

## **TERMS OF REFERENCE FOR INDIVIDUAL CONTRACTOR**

### **1. ASSIGNMENT INFORMATION**

Assignment Title:	<b>International Consultant to develop guidelines for mediating cases in cases involving violence against women and girls</b>
UN Women Practice Area:	Ending Violence against Women
Duty station	Phnom Penh
Duration	40 days (1 July – 31 October 2016)
Cluster/Project:	Ending Violence against Women Programme

### **2. PROJECT DESCRIPTION**

The United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) works for the elimination of discrimination against women and girls; the empowerment of women; and the achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action, and peace and security. Ending violence against women and girls (EVAW/G) has been identified by UN Women as a primary focus area in Cambodia. As one of the largest programmes of the UN Women Cambodia Country Office (CCO), the EVAW programme is currently managing a growing number of campaigns, research, thematic dialogues and project implementation. UN Women seeks an improvement in quality of services, and the adoption and implementation of laws, policies and strategies that respond to and prevent VAW/G.

To further this aim, UN Women CCO's EVAW programme supported a study of mediation as a response to violence against women (VAW) within Cambodia's plural legal system in 2014 in order to make recommendations for ensuring gender-sensitivity and an effective protection for victims in the process. Violence against women is a highly prevalent and largely unpunished crime. It is often surrounded by a culture of silence. A recent nationally representative survey of intimate partner violence in Cambodia, *Women's Health and Life Experiences in Cambodia*, conducted with globally recognized WHO methodology, indicated a prevalence rate for sexual and physical violence to be 21%, or 1 in 5, for women between the ages of 15 and 64. Of

significant concern, 49% of the victims surveyed did not report the violence to anyone, including friends and family members.

In Cambodia, violence against women is addressed through various laws and policies, including the Law on the Prevention of Domestic Violence and Protection of Victims (2005) (DV Law), the Criminal and Criminal Procedural Codes, and the 2nd National Action Plan to Prevent Violence against Women (NAPVAW) (2014-2018). At the same time, the Convention on the Elimination of Discrimination against Women, its General Recommendations, Concluding Observations and jurisprudence on individual complaints brought through the Optional Protocol, provide additional guidance on international standards on the effective implementation of domestic violence legislation. Cambodia acceded to CEDAW in 1992 and signed its Optional Protocol in 2010.

Article 15 of CEDAW ensures that men and women must have equality before the law and benefit from equal protection of the law. Article 2 requires State parties to take appropriate measures to guarantee the substantive equality of women and men, including in the exercise and enjoyment of their human rights. Article 5(a) obliges States to remove gender stereotypes that prevent women from claiming their rights and impeded their access to effective remedies. These provisions provide the framework for ensuring access to justice for victims of gender-based violence.

However, most women in Cambodia lack access to the formal justice sector due to geographical distance, a lack of understanding of a complex legal system, widespread perceptions of bias and corruption, social stigma attached to making the case public, and the prohibitive costs of travel expenses, official and unofficial court “fees” and the opportunity costs involved in lengthy procedures. The 2015 study on the prevalence of intimate partner violence in Cambodia, *Women’s Health and Life Experiences in Cambodia* revealed that 49% of victims—almost half—never informed anyone about the violence, even to family members and friends; only 2% of victims sought assistance from the formal justice system.

Mediation as a form of conflict resolution, outside of the formal court system, is practiced almost ubiquitously in Cambodia for the full range of inter-personal disputes, including in cases involving violence against women and girls. Mediation of violence against women occurs at multiple levels in the administrative structure – village, commune, district and provincial and ranges from informal mediation through a respected elder, Monk, family member or other community leader to more formal mediation through the line departments of the Ministry of Justice and Ministry of Interior. These systems simultaneously operate parallel to each other and as a hierarchical system.

While the Law on the Prevention of Domestic Violence provides for the possibility of mediation in “petty” cases, e.g., for acts that do not constitute crimes or serious misdemeanors, in practice all forms of violence are mediated, including sexual violence. Furthermore, authorities charged with enforcing the Law on the Prevention of Domestic

Violence, including police at every level, prosecutors and judges, often pressure victims of violence into settling their disputes informally, that is withdrawing their criminal complaint for money. Such authorities receive an unofficial “fee” or a percentage of the settlement for conducting the mediation.<sup>1</sup>

In light of the significant imbalance of power characterising gender-based violence, including intimate partner and sexual violence, international standards and experts caution against the use of informal mediation to address issues involving gender-based violence. For example, CEDAW’s General Recommendation No. 33 on women’s access to justice recommends that States “[e]nsure that cases of violence against women, including domestic violence, are under no circumstances referred to any alternative dispute resolution procedures.”<sup>2</sup> While recognizing the greater accessibility of informal justice, including reduced costs and delays, the CEDAW Committee notes that the use of mediation may lead to further violations of the victims’ rights “and impunity for perpetrators due to the fact that [it] often operate[s] with patriarchal values, thereby having a negative impact on women’s access to judicial review and remedies.”<sup>3</sup> One study, *Out of Court Resolutions for Violence against Women* revealed that the methods used by mediators in Cambodia continued to “perpetuate cultural stereotypes that force a woman to submit to her husband.” The study found such resolution processes to be “extremely hazardous to survivors, their children and the surrounding communities.”<sup>4</sup>

As stated clearly in CEDAW’s General Recommendation No. 33 on women’s access to justice, Articles 2, 5(a) and 15, State parties are obliged to ensure that “women are protected against violations of their human rights by all components of plural justice systems.”<sup>5</sup> It further recommends that “alternative dispute settlement procedures do not restrict access by women to judicial and other remedies in all areas of law, and does not lead to further violation of their rights.”<sup>6</sup>

In order to ensure the highest standards of rights to victims who seek mediation—whether out of necessity or choice—to address incidents of violence, UN Women seeks an international consultant to develop recommendations on the appropriate regulation, both substantive and procedural, of mediation in such cases.

### **3. SCOPE OF WORK**

#### **A. Policy advice and technical guidance on the establishment of guidelines for mediation in cases involving violence against women and girls.**

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<sup>1</sup> *Getting away with it: the treatment of rape in Cambodia’s justice system*, LICADHO, 2015, p. 9; *Mediation as a response to violence against women in Cambodia*, UN Women, unpublished report, 2015, pp. 12-14.

<sup>2</sup> CEDAW, General recommendation on women’s access to justice, CEDAW/C/GC/33, ¶ 58(c).

<sup>3</sup> CEDAW, General recommendation on women’s access to justice, CEDAW/C/GC/33, ¶ 57.

<sup>4</sup> Jo-Ann Lim, *Out of Court Resolutions for Violence against Women: Practices and Issues in Cambodia*, June 2009, p. 3.

<sup>5</sup> CEDAW, General recommendation on women’s access to justice, CEDAW/C/GC/33, ¶ 61.

<sup>6</sup> CEDAW, General recommendation on women’s access to justice, CEDAW/C/GC/33, ¶ 58(b).

- a) Desk review of existing reports, legal and policy framework;
- b) Consultations with representatives from key national and sub-national institutions (including: the Ministries of Justice, Interior and Women's Affairs, and authorities at the village, commune and district level, Justice a La Maison "Mediation Committee") and civil society organizations (including, *inter alia*, Legal Aid Cambodia, Cambodian Women Crisis Center, Adhoc, LICADHO) on existing practices and procedural rules;
- c) Draft substantive guidelines on engaging in mediation in cases involving violence against women and girls;
- d) Propose procedural regulations linking informal mediation practices with the formal justice sector;
- e) Develop content and training materials for a series of trainings for mediators to pilot the proposed guidelines and procedures in two provinces.
- f) Conduct training with future trainers and selected mediators.

#### 4. EXPECTED OUTPUTS AND DELIVERABLES

Deliverables/ Outputs	Estimated Duration to Complete	Target Due Dates
Desk review of existing reports, legal and policy framework	2 days	7 July 2016
Consultation with key national and sub-national institutions, both governmental and civil society organizations in Siem Reap, Kampong Thom, Kampong Speu and Sihanoukville Provinces on existing practices and procedural rules	20 days	25 August 2016

<u>Submit brief report outlining key findings from the desk review and the consultations.</u>		
Draft substantive mediation guidelines and proposed procedural regulations to be integrated into the formal legal framework  <u>Submit mediation guidelines</u>	10 days	22 September 2016
Develop training materials on mediation guidelines and conduct trainings in a training of trainers (ToT) and selected mediators.	10 days	13 October 2016
Prepare final report on the mediation guidelines and recommended next steps for training purposes <u>Submission of final report with recommended next steps for conducting trainings on the guidelines</u>	3 days	20 October 2016
<b>Total days</b>	<b>40 days</b>	

## 5. INSTITUTIONAL ARRANGEMENT

The international consultant will work under the supervision of the UN Women ERAW Programme Manager and in close consultation with the ERAW Programme team in the Cambodia Country Office (CCO).

The Consultant will bring her/his own personal computer to conduct this assignment.

## 6. DURATION OF WORK

*Duration: 3 months (1 July – 31 October 2016)*

*Maximum working days: 40 Days*

## 7. DUTY STATION

*Duty station: Phnom Penh.* The consultant will be based in the UN Women Cambodia Country Office (100%), and undertake sub-national consultations in Siem Reap and Kampong Thom provinces. The standard UN daily subsistence allowance (DSA) will apply to any travel that may be required in the fulfilment of this assignment.

## 8. MINIMUM QUALIFICATIONS OF THE INDIVIDUAL CONTRACTOR

Education:	<ul style="list-style-type: none"> <li>Degree in law (Masters or Juris Doctor), gender studies, development studies, legal anthropology, or other related disciplines</li> </ul>
Experience:	<ul style="list-style-type: none"> <li>Minimum 7 years progressively responsible relevant experience,</li> <li>At least 5 years professional experience in addressing violence against women, victims access to justice and plural legal systems; specific experience on conducting mediation in cases involving gender-based violence or on developing mediation guidelines is a strong asset</li> <li>Sound knowledge of international standards on access to justice for victims of gender-based violence</li> <li>Experience conducting trainings</li> <li>Professional experience working in women's human rights in Cambodia preferred</li> </ul>
Competencies:	<p><b>Functional competencies:</b></p> <ul style="list-style-type: none"> <li>Local knowledge of the social, cultural, and political context of Cambodia and its relation to gender and VAW.</li> <li>Experience with UN programming</li> <li>Demonstrated sensitivity, discretion, tact, and courtesy in relation to gender equality and women's rights, development principles, implementing partners, and national and international personnel of varied nationalities and backgrounds.</li> </ul> <p><b>Technical competencies:</b></p> <ul style="list-style-type: none"> <li>Good knowledge of the Cambodian policy, legislative framework and institutional mechanisms concerning ending violence against women, especially on violence prevention.</li> <li>A proven ability to liaise and coordinate with a myriad of stakeholders and partners, including government, civil society, international organizations and grassroots organizations.</li> </ul> <p><b>Corporate competencies:</b></p> <ul style="list-style-type: none"> <li>Demonstrates integrity by modelling the UN's values and ethical standards;</li> <li>Promotes the vision, mission, and strategic goals of UN Women;</li> <li>Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability</li> <li>Treats all people fairly without favouritism;</li> <li>Fulfils all obligations to gender sensitivity and zero tolerance for sexual harassment;</li> </ul>

Language Requirements:	Fluency in English. Knowledge of Khmer a significant asset.
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## 9. EVALUATION

Application will be evaluated based on the following criteria:

- Technical Qualification (100 points) weight; [70%]
- Financial/Price Proposal (100 points) weight; [30%]

A two-stage procedure is utilized in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal being compared. Only the price proposal of the candidates who passed the minimum technical score of 70% of the obtainable score of 100 points in the technical qualification evaluation will be evaluated.

### 1. Technical qualification evaluation criteria:

The total number of points allocated for the technical qualification component is 100. The technical qualification of the candidate/individual is evaluated based on following technical qualification evaluation criteria:

Evaluation Criteria	Obtainable Score
Education	15 %
Experience	35%
Technical Competencies	25%
Functional competencies	25%
<b>Total Obtainable Score</b>	<b>100%</b>

Only the candidates who have attained a minimum of 70% of total points will be considered as technical qualified candidate.

### 2. Financial/Price Proposal Comparison:

- Only the financial/price proposal of candidates who have attained a minimum of 70% score in the technical evaluation will be considered and evaluated.
- The total number of points allocated for the price component is 100.
- The maximum number of points will be allotted to the lowest price proposal that is opened/evaluated and compared among those technical qualified candidates

who have attained a minimum of 70% score in the technical evaluation. All other price proposals will receive points in inverse proportion to the lowest price.

## **10. Submission of application**

Interested candidates are requested to submit an electronic application to [Cambodiaco.unwomen@unwomen.org](mailto:Cambodiaco.unwomen@unwomen.org) and [hr.bangkok@unwomen.org](mailto:hr.bangkok@unwomen.org) no later than 15 June 2016 by 5:00pm local time in Phnom Penh, Cambodia. **Late application submissions will be rejected.**

### **Application package**

1. Application letter explaining why the candidate is the most suitable for the work;
2. CV and Copies of Educational Qualifications;
3. Personal History Form (P11). The P11 Form can be downloaded from the following:  
Download UN Women Personal History Form (P11)
4. Two writing samples/communications products.
5. Financial proposal. The financial proposal shall specify a total lump sum amount breaking down the professional fee by day and relevant travel cost, if any.

All applications must include (as attachments): CV, copies of educational qualifications, P11, two original writing samples, and the financial proposal.

UN Women-Cambodia requires that all international personnel, regardless of contract modality or position status, should comply with UN Cambodia Resident Security Measure (RSM) for accommodations and housing in Cambodia. A residential inspection is required and will be conducted by UN DSS, whereupon corrections may be identified to achieve compliance with UN Cambodia RSM standards. As such, newly arriving personnel are advised not to enter into long-term housing arrangements until inspection and compliance are verified. For personnel who are already in-country, steps must be taken to achieve UN Cambodia RSM compliance.