

TERMS OF REFERENCE

Individual Contractor

I. Assignment Information

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|---------------------------|---|
| Assignment Title: | National legal expert to support the establishment of a Cambodian Environmental Legal Network |
| UNDP Practice Area: | Environment |
| Cluster/Project: | Program/Environmental Governance Reform |
| Post Level: | National Expert |
| Contract Type: | Individual Contractor (IC) |
| Duty Station: | Phnom Penh, Cambodia (not home based) |
| Expected Place of Travel: | N/A |
| Contract Duration: | 100 days |

II. Project Description

Background: Towards inclusive and sustainable development

Cambodia is rapidly transiting towards a lower middle-income country. The Gross National Income (GNI) per capita is USD 1,020 (World Bank 2014) with an annual Gross Domestic Product (GDP) growth of 7.4 percent (World Bank 2013). However, Cambodia is ranked 145 out of 178 countries for the Environmental Performance Index with the overall score of 35.44 out of 100 points (Yale Center for Environmental Law and Policy, 2014). The World Bank's Country Policy Institutional Assessment (CPIA) (2014) gives the country a score of 3 out of 6 in terms of its policy and institutional capacities in attaining environmental sustainability. Like other rapidly developing countries, Cambodia thus faces challenges in terms of attaining sustainable development. In September in 2015, Cambodia endorsed the adoption of Sustainable Development Goals (SDGs) to meet these challenges. Currently, Cambodia is in a process of specifying the SDG goals in the context of the challenges pertaining to Cambodian sustainable development.

At present, Cambodia has several governmental bodies and laws to govern its natural resources and the environment. The Ministry of Environment (MoE) is one of the governmental bodies with a central mandate to ensure conservation and management of natural resources and environment. In recent years, however, the MoE has faced significant constraints in addressing the emerging environmental issues and challenges due partly to its formerly outdated organizational structure, strategic priorities and implementation plans, and partly to insufficient human and technical resources.

Moreover, there was no effective inter-ministerial governmental body or legal principles that provide overarching guidance and direction for sustainable development. Additionally, the mandates and regulations of existing ministries do not adequately correspond to current and emerging challenges. Finally, overlapping jurisdictions and mandates among line ministries over the governance of natural resources and environment have created ambiguity and confusion concerning which ministry should be responsible and for what purposes. This has resulted in uneven and inadequate enforcement and application of environmental and natural resource requirements and standards, thus constraining and undermining efforts to protect the environment and facilitate sustainable development.

In response to these challenges, the Royal Government of Cambodia (RGC) embarked upon environmental governance reforms in November in 2013. These focus on three pillars of activities: 1) MoE modernization, 2) Establishment of the National Council of Sustainable Development (NCSD), and 3) Development of an Environmental Code.

This assignment aims to further strengthen EGRs Projects work on the environmental code.

III. Scope of Work

The United Nations Development Programme is looking for a national legal expert to help identify options and support the establishment of a Cambodian Environmental Law Network. This network will be the first of its kind in Cambodia that could eventually help clients quickly find environmental legal representation nationwide. In addition, the consultant will lead the development of training approaches, training curriculums and in the delivery of trainings to strengthen the ability of institutional staff to draft legislative documents.

Thus, the consultant will be required to do the following:

A. Identify options and establish an environmental legal network in Cambodia

Consult international and national stakeholders to determine the best options for the establishment of an environmental legal network in Cambodia. The objective of the network will be to:

- Assist the government of Cambodia to develop environmental legislation;
- Translate legislation into different languages;
- Maintain an inventory of environmental firms and up-to-date legislation;
- Assist clients to identify environmental legal representation.

This aspect of the assignment (A) will require the consultant to organize/facilitate workshops to engage the private sector (predominantly legal firms) to determine the best approach for establishing a self-sustaining environmental legal network in Cambodia.

B. Assist the development of Environmental Legal Network Website

The consultant will be required to collect agreed information used to support the development of the environmental legal network website. This information will include but not limited to:

- Legal firms/attorneys in Cambodia (that practice or would like to practice environmental law);
- Soft copies of Cambodian legislation related to the environment. This will include where possible legislative documents in different languages;

The web site team that will consist of an outsourced IT firm and the national legal expert should seek inspiration from other network related sites, as well as that of the <https://www.gmac-cambodia.org/>. Inputs could also be gathered by firms that have shown a willingness to engage in the proposed network.

C. Legislative Priorities and Learning by Doing Approach

In close consultation with the MoE/NCSD and their relevant departments, examine the Environmental Code to determine what supporting legislative documents should be prioritized for completion during the Environmental Governance Reform (EGR) project extension phase (ending April 2019). This process needs to identify at least two high priority legislative documents. Once identified the consultant will need to work with institutions to develop an effective learning by doing approach to draft legislative document(s) and work towards building the knowledge of legal focal points within each technical department. The proposed approach must be fully detailed and conceptualized in a short concise report.

D. MoE Legal Focal Points and Training Curriculums

Assist the MoE/NCSD to identify internal legal focal points, determine these individual's legal capacities and create customized training plan for each of the focal points. Determine what firm(s), organizations, institutions or individuals in the environmental legal network can support aspects of the legal training(s) and any costs associated with such support.

E. Deliver Basic Legal Training

Deliver legal training to MoE/NCSD legal focal points on legislative drafting. This would include but not limited to legislative expression, types of legislation, structure, drafting objectives, language used in drafting, components of legislative sentences, common mistakes in legislative drafting and ensuring the national context is taken into full consideration.

IV. Expected Outputs and Deliverables

This consultancy will be under the direct supervision of the Project Manager of the EGR Project with support from legal focal points at the Ministry of Environment.

In addition to the key deliverables detailed in the table below, the firm will be required to:

- Coordinate, communicate and cooperate with the wider team that consists of UNDP staff, project staff, international and national consultants;
- Prepare progress reports as required by UNDP and donors in accordance to their respective reporting guidelines;
- Ensure close communication, collaboration and coordination with staff from MoE/NCSD.

| N | Deliverables/Outputs | Estimated Duration to Complete | Target Due Dates | Review and Approvals Required |
|----------|---|---------------------------------------|-------------------------|---|
| 1 | Inception Report: Provide a detailed workplan and timeline on how you will undertake and conclude the assignment. | 5 days | Aug 2018 | MoE/NCSD advisors Assistant Country Director of UNDP |
| 2 | Options Paper for Legal Network: Strategize and prepare a concise but detailed report outlining the different options (and their requirements) for | 15 days | Aug 2018 | EGR Project Manager |

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|------------------------------|--|-----------------|------------------------------|--|
| | establishing an environmental legal network in Cambodia | | | |
| 3 | Establish legal network: In consultation with stakeholders, establish the legal network based on the most appropriate and agreed option. | 15 days | Sept 2018 | |
| 4 | Information for Legal Network Website: collect and submit information used to support the development of the environmental legal network website | 5 days | Sept 2018 | |
| 5 | MoE/NCS D Legislative Priorities: Prepare a report on legislative priorities to implement the environmental code across departments. This process must identify 2-3 priority legislative instruments for formulation (links to 5 below) | 20 days | Oct 2018 | |
| 6 | Learning by Doing Approach: Prepare a report that fully elaborates on the process of a MoE contextualized “learning by doing approach” to develop priority legislation identified in step 5 | 10 days | Nov 2018 | |
| 7 | Capacity Assessment: Complete a legal capacity assessment of each legal focal point | 10 days | Nov 2018 | |
| 8 | MoE Legal Focal Point Training Curriculum: Develop training curriculums for each of the identified legal focal points | 10 days | Nov/Dec 2018 | |
| 9 | General legal training: prepare and train legal focal points on general aspects of policy formulation | 10 days | By 15 th Dec 2018 | |
| Total number of days: | | 100 days | | |

V. Institutional Arrangement

Roles of consultancy

- The consultant shall have regular meetings with MoE, Consultants, Service Providers and UNDP to inform the progress of work;
- The consultant shall report on/submit the above deliverables to the MoE/NCS D Focal Points and UNDP Project team;
- The consultant needs to maintain daily communication with the UNDP Country Office when problems emerge during the consultancy, especially if they affect the scope of work;
- The consultant shall adhere to the communications guidelines and rules as prescribed by the donor, USAID.

Roles of the MOE/NCS D Focal Points

- The MoE/NCSD Focal Points provide quality assurance for the services that the consultant will provide for the implementation of planning and management of day-to-day work of project activities.

Roles of the UNDP Country Office

- The UNDP Programme Analyst will provide overall management oversight for day-to-day activities in coordination with the MoE/NCSD Focal Points;
- The UNDP EGR Project Manager and UNDP Environment Units Programme Analyst will serve as the main contact points for the consultant at the UNDP;
- The UNDP will provide overall quality assurance for this consultancy.
- The UNDP EGR team, UNDP Programme Analyst and MOE/NCSD Focal Points will review deliverables for release of payment.

VI. Duration of the Work

100 days, between August and Dec 15th 2018

VII. Duty Station: Phnom Penh, Cambodia

The duty station for this assignment is Phnom Penh. During the assignment, the consultant is expected to be based in Cambodia. Transportation costs within Phnom Penh will be covered by the consultant.

VIII. Minimum Qualifications of the Individual Contractor

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|---------------|---|
| Education: | At minimum, Bachelor's degree in law |
| Experience: | 7 years' experience in a legal profession Experience (or demonstrated ability) in the establishment of a professional network such as an association, or similar types of professional groups for the purpose of knowledge or expertise sharing/support purpose Demonstrated track record in delivering legal training Demonstrated track record in writing legislative documents Experience working in Asia, particularly Cambodia |
| Competencies: | Good communicator Ability to build and maintain relationships Good attention to detail Effective time management skills |
| Language | Good command of written and spoken English and Khmer |

IX. Criteria for Evaluation of Level of Technical Compliance of Contractor

| Technical Evaluation Criteria | Obtainable Score |
|---|------------------|
| At minimum, Bachelor's degree in law | 10 |
| 7 years' experience in a legal profession | 20 |
| Experience in dealing in or establishing professional networks | 20 |
| Extent of professional legal network in Cambodia | 10 |
| Experience in designing and delivering legal training on legislative drafting | 20 |
| Experience in the drafting of legislation | 20 |
| Total Obtainable Score: | 100 |

X. Payment Milestones

The consultant will be paid on a lump sum basis under the following installments.

| N | Outputs/Deliveries | Payment Schedule | Payment Amount |
|----------|--|------------------------------------|-----------------------|
| 1 | Upon satisfactory completion of output 1 | Aug 2018 | 5 |
| 2 | Upon satisfactory completion of output 2 | Aug 2018 | 10 |
| 3 | Upon satisfactory completion of output 3 | Sept 2018 | 15 |
| 4 | Upon satisfactory completion of output 4 | Sept 2018 | 10 |
| 5 | Upon satisfactory completion of output 5 | Oct 2018 | 10 |
| 6 | Upon satisfactory completion of output 6 | Nov 2018 | 15 |
| 7 | Upon satisfactory completion of output 7 | Nov 2018 | 10 |
| 8 | Upon satisfactory completion of output 8 | Nov/Dec 2018 | 10 |
| 9 | Upon satisfactory completion of output 8 | By 15th Dec 2018 | 15 |

XI. Approval

Signature:

Name:

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Rany Pen

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Assistant Country Director -
Programme Unit

Title/Unit/Cluster:

Date:

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