

## **TERMS OF REFERENCE**

### **Individual Contractor**

#### **1. Assignment Information**

<b>Assignment Title:</b>	National lawyer to review and consult a draft environmental Code
<b>UNDP Practice Area:</b>	Resilience and climate change
<b>Cluster/Project:</b>	Policy/Environmental Governance Reform Project
<b>Post Level:</b>	Specialist
<b>Contract Type:</b>	Individual Contractor (IC)
<b>Duty Station:</b>	Phnom Penh
<b>Expected Place of Travel:</b>	N/A
<b>Contract Duration:</b>	40 days, and from December, 2016 to February, 2017

#### **2. Project Description**

Sustainable natural resources and environment is integral for Cambodia to sustain its economic growth and its growing population. Whereas Cambodia has a body of laws that govern its natural resources and environment, there are no overarching principles that guide policies and laws towards the aim of sustainable natural resources management and development. In addition, overlapping jurisdictions and mandates among ministries over the governance of natural resources often created ambiguity concerning which ministry should own and manage a particular land and resource and for what purposes.

In March, 2015, the RGC made an official announcement of its goal to develop an Environmental Code by the end of 2016. The Code aims to establish overarching principles and legal framework to guide implementation of existing laws including those currently outside of the MoE's jurisdictions, in order to achieve sustainable development. The Code will also propose statutory changes of existing laws to ensure harmonization and to clarify roles and mandates among different ministries for governing natural resources and the environment. Thus far, the development of the Code has been led by a legal firm.

Thus far, the legal firm engaged a wide range of national and international experts and stakeholders to develop the fifth draft environmental code which includes 11 books (with more than 450 pages in total) as follows.

1. General Provisions
2. Environmental Planning, Assessment and Monitoring
3. Environmental Management and Sustainability Mechanisms
4. Sustainable Management of Natural Resources and Ecosystems
5. Conservation and Protection of Biodiversity and Cultural Heritage
6. Waste and Pollution Management and Sustainable Production
7. Environmental Education and Awareness
8. Environmental Incentives, Fees, Taxes and Funding
9. Environmental Offenses, Enforcement and Remedies
10. Transitional Provisions
11. Final Provisions

At present, the Royal Government of Cambodia (RGC) seeks to finalize the Code by the end of January, 2016. The RGC requested for UNDP's technical assistance to conduct an additional legal review of the sections related to forestry, fishery and Protected Areas to make sure that the Code adequately builds on existing laws and regulations and fully reflects Cambodian contexts. The RGC also requested proper consultations to be facilitated with relevant ministries on the draft Code to provide ample opportunities for relevant government

officers to review and share their comments to the Code so as to ensure their views to be adequately incorporated into the code.

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

Under this assignment, the consultant will conduct three main activities.

#### **Activity 1: Legal review**

- Review of Forestry law, Protected Areas law, Fishery law, and other related regulations
- Building on the above review, conduct thorough reviews of the below sections of the code related to forestry, fishery, and Protected Areas. Attention should be paid to the extent to which the proposed Code draft builds on existing laws and Cambodian contexts.
  - Management of conservation landscapes
  - Protected Areas management
  - Climate Change Adaptation and Mitigation in relation to REDD+ (efforts to reduce emissions from deforestation and forest degradation, and foster conservation, sustainable management of forests, and enhancement of forest carbon stocks).
  - Sustainable Forest Management
  - Wildlife Protection, Conservation and Management
  - Protection of Threatened Plants, Habitats and Ecosystems
  - Sustainable Freshwater Fisheries and Aquaculture
- Identifications of sections/areas that would require revisions to build on existing laws and Cambodian contexts, and sections/areas that require further deliberations and consensus from relevant government institutions
- Preparation of presentations of these above points

#### **Activity 2: Consultations of drafts with relevant governments**

- Circulation of the latest draft to Forestry Administration (FA), Fishery Administration (FiA) of the Ministry of Agriculture, Forestry and Fishery MAFF), and the General Directorate for Administration of Nature Conservation and Protection (GDANCP) of the Ministry of Environment for internal reviews and comments
- Conducting 3 consultation meetings at FA, FiA and GDANCP to highlight areas that require further deliberations and to receive comments
- Compilation of comments received from the consultations

#### **Activity 3: Finalization of the sections related to forestry, fishery and Protected Areas**

- Revision of the relevant sections building on existing laws and Cambodian contexts and incorporating comments from the government into the revision

### **4. Expected Outputs and Deliverables**

#### **Activity 1: Legal review**

- A report that summarizes that summarizes legal review results-with identifications of sections/areas that would require revisions to build on existing laws and Cambodian contexts, and sections/areas that require further deliberations and consensus from relevant government institutions

#### **Activity 2: Consultations of drafts with relevant governments**

- 3 consultation meetings at FA, FiA and GDANCP to highlight areas that require further deliberations and to receive comments with a list of attendance with signatures along with a list of comments received from government institutions

### Activity 3: Finalization of the sections incorporating comments from the government

- Revision of the relevant sections building on existing laws and Cambodian contexts and incorporating comments from the government into the revision

N	Deliverables/Outputs	Estimated Duration to Complete	Target Due Dates	Review and Approvals Required
1	A report (not more than 20 pages) that summarizes legal review results-with identifications of sections/areas that would require revisions to build on existing laws and Cambodian contexts, and sections/areas that require further deliberations and consensus from relevant government institutions	15 days	December 20, 2016	DG GDANCP, UNDP policy specialist
2	3 consultations with GDANCP, FiA and FA compilation of comments from GDANCP with a list of comments received from FA, FiA and GDANCP	15 days	January 15, 2017	
3	Revision of the relevant sections building on existing laws and Cambodian contexts and incorporating comments from the government into the revision	10 days	February 10, 2017	
Total number of days:		40 days		

### 5. Institutional Arrangement

#### Roles of the consultant

- ñ The consultant shall work under the Director General (DG) of the General Directorate for Administration of Nature Conservation and Protection (GDANCP), and UNDP policy specialist assigned to work on the Environmental Code to inform the progress of the works
- ñ The consultant shall report on/submit the above deliverables to the DG, GDANCP, MoE as well as to the policy specialist of UNDP Cambodia.

#### Roles of the DG of GDANCP, MOE

- ñ He will supervise the consultant for the nature of work and work plans

#### Roles of the UNDP Country Office

- ñ The UNDP policy unit will provide overall quality assurance for this consultancy.
- ñ The UNDP policy unit will review deliverables for payment releases

### 6. Duration of the Work

- ñ 40 days from December 2016 to February, 2017.
- The consultant has to submit the outputs in accordance to the defined work plan and payment is issued only with satisfactory outputs accepted/approved by the UNDP policy unit.
- All expected outputs could not be delayed as the result of assignment; therefore, the consultant has to commit to deliver these outputs as planned.

### 7. Duty Station:

The duty station for this assignment is home country and Phnom Penh.

Selected individual contract(s) who is expected to travel to the Country Office (CO) to undertake the

assignment in the country (Cambodia) is required to undertake the Basic Security in the Field (BSIF) training (<https://dss.un.org/dssweb/WelcometoUNDSS/tabid/105/Default.aspx?returnurl=%2fdssweb%2f>) prior to travelling. CD ROMs must be made available for use in environments where access to technology poses a challenge. i

## 8. Minimum Qualifications of the Individual Contractor

<b>Education:</b>	At minimum, master's degree or equivalent in law or a related field;
<b>Experience:</b>	<p>• A minimum of 3 years of working experiences as a lawyer (e.g., natural resource management and environmental law and policy, related public law fields including practice in the judicial system)</p> <p>• Prior work experience with providing legal opinions, and consultation for Cambodian national laws in the field of environment, natural resources management</p>
<b>Competencies:</b>	<p>• Sound knowledge of Cambodian environmental legislation</p>
<b>Language</b>	Khmer and English

## 1. Criteria for Evaluation of Level of Technical Compliance of Individual Contractor

<b>Technical Evaluation Criteria</b>	<b>Obtainable Score</b>
At minimum, master's degree or equivalent in law or a related field	20
A minimum of 3 years of working experiences as a lawyer (e.g., natural resource management and environmental law and policy, related public law fields including practice in the judicial system)	25
Prior work experience with providing legal opinions, and consultation for Cambodian national laws in the field of environment, natural resources management	30
Sound knowledge of Cambodian environmental legislation	25
<b>Total Obtainable Score:</b>	<b>100</b>

## 2. Payment Milestones

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

<b>N</b>	<b>Outputs/Deliveries</b>	<b>Payment Schedule</b>	<b>Payment Amount</b>
1	Upon satisfactory completion of Legal review results-with identifications of sections/areas that would require revisions to build on existing laws and Cambodian contexts, and sections/areas that require further deliberations and consensus from relevant government institutions.	15, December, 2016	25%
2	Upon satisfactory completion of 3 consultations with GDANCP, FiA and FA compilation of comments from GDANCP with a list of comments received from FA, FiA and GDANCP (attendance list attached)	15, January, 2017	40 %

3	Upon satisfactory completion of revision of the relevant sections building on existing laws and Cambodian contexts and incorporating comments from the government into the revision	10 February, 2017	35%
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