



British Embassy
Yerevan



National Assembly of the
Republic of Armenia



International Center for
Human Development



UKaid
from the British people

Good Governance Fund

The project is implemented within the framework
of UK's Good Governance Fund, with support of the
British people



Guidelines on acquisition of professional consultancy services from organizations and individuals to get advisory opinion

“Strengthening the capacity of the National Assembly in
strategic political debate and communication” project

www.gov.uk/world/armenia
<https://www.facebook.com/britishembassyerevan/>
<https://twitter.com/UKinArmenia>
www.ichd.org

This Guidebook has been developed within the framework of “Strengthening the capacity of the National Assembly in strategic political debate and communication” project. The project is implemented by the International Center for Human Development non-governmental organization within the framework of UK’s Good Governance Fund, with support of the British people.

The opinions expressed in this Guidebook are those of the authors and do not necessarily reflect the official position of the UK Government.

The translation of the Guidelines into English has been made within the UNDP “Modern Parliament for a Modern Armenia” project, co-implemented with the OxYGen Foundation, the International Center for Human Development, and the Westminster Foundation for Democracy, in cooperation with the National Assembly of the Republic of Armenia. The project is funded by the United Kingdom’s Good Governance Fund and the Government of Sweden.

This Guidebook is also available on our website: www.ichd.org.

© International Center for Human Development, 2019

GUIDELINES

**on acquiring professional consultancy services from
organizations and individuals by the National Assembly
for advisory opinion on draft laws**

Contents

1. Introduction.....	9
2. Provided professional consultation	9
3. Need for alternative advisory opinion	9
4. Scope of issues requiring consultancy.....	10
5. Potential scope of those providing consultancy to NA	12
6. Procedure for acquiring consultancy services.....	13
7. Funding of consultancy services.....	14

1. Introduction

According to the RA Constitution, the National Assembly (hereinafter referred to as NA) shall be the representative body of the people which shall exercise supervision over the executive power, adopt the state budget and perform other functions prescribed by the Constitution.

The Guidelines aim to support the RA NA deputies, standing and ad hoc committees, factions and the staff in the process of acquiring professional consultancy services from organizations and individuals in order to get advisory opinion on NA draft laws, international agreements, NA conclusions, decisions, statements and addresses.

2. Provided professional consultation

The NA staff shall be formed in the order specified by the law and shall act on the basis of laws¹ and its Charter. Factions consisting of up to 14 members shall have one clerk and three experts, while the factions with more than 14 members shall have one clerk and four experts. Each of the standing committees shall have one coordinating expert and at least two experts (specialists).

Taking into consideration the large amount of laws adopted annually by the NA (approximately 15-20 laws are passed and amendments and/or changes are introduced into 150-250 current laws each year) and the sectoral diversity, the professional qualification of 40-45 experts of the NA will not suffice to cover all issues of various sectors submitted for NA consideration². The NA committees and factions should have the opportunity to acquire consulting services.

3. Need for alternative advisory opinion

The NA adopts numerous codes and laws annually³.

Implemented work:	Number
Adoption of new codes and laws	15
Changes and amendments ⁴ in the current codes and laws	260
Cancelled or nullified documents	2
Ratified documents	38
TOTAL:	315

Source: www.arlis.am

Supposing it is the opposition factions that usually have up to 14 members⁵, and they should make sure the substantiations of laws submitted by the Government and the

¹ RA Constitutional Law on the Rules of Procedure of the National Assembly of RA (HO-9-N, December 16, 2016). RA Law on Public Service in the staff of the National Assembly of the Republic of Armenia (HO-158-N, June 11, 2009).

² According to the RA Law on Normative Legal Acts (HO-180-N, March 21, 2018), regulatory impact assessment can be arranged.

³ In the past decade, the NA adopts approximately 200-300 laws annually.

⁴ Including change or changes, amendment or amendments, change and amendments, amendment and changes, amendments and changes.

ruling power deputies are reliable, and dispute the laws they believe are ill-grounded, it is unrealistic to ensure the expertise of such amount of documents by three experts who may have professional knowledge and skills in a few areas only. It is important that all of NA factions, and particularly the opposition ones get unbiased professional consultancy from independent consultants. The RA state budget should allocate funds in the financial amounts envisaged for the NA for acquiring professional consultancy services from independent consultants on draft laws and other documents to be ratified by the NA.

4. Scope of issues requiring consultancy

According to the Article 88 of the RA Constitution, the NA shall be the representative body which shall implement the legislative power, exercise supervision over the executive power and adopt the state budget. In accordance with the Article 106, the NA shall establish standing committees for preliminary discussion of draft laws and other issues within its jurisdiction and submission of conclusions thereon to the NA. Ad hoc committees may be established upon the decision of the NA for the discussion of draft NA decisions, statements and addresses, as well as issues related to parliamentary ethics, and for submission of conclusions thereon to the NA (Article 107).

Standing and ad hoc committees and factions of NA may need consultancy services in the following cases:

- 1) To assess the draft laws submitted by the RA Government, NA factions and deputies, and their potential impact on social, political, economic and other relations;
- 2) With regard to international treaties to be ratified by the NA;
- 3) With regard to issues related to RA's accession to supranational international organisations, as well as territorial changes of RA;
- 4) With regard to draft NA decisions, statements and addresses, as well as issues related to parliamentary ethics;
- 5) With regard to the urgent topic of public interest discussed upon the request of at least one fourth of the total number of deputies in one of the sittings convened during the sittings week of the regular session;
- 6) With regard to the proposal to lift or cancel the martial law discussed at a NA sitting convened by virtue of law in case of declaration of martial law by the Government;
- 7) With regard to the proposal to lift or cancel the state of emergency discussed at a NA sitting convened by virtue of law in case of declaration of a state of emergency by the Government;
- 8) With regard to application, outcomes, impact and consequences of laws;

⁵ RA Constitutional Law on the Rules of Procedure of the National Assembly of RA (HO-9-N, December 16, 2016), Part 3, Article 161.

- 9) With regard to application of international treaties ratified by the NA, their outcomes, impact and consequences; RA's accession to supranational international organisations, as well as outcomes, impact and consequences of territorial change of RA;

Prior to acquiring consultancy services by NA on draft laws, international treaties to be ratified, RA's accession to supranational international organisations, territorial change of RA, application of laws and international treaties, outcomes, impact and consequences of RA's accession to supranational international organisations and territorial change of RA, the NA staff shall assign this work to the corresponding employee of the NA staff in case there is an employee with relevant skills within the NA staff.

If the members of the NA committees and/or factions are not satisfied with the quality of services provided by the NA staff member, the NA staff, in accordance with the requirements of the RA Law on Procurement, shall announce a tender for purchase of consultancy services in order to acquire consultancy services⁶.

The need for consultancy services may arise if the committees and factions of RA NA believe the following:

- 1) During the discussion of the draft law submitted for NA consideration on www.e-draft.am website the beneficiaries have submitted proposals which were refused by the Government; however, a standing or ad hoc committee, a faction or a deputy believe they contain groundings worth paying attention, and these need to be considered when discussing the law in committees and plenary sessions.
- 2) A standing or ad hoc committee, a faction or a deputy believe a professional opinion is required to develop a stance on draft laws submitted to the NA, international treaties, issues related to RA's accession to supranational international organisations, as well as territorial changes of RA, drafts of NA decisions, statements and addresses, as well as issues related to parliamentary ethics.
- 3) A standing or ad hoc committee, a faction or a deputy believe there is need for post-legislative scrutiny of laws passed by the NA⁷, NA decisions, statements and addresses, or verification of their application or implementation in terms of parliamentary ethics issues.

According to the NA Rules of Procedure, standing committees shall implement parliamentary oversight over the process of implementation of laws⁸. The scope of the parliamentary oversight of the committees shall be defined by the factions, based on the draft decision on creation of standing committees submitted by factions during the first session of NA.

Within the scope of post-legislative scrutiny, the NA committee or faction wants to assess the efficiency of application of the law adopted by the NA, how the law

⁶ According to the RA Law on Procurement (HO-21-N, December 16, 2016), provision of consultancy services leads to the creation of intangible values lacking physical substance.

⁷ Including the commitments of international treaties signed by RA, e.g. the EU-Armenia Comprehensive and Enhanced Partnership Agreement, obligations caused by RA's accession to the supranational international organizations, e.g. Eurasian Economic Union.

⁸ Law on the Rules of Procedure of the National Assembly, (HO-9-N, adopted on December 16, 2016), Article 122.

supports the achievement of goals specified therein, identify the obstacles hindering the application of the law, and other issues related to the application of the law. In order to obtain consultancy services to exercise post-legislative scrutiny, the NA staff should provide the selected consultant with the copies of all documents submitted with the draft law.

Standing and ad hoc committees and factions may need professional opinion⁹ on international treaties and RA's accession to the supranational international organizations.

The NA may receive consultancy from organizations and individuals by delegation. Consultancy provided to the RA NA committees and factions shall be deemed as consultancy provided to the RA NA.

5. Potential scope of those providing consultancy to NA

The RA NA may get advisory opinion from:

- 1) Scientific centers,
- 2) Universities,
- 3) Non-governmental organizations,
- 4) Individuals.

The RA NA cannot receive advisory opinion from the organizations and individuals who have provided consultancy to the RA Government and separate public bodies during the development of the given draft law and/or participated in the development of the bill.

The consultancy on the draft laws provided to the NA should at least comprise the advisory opinion:

- 1) Assessment of the impact of the adoption of this draft on other laws.
- 2) Assessment of the scope of beneficiaries of the law, characteristics and numbers of separate groups of these beneficiaries.
- 3) Assessment of resources required for application of the law and availability of necessary funds in the state budget of RA for acquiring these resources.

If substantiated by the committees and factions, other requirements on provision of consultancy services on draft laws may be listed in the terms of reference and requirements to the consultant.

The consultancy provided for post-legislative scrutiny should address the following:

- 1) Interpretations of the law and its separate provisions by courts and their conformity with the draft legislative package and substantiations presented during the discussion of the bill in the RA NA.

⁹ For instance, on how the above-mentioned treaties and membership in the international and supranational organizations have affected RA's economy and its separate branches, on the living standards of the population and its separate groups, business environment, social, demographic, environmental and other relations.

- 2) Provisions of the law the violation of which has initiated no court actions for a long time¹⁰.

If substantiated by the committees and factions, other requirements on provision of consultancy services on post-legislative scrutiny may be listed in the terms of reference and requirements to the consultant.

If the provided advisory opinion does not contain any state and/or official secret and is not related to state and/or official secrets, the advisory opinions received by the RA NA committees and factions are subject to mandatory publication on the RA NA official website and are part of the draft legislative package.

6. Procedure for acquiring consultancy services

In order to acquire consultancy services, chairpersons of the standing and ad hoc committees and heads of factions can address the NA staff. To acquire consultancy services, the chairperson of the committee or the head of the faction addresses the NA Chief of Staff, Secretary General in writing presenting the following:

- 1) Terms of reference for the required task. The ToR should comprise the following information:
 - i. Name of the document which is the subject of consultancy,
 - ii. The scope of specific issues to be addressed by the consultant,
 - iii. Minimum requirements to the consultant.
- 2) The substantiation why the expert of the committee or faction cannot provide consultancy on the mentioned issue, including the areas of specialization envisaged by the job description of the position of the expert of the committee or faction (for instance, education, healthcare, public financial management, protection of environment, etc).

In order to get consultancy services, the RA NA shall select an organization or individual specialist in compliance with the procedure specified by the RA Law on Procurement. Consultancy services shall be acquired under the open or closed targeted tender procedure¹¹; in this case, consideration of bidders who have previously provided consultancy to NA should also take into account the opinion of NA deputies on the consultancy they have offered in the past.

¹⁰ This may mean that these provisions are perhaps mostly declarative.

¹¹ In case of procurement of a consultancy service under the open or closed targeted tender procedure, a prequalification procedure shall be arranged for preparing a list of consultants. In case of arranging prequalification procedure, a prequalification notice shall be published. In case of a two-stage tender or a closed targeted tender, the time limit envisaged for submission of prequalification bids shall be at least 15 calendar days, which is calculated from the day of publishing the prequalification notice.

If the procurement price does not exceed seventy-fold of the procurement base unit, i.e. 70 million AMD, and it is impossible to apply the time limit of 15 calendar days, provided that it had been objectively impossible to predict such requirement, the time limit envisaged for submission of prequalification bids shall be at least five calendar days, which is calculated from the day of publishing the prequalification notice.

The pre-qualified bidders shall have the right to further participate in the procurement process.

7. Funding of consultancy services

Consultancy services are financed from the state budget funds, which allocates funds for acquisition of consultancy services by the NA.

The financial resources envisaged by the RA state budget (hereinafter referred to as the financial resources) can be distributed among the committees and factions according to the following three principles:

- 1) United fund which is distributed among the committees and factions by the decision of the NA chairperson,
- 2) Equally among the committees, and by inverse proportion among the factions,
- 3) Funds will be distributed among the committees in accordance with the priorities set in the annual program of RA Government activities (it is supposed that in priority areas more bills will be drafted and submitted to the NA for discussion).

Half of financial resources is allotted for acquisition of consultancy services by the NA committees. Financial resources envisaged for committees are divided by the quantity of the number of committees plus one, where one additional part is envisaged for a potential ad hoc committee to be established during the year.

Half of financial resources is allotted for acquisition of consultancy services by the NA factions. Funds envisaged for factions are distributed among the factions by inverse proportion:

- 1) The largest faction of NA, as a political power that forms the government and can rely on the government's expertise, shall have the right to access the smallest part of financial resources allocated for the committees, which equals to the proportion of deputies of the smallest faction represented in the NA in the total number of NA deputies.
- 2) The smallest faction of NA shall have the right to use the largest part of funds allocated for the committees. Percentage of funds envisaged for the smallest NA faction within the total funds allocated for acquisition of consultancy services by NA equals to that of the representatives of the ruling political power faction in the total number of deputies.
- 3) The remaining financial resources envisaged for acquisition of consultancy services shall be distributed among other NA factions according to the principle above. If there are two more factions in the NA, the second largest faction gets funds equal to the proportion of the third largest faction, while the third largest faction gets funds equaling to the proportion of the second largest faction.

Appendix N 2. Format of submitting new initiatives

1. State body	
1.1 Name of the state body: <u>National Assembly of RA</u>	
1.2 Names of other state bodies related to the new initiative: _____	
2. Project	
2.1 Project title: <u>Ensuring implementation of powers of the RA National Assembly</u>	
2.2 Project code: _____	<u>1024</u>
2.3 <input type="checkbox"/> New project (substantiations and explanations): _____	
3. Action	
3.1 Action title: <u>Acquisition of consultancy services for NA committees and factions</u>	
3.2 Action code: _____	
3.3 Type of action (state intervention): <input type="checkbox"/> Goods and service <input type="checkbox"/> Transfer <input type="checkbox"/> Other (description) _____	
3.4 <input checked="" type="checkbox"/> New action (substantiations and explanations): <u>Provision of consultancy to NA committees and factions on the impact of bills and previously adopted laws</u>	
<input type="checkbox"/> Expansion of current action (substantiations and explanations): _____	
4. Purpose	
Improvement of draft legislative acts pending adoption by the RA NA and substantiation for introducing changes and amendments in the previously adopted laws; if necessary, drafting of bill	
5. Description	
Bills regulating legal relations in various spheres and introducing changes and amendments in current laws are submitted to RA NA. In order to ensure efficient and informed participation in the discussions related to separate, highly specialized spheres, the RA NA committees, factions and individual deputies need professional consultancy on the area and specific issues. Within this action framework, the RA NA will have the opportunity to involve, on a short-term basis, scientific and research centers, universities, NGOs and individuals who have profound knowledge in specific areas, for consulting purposes. Direct beneficiaries of the action will be the NA committees, factions and deputies, and indirect beneficiaries will be the RA citizens and economic entities. The action will be piloted in 2020-2022.	

Taking into consideration the practice of previous years, approximately 15 new laws on average are supposed to be adopted and 200-250 changes and amendments to be introduced in current laws annually. Consultancy is expected to be required in order to get consulting from alternative sources for discussions related to all 15 new laws. Also, there might be need for consultancy with regard to some part of the 200-250 laws to be amended. In view of the circumstance that this is a new action, and there is no historical data on the need for consultancy services with regard to amendments to the laws, it is currently expected that the NA committees, factions and deputies will need such consulting in 20 per cent of the drafts. This means that the NA will need about 65 consultancy services.

Consultancy services for previously adopted laws and post-legislative scrutiny will be acquired according to several principles:

- 1) Each committee will have the opportunity to select at least one draft law and one legislative act for post-legislative scrutiny. Since the NA has 9 standing committees, 18 consultancy services will be required.
- 2) Since the absolute majority of bills discussed by the NA is usually submitted by the Government, the bills considered as priority in the RA Government activities programme will be selected for consultancy. Thus the NA will acquire consultancy services for 32 draft laws.

The NA has no historical data on the price of consultancy services either. However, the NA regularly got consulting within the framework of programmes funded by international partner structures. Based on contacts with the international partners, the average price of one consultancy service is estimated to be one million AMD. Consultancy services will be acquired through a tender, which may, in some cases, result in price fluctuation. Collected information on prices of consultancy services will help improve the planning after the pilot stage.

6. Expected benefits

Consultancy provided by an independent structure or specialist will help the RA NA deputies be more informed during the discussion of bills; this will improve the quality of discussions, ensure pluralism and provide an opportunity to reduce the need for further changes. Consultancy services will help identify the drawbacks of enforcement practice with regard to previously adopted laws and encourage proposals and initiatives on changing and amending the laws.

7. Problems emerging in case the action is not funded

If the action is not implemented, the RA NA will have to continue the practice of introducing frequent and regular changes in the legislation because laws will be passed without additional information required for discussions, and with lack of critical debates.

8. Outcome indicators	Measurement unit	Budgeting year	Budgeting year +1	Budgeting year +2	Action end date
Number of analyzed draft laws	Report	65	70	75	
....					
Expenditure for the outcome indicator unit	AMD	X	X	X	X
1 000 000 AMD	X	65 000 000	70 000 000	75 000 000	
....	X				
9. Required resources	AMD	Budgeting year	Budgeting year+1	Budgeting year+2	Action end date
Acquisition of goods and services	X	65 000 000	70 000 000	75 000 000	
....	X				
Total	X				
10. Source of funding	AMD	Budgeting year	Budgeting year +1	Budgeting year +2	Action end date
State budget	X	65 000 000	70 000 000	75 000 000	
Other sources	X	X	X	X	X
	X				
...	X				
Total, by the state budget and other resources	X				

11. Alternatives with other levels of outcomes

Alternative # 2 (minimum outcome scenario)

Analysis of new draft laws (15 million AMD per annum). In this case the NA deputies will have the opportunity to involve consultants only for analysis of new draft laws.

12. Alternative options for action implementation

Alternative # 3

Consultancy services will be acquired for the study of draft legislative packages within the framework of which structured groups of draft laws will be examined (for instance, draft laws of separate spheres).

Alternative #

13. Other necessary information and substantiations

In case of agreement with international partners, in addition to the above-mentioned consultations, the NA deputies will also get consultancy within the framework of programmes implemented by the international partners.

Appendix N 6. Sources of funding of new initiatives (summary)

(thousand AMD)

		2019	2020	2021
1	Total costs for new initiatives	40 000	45 000	50 000
2	Other sources of funding for new initiatives (line 2.1 + line 2.2.)	-	-	-
2.1	Funding expected from other sources	-	-	-
2.2	Expected cost savings from other programmes	-	-	-
3	Net impact of new initiatives on the state budget (total cost with deduction of alternative income sources and/or savings from other programmes) (line 1 – line 2)	40 000	45 000	50 000