



REQUEST FOR PROPOSAL (RFP)

	DATE: February 9, 2017
	REFERENCE: RFP/FJI10-002-17

Dear Sir / Madam:

We kindly request you to submit your Proposal for **carrying out organisational review and reform of the Pacific Sexual Diversity Network (PSDN)**.

Please be guided by the form attached hereto as Annex 2, in preparing your Proposal.

Proposals may be submitted on or before Wednesday, February 22, 2017 via email or courier mail to the address below:

United Nations Development Programme
Level 8, Kadavu House, 414 Victoria Parade Suva
C/O Vimal Pillay

Procurement.fj@undp.org

Your Proposal must be expressed in the English, and valid for a minimum period of 120 days

In the course of preparing your Proposal, it shall remain your responsibility to ensure that it reaches the address above on or before the deadline. Proposals that are received by UNDP after the deadline indicated above, for whatever reason, shall not be considered for evaluation. If you are submitting your Proposal by email, kindly ensure that they are signed and in the .pdf format, and free from any virus or corrupted files.

Services proposed shall be reviewed and evaluated based on completeness and compliance of the Proposal and responsiveness with the requirements of the RFP and all other annexes providing details of UNDP requirements.

The Proposal that complies with all of the requirements, meets all the evaluation criteria and offers the best value for money shall be selected and awarded the contract. Any offer that does not meet the requirements shall be rejected.

Any discrepancy between the unit price and the total price shall be re-computed by UNDP, and the unit price shall prevail and the total price shall be corrected. If the Service Provider does not accept the final price based on UNDP's re-computation and correction of errors, its Proposal will be rejected.

No price variation due to escalation, inflation, fluctuation in exchange rates, or any other market factors shall be accepted by UNDP after it has received the Proposal. At the time of Award of Contract or Purchase Order, UNDP reserves the right to vary (increase or decrease) the quantity of services and/or goods, by up to a maximum twenty five per cent (25%) of the total offer, without any change in the unit price or other terms and conditions.

Any Contract or Purchase Order that will be issued as a result of this RFP shall be subject to the General Terms and Conditions attached hereto. The mere act of submission of a Proposal implies that the Service Provider accepts without question the General Terms and Conditions of UNDP, herein attached as Annex 3.

Please be advised that UNDP is not bound to accept any Proposal, nor award a contract or Purchase Order, nor be responsible for any costs associated with a Service Providers preparation and submission of a Proposal, regardless of the outcome or the manner of conducting the selection process.

UNDP's vendor protest procedure is intended to afford an opportunity to appeal for persons or firms not awarded a Purchase Order or Contract in a competitive procurement process. In the event that you believe you have not been fairly treated, you can find detailed information about vendor protest procedures in the following link:

<http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/>

UNDP encourages every prospective Service Provider to prevent and avoid conflicts of interest, by disclosing to UNDP if you, or any of your affiliates or personnel, were involved in the preparation of the requirements, design, cost estimates, and other information used in this RFP.

UNDP implements a zero tolerance on fraud and other proscribed practices, and is committed to preventing, identifying and addressing all such acts and practices against UNDP, as well as third parties involved in UNDP activities. UNDP expects its Service Providers to adhere to the UN Supplier Code of Conduct found in this link : http://www.un.org/depts/ptd/pdf/conduct_english.pdf

Thank you and we look forward to receiving your Proposal.

Sincerely yours,

Ronald Kumar
Team Leader Procurement & Travel Services
2/9/2017

Description of Requirements

Context of the Requirement	<p>The conceptualization and conversations around the need for setting up of a regional network for Gays, Lesbians, Bisexuals and Transgenders in the Pacific started way back in 2002 at the Sydney Gay Games. There were delegations from Fiji, Tonga, PNG, and Samoa at that gathering which impelled the discussion. The discussion was also prompted by the need to develop an effective regional response to the actual and potential threat that HIV and AIDS posed to MSM and transgender (TG) populations across the Pacific. There was a lot of funding available at that time from donors to support the work around HIV and AIDS specifically targeted at most at risk populations, which included MSM and TGs, so the founders felt that it was an opportune time to set up a regional network that could spearhead this work in the region and also in countries where there were minimal to no existing LGBT and/or MSM/TG movements.</p> <p>The Pacific Sexual Diversity Network (PSDN) mission has expanded to include advocating for resourced and sustainable LGBTI community organisations at country level, increased political commitment to PIDSOGIE, reform of discriminatory laws and government policies, greater sensitivity towards PIDSOGIE by law enforcement agencies, increased availability of strategic information through research and routine data collection, reduction of institutionalized and social stigma and discrimination, positive engagement with religious institutions, inclusive educational environments and increased representation of PIDSOGIE at local, national and international levels. <i>Refer to Annex 4 – Terms of Reference for details.</i></p>
Brief Description of the Required Services ¹	<p>Service Provider to ;</p> <ul style="list-style-type: none"> • Conduct a full Organizational Review • Development of PSDN’s Governance manual and its Operational Policies and Procedures manual including a finance manual • Assist PSDN and its board in the Registration process in Fiji <p><i>Refer to Annex 4 – Terms of Reference for details.</i></p>
List and Description of Expected Outputs to be Delivered	<p>The Scope of work of the includes the following:</p> <ul style="list-style-type: none"> • Review and update the PSDN constitution, mission, purposes, board structure and membership to align it to the laws of Fiji as well as to the growth and expansion of the PSDN in the recent

¹ A detailed TOR may be attached if the information listed in this Annex is not sufficient to fully describe the nature of the work and other details of the requirements.

	<p>years</p> <ul style="list-style-type: none"> • Review the current secretariat organogram and staffing to align it to its vision and mission • Review and update the governance policies of the PSDN and ensure alignment to the revised constitution and to the operational policies and procedures • Develop the Operational Policies and Procedures manual of the PSDN and ensure its alignment to the governance policies • Register the PSDN under the current Fiji laws • The service provider shall be responsible for carrying out the review and submit its deliverables in accordance with the TOR and agreed timelines • The staff and the Board will make themselves available for interviews during the review period and • The organisation will provide the relevant documentation to the service provider <p>The Policy Development Committee will facilitate the process and ensure that the service provider will deliver according to the TOR.</p> <p><i>Refer to Annex 4 –Terms of Reference for details.</i></p>
Person to Supervise the Work/Performance of the Service Provider	The Pacific Sexual Diversity Network <i>delegated board member</i> <i>UNDP Pacific GF programme Management unit Finance Analyst</i>
Frequency of Reporting	<i>Weekly</i>
Progress Reporting Requirements	Weekly progress reports covering the completed work
Location of work	Fiji
Expected duration of work	3 months
Target start date	1 st March 2017
Latest completion date	30 th May 2017
Travels Expected	N/A
Special Security Requirements	N/A
Facilities to be Provided by UNDP (i.e., must be excluded from Price Proposal)	N/A
Implementation Schedule indicating breakdown and timing of activities/sub-activities	<input checked="" type="checkbox"/> Required
Names and curriculum vitae of individuals who will be	<input checked="" type="checkbox"/> Required

involved in completing the services			
Currency of Proposal	<input checked="" type="checkbox"/> United States Dollars <input checked="" type="checkbox"/> Local Currency (FJD)		
Value Added Tax on Price Proposal ²	<input checked="" type="checkbox"/> must be inclusive of VAT and other applicable indirect taxes		
Validity Period of Proposals (Counting for the last day of submission of quotes)	<input checked="" type="checkbox"/> 120 days In exceptional circumstances, UNDP may request the Proposer to extend the validity of the Proposal beyond what has been initially indicated in this RFP. The Proposal shall then confirm the extension in writing, without any modification whatsoever on the Proposal.		
Partial Quotes	<input checked="" type="checkbox"/> Not permitted		
Payment Terms ³	<table border="1"> <tr> <th>Condition for Payment Release</th> </tr> <tr> <td> Within thirty (30) days from the date of meeting the following conditions: a) UNDP's written acceptance (i.e., not mere receipt) of the deliverables; and b) Receipt of invoice from the Service Provider. </td> </tr> </table>	Condition for Payment Release	Within thirty (30) days from the date of meeting the following conditions: a) UNDP's written acceptance (i.e., not mere receipt) of the deliverables; and b) Receipt of invoice from the Service Provider.
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Person(s) to review/inspect/ approve outputs/completed services and authorize the disbursement of payment	UNDP Global Fund Program Manager (2) PSDN board		
Type of Contract to be Signed	<input checked="" type="checkbox"/> Institutional Contract		
Criteria for Contract Award	<input checked="" type="checkbox"/> Highest Combined Score (based on the 70% technical offer and 30% price weight distribution)		

² VAT exemption status varies from one country to another. Pls. check whatever is applicable to the UNDP CO/BU requiring the service.

³ UNDP preference is not to pay any amount in advance upon signing of contract. If the Service Provider strictly requires payment in advance, it will be limited only up to 20% of the total price quoted. For any higher percentage, or any amount advanced exceeding \$30,000, UNDP shall require the Service Provider to submit a bank guarantee or bank cheque payable to UNDP, in the same amount as the payment advanced by UNDP to the Service Provider.

	<input checked="" type="checkbox"/> Full acceptance of the UNDP Contract General Terms and Conditions (GTC). This is a mandatory criteria and cannot be deleted regardless of the nature of services required. Non acceptance of the GTC may be grounds for the rejection of the Proposal.		
Criteria for the Assessment of Proposal	Technical Proposal (70%)		
	<input checked="" type="checkbox"/> Expertise of the Firm 40%		
	<input checked="" type="checkbox"/> Methodology, Its Appropriateness to the Condition and Timeliness of the Implementation Plan 40%		
	<input checked="" type="checkbox"/> Management Structure and Qualification of Key Personnel 20%		
	Technical Proposal Evaluation Form 1		
	Expertise of the Firm 40%		
	1	Reputation of Organisation	10
	2	Financial Capacity	10
	3	Relevance of: - Specialised Knowledge - Experience on Similar Programme / Projects - Experience on Projects in the Region	20
			40
Technical Proposal Evaluation Form 2			
Methodology, Its Appropriateness to the Condition and Timeliness of the Implementation Plan 40%			
4	Have the important aspects of the task been addressed in sufficient detail and the different components of the project adequately weighted relative to one another?	20	
5	Is the scope of task well defined and does it correspond to the TOR?	10	
6	Is the presentation clear and is the sequence of activities and the planning logical, realistic and promise efficient implementation to the project?	10	
		40	
Technical Proposal Evaluation Form 3			

	Management Structure and Qualification of Key Personnel			
	1	Management Structure	10	
	2	Qualification of Key Personnel	10	
			20	
		Financial Proposal (30%) To be computed as a ratio of the Proposal’s offer to the lowest price among the proposals received by UNDP.		
UNDP will award the contract to:	<input checked="" type="checkbox"/> One and only one Service Provider			
Annexes to this RFP ⁴	<input checked="" type="checkbox"/> Form for Submission of Proposal (Annex 2) <input checked="" type="checkbox"/> General Terms and Conditions / Special Conditions (Annex 3) ⁵ <input checked="" type="checkbox"/> Detailed TOR			
Contact Person for Inquiries (Written inquiries only) ⁶	Vimal Pillay Procurement Associate procurement.fj@undp.org Any delay in UNDP’s response shall be not used as a reason for extending the deadline for submission, unless UNDP determines that such an extension is necessary and communicates a new deadline to the Proposers.			
Other Information [pls. specify]	N/A			

⁴ Where the information is available in the web, a URL for the information may simply be provided.

⁵ Service Providers are alerted that non-acceptance of the terms of the General Terms and Conditions (GTC) may be grounds for disqualification from this procurement process.

⁶ This contact person and address is officially designated by UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was received.

FORM FOR SUBMITTING SERVICE PROVIDER'S PROPOSAL⁷

(This Form must be submitted only using the Service Provider's Official Letterhead/Stationery⁸)

[insert: Location]

[insert: Date]

To: [insert: Name and Address of UNDP focal point]

Dear Sir/Madam:

We, the undersigned, hereby offer to render the following services to UNDP in conformity with the requirements defined in the RFP dated [specify date], and all of its attachments, as well as the provisions of the UNDP General Contract Terms and Conditions :

A. Qualifications of the Service Provider

The Service Provider must describe and explain how and why they are the best entity that can deliver the requirements of UNDP by indicating the following :

- a) *Profile – describing the nature of business, field of expertise, licenses, certifications, accreditations;*
- b) *Business Licenses – Registration Papers, Tax Payment Certification, etc.*
- c) *Latest Audited Financial Statement – income statement and balance sheet to indicate its financial stability, liquidity, credit standing, and market reputation, etc. ;*
- d) *Track Record – list of clients for similar services as those required by UNDP, indicating description of contract scope, contract duration, contract value, contract references;*
- e) *Certificates and Accreditation – including Quality Certificates, Patent Registrations, Environmental Sustainability Certificates, etc.*
- f) *Written Self-Declaration that the company is not in the UN Security Council 1267/1989 List, UN Procurement Division List or Other UN Ineligibility List.*

B. Proposed Methodology for the Completion of Services

The Service Provider must describe how it will address/deliver the demands of the RFP; providing a detailed description of the essential performance characteristics, reporting conditions and quality assurance mechanisms that will be put in place, while demonstrating that the proposed methodology will be appropriate to the local conditions and context of the work.

⁷ This serves as a guide to the Service Provider in preparing the Proposal.

⁸ Official Letterhead/Stationery must indicate contact details – addresses, email, phone and fax numbers – for verification purposes

C. Qualifications of Key Personnel

If required by the RFP, the Service Provider must provide :

- a) Names and qualifications of the key personnel that will perform the services indicating who is Team Leader, who are supporting, etc.;*
- b) CVs demonstrating qualifications must be submitted if required by the RFP; and*
- c) Written confirmation from each personnel that they are available for the entire duration of the contract.*

D. Cost Breakdown per Deliverable*

	Deliverables <i>[list them as referred to in the RFP]</i>	Percentage of Total Price <i>(Weight for payment)</i>	Price <i>(Lump Sum, All Inclusive)</i>
1	Deliverable 1		
2	Deliverable 2		
3		
	Total	100%	

**This shall be the basis of the payment tranches*

E. Cost Breakdown by Cost Component

Description of Activity	Remuneration per Unit of Time	Total Period of Engagement	No. of Personnel	Total Rate
I. Personnel Services				
Professional fee for staff				
II. Related Costs				
III. Administrative costs				

*[Name and Signature of the Service Provider's
Authorized Person]
[Designation]
[Date]*

General Terms and Conditions for Services

1.0 LEGAL STATUS:

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis the United Nations Development Programme (UNDP). The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

2.0 SOURCE OF INSTRUCTIONS:

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action that may adversely affect UNDP or the United Nations and shall fulfill its commitments with the fullest regard to the interests of UNDP.

3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

4.0 ASSIGNMENT:

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

5.0 SUB-CONTRACTING:

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

6.0 OFFICIALS NOT TO BENEFIT:

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7.0 INDEMNIFICATION:

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This

provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:

- 8.1** The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.
- 8.2** The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or the equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.
- 8.3** The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.
- 8.4** Except for the workmen's compensation insurance, the insurance policies under this Article shall:
 - 8.4.1** Name UNDP as additional insured;
 - 8.4.2** Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the UNDP;
 - 8.4.3** Provide that the UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.
- 8.5** The Contractor shall, upon request, provide the UNDP with satisfactory evidence of the insurance required under this Article.

9.0 ENCUMBRANCES/LIENS:

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

10.0 TITLE TO EQUIPMENT:

Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

- 11.1** Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor

acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.

- 11.2** To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.
- 11.3** At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.
- 11.4** Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of the UNDP, shall be made available for use or inspection by the UNDP at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to UNDP authorized officials on completion of work under the Contract.

12.0 USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS:

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or THE United Nations, or any abbreviation of the name of UNDP or United Nations in connection with its business or otherwise.

13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:

Information and data that is considered proprietary by either Party and that is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract, and that is designated as confidential ("Information"), shall be held in confidence by that Party and shall be handled as follows:

- 13.1** The recipient ("Recipient") of such information shall:
 - 13.1.1** use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and,
 - 13.1.2** use the Discloser's Information solely for the purpose for which it was disclosed.
- 13.2** Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 13, the Recipient may disclose Information to:
 - 13.2.1** any other party with the Discloser's prior written consent; and,
 - 13.2.2** the Recipient's employees, officials, representatives and agents who have a need to know such Information for purposes of performing obligations under the Contract, and employees officials, representatives and agents of any legal entity that it controls controls it, or with which it is under common control, who have a need to know such Information

for purposes of performing obligations under the Contract, provided that, for these purposes a controlled legal entity means:

13.2.2.1 a corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; or,

13.2.2.2 any entity over which the Party exercises effective managerial control; or,

13.2.2.3 for the UNDP, an affiliated Fund such as UNCDF, UNIFEM and UNV.

- 13.3** The Contractor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor will give the UNDP sufficient prior notice of a request for the disclosure of Information in order to allow the UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.
- 13.4** The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.
- 13.5** The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.
- 13.6** These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract.

14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

- 14.1** In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the UNDP of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.
- 14.2** If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.
- 14.3** Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.
- 14.4** The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

15.0 TERMINATION

- 15.1** Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 ("Arbitration"), below, shall not be deemed a termination of this Contract.
- 15.2** UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.
- 15.3** In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.
- 15.4** Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

16.0 SETTLEMENT OF DISPUTES

- 16.1 Amicable Settlement:** The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.
- 16.2 Arbitration:** Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

17.0 PRIVILEGES AND IMMUNITIES:

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

18.0 TAX EXEMPTION

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.

18.2 Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19.0 CHILD LABOUR

19.1 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

19.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20.0 MINES:

20.1 The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

20.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21.0 OBSERVANCE OF THE LAW:

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

22.0 SEXUAL EXPLOITATION:

- 22.1** The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.
- 22.2** The UNDP shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the Contract.

23.0 AUTHORITY TO MODIFY:

Pursuant to the Financial Regulations and Rules of UNDP, only the UNDP Authorized Official possesses the authority to agree on behalf of UNDP to any modification of or change in this Contract, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in this Contract shall be valid and enforceable against UNDP unless provided by an amendment to this Contract signed by the Contractor and jointly by the UNDP Authorized Official.

Terms of Reference

1. Title	Governance and Organisational review and reform of the Pacific Sexual Diversity Network (PSDN)
2. Background	<p>The conceptualization and conversations around the need for setting up of a regional network for Gays, Lesbians, Bisexuals and Transgenders in the Pacific started way back in 2002 at the Sydney Gay Games. There were delegations from Fiji, Tonga, PNG, and Samoa at that gathering which impelled the discussion. The discussion was also prompted by the need to develop an effective regional response to the actual and potential threat that HIV and AIDS posed to MSM and transgender (TG) populations across the Pacific. There was a lot of funding available at that time from donors to support the work around HIV and AIDS specifically targeted at most at risk populations, which included MSM and TGs, so the founders felt that it was an opportune time to set up a regional network that could spearhead this work in the region and also in countries where there were minimal to no existing LGBT and/or MSM/TG movements.</p> <p>These conversations continued the years after and were further explored and consolidated at the Love Life Fono in Auckland, New Zealand, in 2005 before the UNAIDS Pacific Office Mr Stuart Watson and New Zealand AIDS Foundation Ms Phylesha Acton Brown and Aditya Bandopadhyay from APCOM came on board and assisted in the official setting up of PSDN's governance structures and mechanisms and secretariat in Samoa between 2006 and 2008. These included a consultative workshop on the constitution of the PSDN and eventual conduct of elections to appoint the Board and its Office Bearers. On the 24th August 2007 PSDN was officially established and launched in Apia Samoa. It was formally registered in July 2009 as an Incorporated Society under the Samoan 1952 Incorporated Societies Ordinance regularised by the Samoan Ministry of Commerce Industry and Labour.</p> <p>The PSDN was inaugurated as a regional network of Pacific MSM and Transgender organisations whose mission was to strengthen community leadership, mobilization and advocacy in the areas of sexuality and gender identities with respect to sexual health including STI's, HIV and AIDS, well-being and human rights.</p> <p>A Board was set up with MSM and TG representatives from the member countries, Cook Islands, Fiji, Papua New Guinea, Samoa and Tonga, with the founders Joey Mataele, Ken Moala and Carlos Perreira nominated as its Life members. The PSDN Board membership at that time and as per the current stipulations in the constitution included any Pacific Region CSO that had the interest and potential to be involved in MSM & TGs, and other relevant groups, work at village, community, national, regional, regional or international level.</p> <p>The process was done through interested parties providing LOR to the PSDN, where the Board reviewed and made recommendations on the validity of the interested parties. Most of its purposes and goals as per the constitution were still focused on MSM and TGs and their health and human rights.</p> <p>The organisation has however evolved over the years in terms of its mandate and membership and policies while its constitution was last reviewed in August 2012. It has not been updated since then to take into account the changes. PSDN's work has grown a lot around human rights of LGBTQIs in the region and many more organisations from other PICs</p>

	<p>have joined as members prior to and during the first ever Pacific Human Rights Conference on SOGIE held in Nukualofa Tonga in May 2015.</p> <p>The organisation also started to promote the rights of sex workers and it is assisting countries where there are no sex worker networks to do some sex worker movement building and sex worker community organising so that they can lead the HIV response and human rights work for sex workers in their respective countries.</p> <p>PSDN is now the focal network of Pacific Islanders of Diverse Sexual Orientation and Gender Identity in the Pacific (PIDSOGIE) and the LGBTQI (Lesbian Gay Bisexual Transgender Queer Intersex) community in particular. Its secretariat is currently in the process of relocating to Fiji from Tonga in order to strengthen its partnerships with regional and international organisations, most of which are based in Suva, Fiji. There are ongoing efforts to register PSDN in Fiji while its registrations in Samoa and Tonga remain valid.</p> <p>PSDN membership has continued to increase over the years and has now affiliates in 14 member countries (American Samoa, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Nauru, Palau, Papua New Guinea, Republic of Marshall Islands, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu).</p> <p>The PSDN's mission has expanded to include advocating for resourced and sustainable LGBTI community organisations at country level, increased political commitment to PIDSOGIE, reform of discriminatory laws and government policies, greater sensitivity towards PIDSOGIE by law enforcement agencies, increased availability of strategic information through research and routine data collection, reduction of institutionalized and social stigma and discrimination, positive engagement with religious institutions, inclusive educational environments and increased representation of PIDSOGIE at local, national and international levels.</p> <p>While the PSDN has continued to grow and expand in terms of its mandate and membership and popularity in regional and international fora, its governance policies, secretariat organisational structure/organogram, operational policies and procedures and the securing of sustainable funding has failed to grow with it.</p> <p>PSDN has had different leaders in the past (Board Chairs and Board members who carried out the tasks as volunteers) with varying levels of capacities in leadership and governance. While most of the attention was focused on developing strategic plans for the organisation, not much attention was placed on developing the capacity areas as highlighted above. The organisation struggled in mobilizing core funds to fund its secretariat work which was done by only one person. There were major setbacks during its growth spurt where core funding provided by one of the early donors was withdrawn.</p> <p>As a starting point, the PSDN plans to review its constitution and governance structure including its board membership and mandate, its secretariat organogram to align it to prevailing situation as well as its vision for the future. The review will further include an update of its governance policies and the development of its operational policies and procedures. The process will also entail an analysis of the current situation, scan and assessment of the donor landscape, re-evaluation of its priorities and niche, exploration of sustainable options for its growth in the future and regaining of its strength as the main LGBTI organisation in the Pacific region.</p>
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3. Context	<p>Given the major issues highlighted in the background section, the PSDN Management Board at its 2015 Board meeting held in Suva Fiji made two major decisions, (i) the relocation of the PSDN secretariat to Suva Fiji from Nukualofa Tonga given the range of benefits it will derive from being based at the hub of all development, commercial, and information technology in the Pacific (including it being home to many of the donor and development partners that work in the Pacific region that could potentially support the work of the PSDN regionally, nationally and internationally). (ii) Fiji's laws require the PSDN to register as an organisation in Fiji and this was timely as the PSDN was also planning to undertake an organisational review and reform; particularly the review and update of its governance and organisational structure which included its constitution, board membership, objectives, mandate and membership, secretariat organisational structure and governance policies given the glaring need to expand its mandate and membership to ensure that it covered the diverse representation and needs within the LGBT community in the Pacific.</p> <p>The lack of existence of a robust operational policies and procedures manual was also highlighted as an issue that was limiting the growth of the PSDN hence it was also prioritised by the Board as an activity that needed to be done together with the organisational review and reform.</p> <p>The review and adjustment of the organisation's current structures and systems is inevitable to ensure that the PSDN remains relevant and the go-to regional organisation in the Pacific for any issues related to LGBTQI Rights and Equality.</p> <p>This assignment includes assessment of the effectiveness and efficiency of PSDNs current governance, Organisational structure and management system(s) in achieving its mission, vision and strategic goals and recommend and implement doable actions for changes or adjustments to ensure an optimal organisation, governance and management to assist PSDN in accomplishing its mission and vision.</p> <p>PSDN's board and management have identified the need to evaluate the current Organisational and management structure in light of:</p> <ul style="list-style-type: none"> • The expansion of the mandate and membership of the PSDN • The need to register the PSDN under Fiji's laws • The need to plug the existing capacity gaps at all levels within the organisation • The need to be inclusive of the full spectrum of the LGBTQI/ rainbow community from the governance structures to its programs and policies • The need to upscale and raise the work and profile of the PSDN in the Pacific region and internationally • The need to strengthen the capacity of the PSDN in key areas of the institution to ensure its relevance in the region • The need to increase the effectiveness and efficiency of the PSDN • The need to explore options to come to a self-sustaining model of the organisation and its work in the region • The rapid growth of the organisation in the last 18 months, particularly in terms of its membership • increased levels of funding and changes in funding complexity and scale, including increased demand for accountability from funders.
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4. Overall objective of the Assignment	<p>(a) Conduct a full Organisational Review</p> <p>(b) Development of PSDN's Governance manual and its Operational Policies and Procedures manual including a finance manual</p> <p>(c) Facilitate PSDN and its board in the Registration process in Fiji</p>
5. Scope and Focus of the work	<p>The Scope of work of the Service provider will entail the following:</p> <ul style="list-style-type: none"> - Conduct a full Organisational Review - Develop the Operational Policies and Procedures manual of the PSDN and ensure its alignment to the governance policies. - Register the PSDN under the current Fiji laws <p>In more detail, Service Provider(s) is expected to:</p> <p>1. Conduct a full Organisational Review</p> <ol style="list-style-type: none"> a. Service Provider will review the current constitution and governance structures in consultation with the Executive Committee of the Board, the current and past Board members, members of the PSDN and other key stakeholders and formulate recommendations on improvements and changes. b. The review will include a review of the current roles, actual performance and functioning of the Board and members of the Executive Committee in relation to organisational structures and lines of authority and management with respect to strategic and operational planning and decision-making of PSDN. c. The Board membership and structure will be reviewed including processes of nomination of members and representation. d. The mission, vision and objectives of the PSDN will be reviewed e. The secretariat organogram will be reviewed <p>The review will further consider whether PSDN's management structure - in its current composition and division of roles and time allocation - is skilled, committed, equipped, resourced and with adequate capacity to deal with the <u>specific tasks</u> of programme management, guidance, supervision and support of staff and PSDN's positioning and performance, including risk management, transparency and accountability.</p> <p>Possible Lines of Enquiry and Development for the organisational review:</p> <p>I. Change in Board membership</p> <ul style="list-style-type: none"> - The changes brought in by the new board members in terms of a leadership, management, personal skills and experiences. - Division of responsibilities and tasks between the board and the operational staff of the organisation. - Impact of the new changes on the organisation and on the staff. - Benefits and the challenges related to this change. - Develop the preferred organisational model for the PSDN secretariat, including staffing, roles and responsibilities.

	<p>II. Roles and Performance of the Executive Committee, the Board and staff in carrying out identified functions, in conjunction with the strategic plan and organisational structure</p> <ul style="list-style-type: none"> - The roles, performance and division of authority, responsibilities and tasks between the Board, Executive Committee, Executive Coordinator, staff members and volunteers, subcommittees and other relevant stakeholders to the organisation. - <p>2. Development of PSDN's Governance manual and its Operational Policies and Procedures manual including a finance manual</p> <p>Service Provider will assist the Board and the secretariat to develop PSDN's governance manual and its operational policies and procedures manual and ensure its alignment to good governance principles of accountability and transparency.</p> <p>The operational manual will need to cover the broad spectrum of organisational fields, including (but not limited to) finance, human resources, marketing and communications (internal and external), fundraising, membership and code of conduct for members, data - knowledge and information policies, archiving and storing key documents, ICT and organisational culture. It is envisaged that the finance sector may be a separate manual.</p> <p>3. Assist PSDN and its board in the Registration process in Fiji</p> <ul style="list-style-type: none"> (i) In consultation with the PSDN board and secretariat, Service Provider will explore, identify, select and recruit a local law firm that will register the PSDN officially with the relevant authorities in Fiji. (ii) The law firm will provide advice on the most suitable registration format that the PSDN can register under in Fiji with clear pros and contras and provide the list of requirements necessary to be met by PSDN to register. This may include registration as a Charitable Trust, Company Limited by Guarantee or any other legal form that would suit the organisation. (iii) Service Provider will be responsible for obtaining and collating all the requirements to be provided by PSDN that the law firm needs to register the PSDN. (iv) Both Service Provider and the law firm will arrange for the registration of PSDN with other relevant local authorities such as FIRCA, FNPF, and the Suva City Council. (v) Service Provider will be responsible for facilitating the opening of the local PSDN bank account in Fiji. (vi) Given the urgency to register the PSDN, Service Provider and the law firm will discuss and advise the PSDN board based on the relevant laws in Fiji, the fastest and easiest option for PSDN to register.
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6. Participants in the Governance and Organisational Review	<p>The participants in this process are envisaged to be:</p> <ul style="list-style-type: none"> - Past and present board members - Past and present secretariat staff; - Members of the PSDN; - Other key stakeholders <p>The Policy Development committee will oversee the organisational review process with the assistance of the Executive Coordinator and oversight provided by the Chair of the PSDN.</p>
7. Roles and Responsibilities	<p>The roles and responsibilities of the various participants will be:</p> <ul style="list-style-type: none"> - Service Provider shall be responsible for carrying out the review and submit its deliverables in accordance with the TOR and agreed timelines - The staff and the Board will make themselves available for interviews during the review period and - The organisation will provide the relevant documentation to Service Provider - The Policy Development Committee will facilitate the process and ensure that Service Provider will deliver according to the TOR.
8. Governance and Organisational Review process and methodology	<p>Service Provider is requested to submit detailed approach and methodology to the tasks requested above. The submission should also include a financial proposal</p>
9. Deliverables and Milestones	<ul style="list-style-type: none"> - Inception report with proposed work plan and time lines, based on initial discussions and desk research - Regular weekly updates to Policy Development committee by email for the duration of the contract, with options for face-to-face or skype meetings if necessary - Written interim report half-way the assignment - Final report consistent with the TORs and incorporating PSDN's feedback, corrections and changes, including recommendations and options for PSDN. Report should summarise and capture the feedback (either in main report or as an annex), containing consultant's full observations and general and specific recommendations on options for PSDN organisational structure and management approach going forward - Governance policies and procedures manual in final form incorporating the Board recommendations - Operational policies and procedures manual, including a separate finance manual <p>Milestones/timeline (consulting firm to work for 3 months on the assignment,)</p> <ul style="list-style-type: none"> - Start date in the March 1st 2017 - Skype Meeting of consultant with Executive Committee and Policy Development Committee to explain the context of the review, particular issues to be looked at, challenges, expected outcomes, agreement of scope of work

	<ul style="list-style-type: none"> - Consulting firm to submit the inception report 7 working days after the start of the assignment - Weekly progress reports - Interim report by March 30th 2017 - Final report by 20 May 2017 - PSDN management response by 27th May 2017 - Final report by 30th May 2017, to be submitted to Board
10. Consultant Qualifications	<p>For this assignment, the firm key personnel are required to have:</p> <ul style="list-style-type: none"> - Degree and/or experience in organisational management - Experience of internationally operating NGOs and working remotely - Experience of carrying out organisational management reviews essential - Experience and knowledge of PSDN's area of work desirable. <p>Service Provider is further expected to have:</p> <ul style="list-style-type: none"> - A high level of organisational and coordination skills - Be culturally sensitive - Have an excellent command of the English language – both written and oral. - Ability to produce quality work within a deadline and under pressure. Highly developed communication skills. - Strong ability to work independently. <p>Before contracting, references are requested Partial submissions are accepted</p>
11. Cost parameters for the Organisational Review	<p>With the offer letter and proposed methodology, a financial proposal is required with a detailed breakdown of the number of days, total costs and any other associated costs envisaged for carrying out the assignment.</p>