

Terms of Reference

Supporting ECD's environmental regulatory role: monitoring and compliance assessment

Title of Project	Governance for Resilience and Sustainability Project (GRSP)
Duration	3 months (October 2019 – December 2019)
Type of Contract	Institutional Contract
Work Location	Naypyitaw, Myanmar
Supervisor	GRSP Project Manager and Chief Technical Advisor

I. BACKGROUND

Myanmar has embarked on a major transition towards democracy, market style economy and peace. Myanmar has low middle-income status (LMIC) and is committed to lifting itself out of Least Developed Country (LDC) status within the next seven years. Following the implementation of the first ever UNDP Country Programme during 2013-2017 and as a key development partner of the government of Myanmar, UNDP is implementing a new UNDP Country Programme Document (CPD) over 2018-2022, striving to deliver on a large and relevant programme portfolio that is responsive to the main development challenges facing the country.

The UNDP Country Office in Myanmar is a key interlocutor and advisor to the government at the national and sub-national on sustainable and inclusive growth, (including economic, environment, climate change and disaster risk reduction issues) and is expanding its programme at the state, region and township levels in order to ensure stronger institutions at all levels of government as well as broader civic engagement as part of the effort to support Myanmar's democratic transition, build and sustain peace and promote more inclusive and sustainable development.

UNDP Myanmar also strives to provide high quality advice on issues related to natural resource management, both because of the importance of this topic to sustainable development, but also because of the potential social tensions related to the equitable and inclusive management of natural resources.

The Governance for Resilience and Sustainability Project (GRSP) leverages existing AF/GEF/REDD/GCF vertical funding and links up to horizontally and vertically with UNDP CPD key priority areas working at national and sub-national levels. GRSP is designed to help the Government of Myanmar (GoM) implement recent policy reforms related to environmental governance, climate change and disaster risk reduction (DRR), to ensure that economic growth in Myanmar is more inclusive, resilient and sustainable. The project recognises that environmental degradation, when combined with natural disasters and effects of climate change, undermines the attainment of inclusive and sustainable growth. It also recognises that Myanmar's environmental assets present unique opportunities for green economic development, which can directly support women's economic empowerment and community resilience.

The increased emphasis on public infrastructure investments and foreign direct investments in recent years require matching increases in environmental management and resilience. At the same time, the potential of green investments as wealth and employment generators needs to be supported and promoted by the GoM. The Union Government is promulgating a series of policies

to address these challenges including the National Environmental Policy, Green Economy Policy Framework, Myanmar Climate Change Strategy and Master Plan, and Myanmar Action Plan on DRR (MAPDRR). These policies now require enabling mechanisms for effective implementation and enforcement so that they deliver benefits for all people.

Over the 5-year period of the new CPD, GRSP aims to enable the GoM mainstream environment, climate change and DRR considerations into planning and project appraisal systems of at least three key sectors and three States and Regions. It will also support key counterparts implement the new policies, including by promoting an integrated environmental financing framework by helping develop comprehensive organisational and human resources development plans. GRSP also aims to help promote green investments in environmental goods and services to protect natural resources, minimize and manage waste more effectively, while simultaneously creating sustainable wealth and employment.

GRSP also operates as an 'umbrella' project for integrating other key environment, climate and DRR related projects within UNDP's portfolio.

II. OBJECTIVE

The objective of this assignment is to support the strengthening of ECD's functions as Myanmar's environmental regulator by laying the groundwork for improved participatory approaches to environmental monitoring and compliance activities.

Duties and Responsibilities

Under the supervision of the UNDP Myanmar GRSP Project Manager and CTA, and the day-to-day guidance of the national Project Coordinator and other project staff, and subject to the endorsement of key stakeholders and approved work plan, the service provider will perform the following duties:

1. Conduct a baseline assessment of ECD's environmental monitoring and compliance activities
2. Support the finalization of the Draft Guideline on Public Participation in Myanmar's EIA Processes
3. Scope a Handbook on Administrative Remedies in Environmental Management

III. SCOPE OF WORK

The specific deliverables for this assignment will be as follows, with the understanding that the service provider will be flexible with regard to adjustments and variations agreed with UNDP in response to findings and feedback from ECD:

Baseline assessment of environmental monitoring and compliance activities

- Prepare a summary of MONREC's regulated environmental monitoring and compliance responsibilities in Myanmar (covering ECD and other agencies)
- Stocktake existing environmental monitoring and compliance functions undertaken by ECD (i.e. review current activities against ECD's regulatory responsibilities)

- Prepare a summary of all monitoring and compliance activities undertaken by ECD since its creation in 2012 (on an annual basis)
- Prepare an assessment of whether ECD has sufficient legal authority to conduct requisite monitoring and compliance functions under the Environmental Conservation Law, Environmental Conservation Rules and EIA Procedure
- Assess and review how the EIA process incorporates the need for further permits (e.g. pollution control) following the Environmental Compliance Certificate (ECC) approval (with reference to IAIA best practice guidance).
- Prepare recommendations on how to increase monitoring and compliance both within different divisions of ECD, and at the State/Region level, including by:
 - Use of civil society and other participatory mechanisms
 - Use of self-reporting mechanisms
- Conduct the assessment through desk top studies, key informant interviews (with ECD and other government stakeholders), and analysis of ECD documentation
- Throughout, the ECL Implementation Needs Assessment report prepared by UNDP should be used as a reference

Draft Guideline on Public Participation in Myanmar's EIA Processes

- Provide assistance to ECD to finalise the English and Myanmar versions of the guideline, based on feedback from ECD-led consultation with other government departments
- Make recommendations on how the draft Guideline can be used as a template for public participation in other aspects of environmental management, including monitoring and compliance

Handbook on Environmental Remedies in Myanmar

- Draw on the baseline assessment of environmental monitoring and compliance activities to scope out a handbook (for subsequent development) for use by ECD, Union Attorney-General's Office and Myanmar lawyers working on environmental cases on the application of administrative, civil and criminal mechanisms for ensuring environmental compliance and remedies:
 - The handbook would be a practical guide based on using domestic laws and remedies (with international law given only a minor supporting/background role)
 - There may be a need for two separate handbooks – one for use by government agencies and one for use by legal practitioners
- Consult with key stakeholders during the scoping exercise

IV. DELIVERABLES AND TIME FRAME

The following deliverables need to be provided with payments made upon achievement of the key corresponding milestones, subject to review and acceptance as satisfactory by the Project Manager & Chief Technical Advisor, GRSP, as shown in the below schedule:

No.	Deliverables	Time Frame	Payment
1	A concise methodology and detailed work plan to deliver the required outputs under this TOR	15 October 2019	15% of contract value
2	A report summarizing MONREC's regulated environmental monitoring and compliance	15 November 2019	40% of contract value

No.	Deliverables	Time Frame	Payment
	responsibilities, and all monitoring and compliance activities undertaken by ECD since its creation in 2012 Scoping Report on proposed Handbook on Environmental Remedies in Myanmar (both Myanmar and English languages) Final version of Draft Guideline on Public Participation in Myanmar's EIA Processes submitted to MONREC Minister for Government approval		
3	Recommendations on how to increase monitoring and compliance within different divisions of ECD, and on how to link post-ECC approval permitting to monitoring and compliance, including how this can be reported and quantified. Final progress report documenting achieved outputs, findings, and recommendations for future monitoring and compliance assistance	15 December 2019	45% of contract value

V. PROPOSAL DETAILS:

Organisations are invited to submit technical and financial proposals. The technical proposals should contain the following information:

- 1) Understanding the assignment;
- 2) Methodology and approach to accomplish the outputs of the proposed services;
- 3) Scope of work including specific activities and outputs to be undertaken completing the sets of deliverables;
- 4) Expertise that will constitute the proposed team that will undertake the assignment, together with the team management structure, with clear specification of the roles of individual personnel;
- 5) Capacity statement of the individuals, team/organization, supported by documentation of research papers including curriculum vitae of key team members; and
- 6) Work plan including time allocations for major activities.

The financial proposal shall contain the information on budget management and detail budget allocation for those tasks that are needed for the assignment. Possible budget heading may include costs for the personnel, materials, travel, per diem, communications, logistics, administration, stationeries, equipment rental, administrative overheads, etc.

Organizations are requested to provide registration certificates/ documents and firms'/organizations' detailed bank information with the proposals.

VI. EVALUATION CRITERIA

Selection is made based On Quality based fixed budget selection

The award of contract shall be made to the NGO/CSO who receives the highest combined score within set budget.

The proposals will be evaluated as per the following criteria:

- 1) Eligibility and Expertise of the organization – 20%
- 2) Proposed Work Plan and approach – 30%
- 3) Management Structure, Experience and Qualification of Personnel – 20%
- 4) Utilization of Resources and Value for Money - 30 %

No	Description of the Criteria	Points Obtainable
1	Eligibility and Expertise of the Organization	200
1.1	Reputation of Organization and Staff Credibility / Reliability / Industry Standing	20
1.2	General Organizational Capability which is likely to affect implementation: management structure, financial stability and project financing capacity, project management controls, extent to which any work would be subcontracted	40
1.3	Relevance of specialized knowledge and experience on similar engagements	100
1.4	Quality assurance procedures, risk mitigation measures and management plan	40
2	Proposed Methodology, Approach and Implementation Plan	300
2.1	Understanding of the aspects of the tasks	35
2.2	Description of the Proposer's approach and methodology for meeting or exceeding the requirements of the Terms of Reference.	65
2.3	Details on how the different service elements shall be organized, controlled and delivered.	50
2.4	Description of available performance monitoring and evaluation mechanisms and tools; how they shall be adopted and used for a specific requirement.	35
2.5	Assessment of the implementation plan proposed including whether the activities are properly sequenced and if these are logical and realistic	80
2.6	Demonstration of ability to plan, integrate and effectively implement sustainability measures in the execution of the contract.	35
3	Management Structure and Key Personnel	200
3.1	Composition and structure of the team proposed. Are the proposed roles of the management and the team of key personnel suitable for the provision of the necessary services?	80
3.2	Qualifications of key personnel proposed	
	1. Project Manager/ Technical Lead/s <ul style="list-style-type: none"> • Strong knowledge and experience of; conflict sensitive programming, project management and successful performance in implementation of projects in a complex and sensitive situation • Strong experience in programme/project management and implementation 	50

	capacity <ul style="list-style-type: none"> • Strong knowledge of environmental law and regulation • Sound experience in conducting baseline/needs assessments, analysis, development of logical framework and reporting, as well as formulation of realistic activity implementation plan • Sound experience in development of training modules and materials for environmental and/or legal awareness raising • Demonstrated capacity to work with government officials in a developing country context • Sound Experience in team management • Languages required: English (Burmese an advantage) 	
	2. Project Officer(s) / Facilitator(s) <ul style="list-style-type: none"> • Sound knowledge and experience of government systems • Sound experience in project implementation capacity with focus on environmental management • Experience in managing consultations, and accessing data • Languages required: English and Burmese 	40
	3. Monitoring and Reporting <ul style="list-style-type: none"> • Sound knowledge and experience of environmental management • Sound knowledge and experience in developing results monitoring framework and plan, as well as managing monitoring and reporting processes. • Languages required: English, Burmese 	30
	TOTAL	700

Financial Evaluation		Points obtainable
Utilization of Resources and Value for Money		
1	To what extent the proposal transfers value to the beneficiary within the given budget (the ratio between the NGO operational cost, including capital and recurring cost, versus the cost of implementation of the activity/output)	200
2	Value for money assessed in terms of quantity of proposed inputs within the prescribed fixed budget	100
Total		300

VII. MANAGEMENT ARRANGEMENTS (SUPERVISION, TEAMWORK AND ADMINISTRATIVE SUPPORT)

The selected NGO/CSO will work under direct supervision of GRSP Project Manager & Chief Technical Advisor, and the National Project Coordinator will provide with guidance for day-to-day implementation. The selected NGO/CSO will be directly responsible for reporting findings, progress, issues and challenges, as well as to seek for acceptance and/or validation of milestones. The selected NGO/CSO will work closely with other technical advisors working with ECD through UNDP.

Upon signing of the contract, The NGO/CSO is expected to attend an inception meeting with UNDP to review the scope of work, deliverables, reporting tools and formats.

A detail methodology and work plan, along with a schedule will be developed by the NGO/CSO in

consultation with UNDP. The work plan will be submitted for UNDP review and endorsement within 7 days following the inception meeting.

The NGO/CSO takes full responsibility for the overall management of activities, and bears all substantive, operational, financial, monitoring responsibilities. The NGO/CSO has to possess complete project management set up, including for administrative and operational matters. UNDP will not provide any administrative support.

The NGO/CSO needs to provide monthly progress report including detailed update on implementation progress, results achieved, challenges, forward planning and financial delivery. The NGO/CSO also needs to provide updates and inputs to UNDP whenever necessary or on request.

The NGO/CSO needs to maintain a data backup system for copies of original receipts for payments of goods, services, labor charges, training cost, operation running costs, etc. for auditing.

At the end of the assignment, the NGO/CSO will have to submit a final report with comprehensive narrative including success and lessons learned, and completion of financial matters.

VIII. MONITORING AND REPORTING (MONITORING AND PROGRESS CONTROL)

The NGO/CSO needs to provide monthly progress report including cumulative updates on implementation progress, results against targets, challenges and forward planning, within 7 days following the end of the month. The NGO/CSO will submit a comprehensive narrative and financial completion report including lessons learned and recommendation at the end of the assignment.

The NGO/CSO will maintain regular communication with UNDP to provide regular feedback on implementation progress, results, challenges and bottlenecks; as well as collaborate with UNDP to facilitate regular or ad hoc monitoring.