



## ADVERTIZEMENT

### INDIVIDUAL CONSULTANT PROCUREMENT NOTICE (ICPN)

#### Individual National Consultant -Evaluation of Support to Media Project

Date: 2<sup>nd</sup> May, 2017

Procurement Notice No.: SLE/IC/2017/012

Country: Sierra Leone

Description of the assignment: Individual National Consultant -Evaluation of Support to Media Project

Project Name: Project Manager Media Development Project.

Period of assignment: 42 Days

Proposal should be submitted at the following address, UNDP, 55 Wilkinson Road, Freetown, Sierra Leone or by email to [procure.sle@undp.org](mailto:procure.sle@undp.org) no later than 10.00 am Local Time, 16<sup>th</sup> May, 2017.

Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. UNDP Sierra Leone will respond in writing or by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants.

#### 1. BACKGROUND

Since 2014, UNDP Sierra Leone has been supporting an ambitious Media Reform program guided by a four-year National Media Reform Strategy that was formulated in 2014 following a comprehensive national assessment in 2013 of key media institutions' capacities and the review of media laws in Sierra Leone. Both exercises were jointly supported by UNDP and UNESCO through the Independent Media Commission (IMC) and gained overwhelming support of key media stakeholders in the country. The reviews indicated lack of professionalism and the absence of comprehensive media law as two major challenges in the media landscape in Sierra Leone.

As part of the implementation of the four-year strategy (2014 – 2018), Media Reform Coordinating Group Sierra Leone (MRCG SL) was constituted comprising of nine key media institutions and was formerly endorsed by all stakeholders in May 2014 and has since been

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playing coordinating role of media reform processes in the country. The overall aim of the Programme is to strengthen democratic dialogue and accountability, consolidate peace and ensure development through professional, independent and sustainable media based on the right to freedom of speech. The rationale for UNDP/development partners support is to focus on strategic capacity building of the media associations and organizations which forms the corner stone for media development and as catalyst activities triggering external donors to jointly engage the media in the country.

The vision of the media development strategy is based on the right to freedom of speech and expression to build a sustainable and diverse media sector whose professionalism contributes to strengthening the democracy and development of Sierra Leone.

The strategy defined four key strategic objectives as follow:

- Improved ethics of the media through regulatory or self-regulatory mechanisms
- Promoting transparent and independent allocation of licenses, handling of media complaints, and stimulating an enabling regulatory and political environment for professional and pluralistic media
- Sustainable and independent public service broadcasting serving all the people of the country
- Strengthened professionalism and sustainability of organizations and improved people's participation in media development and content

## **2. Purpose of Evaluation**

The evaluation will look at all aspects of the Media Development Project from inception up to the time of the evaluation. The evaluation will also provide an important input into the formulation of the future strategy by MRCG SL and UNDP, especially in the light of changes Sierra Leone has undergone since the outbreak of Ebola Virus Disease.

The evaluation will focus on learning for improving and adjusting the support to Media Development Project design, governance and operations. The evaluation focus will also be guided by the standard evaluation criteria of relevance, efficiency, effectiveness, Impact and sustainability. It will also capture leveraged and unintended support and results to media development project (if any), as well as other pertinent evaluation criteria such as equity, gender equality, south-south collaboration and human rights.

The mid-term evaluation is aimed at:

- ☐ Learning lessons and deepening the understanding of how the media development project was designed, set up, managed and delivered. The evaluation will generate useful lessons especially on the design, management and quality of results generated by the project for improving the quality of similar and future initiatives;

- ❑ Accounting for various investment in terms of the intended and unintended results; the mid-term evaluation will also provide essential information on intended and unintended results to donors and partners to account for all investments to Media Development Project
- ❑ Informing decisions on the way forward and course correction measures, as well as the sustainability, scalability and replicability of the Media Development Project interventions

### **Objective of the Evaluation**

The main objective of this evaluation is to assess the progress in terms of achieving the projects stated objectives and results. The evaluation will also assess UNDP's contribution to media reform processes in Sierra Leone as well as to inform the design of the new project document for the Support to Media Development Project (2017 – 2020). The specific objectives of the evaluation are as follows:

- Assess the performance of the project in achieving planned results and contribution to achievement of UNDP Country Programme Document (CPD), UNDP Strategic Plan and Government of Sierra Leone (GoSL) development goals and results;
- Identify and assess the strengths, weaknesses, constraints and opportunities of the Support to Media Development Project to recommend any necessary changes or course correction measures in the implementation and design of future similar development initiatives; and
- Draw, on the basis of above objectives, lessons and recommendations for sustaining the media development project results, and providing guidance for the future strategic direction of the media development in Sierra Leone.

### **3. Scope of Work**

The evaluation will cover all activities undertaken in the project and the period from inception to the time of the evaluation. It is expected to meet International and United Nations Evaluation Group (UNEG) standards and guidelines, and at a minimum, apply the following review criteria:

- ❑ **Effectiveness** of the Support to Media Development Project in achieving or likely achieving expected and unintended results;
- ❑ **Relevance and coherence** of Support to Media Development Project objectives and design (including its theory of change, governance structure and delivery model) and activities towards realizing the desired results;
- ❑ **Efficiency** of the Support to Media Development Project in its design, institutional arrangements, and strategies used to achieve expected and unintended results;
- ❑ **Sustainability** of the support to Media Development Project activities and results including the focus on scalability and replicability;
- ❑ To the extent possible, the evaluation is also expected to capture and highlight **initial impacts** and provide recommendations to ensure the project continues its trajectory to deliver the intended impact.

Within the above criteria and as appropriate, the evaluation is also expected to cover the following;

- An assessment of whether programme's partnership strategy was adequate and effective including the range and quality of partnerships and collaboration developed with government, civil society, donors, the private sector and whether these contributed to improved programme delivery and attainment of results. The evaluation is also expected to assess how synergies were built with other state and non-state programmes/projects that contribute to Media Development.
- An assessment of how the cross-cutting themes and UN programme design attributes such as Human Rights, Equity, Gender Equality etc. were integrated in the programme design and implementation, as well as results and social effects of these interventions.
- Integrate capacity assessments of supported institutions to include but not be limited to assessment of changes in capacities for evidence based policy, legal framework, strategy and programme development, systems and in other areas.

#### **4. Methodology of the Assignment**

Based on UNDP guidelines for mid-term evaluations, and in consultations with UNDP Sierra Leone, the evaluation will be inclusive and participatory, involving all principal stakeholders. The evaluation will consider the social, political and economic context which have affected the overall performance of the project taking into account EVD related factors. The review methods will include, but will not be limited to the following provided they are agreed at the inception phase: During the evaluation, the consultant is expected to apply but is not limited to the following approaches for data collection and analysis:

- ☐ Key informant interviews with UNDP Senior Management and Project Staff;
- ☐ Desk review of relevant documents including policy frameworks, legal frameworks, national strategies, evaluation reports, project progress reports and any other necessary references including related reports on media development in Sierra Leone;
- ☐ Interviews with partners and stakeholders, government officials, service providers including CSO partners, Development Partners and/or Donors, strategic partners on media development;
- ☐ Field visits;
- ☐ Case studies for comprehensive examination and cross comparison of cases to obtain in-depth information.

The consultant is expected to develop a detailed evaluation plan and an evaluation design matrix showing methods of addressing key evaluation criteria and objectives as part of the inception report. He/she will submit a short inception report that will also describe:

- ☐ How he/she understood the Programme theory of change in developing the evaluation plan

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- ☐ The detailed evaluation plan, indicating the methods to be used and information sources to be looked at for each evaluation question.

The evaluation will be carried out in accordance with UN Evaluation Group evaluation standards which emphasize the need for: Independence, Credibility, Utility, Impartiality, Transparency, Disclosure, Ethics, and Participation

## **5. Management Arrangements**

The presence of an international consultant would be an added advantage given the safeguard independence and impartiality of the evaluation. The consultant will have the support of the Programme Management Support Unit and Governance Cluster in the country office. The Media Reform Coordinating Group Sierra Leone (MRCG SL) Secretariat and board will provide the evaluators an overview of the project, as well as the results of preliminary data collection and analysis, which will include contextual information, project and outcome monitoring data, and relevant documents including project documents, progress reports and evaluation reports.

The Head of PMSU will be the evaluation manager. The Consultant will report to the evaluation manager and the Project Manager Media Development Project. A reference group will be established to provide additional support and quality assurance to the evaluation, as well as working closely with the evaluation manager in reviewing the terms-of-reference, the inception report, the draft report. The reference group will be made up of the Project Manager, the Governance Team Leader, Evaluation Manager, Selected members of the MRCG SL and representatives of other key stakeholder organizations.

UNDP Sierra Leone and the Consulting Team shall be responsible for setting up meetings with all key stakeholders of the project, both government and non-governmental organizations.

## **6. Expected Deliverables**

The key deliverables of the Evaluation Consultant will include the following outputs:

- ☐ Inception report which will include a detailed evaluation plan and evaluation design matrix and its presentation (before the commencement of field work);
- ☐ Evidence set (analyzed data) used for writing the report and for the presentation – the analyzed data will be included in the technical annexes;
- ☐ Draft report and its presentation to the Evaluation Reference Group and for peer review. The evaluation report will include: the executive summary, evaluation purpose, objectives and questions, social and environmental considerations of the project, sustainability, scalability and replicability of the project, key aspects of the methodological approach and limitations, findings, conclusions, lessons and recommendations, and annexes;
- ☐ Final report including an executive summary of up to three pages and essential annexes
- ☐ Technical annexes including the methodology and its instruments and evidences.

## 7. Skills and Experience of the National Consultant

The Consultant shall have the following skills and knowledge:

### Skills

- ☐ At least seven (7) years' experience in conducting external project evaluations using different approaches and these will include non-traditional and innovative evaluation methods
- ☐ Expertise in gender and human rights based approaches to evaluation
- ☐ Specific evaluation experiences in the areas of media reform/capacity building.
- ☐ Experience in collecting and analyzing qualitative and quantitative data
- ☐ A strong commitment to deliver timely and high quality results, i.e. credible evaluation and report with very specific and actionable recommendations
- ☐ Strong team leadership and management track record
- ☐ Good interpersonal and communication skills, an ability to communicate with various stakeholders, and an ability to express ideas and concepts concisely and clearly;
- ☐ Good knowledge of the Sierra Leone media landscape; a previous working experience in Sierra Leone will be an asset.

### Knowledge:

- ☐ In-depth knowledge of media reform projects with focus on development partner support to media development.
- ☐ Regional/Country experience and knowledge: in-depth knowledge of Sierra Leone
- ☐ Language proficiency: fluency in English.

## 8. Timeframe

The detailed schedule of the evaluation and length of the assignment will be discussed with the Consultant prior to the assignment. The estimated duration of the assignment is up to 6 weeks and the tentative schedule is as follows:

- ☐ Desk review, inception report 3(1 weeks);
- ☐ Fieldwork, De-briefing and preparation of draft report (4 Weeks)
- Feedback from key stakeholders and UNDP and Final Report (1 week)

### Deliverables and Payment Modalities

	Deliverables/ Outputs	Target Due Dates	Terms of Payment (%)
1.	Submission of an acceptable inception report that takes into account the comments and suggestions from the review of the inception report.	5 working Days	20
2.	Submission of the draft Mid-Term Evaluation Report and presentation of draft Report to a stakeholder Validation Meeting.	30 Working	40
3.	Submission and acceptance of final report.	5 working Days	40

### 4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS.

Interested individual consultants must submit the following documents/information to demonstrate their qualifications.

- Completed P11 Form
- Financial proposal
- Technical proposal

Incomplete proposals may not be considered.

- Brief cover letter.
- Personal CV, indicating academic background, professional experience, relevant website links (e.g. LinkedIn, personal website, reports produced, etc.), as well as the contact details (email address and phone number) of at least three professional references.

### Evaluation Criteria

The selection of the consultant will be based on how his/her skills and competences sets match the criteria defined in (7) above. The proposals for the short-listed candidates will be reviewed both technically and financially. The following is the basis for scoring each technical proposal:

No	Criteria	Score
1	Relevant knowledge and qualification	10

2	Language proficiency and ability to produce quality reports	10
3	Relevant work experience particularly in the evaluation of Media and related governance areas including gender and human rights projects	10
4	Knowledge of Sierra Leone Media Landscape	10
5	Proposed evaluation methodology and design matrix	20
7	Experience in collecting qualitative and quantitative data	10
	<b>Total Score</b>	<b>70</b>
8	Financial proposal accounting for 30% on the basis of price quoted	30
	<b>Grand Total</b>	<b>100</b>

**Financial evaluation (total 30 points):**

All technically qualified proposals will be scored out 30 based on the formula provided below. The maximum points (30) will be assigned to the lowest financial proposal. All other proposals receive points according to the following formula:  $p = y (\mu/z)$  where: p = points for the financial proposal being evaluated; y = maximum number of points for the financial proposal;  $\mu$  = price of the lowest priced proposal; z = price of the proposal being evaluated.

- ANNEX 1 - TERMS OF REFERENCE (TOR)  
 ANNEX 2 - INDIVIDUAL CONSULTANT'S GENERAL TERMS AND CONDITIONS

  
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 Carine Yengayenge  
 Deputy Country Director (9)





*Empowered lives.  
Resilient nations.*

**Terms of Reference**

**Project Evaluation Support to Media Development Project**

**Project Evaluation Support to Media Development Project**

**No. of working days: 42**

**Start date: 1<sup>st</sup> June 2017**

**End date: 28<sup>th</sup> July 2017**

**9. Background**

Since 2014, UNDP Sierra Leone has been supporting an ambitious Media Reform program guided by a four-year National Media Reform Strategy that was formulated in 2014 following a comprehensive national assessment in 2013 of key media institutions' capacities and the review of media laws in Sierra Leone. Both exercises were jointly supported by UNDP and UNESCO through the Independent Media Commission (IMC) and gained overwhelming support of key media stakeholders in the country. The reviews indicated lack of professionalism and the absence of comprehensive media law as two major challenges in the media landscape in Sierra Leone.

As part of the implementation of the four-year strategy (2014 – 2018), Media Reform Coordinating Group Sierra Leone (MRCG SL) was constituted comprising of nine key media institutions and was formerly endorsed by all stakeholders in May 2014 and has since been playing coordinating role of media reform processes in the country. The overall aim of the programme is to strengthen democratic dialogue and accountability, consolidate peace and ensure development through professional, independent and sustainable media based on the right to freedom of speech. The rationale for UNDP/development partners support is to focus on strategic capacity building of the media associations and organizations which forms the corner stone for media development and as catalyst activities triggering external donors to jointly engage the media in the country.

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The vision of the media development strategy is based on the right to freedom of speech and expression to build a sustainable and diverse media sector whose professionalism contributes to strengthening the democracy and development of Sierra Leone.

The strategy defined four key strategic objectives as follow:

- Improved ethics of the media through regulatory or self-regulatory mechanisms
- Promoting transparent and independent allocation of licenses, handling of media complaints, and stimulating an enabling regulatory and political environment for professional and pluralistic media
- Sustainable and independent public service broadcasting serving all the people of the country
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#### **10. Purpose of Evaluation**

The evaluation will look at all aspects of the Media Development Project from inception up to the time of the evaluation. The evaluation will also provide an important input into the formulation of the future strategy by MRCG SL and UNDP, especially in the light of changes Sierra Leone has undergone since the outbreak of Ebola Virus Disease.

The evaluation will focus on learning for improving and adjusting the support to Media Development Project design, governance and operations. The evaluation focus will also be guided by the standard evaluation criteria of relevance, efficiency, effectiveness, Impact and sustainability. It will also capture leveraged and unintended support and results to media development project (if any), as well as other pertinent evaluation criteria such as equity, gender equality, south-south collaboration and human rights.

The mid-term evaluation is aimed at:

- ❑ Learning lessons and deepening the understanding of how the media development project was designed, set up, managed and delivered. The evaluation will generate useful lessons especially on the design, management and quality of results generated by the project for improving the quality of similar and future initiatives;

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### **Objective of the Evaluation**

The main objective of this evaluation is to assess the progress in terms of achieving the projects stated objectives and results. The evaluation will also assess UNDP's contribution to media reform processes in Sierra Leone as well as to inform the design of the new project document for the Support to Media Development Project (2017 – 2020). The specific objectives of the evaluation are as follows:

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- Identify and assess the strengths, weaknesses, constraints and opportunities of the Support to Media Development Project to recommend any necessary changes or course correction measures in the implementation and design of future similar development initiatives; and
- Draw, on the basis of above objectives, lessons and recommendations for sustaining the media development project results, and providing guidance for the future strategic direction of the media development in Sierra Leone.

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The evaluation will cover all activities undertaken in the project and the period from inception to the time of the evaluation. It is expected to meet International and United Nations Evaluation Group (UNEG) standards and guidelines, and at a minimum, apply the following review criteria:

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- ❑ **Sustainability** of the support to Media Development Project activities and results including the focus on scalability and replicability;

- ❑ To the extent possible, the evaluation is also expected to capture and highlight **initial impacts** and provide recommendations to ensure the project continues its trajectory to deliver the intended impact.

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- An assessment of how the cross-cutting themes and UN programme design attributes such as Human Rights, Equity, Gender Equality etc. were integrated in the programme design and implementation, as well as results and social effects of these interventions.
- Integrate capacity assessments of supported institutions to include but not be limited to assessment of changes in capacities for evidence based policy, legal framework, strategy and programme development, systems and in other areas.

#### **4. Methodology of the Assignment**

Based on UNDP guidelines for mid-term evaluations, and in consultations with UNDP Sierra Leone, the evaluation will be inclusive and participatory, involving all principal stakeholders. The evaluation will consider the social, political and economic context which have affected the overall performance of the project taking into account EVD related factors. The review methods will include, but will not be limited to the following provided they are agreed at the inception phase: During the evaluation, the consultant is expected to apply but is not limited to the following approaches for data collection and analysis:

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- ☐ Field visits;
- ☐ Case studies for comprehensive examination and cross comparison of cases to obtain in-depth information.

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- ☐ How he/she understood the programme theory of change in developing the evaluation plan
- ☐ The detailed evaluation plan, indicating the methods to be used and information sources to be looked at for each evaluation question.

The evaluation will be carried out in accordance with UN Evaluation Group evaluation standards which emphasize the need for: Independence, Credibility, Utility, Impartiality, Transparency, Disclosure, Ethics, and Participation

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The Head of PMSU will be the evaluation manager. The Consultant will report to the evaluation manager and the Project Manager Media Development Project. A reference group will be established to provide additional support and quality assurance to the evaluation, as well as working closely with the evaluation manager in reviewing the terms-of-reference, the inception report, the draft report. The reference group will be made up of the Project Manager, the Governance Team Leader, Evaluation Manager, Selected members of the MRCG SL and representatives of other key stakeholder organisations.

UNDP Sierra Leone and the Consulting Team shall be responsible for setting up meetings with all key stakeholders of the project, both government and non-governmental organizations.

#### 6. Expected Deliverables

The key deliverables of the Evaluation Consultant will include the following outputs:

- ☐ Inception report which will include a detailed evaluation plan and evaluation design matrix and its presentation (before the commencement of field work);

- ☐ Evidence set (analyzed data) used for writing the report and for the presentation – the analyzed data will be included in the technical annexes;
- ☐ Draft report and its presentation to the Evaluation Reference Group and for peer review. The evaluation report will include: the executive summary, evaluation purpose, objectives and questions, social and environmental considerations of the project, sustainability, scalability and replicability of the project, key aspects of the methodological approach and limitations, findings, conclusions, lessons and recommendations, and annexes;
- ☐ Final report including an executive summary of up to three pages and essential annexes
- ☐ Technical annexes including the methodology and its instruments and evidences.

## **7. Skills and Experience of the National Consultant**

The Consultant shall have the following skills and knowledge:

### **Skills**

- ☐ At least seven (7) years' experience in conducting external project evaluations using different approaches and these will include non-traditional and innovative evaluation methods
- ☐ Expertise in gender and human rights based approaches to evaluation
- ☐ Specific evaluation experiences in the areas of media reform/capacity building.
- ☐ Experience in collecting and analyzing qualitative and quantitative data
- ☐ A strong commitment to deliver timely and high quality results, i.e. credible evaluation and report with very specific and actionable recommendations
- ☐ Strong team leadership and management track record
- ☐ Good interpersonal and communication skills, an ability to communicate with various stakeholders, and an ability to express ideas and concepts concisely and clearly;
- ☐ Good knowledge of the Sierra Leone media landscape; a previous working experience in Sierra Leone will be an asset.

### **Knowledge:**

- ☐ In-depth knowledge of media reform projects with focus on development partner support to media development.
- ☐ Regional/Country experience and knowledge: in-depth knowledge of Sierra Leone
- ☐ Language proficiency: fluency in English

## **8. Timeframe**

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The detailed schedule of the evaluation and length of the assignment will be discussed with the Consultant prior to the assignment. The estimated duration of the assignment is up to 6 weeks and the tentative schedule is as follows:

- ☐ Desk review, inception report 3(1 weeks);
- ☐ Fieldwork, De-briefing and preparation of draft report (4 Weeks)
- ☐ Feedback from key stakeholders and UNDP and Final Report (1 week)

## **9. Remuneration**

The daily rate for consultancy fees will depend on the level of education and experience of each individual evaluator. Consultants are expected to explicitly indicate their daily rates when applying for this evaluation. Payments will be made in in local currency at prevailing UN exchange rates for a National Consultant. The evaluators will receive the payments in the following instalments:

- ☐ 20% upon submission of an acceptable inception report that takes into account the comments and suggestions from the review of the inception report.
- ☐ 40% upon submission of the draft Mid-Term Evaluation Report and presentation of draft Report to a stakeholder Validation Meeting; and
- ☐ 40% upon submission and acceptance of final report

## **10. Application Process**

**Interested applicants should submit their applications by 15<sup>th</sup> May, 2017. Applications should be clearly marked as follows:**

### **Evaluation - Support to Media Development Project**

Interested consultants should also submit a proposal to UNDP Sierra Leone briefly outlining and including the following:

- A brief outline of how they would approach the assignment detailing the methodology, tools and proposed timeline (5 pages)
- CVs and certified copies of academic certificates
- A copy of recently completed evaluation report they consider to be among their best.
- An indication of the rate for the consultancy fees in US\$

The Applications should be sent to:

The Deputy Country Director – Operations  
United Nations Development Programme (UNDP)  
55 Wilkinson Road  
P.O. Box 1011  
Freetown, Sierra Leone

#### **Annex A: Selection and Scoring of Applicants**

The selection of the consultant will be based on how his/her skills and competences sets match the criteria defined in (7) above. The proposals for the short-listed candidates will be reviewed both technically and financially. The following is the basis for scoring each technical proposal:

No	Criteria	Score
1	Relevant knowledge and qualification	10
2	Language proficiency and ability to produce quality reports	10
3	Relevant work experience particularly in the evaluation of Media and related governance areas including gender and human rights projects	10
4	Knowledge of Sierra Leone Media Landscape	10
5	Proposed evaluation methodology and design matrix	20
7	Experience in collecting qualitative and quantitative data	10
	<b>Total</b>	<b>70</b>
8	Financial proposal accounting for 30% on the basis of price quoted	30
	<b>Grand Total</b>	<b>100</b>

#### **Annex B: DOCUMENTS FOR STUDY BY THE EVALUATORS**

- ☐ UNDP Handbook on Planning Monitoring and Evaluation for development Results
- ☐ UNDP Guidelines for Outcome Evaluators
- ☐ Ethical Code of Conduct for Evaluation in UNDP

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- ❑ UNDG Result-Based Management Handbook
- ❑ UN Transitional joint Vision 2013-14
- ❑ UNDP CPAP 2008-2012 and 2013-14
- ❑ GoSL PRSP II, Agenda for Change, 2008-2012 and Agenda for Prosperity 2013-17
- ❑ Millennium Development Goals Reports 2011
- ❑ MRCG SL Project documentation
- ❑ The Media Development Strategy
- ❑ IMC Media Code of Practice and Revised Act
- ❑ Progress and Field Visit Reports

Project Board and Programme Review Meeting Minutes

**ANNEX C: UNEG Code of Conduct for Evaluators/Midterm Evaluation Consultants<sup>1</sup>**

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<sup>1</sup>[www.undp.org/unegcodeofconduct](http://www.undp.org/unegcodeofconduct)



## **UNDP**

### **GENERAL CONDITIONS OF CONTRACT 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:**

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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:

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**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 Agreement, 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 Agreement signed by the Contractor and jointly by the UNDP Authorized Official.