Empowered lives.
Resilient nations.

Date: 27 April 2012

INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

for individual consultants and individual consultants assigned by consulting firms/institutions

Country:	**Viet Nam**
Description of the assignment:	**National Consultant for assessment and analysis of scope of regulation, objects of regulation and principles of the LEP within Viet Nam legal system to make recommendations on revision of structure, principles and content of the LEP**
Project name:	**Project 00060851 - Capacity Building for Climate Change Project- MONRE**
Period of assignment/services (if applicable):	**May- August 2012**

1. Submissions should be sent by email to: nguyen.thi.hoang.yen@undp.org no later than: **17.00 hrs., 7 May 2012 (Hanoi time).**

With subject line: National Consultant – Structure and contents

Submission received after that date or submission not in conformity with the requirements specified this document will not be considered.

Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. Procurement Unit – UNDP Viet Nam 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.

2. Please find attached the relevant documents:

- Terms of Reference (TOR)……..... …… (Annex I)
- Individual Contract & General Conditions…….. (Annex II)
- Reimbursable Loan Agreement (for a consultant assigned by a firm) & General Conditions (Annex III)
- Insurance Coverage Table…… (Annex IV)
- Vendor Form …….. (Annex V)
- Guidelines for CV preparation…… (Annex VI)
- Format of financial proposal…….. (Annex VII)

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

a. Technical component:
- Curriculum vitae
- Expression of interest, explaining why he/she is the most suitable for the work.
- Copy of maximum **3 (three)** publications (if any)

b. Financial proposal:

- The financial proposal shall specify a total lump sum amount in **Viet Nam Dong** including consultancy fees and all associated costs i.e. airfares, travel cost, meal, accommodation, tax, insurance etc. – see format of financial offer in Annex VII.

- Please note that the cost of preparing a proposal and of negotiating a contract, including any related travel, is not reimbursable as a direct cost of the assignment.

- If quoted in other currency, prices shall be converted to Viet Nam Dong at UN Exchange Rate at the submission deadline.

Please note: For the consultancy firm/institution/organization, please provide the above information **of the assigned consultant (only ONE) for this service**, not the experience and information of **YOUR firm.**

4. Evaluation:

The technical component will be evaluated using the following criteria:

Consultant's experiences/qualification related to the services		
	Criteria	**Maximum Points**
1	Master degree in law, preferably with an emphasis in environmental or international law	200
2	At least ten (10) years of relevant work experience, having participated in law formulation and revision	300
3	Good understanding of process of development, drafting, finalization, implementation and revision of legal and policy instruments within Vietnam's political/legal system.	300
4	Ability and experience to work and interview with the senior government officials	150
5	Good at English writing and reading.	50
	TOTAL	**1000**

A two-stage procedure is utilized in evaluating the submissions, with evaluation of the technical components being completed prior to any price proposals being opened and compared. The price proposal will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 1000 points in the evaluation of the technical component.

The technical component is evaluated on the basis of its responsiveness to the Term of Reference (TOR).

Maximum 1000 points will be given to the lowest offer and the other financial proposals will receive the points inversely proportional to their financial offers. i.e. Sf = 1000 x Fm / F, in which Sf is the financial score, Fm is the lowest price and F the price of the submission under consideration.

The weight of technical points is 70% and financial points is 30%.

Submission obtaining the highest weighted points (technical points + financial points) will be selected.

An interview with the candidate given the highest combined score may be held before contract awarding, if deemed necessary.

8. Contract

"Lump-sum" Individual Contract will be applied for freelance consultant (Annex II)
"Lump-sum" RLA will be applied for consultant assigned by firm/institution/organization (Annex III)

9. Payment

UNDP shall effect payments to the consultant (by bank transfer to the consultant's bank account provided in the vendor form (annex VI) upon acceptance by UNDP of the deliverables specified the TOR.

- 1st payment: 40% of total contract value will be paid upon submission and UNDP/SDC and VEA/DOPLA's acceptance of the draft report.

- 2nd payment: 60% of total contract value will be paid upon submission and satisfactory acceptance of all outputs by UNDP/SDC and VEA/DOPLA.

If two currencies exist, UNDP exchange rate will be applied at the day UNDP instructs the bank to effect the payment.

10. Your proposals are received on the basis that you fully understand and accept these terms and conditions.

Annex I

TERMS OF REFERENCE (TOR)

For Revision of the 2005 Law on Environmental Protection (LEP)

Assignment: **National Consultant for assessment and analysis of scope of regulation, objects of regulation and principles of the LEP within Viet Nam legal system to make recommendations on revision of structure, principles and content of the LEP**

1) GENERAL BACKGROUND

The 2005 Law on Environmental Protection (LEP) *was passed on the 29th November 2005 by the National Assembly, Legislature XI of the Socialist Republic of Viet Nam at its 8th Session,* the Law takes effect from the first of July 2006. It includes 15 chapters and 136 articles). After 5 years of its implementation, the LEP 2005 has contributed significantly to the environmental protection meeting the demands of socio-economic development of Vietnam.

However, the LEP has presented a number of provisions, which are no longer consistent and appropriate with practice causing difficulties and confusion in the implementation. There are overlaps and discrepancies between LEP and other related legal documents as well as overlaps of environmental management responsibilities among governmental agencies. In addition, there have been number of new emerging issues such as a well balance among social, economic and environmental benefits, climate change, green growth, and so on which was not taken into account while developing the LEP.

The revision of the 2005 LEP revision has been included in the Law Making program of the NA (tenure XIII). A revised LEP is expected to be approved in 2013.

In order to provide scientific and practical basis for the revision of the LEP it is necessary to implement review and analysis of the current implementation of LEP to justify the critical gaps, shortcomings, overlapping and discrepancies in regulations; identify arising barriers in the implementation of LEP; envisage the specific needs for revision of environmental laws; draw lessons learnt and experiences of environmental protection legislations in other countries; and to provide inputs for revision of the LEP.

One of the critical issues, which should be clarified during the revision of a legal document, is the perception and orientation of the revision and identification of scope of regulation, objects of regulation as well as the content and structure of the revised law.

This Terms of Reference (TOR) presents the scope and the tasks for an assignment of ***"Assessment and analysis of scope of regulation, objects of regulation of the LEP within Vietnam legal system to make recommendations on revision of the structure, principles and recommendation of the LEP***".

2) OBJECTIVES OF THE ASSIGNMENT

The objectives of this assignment are to:

1. Identify and justify the gaps and inappropriateness of provisions on scope of regulation, objects of regulation and principles of the LEP;
2. Make justified recommendations for the revision of the LEP with emphasis on scope of regulation, objects of regulation, principles of environmental protection, structure of chapters, articles and contents of the revised LEP.

3) SCOPE OF WORK

***3.1. Assessment and analysis of scope of regulation and objects of regulation of the LEP*:** to synthesize and analyze gaps, discrepancies, overlapping of environmental protection related provisions of the LEP in comparison with those of following legal documents:

1. Criminal Law
2. Civil Law
3. Civil Procedure Code
4. Ordinance of Administrative Sanction (particularly provisions on administrative measures of sanctions and supplementary measures of sanctions)
5. Commercial law (particularly provisions on conditional import, export, trading)
6. Maritime Law
7. Chemical Law and Construction Law
8. Natural resources related Laws (Mineral Law, Water Resource Law, Fishery Law, Law on forest protection and development, Oil and Gas Law) and Biodiversity Law
9. Ordinance of Plant Quarantine, Plant Varieties and Domestic Animal Breeding
10. Law on Energy Efficiency and Conservation
11. Nuclear Energy Law
12. Inspections law

3.2 Assessment and analysis of principles of environmental protection in the LEP

- Assessment and analysis of current principles of environmental protection in the LEP, in the context of new requirements on environmental protection and in relationship with principles of respect for property ownership and freedom of business;

3.3 Assessment and analysis of basic content and structure of the revised LEP

- Consideration of rationality of current structure of the LEP.

3.4 Recommendation of structure, principles, scope of regulation and objects of regulation of the revised LEP

- Recommendation of addition, deletion, separation and merger of chapters, sections, etc;
- Proposed arrangement of norms, regulations, codification of rational normative provisions of by-law documents.
- Recommendation of finalization of provisions on principles of environmental protection, particularly in the relationship with preventive principles and principles of access to information, legal justice and public participation, etc.

3.5 Presentation of findings/draft report at the consultative meeting.

GENERAL REQUIREMENTS:

The selected consultant will work closely with the lead consultant/peer reviewer to ensure findings and recommendations as results of this task will be jointly integrated with those of others to support the drafting of the revised LEP. In addition, the consultant shall ensure:

- Findings and recommendations are conformable with the national laws and treaties to which Vietnam is a party (including international treaties which Vietnam is already a party or potentially to become party)
- Recommendations are practical and feasible.

The selected consultant is responsible for proposing a viable approach to the assignment. The following methodologies can be adopted.

- Desk review of the LEP and related laws and decrees, policies, regulations, standards and supporting circulars and directives governing environmental protection in Vietnam. This will include any LEP reviews that have been implemented by different agencies (if any);
- Intensive and regular consultation with Department of Policy and Legal Affairs (DOPLA) of VEA and Sustainable Development Cluster of UNDP;
- Interviews with relevant experts, government officials, and other stakeholders;
- Consultative roundtable meetings.

4) DURATION OF ASSIGNMENT, DUTY STATION AND EXPECTED PLACES OF TRAVEL

Duration & timing: Estimated 45 days, during May - August 2012
Duty station: Home-based. The selected consultant may decide whether it is necessary to have field trips in order to complete the assignment. If this is the case, travel and associated expenses must be included in the financial offer.

5) FINAL PRODUCTS

5.1 A **work-plan** detailing the approach and timeline to implement the assignment

5.2 A **report** of analysis and assessment of scope of regulation, objects of regulation of the LEP within Vietnam legal system and recommendation on the revision of the LEP. Specifically, the reports will contain following contents:

- Analysis of provisions on environmental protection in current legal documents listed in Section 3 to clearly identify gaps, discrepancies and overlapping is related provisions of mentioned legal documents;
- Analysis of scope of regulation, content of regulation of the LEP in comparison with those of biodiversity and natural resources laws to identify overlapping among such laws;
- Comparison between the scope and content of regulation in the LEP and those of at least 5 other countries (preferably Asian or ASEAN nations);
- Recommendation for the orientation of revision of LEP with specific inputs of the level of amendment (should be kept as it is, or more specific or more general) and the justification for the recommendation;
- Recommendation for scope and content of regulation of the revised LEP;
- Recommendation for the structure of the revised LEP (with as much details as possible i.e. name of the chapters, sections, articles)

5.3 All products will be in Vietnamese with an addition of a final summary report in English and draft presentation in English prepared for consultative meetings.

It is expected that products will be submitted basing on following indicative timeline

No	Outputs/Activities	Indicative timelines
1	A Work-plan to implement the assignment	A maximum of two weeks after signing of the contract
2	1st draft report	A maximum of six weeks after signing of the contract
3	Final report	A maximum of two weeks after receiving feedbacks from VEA/DOPLA and UNDP/SDC on the draft report

6) PROVISION OF MONITORING AND PROGRESS CONTROLS

The selected consultant will perform tasks as required under the direct supervision of the Head of Sustainable Development Cluster of the United Nation Development Programme Viet Nam (UNDP/SDC) and the Director of Department of Policy and Legal Affairs (DOPLA), Vietnam Environment Administrative (VEA/DOPLA). The consultant is required to regularly report to UNDP/SDC and VEA/DOPLA on the progress of the work. After the signing of the contract, the selected consultant, UNDP and VEA will agree on the mechanism and actual timeline of the reporting requirement. Upon that the consultant will develop a detailed work plan which must be agreed between UNDP/SDC and VEA/DOPLA.

7) DEGREE OF EXPERTISE AND QUALIFICATIONS

The ideal consultant shall have following minimum qualification and experience:

- Master degree in law, preferably with an emphasis in environmental law and international law;
- At least ten (10) years of relevant work experience;
- Good understanding of process of development, drafting, finalization, implementation and revision of legal and policy instruments within Vietnam's political/legal system;
- Ability and experience to work and interview with the senior government officials; preferably experience to work with MONRE, UN system and international environmental organizations.
- Having participated in law formulation and revision (preferably the 2005 LEP)
- Good at English writing and reading.

8) ADMIN SUPPORT AND REFERENCE DOCUMENTS

UNDP/DOPLA will assist the selected consultants with administrative support related to, but not necessarily limited to:

- To provide a list of relevant documents/reviews in regard to LEP implementation over the last 5 years
- To provide a list of experts that should be interviewed or consulted
- To assist with acquiring official letters in case of visits or conducting interviews with official partners
- To organize necessary consultative roundtable meeting(s)

9) REVIEW TIME REQUIRED AND PAYMENT TERM

First payment of 40% of the contract value will be paid upon submission and UNDP/SDC and VEA/DOPLA's acceptance of the draft report.

Second and last payment of 60% of the contract value will be paid upon submission and satisfactory acceptance of all outputs by UNDP/SDC and VEA/DOPLA.

10) CONSULTANT PRESENCE REQUIRED ON DUTY STATION/UNDP PREMISES

☑ NONE □ PARTIAL □ INTERMITTENT □ FULL-TIME

Annex VI

GUIDELINES FOR PREPARING CV

WE REQUEST THAT YOU USE THE FOLLOWING CHECKLIST WHEN PREPARING YOUR CV:

Limit the CV to 3 or 4 pages

NAME (First, Middle Initial, Family Name)
Address:
City, Region/State, Province, Postal Code
Country:
Telephone, Facsimile and other numbers
Internet Address:
Sex, Date of Birth, Nationality, Other Citizenship, Marital Status
Company associated with (if applicable, include company name, contact person and phone number)

SUMMARY OF EXPERTISE
Field(s) of expertise (be as specific as possible)
Particular development competencies-thematic (e.g. Women in Development, NGOs, Privatization, Sustainable Development) or technical (e.g. project design/evaluation)
Credentials/education/training, relevant to the expertise

LANGUAGES
Mother Tongue:
Indicate written and verbal proficiency of your English:

SUMMARY OF RELEVANT WORK EXPERIENCE
Provide an overview of work history in reverse chronological order. Provide dates, your function/title, the area of work and the major accomplishments include honorarium/salary. References (name and contact email address) must be provided for each assignment undertaken by the consultant that UNDP may contact.

UN SYSTEM EXPERIENCE
If applicable, provide details of work done for the UN System including WB. Provide names and email address of UN staff who were your main contacts. Include honorarium/salary.

UNIVERSITY DEGREES
List the degree(s) and major area of study. Indicate the date (in reverse chronological order) and the name of the institution where the degree was obtained.

PUBLICATIONS
Provide total number of Publications and list the titles of 5 major publications (if any)

MISCELLANEOUS
Indicate the minimum and maximum time you would be available for consultancies and any other factors, including impediments or restrictions that should be taken into account in connection with your work with this assignment.

Please ensure the following statement is included in the resume and that it is signed and dated:

I CERTIFY THAT ALL INFORMATION STATED IN THIS RESUME IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I AUTHORIZE UNDP/UNOPS OR ITS AGENT TO VERIFY THE INFORMATION PROVIDED IN THIS RESUME.

(Signature)

Annex VII

FINANCIAL OFFER

Having examined the Solicitation Documents, I, the undersigned, offer to provide all the services in the TOR for the sum of VND …….

This is a lump sum offer covering all associated costs for the required service (fee, meal, accommodation, travel, taxes etc).

Cost breakdown:

No.	Description	Number of days	Rate (VND)	Total
1	Remuneration			
1.1	Services in Home office			
1.2	Services in field			
2	Out of pocket expenses			
2.1	Travel (if deem necessary)			
2.2	Per diem			
2.3	Full medical examination and Statement of Fitness to work for consultants from and above 62 years of age and involve travel – (required before issuing contract).			
2.5	Others (pls. specify)…….			
	TOTAL			

I undertake, if my proposal is accepted, to commence and complete delivery of all services specified in the contract within the time frame stipulated.

I agree to abide by this proposal for a period of 120 days from the submission deadline of the proposals.

Dated this day /month of year

Signature