

TERMS OF REFERENCE

Recommendation studies covering topics on procedural lag in Labor and Arbitration Board

Mexico

ME-T1448

<https://www.iadb.org/en/project/ME-T1448>

Support for a Successful Transition to the New Institutions created by the Labor Reform

1. Background and Justification

- 1.1. Since 2017, Mexico has undergone legislative efforts to reform its labor relations and justice system. This reform has as its purpose of securing fundamental labor rights, particularly union democracy, and collective negotiation. One of the main problems that Mexico faces, in securing such rights, is the dependence of Labor and Arbitration Boards to the Executive Branch of Government. Labor and Arbitration Boards oversaw the registration of unions and their collective contracts, and oversaw labor disputes, including the conciliation procedure. Their dependence to the Executive Branch, made it possible for politically favored union leaders to agree on employer protection contracts, which undermined wages and labor rights in Mexico, throughout modern history.

Among the main changes made to the Federal Labor Law (Ley Federal del Trabajo), Mexico's main labor law, in accordance with the 2017 Constitutional Reform, is the creation of two new institutions: The Federal Center for Conciliation and Labor Registration and Labor Courts. These two institutions were created to substitute Labor Boards and overtake their functions. The Federal Center for Conciliation and Labor Registration was created as a sectorized organ of the Ministry of Labor, and it will oversee a prejudicial procedure, extracted from the previous labor procedures, in which Labor and Arbitration Boards were the authority in charge of conciliation procedures within labor procedures. Now, a prejudicial conciliation procedure is a requirement for being able to start a claim, with some exceptions. Also, the Federal Center for Conciliation and Labor Registration, as its name states, will oversee the registration of unions, collective contracts and related documents and procedures. On the other hand, Labor Courts were created, to overtake the dispute resolution aspect of Labor and Arbitration Boards, but instead of depending on the Executive Branch of the Government, they depend on the Judiciary, as any court would and function as a court, instead of a board.

There is a set period to adopt these changes, established on the transitory articles for the 2019 labor reform. According to this reform's dimensions, three phases were designed to implement the labor reform. Mexico's federal states were divided in three groups, to start the implementation of the labor reform stepwise. The first phase started on November 18th, 2020 with eight states adopting changes enacted by the labor reform, the second phase is to start on October 1st, 2021 and the third phase is to start on May 1st, 2022. These changes imply, among numerous other things, the creation and set-in motion of the organisms previously mentioned, and the termination of Labor and Arbitration Boards and their functions. Starting these set dates, in those states applicable, Labor and Arbitration Boards have stopped and will stop receiving new labor disputes and labor registrations. They will only continue working disputes presented before the dates in which the new labor reform is to take place and after such disputes are resolved, Labor and Arbitration Boards will cease to exist.

Mexico needs to terminate Labor and Arbitration Boards' functions efficiently and according to the law, to liberate resources and allocate them into the new institutions, while respecting the rights of the Labor and Arbitration Boards' workers. This will be achieved by terminating all the cases being processed within Labor and Arbitration Boards, achieving prompt labor justice for the parts involved in processes held before Labor Boards. Through this TC, the IDB will collaborate directly with the Ministry of Labor and Social Prevision to:

- I. Create a legal and institutional analysis containing strategies to terminate Labor and Arbitration Boards;
- II. Create strategies for reducing lags in Labor and Arbitration Boards.

2. **Objectives**

- 2.1. The objective of this consulting work is to identify specific problems that generate or maintain procedural lags withing Labor and Arbitration Boards, to deliver labor justice to Mexican citizens and to accelerate the process in which labor boards gradually begin their closure.

3. **Scope of Services**

- 3.1. This work's objective is to solve the main problems causing procedural lag, in Labor and Arbitration Board's functions, through the analysis of the current situation, the identification of barriers, and generation of recommendations, proposals and the possibility of a pilot program.

4. **Key Activities**

- 4.1. Elaborating a diagnosis on the challenges faced by Labor and Arbitration Boards, regarding procedural lag. Stemming from this diagnosis, the consultancy firm will develop strategies to solve the main problems identified. Once a proposal is reached, the possibility of implementing pilot programs in specific, previously identified Labor and Arbitration Boards will be explored.

5. **Expected Outcome and Deliverables**

- 5.1. This consultation must submit the following products. All these products must be approved to be considered final products. These outputs may be published as IDB technical notes with the authorization of the Liaison Unit for the Labor Reform in the Ministry of Labor.
- 5.2. Work plan;
- 5.3. Analysis of the current situation of the Labor and Arbitration Boards, including the identification of the main causes of existing lags;
- 5.4. Proposals for more efficient delivery of notifications;
- 5.5. Proposals for more efficient conciliations processes, including the use of technological platforms to allow the conciliation to take place online;
- 5.6. Proposals for quality control mechanisms that reduce the probability that the judgments are appealed;

- 5.7. Proposals for the reassignment of personnel to the Boards with higher workloads;
- 5.8. Estimates of the fiscal costs associated with the implementation of the proposals to reduce the lags;
- 5.9. Scheme for small pilot programs, containing the proposals generated by this consultation.

6. **Project Schedule and Milestones**

1.

<i>Deliverables</i>	<i>Timeframe</i>
1. Workplan (5.2)	One week after the signature of the contract
2. Analysis of the current situation of the Labor and Arbitration Boards, including the identification of the main causes of existing lags (5.2)	Three weeks after the signature of the contract
3. Proposals for more efficient delivery of notifications (5.3)	Six weeks after the signature of the contract
4. Proposals for more efficient conciliations processes, including the use of technological platforms to allow the conciliation to take place online (5.4)	Nine weeks after the signature of the contract
5. Proposals for quality control mechanisms that reduce the probability that the judgments are appealed (5.5)	Twelve weeks after the signature of the contract
5. Proposals for the reassignment of personnel to the Boards with higher workloads (5.6)	Fifteen weeks after the signature of the contract
6. Estimates of the fiscal costs associated with the implementation of the proposals to reduce lags (5.7)	Eighteen weeks after the signature of the contract
7. Scheme for small pilot programs, containing the proposals generated by this consultation. Proposals for the reassignment of personnel to the Boards with higher workloads (5.8)	Twenty-four weeks after the signature of the contract

7. **Reporting Requirements**

- 7.1. Every report must be submitted in Spanish to the Bank in an electronic file. The report should include cover, main document, and all annexes. This file must also be in an electronic format

used by the Bank, such as: one of the MS Office, JPG and / or TIFF formats. ZIP files (compressed) will not be accepted as final reports due to the regulations of the Bank File Management Section.

8. **Acceptance Criteria**

- 8.1. David Scott Kaplan, Specialist Leader in Labor Markets and Social Security is authorized to accept the work.

9. **Other Requirements**

- 9.1. All Offerors shall assume all costs associated with the preparation and presentation of their proposals. The Bank does not assume any responsibility, whatsoever, to reimburse Offerors for costs incurred in the preparation of proposals in response this RFP.

10. **Supervision and Reporting**

- 10.1. The consulting firm will be reporting to David Scott Kaplan (dkaplan@iadb.org), who will give comments to any reports, approve reports, documents, work, and give comments or any instructions for changes. It shall be Firm's responsibility for ensuring that such reports are submitted to the Bank.

11. **Schedule of Payments**

- 11.1. Payment terms will be based on project milestones or deliverables. The Bank does not expect to make advance payments under consulting contracts unless a significant amount of travel is required. The Bank wishes to receive the most competitive cost proposal for the services described herein.
- 11.2. The IDB Official Exchange Rate indicated in the RFP will be applied for necessary conversions of local currency payments.

Payment Schedule	
<i>Deliverable</i>	<i>%</i>
1. <i>Workplan (5.2)</i>	20%
2. <i>Submission and approval of the analysis of the current situation of the Labor and Arbitration Boards, including the identification of the main causes of existing lags; (5.3)</i>	15%
3. <i>Submission and approval of the proposals for more efficient delivery of notifications; (5.4)</i>	15%
4. <i>Submission and approval of the proposals for more efficient conciliations processes, including the use of technological platforms to allow the conciliation to take place online (5.5)</i>	15%
5. <i>Submission and approval of the proposals for quality control mechanisms that reduce the probability that the judgments are appealed (5.6)</i>	15%
6. <i>Submission and approval of the proposals for the reassignment of personnel to the Boards with higher workloads (5.7)</i>	15%
7. <i>Submission and approval of the estimates of the fiscal costs associated with the implementation of the proposals to reduce lags (5.8)</i>	15%
8. <i>Submission and approval of the scheme for small pilot programs, containing the proposals generated by this consultation. (5.9)</i>	20%
TOTAL	100%

TERMS OF REFERENCE

Recommendation studies on the effective closure of Labor and Arbitration Boards

Mexico

ME-T-1448

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1. Background and Justification

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There is a set period to adopt these changes, established on the transitory articles for the 2019 labor reform. According to this reform's dimensions, three phases were designed to implement the labor reform. Mexico's federal states were divided in three groups, to start the implementation of the labor reform stepwise. The first phase started on November 18th, 2020 with eight states adopting changes enacted by the labor reform, the second phase is to start on October 1st, 2021 and the third phase is to start on May 1st, 2022. These changes imply, among numerous other things, the creation and set-in motion of the organisms previously mentioned, and the termination of Labor and Arbitration Boards and their functions. Starting these set dates, in those states applicable, Labor and Arbitration Boards have stopped and will stop receiving new labor disputes and labor registrations. They will only continue working disputes presented before the dates in which the new labor reform is to take place and after such disputes are resolved, Labor and Arbitration Boards will cease to exist.

Mexico needs to terminate Labor and Arbitration Boards' functions efficiently and according to the law, to liberate resources and allocate them into the new institutions, while respecting the rights of the Labor and Arbitration Boards' workers. This will be achieved by terminating all the cases being processed within Labor and Arbitration Boards, achieving prompt labor justice for the parts involved in processes held before Labor Boards. Through this TC, the IDB will collaborate directly with the Ministry of Labor and Social Prevision to:

- I. Create a legal and institutional analysis containing strategies to terminate Labor and Arbitration Boards;
- II. Create strategies for reducing lags in Labor and Arbitration Boards.

2. **Objectives**

2.1. Recommendation studies covering topics to include:

- An estimated timeframe for the when different areas of the Boards could be closed;
- Recommendations for the gradual sale of existing physical and technological assets;
- Recommendations for the gradual reduction of personnel, guaranteeing full respect for labor rights;
- Estimates of the fiscal-cost savings that result from the gradual elimination of the Conciliation and Arbitration Boards.

3. **Scope of Services**

- 3.1. The consultancy firm will elaborate analysis, recommendations and proposals oriented towards the efficient and prompt closure of Labor and Arbitration Boards in Mexico, analyzing the resources liberated from their closure. and will create a pilot program implementing proposals made.

4. **Key Activities**

- 4.1. The consultancy must assure the termination of Labor and Arbitration Boards' functions. This objective is to be achieved through calculating the time periods in which different groups of Labor and Arbitration Boards are in the possibility of closing, emitting recommendations of the gradual sale of physical assets and on the gradual reduction of personnel, and the estimation of the costs saved through the gradual termination of Labor and Arbitration Boards in Mexico.

5. **Expected Outcome and Deliverables**

- 5.1. This consultation must submit the following products. All these products must be approved to be considered final products. These outputs may be published as IDB technical notes with the authorization of the Liaison Unit for the Labor Reform in the Ministry of Labor.
- 5.2. Work plan;
- 5.3. An estimated timeframe for when the closure of different regional groups of Labor and Arbitration Boards could be closed;
- 5.4. Recommendations for the gradual sale of existing physical and technological assets;
- 5.5. Recommendations for the gradual reduction of personnel, guaranteeing full respect for labor rights;

- 5.6. Estimates of the fiscal-cost savings that result from the gradual elimination of the Conciliation and Arbitration Boards.

6. **Project Schedule and Milestones**

1.

<i>Deliverables</i>	<i>Timeframe</i>
1. Workplan (5.2)	One week after the signature of the contract
2. An estimated timeframe for the closure of different regional groups of Labor and Arbitration Boards can close (5.3)	Four weeks after the signature of the contract
3. Recommendations for the gradual sale of existing physical and technological assets (5.4)	Seven weeks after the signature of the contract
4. Recommendations for the gradual reduction of personnel, guaranteeing full respect for labor rights (5.5)	Ten weeks after the signature of the contract
4. Estimates of the fiscal-cost savings that result from the gradual elimination of the Conciliation and Arbitration Boards (5.6)	Thirteen weeks after the signature of the contract

7. **Reporting Requirements**

- 7.1. Every report must be submitted in Spanish to the Bank in an electronic file. The report should include cover, main document, and all annexes. This file must also be in an electronic format used by the Bank, such as: one of the MS Office, JPG and / or TIFF formats. ZIP files (compressed) will not be accepted as final reports due to the regulations of the Bank File Management Section.

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11. Schedule of Payments

11.1. Payment terms will be based on project milestones or deliverables. The Bank does not expect to make advance payments under consulting contracts unless a significant amount of travel is required. The Bank wishes to receive the most competitive cost proposal for the services described herein.

11.2. The IDB Official Exchange Rate indicated in the RFP will be applied for necessary conversions of local currency payments.

Payment Schedule	
<i>Deliverable</i>	<i>%</i>
1. <i>Workplan (5.2)</i>	20%
2. <i>Presentation and approval of the estimated timeframe for the closure of different regional groups of Labor and Arbitration Boards can close (5.3)</i>	20%
3. <i>Submission and approval of the recommendations for the gradual sale of existing physical and technological assets (5.4)</i>	20%
4. <i>Submission and approval of the recommendations for the gradual reduction of personnel, guaranteeing full respect for labor rights (5.5)</i>	20%
5. <i>Submission and approval of the estimates of the fiscal-cost savings that result from the gradual elimination of the Conciliation and Arbitration Boards (5.6).</i>	20%
TOTAL	100%

Consultancy on technical support in Mexico's legal reform framework

Context of the search: LMK is searching for a professional on social sciences with experience in development projects and in research on topics related to the labor market and social security.

The team's mission: The Division of Labor Markets and Social Security (SCL/LMK) promotes more and better employment in Latin America and the Caribbean. The IDB works to achieve regional goals oriented towards reducing poverty, achieving equality in opportunities and optimizing labor productivity, through the strengthening of employment and training services, the improvement of social security's design and scope of reach, and the analysis of labor markets and labor data. To achieve these goals, the IDB currently centers its analytical work and projects on the following four main areas: Intermediation, Labor Training, Workforce Migration and Social Security.

The IDB is providing technical support to the Secretariat of Labor and Social Prevision (STPS, its acronym in Spanish) in the framework of the implementation of the labor reform, published on May 1st, 2019. Among the areas of technical work, one can find: (i) support for the design of technological platforms that the Federal Center for Conciliation and Labor Reform (CFCRL, its acronym in Spanish); (ii) technical support for developing democratic labor processes within unions; and (iii) designing and imparting training courses for new officials at the CFCRL. The consultant will support these activities, and other activities that arise to support the implementation of the Labor Reform, overall assuring that the activities the IDB develops are useful for the STPS.

What you will be doing:

- **Technical support:** It is expected that the consultant supports the technical management of the implementation of projects focused on the Mexican Labor Reform, within Mexico's division, with the ends to ensure its correct implementation, securing the achievement of the projects' objectives and results, in a close relationship with the team of the Executing Unit and/or the counterparts, as appropriate. The consultant's functions will be:
 - Identifying, coordinating and maintaining adequate relationships with relevant actors for the implementation of the project(s), and also participating alongside the Bank's staff in meetings and workshops related to this function;
 - Monitoring technical advances of the project(s)'s operative plan;
 - Supporting the elaboration of Terms of Reference required for the implementation of the project(s);
 - Elaborating technical notes on the activities performed in the project(s)'s implementation;
 - Securing the adequate execution of the project(s)'s financial and non-financial resources
 - Maintaining close communication, relationship and coordination with current actors, specially the STPS and potential actors in the project(s).
 - Establishing periodic meetings with the executing unit and/or the counterparts, as appropriate, to communicate and share, advances, challenges and opportunities;
 - Securing the production of technical documents, dissemination materials and information relative to the project(s)'s results;
 - Securing and supervising the correct implementation of the project(s), performing field visits whenever it results necessary.

- **Support for the design of loan operations and technical cooperations.** Since the IDB is expected to expand its technical activities to support the implementation of the Labor Reform, which will imply raising technical cooperation funds to finance these activities, it is expected for the consultant to support the design of loan operations and/or technical cooperations in the framework of the Labor Reform in Mexico:
 - Supporting the constitution of planning, monitoring and management instruments (PEP, POA, PA, PMR), for loan operations;
 - Supporting the draft of the POD, and also coordinating the appropriate inputs with different specialists, in order to complete the document;
 - Supporting the activities which generate content for the POD, performing appropriate bibliographical revision work, the identification of best practices in topics covered in the operation, collection and analysis of information and relevant data, among others;
 - Supporting the draft of different phases of the Technical Cooperation document.
 - Supporting the logistics for work meetings with external actors to the IDB, who are relevant and are involved in the development of content in the framework design of the loans' operation.
 - Supporting the elaboration of the Technical Cooperation's Terms of Reference and its Procurement Plan.

What you will need:

- **Citizenship:** You are a citizen of Mexico or a citizen one of the IDB's 48 member countries with a legal permit or residence which allows you to work in Mexico.
- **Consanguinity:** Not being related (until the fourth grade on consanguinity and second grade of affinity (including spouses) to persons who work in the IDB Group.
- **Education:** A title or degree in social sciences, engineering or fields related to the consultancy. A graduate degree is preferred.
- **Experience:** At least 3 years professional experience if undergraduate, and 2 years professional experience if graduate, in areas of project management and/or research. Experience in Latin American and Caribbean countries and/or in developing countries is mandatory.
- **Languages:** Spanish and English, spoken and written at a professional level.

General and Technical Competencies: Experience in the analysis of public policies, planification, organization and execution of operations and projects will be positively valued. An excellent capacity for teamwork and effective oral and written communication.

Summary of the opportunity:

- **Type of contract and modality:** Consultant
- **Duration of the contract:** 12 months
- **Starting date:** December 1st, 2020
- **Location:** Mexico City, Mexico
- **Responsible individual:** Lead Specialist in Labor Markets (LMK/CME)

- **Requirements: To be a citizen of Mexico or a citizen of one of the IDB's 48 member countries with a legal permit or residency which allows you to work in Mexico, and not having any relatives who currently work at the IDB Group.**

Our culture: our people are committed and passionate about improving the lives of people in Latin America and the Caribbean, and can do what they love in an inclusive, diverse, collaborative and stimulating environment. We are the first development institution in Latin America and the Caribbean to receive the EDGE Certification, acknowledging our strong commitment to gender equality. Our employees can be a part of internal resources groups which connect our diverse community around common interests.

Since we are committed to providing equality of opportunities in employment, we welcome diversity based on gender, age, education, national origins, ethnical origins, race, disability, sexual orientation and religion. We encourage women, afro-descendants and people with indigenous origins to apply.

About us: In the Interamerican Development Bank we are decided to improve lives. Since 1959, we have been an important source of long-term financing for economic, social and institutional development in Latin America and the Caribbean. However, we do more than financing. We associate with our 48 member countries to provide Latin America and the Caribbean state of the art research on topics relevant for development, such as aiding politics to inform their decisions and technical assistance to improve the planification and execution of projects. To this effect we need people who not only possess the adequate skills, but that are also passionate about improving lives.

Our Human Resources team thoroughly reviews each application.