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Additionally, the successful offeror will provide qualified experts to deliver the training. These experts should meet the following qualifications:

- A Master's degree in law, adequate knowledge on international arbitration with appropriate and credible qualifications & certificates (FCI Arb³ or equivalent)
- Practical experience as an arbitrator in complex or high-stake cases, including in key sectors for Vietnam like construction or energy
- Previous experience of mentoring or contributing to development of professional arbitration skills

Equip VIAC and VIART for future trainings

Once the in-person training has been delivered, the successful offeror will provide a Training Summary Report that documents the process, provides an overview of the content, and summarizes the results of the in-person training, including survey data and recommendations for improvements for potential subsequent skill training courses. All the materials developed in English and Vietnamese will be transferred to VIAC. Following the completion of the Training Summary Report, the successful offeror will hold a separate training session for future trainers and lecturers with VIART, which can be an in-person or hybrid session to handover all materials to VIAC and VIART. It is anticipated that the session would be held in English.

Illustrative Deliverables

The successful offeror will propose deliverables based on their technical approach that will result in the successful delivery of the above-described services. The successful offeror will submit final deliverables in English and Vietnamese. The resulting deliverables will likely include:

- Work Plan
- Skill Training Curriculum Overview
- Completed Content and Materials
- Confirmed Training with list of participants, confirmed dates and venue
- Delivery of In-Person Training
- Training Summary Report
- Handover session to VIAC
- Finalized Content and Material

Monitoring, Evaluation and Learning

USAID encourages developing a Monitoring, Evaluation, and Learning (MEL) system that demonstrates how the offeror will implement and monitor performance of its proposed activities. INVEST asks respondents to include in the proposal how the organization intends to set targets and report progress toward those targets, including verification documentation. Additionally, describe your capabilities to provide qualitative and quantitative data associated with the USAID development objectives described in this SOO. Illustrative indicators for this work include the following, and firms are encouraged to propose these or other indicators as appropriate for your proposed technical approach:

³ Fellow of Chartered Institute of Arbitrators (CI Arb).

- Number of people in host country who received USG-funded ADR training, disaggregated by sex.
- Number of deliverables created (e.g., tools, reports, best practices, recommendations, communications materials) that are geared toward building capacity for ADR.

Period and Place of Performance

The period of performance is expected to begin on/around May 2023 and end on/around January 2024 with the in-person training taking place in November 2023.

The work is expected to take place primarily in Vietnam, with a preference for Hanoi to work closely with VIAC, with remote work supplementing the on the ground implementation if necessary. Given the global Covid-19 pandemic and impacts on travel, offerors should propose at least one partner of their consortium with a physical presence in Vietnam and include proposed staff already located in Vietnam. The successful offeror will demonstrate that they can work in Vietnam physically and will demonstrate how any remote portions of work will supplement the on the ground implementation. The USAID, INVEST, and VIAC team members are primarily based in Vietnam and Washington, DC.

Role of INVEST

INVEST will work closely with the selected offeror(s) during all stages of this work. DAI will subcontract the selected offeror directly and provide review and oversight throughout the life of the activity. The INVEST team will administer periodic check-ins, reporting, deliverable review prior to client presentation and approval, and manage an ongoing monitoring, evaluation, and learning (MEL) framework. INVEST will also work with the successful offeror(s) to establish a plan for monitoring performance, including setting targets, to track progress during implementation of the Subcontract.

- *Subcontractor Onboarding:* INVEST will provide the successful offeror(s) with all necessary context, and work with the successful offeror(s) to develop the work plan.
- *Project Implementation:* The successful offeror(s) will implement the work as prescribed by the work plan(s). INVEST will provide management support and ensure periodic check-ins/reporting.
- *Ongoing Monitoring, Evaluation, and Learning:* INVEST will define indicators during the subcontracting process, collect and review M&E data from subcontractors for requisite reporting to USAID and will conduct data quality assessments as necessary.