



# **TERMS OF REFERENCE**

## **NACOSA DATA PROTECTION STRATEGY**

AUGUST 2018

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## ACRONYMS

Antiretroviral Treatment	ART
Adolescent Girls and Young Women	AGYW
Community-based organisations	CBO
Non-governmental organisations	NGO
Human Immunodeficiency Virus	HIV
Monitoring and Evaluation	M&E
Networking HIV and AIDS Community of Southern Africa	NACOSA
Principal Recipient	PR
Sexually Transmitted Infection	STI
Sub-Recipients	SR
Tuberculosis	TB
Terms of Reference	TOR

# 1. BACKGROUND

## Rationale

There is a need for a comprehensive NACOSA policy on methodologies to ensure the management and protection of programme data.

## Grant Management

The Networking HIV and AIDS Community of Southern Africa (NACOSA) is a national civil society network of organisations working in the HIV, AIDS, TB and related social development fields. With more than 1500 members – mainly community-based organisations but also non-profit organisations and individuals – NACOSA works to collectively turn the tide on HIV/AIDS and TB and build healthy communities through capacity building, networking and promoting dialogue. NACOSA is one of eight Principal Recipients (PRs) of the Global Fund grant entitled *Investing for Impact against Tuberculosis and HIV* and which have been implemented in South Africa since 1 April 2016 and will come to and end on 31 March 2019. The grant aims to bolster the country's national response to HIV, TB and STIs, adding value to the substantial commitments from the South African government and other funding partners.

As a Principal Recipient, NACOSA is responsible for managing a number of programmes funded through the Global Fund grant and ensuring that the programme objectives are achieved. This includes the disbursement of funds to implementation partners who are part of the service delivery team as well as monitoring and evaluation of the achievement of grant objectives. Money thus flows through the PR to Sub-Recipients (SRs), who are national or provincial non-governmental organisations (NGOs) and Community-based Organisations (CBOs) in South Africa. The SRs deliver services through a number of strategic interventions. NACOSA is responsible for the following 4 programmes under the current grant:

1. Adolescent Girls and Young Women (AGYW)
2. Sex Workers
3. Gender-based Violence (GBV)
4. Community Systems Strengthening (CSS)

We disburse funding to about 80 organisations of which 45 will only become recipients of funding through the Small Grants Scheme of the Community Strengthening Programme in August 2018. All these organisations report programme data to NACOSA on a monthly basis through a variety of data management processes.

NACOSA is also currently a Prime for the following USAID grants:

- Orphans and Vulnerable Children (ending in September 2018)
- Orphans and Vulnerable Children (Western Cape – from October 2018)
- MSM (from October 2018)

NACOSA also manages smaller grants with funding from Elma Philanthropy and FHI360 and continuously seek funding for supporting its member organisations.

## 2. SCOPE OF WORK

### Introduction

NACOSA has a management information systems for its AGYW, Sex Work and GBV programmes. A MIS for the CSS Small Grants Scheme is currently being developed and is envisaged to include online capturing onto NACOSA's Orbit data management system.

Irrespective of the MIS being used in a programme NACOSA, as a receiver of personal information, has to protect the data from unauthorised access and data corruption. Whilst our individual level programme data is stored in the cloud in various forms and is protected against unauthorised access and corruption we need to ensure that NACOSA is compliant to the Protection of Personal Information (PoPI) Act. The purpose of the POPI Act is to ensure that all South African institutions conduct themselves in a responsible manner when collecting, processing, storing and sharing another entity's personal information by holding them accountable should they abuse or compromise a person's personal information in any way. The right to privacy is protected in terms of the common law and section 14 of the Constitution of South Africa 1996. The POPI Act recognises the right to privacy enshrined in the Constitution and gives effect to this right by mandatory procedures and mechanisms for the handling and processing of personal information. The POPI Act is in line with current international trends and laws on privacy. 'Processing' is widely defined, including the 'collection, recording, organisation, storage, updating or modification, retrieval, consultation, use, dissemination by means of transmission, distribution or making available in any other form, merging, linking, as well as blocking, erasure or destruction of personal information.'

NACOSA needs to review its data management policies and update or recreate them to ensure, among others, that we adhere to the following principles:

- Obtaining consent from individuals served to (retrospectively?) capture and use their personal data – this may be complicated in some programmes such as the Sex Work programme where we are not always sure of the real name and other details of a sex worker. Individuals' data are used to track continuation of services for individuals as per the cohort-model. The data is however mostly aggregated and used for programmatic decisions.
- Following the correct procedures on capturing data of minor children.
- That all staff is clear on why we collect certain data.
- Transparency and accountability on how personal data is to be used (limited to the purpose).
- Data sharing rules and agreements.
- Notification procedures if/when the data is compromised.
- Providing people access to their own information and protecting their right to have their data removed and/or destroyed should they so wish.
- Adequate measures and controls to limit and track access and prevent unauthorised people, even within NACOSA, from accessing people's information.
- Adequate measures and controls to safeguard data and information from theft, or being compromised.
- Ensuring the integrity and continued accuracy of information (i.e. captured correctly and maintaining it responsibly).

## Objectives of the Assignment

NACOSA is commissioning the successful consultant to develop a Data Protection Strategy that strikes a balance between individual privacy rights while still allowing data to be used for business and programmatic purposes. The findings of the assignment will be linked to an overarching Strategic Information Strategy or Framework for NACOSA.

The assignment would require:

- A desktop review of current, relevant NACOSA documents and programme tools for collecting, storing, retrieving and sharing personal information of programme beneficiaries
- Development of a detailed report on the findings from the desktop review against requirements for protection of personal information generated through the programmes
- Development of a strategy with supporting tools that would address the gaps identified in terms of collecting, storing, retrieving and sharing personal information of programme beneficiaries
- Ensure that the strategy and tools meet the legal requirements set in the POPI Act as well as programmatic requirements, including data sharing agreements.

The assignment should assess and consider the following:

- Existing NACOSA policies and procedures linked to data management
- Existing data privacy practices in funded programmes, including information provided in Annex A
- Possible future integrations between NACOSA individual level data and that of government departments
- NACOSA's M&E Plan(s)
- Data collection tools used in programmes
- POPI Act requirements
- Data sharing agreement formats
- Other relevant data management elements

In summary, the assignment is about the personal information of clients, focussing on how to collect, record, organise, store, update, modify, retrieve, use, share, merge or link this data in any other form. It excludes other M&E related work around data quality assessments.

## Data Protection Assignment Stakeholders and Users

The key stakeholders for this assignment are:

- NACOSA staff
- NACOSA service providers
- NACOSA sub-recipients
- Other PRs, especially those that NACOSA share programmes with
- Government departments
- Provincial Councils on AIDS
- SANAC
- The Global Fund and NACOSA's other donors

### 3. TIMEFRAMES AND DELIVERABLES

The assignment is expected to be undertaken in August 2018 and finalised by 21 September 2018. The table below sets out the key deliverables.

#### TIMEFRAMES AND DELIVERABLES

NO	TASKS	DUE DATE	OUTPUTS AND DELIVERABLES
1.	<ul style="list-style-type: none"> <li>Submission of proposal</li> </ul>	<ul style="list-style-type: none"> <li>20 August 2018</li> </ul>	<ul style="list-style-type: none"> <li>Proposal submitted</li> </ul>
2.	<ul style="list-style-type: none"> <li>Review of proposal and amendments where needed</li> <li>Appointment of consultant</li> </ul>	<ul style="list-style-type: none"> <li>23 August 2018</li> </ul>	<ul style="list-style-type: none"> <li>Contract awarded and signed</li> </ul>
	<ul style="list-style-type: none"> <li>Review of NACOSA documentation</li> <li>Meetings with NACOSA as required</li> </ul>	<ul style="list-style-type: none"> <li>27 August – 5 September 2018</li> </ul>	
4.	<ul style="list-style-type: none"> <li>Develop a framework for strategy for agreement with NACOSA.</li> </ul>	<ul style="list-style-type: none"> <li>12 September 2018</li> </ul>	<ul style="list-style-type: none"> <li>Draft framework</li> <li>Minutes of meeting with NACOSA</li> </ul>
5.	<ul style="list-style-type: none"> <li>Develop final strategy with tools/templates as Annexures</li> </ul>	<ul style="list-style-type: none"> <li>21 September 2018</li> </ul>	<ul style="list-style-type: none"> <li>Final report/strategy with annexes</li> <li>Data sharing agreement template(s)</li> </ul>
6.	<ul style="list-style-type: none"> <li>Training NACOSA staff on data protection based on documents created</li> </ul>	<ul style="list-style-type: none"> <li>To be determined</li> </ul>	<ul style="list-style-type: none"> <li>Training report</li> </ul>

### 4. REQUIRED COMPETENCIES OF CONSULTANT

The appointed service provider is required to possess the following skills and experience:

- Extensive experience in programme data collection and data management systems and the type of data required by implementers, policy makers and donors
- Understanding of the POPI Act in South Africa
- Knowledge of data sharing agreements and important clauses to be incorporated
- Understanding of public health issues as well as HIV, AIDS, STIs and TB in South Africa
- Understanding of data collection challenges while working with key and vulnerable populations
- Good project and people management skills and the ability to deliver within time frames as reflected in the Work Plan
- Excellent writing skills in English.

## 5. PROPOSAL

- Questions for clarity on the TOR can be submitted by email to Michelle Stewart at [michelle@nacosa.org.za](mailto:michelle@nacosa.org.za) or by telephone: 021 5520804. All email correspondence to be cc'ed to Marieta de Vos at [mdevos@nacosa.org.za](mailto:mdevos@nacosa.org.za).
- A copy of the MIS strategy for NACOSA's AGYW, Sex Work and GBV programme is available on request to Michelle Stewart ([michelle@nacosa.org.za](mailto:michelle@nacosa.org.za)).
- Please submit your company profile together with your proposal, including:
  - Registration number if applicable
  - BBBEE status
  - VAT registration (if applicable)
  - Disclosure - Conflict of Interest. Please disclose details of any circumstances, including personal, financial and business activities that will, or might, give rise to a conflict of interest or state that there are none. Where the service provider identifies any potential conflicts they should state how they intend to avoid such conflicts. NACOSA reserve the right to reject a proposal which, in NACOSA's opinion, gives rise, or could potentially give rise to, a conflict of interest.
  - Disclosure - Legal Matters: The service provider must disclose:
    - If they or any of their partners/associates are or have been the subject of any proceedings or other arrangement relating to bankruptcy, insolvency or financial standing.
    - If they or any of their partners/associates are or have been have been convicted of any offence concerning professional misconduct.
    - If they or any of their partners/associates are or have been have been convicted of, or are the subject of any proceedings, relating to:
      - Participation in criminal organisation.
      - Corruption including the offence of bribery.
      - Fraud including theft, and not fulfilling any obligations relating to payment of taxes.
      - Money laundering.

The proposal should follow the format below:

- Introduction
- Objectives and purposes
- Proposed approach, methodology design, scope
- Relevant experience in assignment deliverables
- Work plan reflecting proposed timeframes and outputs/deliverables – as far as possible
- Budget - detailed budget including daily fees. NACOSA estimates the assignment to be finalised over 9 days, excluding the training day.

## 6. AWARDING OF THE CONTRACT

The contract will be awarded on by Thursday, 23 August 2018.

- NACOSA will select the service provider. The selection committee reserves the right to request any, or all, of the prospective service providers to meet to clarify their proposal.
- NACOSA is not bound to accept the lowest or any proposal.
- NACOSA may, entirely at its discretion, decide to –
  - Award contracts to different consultants for different sections of the scope of work.



- Award contracts for particular sections of the scope of work, but invite new proposals for other sections of the work;
- Delay the award contracts for certain sections of the scope of work (taking into account, inter alia, timing of funding availability).
- Make award of contracts subject to such conditions as NACOSA may determine at the stage of awarding the contracts.
- The Service Provider may be required to sign the Global Fund's Code of Conduct for Service Providers should they be contracted.

## NETWORKING HIV AND AIDS COMMUNITY OF SOUTHERN AFRICA - NACOSA

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