

To: Offerors

Date: April 17, 2023

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

Subject: Request for Proposals (RFP) INVEST-125: Vietnam International Arbitration Center – Skill Bootcamps for Judiciary Stakeholders

Due: 1:00 PM Eastern Standard Time (EDT) on **May 10, 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 with ceiling value not to exceed **\$250,000**.

1. Submission of Questions – Questions must be submitted in English no later than **1:00 PM EDT on April 24, 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 10, 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-125: Vietnam International Arbitration Center – Skill Bootcamps for Judiciary Stakeholders.” 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 type of 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 but also incorporates the offeror's competencies. Key parts of the technical approach are: (1) the offeror's approach to developing an interactive curriculum on the supervision of commercial arbitration in Vietnam that draws on international best practice; (2) the offeror's approach to working with the Vietnam International Arbitration Center (VIAC) to organize and manage logistics, identify facilitators, and deliver the two-day in-person bootcamp; (3) the offeror's approach to developing a transition plan to ensure the bootcamp's long-term sustainability. The offeror should also describe how it will monitor its performance, including setting targets and measuring progress.
 - b. **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). Preference will be given to firms and/or consortia that have past performance in timely and successful delivery of similar

services and/or relevant sector experience in a context like Vietnam (training for judicial groups, legal training, commercial arbitration, etc.). Offerors with experience in international arbitration training will be preferred. Offerors should demonstrate the following: Capacity to understand the needs of arbitral parties and judicial stakeholders in Vietnam; Demonstrated capacity to communicate and write in Vietnamese (required); Knowledge and technical experience that will support offeror's ability to perform the requirements of the SOO in an efficient and effective manner.

c. Management Plan/Staffing Structure (35 Points): Points for this section will be awarded based on the qualifications of proposed staff, 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-125:
USAID/Vietnam Alternative Dispute Resolution**

**Vietnam International Arbitration Center –
Skill Bootcamps for Judiciary Stakeholders**

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, the total cost is normally less than that of 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 of the judiciary stakeholders.

Objective and Activities

Through this Statement of Objectives (SOO), INVEST is looking for a partner or consortium to support VIAC in developing and delivering a two-day skills bootcamp for judiciary stakeholders in Vietnam. The bootcamp will target judges and court clerks from the Economic Court of the People's Provincial Courts in Hanoi and Ho Chi Minh City. These courts have jurisdiction over VIAC's arbitration cases and as the two biggest provincial courts in Vietnam are key stakeholders in supporting the development of ADR.

The bootcamp will focus on the role of the national court in supporting and supervising commercial arbitration proceedings seated in Vietnam and aim to provide the skills and practical experience to judges in Vietnam with reference to international experience. The materials developed for the training course will be fully transferred to VIAC for subsequent training activities.

Design and Preparation

The successful offeror will work closely with VIAC to develop the content and make the arrangements to deliver the two-day bootcamp. The successful offeror should ensure that content reflects current law and practice in Vietnam, while drawing upon international expertise in judicial supervision of commercial arbitration. Facilitators for the bootcamp will include qualified international experts. Role-playing and working group sessions will be incorporated into the design of the bootcamp to ensure it is interactive for participants. The content should address the below learning goals:

- Participants understand judicial authorities of National Courts in supervising commercial arbitral proceedings, including the principles of supervision, the core difference between court litigation and arbitration proceedings (in terms of service of notices, collection/admissibility of evidence, etc.) with reference to relevant laws and international arbitration rules for comparative views.
- Participants are familiar with the content of National Court's supervision and assistance both during and after the arbitral proceedings.
- Participants distinguish grounds for invalidating an award, including grounds under Model Law and New York Convention, adoption of Vietnam; understand the distinction/boundaries between substantive matters and procedural matters in considering invalidation grounds, and different tendencies internationally (enforcement of an annulled award at the seat; customize the Court's jurisdiction in reviewing awards by Parties, etc.).

- The international experts should be aware of the current level of understanding of arbitration among Vietnamese judges and be familiar with the Vietnamese Supreme Court’s publications on arbitration: [Judicial Manual on Arbitration and Mediation](#) as they develop the materials and deliver lectures.

The successful offeror will work closely with VIAC to identify and confirm bootcamp participants. It is anticipated that 25-30 participants will attend the two-day bootcamp plus six staff members from VIAC, which will be held in Da Nang or Khanh Hoa in line with the anticipated timeline below. The successful offeror will organize and manage logistics for the in-person bootcamp (see Table 1), including securing the venue, preparing materials, arranging simultaneous interpretation, and organizing the participants’ travel arrangements (airfare, transportation, and lodging) for the bootcamp.

Table 1. Additional Information on Bootcamp Logistics

Venue Requirements	<ul style="list-style-type: none"> • No. of people: Up to 31 people (25 participants + 6 VIAC staff) • Refreshments and lunch will be provided • Four-star hotel or equivalent
Travel Arrangements	<ul style="list-style-type: none"> • No. of people: 31 people (25 participants + 6 VIAC staff) • Airfare from/to: Ho Chi Minh City / Hanoi. Must be economy class airfare. • Transportation to/from Hanoi airport to hotel. • Lodging requirements: <ul style="list-style-type: none"> • Breakfast included • Per Night Rates not to exceed 3,000,000 VND (single room) • No per diem will be provided.

Delivery and Handover of Judges Bootcamp

The successful offeror will deliver the in-person bootcamp and manage onsite logistics throughout the bootcamp with in-person support and coordination. The training will be conducted in Vietnamese with simultaneous interpretation in English. In line with the design above, the training format will combine lectures, role-play, working group sessions, case studies, and Q&A that will offer interactivity and discussion opportunities for participants and will feature Vietnamese speaking presenters wherever possible. The successful offeror will be responsible for preparing the room and physical materials for the bootcamp (i.e., arranging seating and tables); displaying resources in the room; greeting and signing in participants; providing logistical guides, name tags, and worksheets; collecting photos/videos and participant feedback; answering basic questions about the facility (e.g., where to park, where to get water), etc.

The successful offeror will also gather feedback from participants and stakeholders throughout the bootcamp, which will be summarized and delivered to VIAC for future trainings, along with all final materials from the bootcamp. Final materials will be shared as soft copies in Vietnamese and English.

The successful offeror will develop a transition plan to ensure a seamless handover of the bootcamp to VIAC, thereby ensuring the bootcamp’s long-term sustainability beyond the offeror’s period of performance.

Preferred Timeline

Activities	Tentative timelines
Propose Content Overview and Dates for Bootcamp	1-2 weeks after award
Save the Date Sent to Potential Participants	2-3 weeks after award (on or around July 1 to coincide with Vietnamese Judiciary Day)
Finalize Content and Arrangements for Bootcamp	2-4 weeks before bootcamp
Deliver Two-Day Bootcamp	End of July 2023
Share Feedback and Materials with VIAC	September 2023

Please note, VIAC, USAID/Vietnam, and INVEST are hoping to take advantage of Vietnamese Judiciary Day on July 1 for announcing this bootcamp. We recognize the accelerated nature of the timeline due to this target date, but believe this will enhance the success of the activity.

Illustrative Deliverables & Performance Indicators

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
- Bootcamp training program curriculum, facilitation guides, and associated templates/materials
- Confirmed list of participants
- Bootcamp agenda, curriculum and other relevant materials for in-person bootcamp
- Bootcamp Summary Report documenting the process, content, and outputs of the in-person bootcamp with survey data, participant feedback, and recommendations for improvements for potential subsequent bootcamps

Monitoring, Evaluation and Learning

USAID encourages developing a Monitoring, Evaluation, and Learning (MEL) system that demonstrates how you will implement and monitor performance of your 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:

- 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.

- Percentage of participants who report improved understanding of the role of the national court in supervising commercial arbitration proceedings based on participant surveys.

Period and Place of Performance

The period of performance is expected to commence in June 2023 with all activities complete by October 2023.

The work is expected to take place primarily in Vietnam, with the bootcamp taking place in Da Nang or Khanh Hoa, 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 Hanoi, 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.

- *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.