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Terms of Reference

Curriculum Developer – Land and Dispute Resolution (National Consultant)

Type of Contract	Individual Contract - National
Start/End Dates	25 November 2019 - 31 March 2020
Estimated working days	59 working days
Supervisor	SARL Project Manager
Languages required	Myanmar and English
Location	Home-based, with travel possible to Rakhine as required
Country	Myanmar

1. Background

The Strengthening Accountability and Rule of Law (SARL) Project supports the Government of Myanmar to improve public trust in state institutions at a critical time in Myanmar's transition. Building on the clear initiative of all three branches of the Government of Myanmar to promote transparency and accountability, the project helps to strengthen institutional frameworks and capacities for good governance. SARL is organized into three thematic intervention areas: (1) Anti-Corruption, (2) Parliament, and (3) Rule of Law and Human Rights.

Within the Rule of Law and Human Rights component, SARL supports institutional capacity of formal justice sector institutions to provide higher quality, more accessible and responsive legal services to the public and to other government entities. Since late 2018 SARL has also been active in several townships in Rakhine to improve legal awareness at community level on housing, land and property (HLP) rights and gender-based violence, and to provide legal assistance through national legal aid providers.

In this context, SARL proposes to deliver programmes of training targeting Ward/Village Tract Administrators (W/VTAs), Township Administrators and Department Representatives in Rakhine State. The training will cover land laws and land administration, mediation and negotiation skills, and fair trial standards, and will aim to reach all W/VTAs and key township officials in the five townships where TDLG Project¹ is currently operational (Gwa, Toungup, Thandwe, Ponnagyun, Ramree), subject to local conditions.

¹ Township Development and Local Governance Project

2. Rationale and Objectives of Assignment

People rely on local actors, primarily the W/VTAs, to provide justice. The W/VTAs commonly act as the gatekeeper for determining which issues are dealt with locally and which are referred to the formal system. Recent surveys (e.g. the *2017 Myanmar Justice Survey*) confirm that local actors, in particular W/VTAs, are the most prominent providers of justice. Most people identify the W/VTAs as the primary local actor in terms of maintaining safety, preventing and investigating crime, determining guilt, administering punishment and resolving issues (*please see the annexed extracts from the survey*).

As people have a strong preference for resolving issues outside of the formal system, W/VTAs need knowledge and skills that can be applied to many types of problem or dispute. Housing, land and property (including registration, land use, inheritance, confiscation, etc.) is a particularly difficult, technical area for W/VTAs and township officials to advise on. Furthermore, data show that despite the importance of land disputes and legal identity issues for their daily lives, a significant proportion of people take no action because they don't know who can offer help and who to approach.

The training programme will enhance the capacities of W/VTAs and township officials to effectively resolve local problems and disputes, particularly on HLP issues, in accordance with the law. To this end, UNDP is seeking to engage a Curriculum Developer to produce two Resource Books on land issues and dispute resolution for use as reference books by W/VTAs and township officials, as well as a corresponding Training Manual based on the Resource Books.

3. Scope of Work

The assignment will produce the following deliverables:

I. **Deliverable 1: Resource Book on land laws, land administration and Housing, Land and Property Rights**

The Resource Book will:

- a) Be produced in English, then in Myanmar language, and possibly printed in one bilingual volume
- b) Be designed to respond to the needs of W/VTAs and local administrators, in format, layout, language and content
- c) Include cross-cutting themes of gender and marginalised groups (e.g. PWDs, ethnic minorities, IDPs, etc.)
- d) Be of approximately 40-50 pages length in A4 format, or 70-80 pages in A5 format

On commencing drafting of the Resource Book, the consultant will hold a consultation meeting with W/VTAs in Rakhine to obtain inputs into the content, format and layout of the Resource Book.

The *indicative* contents of the Resource Book will be:

- a) An introduction section, which will outline the objectives of the Resource Book and brief guidance on how to use it
- b) Contents table

- c) An overview of salient points and extracts from key national land-related legislation and policy, and international law on HLP rights, including but not limited to:
National: the Constitution (2008); Farmland Law (2012); Vacant, Fallow and Virgin Lands Management Law (2012, 2018); Land Acquisition Act (1894); Land Nationalization Act (1953); Forest Law (1992); Community Forestry Instructions (2016); Lower Burma Town and Village Lands Act (1899); National Land Use Policy (2016)
International: UDHR, CEDAW, ICESCR

Brief analysis of the challenges these laws present, particularly for displaced or marginalised groups in society, and also any responsibilities of W/VTAs established in these laws.

- d) A section outlining the mandate/powers, responsibilities, structure, operating procedures of:
- Township and Village Tract Farmland Management Committees
 - Vacant, Fallow and Virgin Lands Management Committees
 - Rescrutinisement Committees
- e) A section outlining key land administration procedures, including: Land registration; Land Use Certificate; Land Use Objection; Notice of Claim; Application for Seasonal Crops/Livestock Breeding/etc.; Confiscation Complaint, etc.
- f) Annexes: examples of forms used for land administration processes, etc.

II. Deliverable 2: Resource Book on Dispute Resolution

The Resource Book will:

- a) Be produced in English, then in Myanmar language, and possibly printed in one bilingual volume
- b) Be designed to respond to the needs of W/VTAs and local administrators, in format, layout, language and content
- c) Include cross-cutting themes of gender and marginalised groups (e.g. PWDs, ethnic minorities, etc.)
- d) Be of approximately 30-40 pages length in A4 format, or 50-60 pages in A5 format

On commencing drafting of the Resource Book, the consultant will hold a consultation meeting with W/VTAs in Rakhine to obtain inputs into the content, format and layout of the Resource Book.

The *indicative* contents of the Resource Book will be:

- a) An introduction section, which will outline the objectives of the Resource Book and brief guidance on how to use it
- b) Contents table
- c) A section outlining classic forms of dispute resolution: judicial vs. alternative dispute resolution (arbitration, negotiation, mediation)
- d) A section outlining the principles of dispute resolution in both judicial and 'alternative' forms, and fair trial standards
- e) A section covering the processes of alternative dispute resolution (ADR) and the role of W/VTAs in ADR
 - a. Features of good/appropriate ADR processes

- b. Benefits and disadvantages of ADR, particularly for women & girls and marginalised groups
- c. The mandate and responsibilities of W/VTAs in ADR processes
- f) Annexes as appropriate

III. Deliverable 3: Trainers' Manual for two courses on Land and Dispute Resolution

The Training Manual will:

- a) Be a detailed and comprehensive guide for the trainers to use in delivering both of the training courses, in conjunction with the two Resource Books
- b) Be organized and well structured, in an easy to follow format
- c) Include at least the following:
 - Objectives and target audience of training
 - Training approach
 - Training materials: learning objectives and step by step instructions for exercises and activities, key points of information to convey, discussion points, case studies, handouts, presentation slides, etc.
 - Evaluation forms

IV. Deliverable 4: Revision of the Resource Books and/or Training Manual following piloting

The consultant will convene a two-day meeting with the trainers following the piloting of the training in the first two townships to review both the Resource Books, the Training Manual and the training process itself to consider what improvements are necessary. In this, s/he will also be guided by evaluation forms from training participants.

4. Deliverables and Payment Schedule

	Deliverables/ Outputs	Estimated days required	Target due dates	Related payments
1	Consultation meeting with W/VTAs. Resource Book on land laws, land administration and Housing, Land and Property Rights	2 days in field 15 days home-based	17 Dec 2019	35%
2	Consultation meeting with W/VTAs. Resource Book on Dispute Resolution	2 days in field 15 days home-based	10 Jan 2020	25%
3	Training Manual for two courses on Land and Dispute Resolution Training of Trainers (2 days)	15 days home-based	31 Jan 2020	25%

4	Review meeting conducted with trainers following piloting. Revisions to Resource Books and Training Manual.	3 days in field Up to 7 days home-based	31 Mar 2020	15%
Total				100%

Some adjustment to the nature of the deliverables required, target dates and payment percentage is possible and will be addressed as needed.

Review of work delivered, and certification of payments will be made by the SARL project Manager.

5. Required Qualifications and Experience

The required qualifications, skills, knowledge and expertise of the Curriculum Developer are detailed below:

Minimum qualifications

- Masters' degree in law, political science, social science, environmental science, development studies or any other relevant field with five years' relevant experience or a Bachelor's degree in these (or related) fields with additional five years' experience

Knowledge and experience:

- Expert knowledge combined with solid practical experience (five years minimum) as a practitioner in the field of land rights, housing land and property rights, rule of law and access to justice in Myanmar is required
- Strong familiarity with all relevant land-related laws in Myanmar, and with dispute resolution principles and processes
- Good understanding of how gender and marginalisation relate to land rights and access to justice in Myanmar
- Experience in developing training materials and curricula is required, and ideally also in planning training programmes and delivering training

Languages:

- Excellent command of both Myanmar and English languages (written and spoken) is required

6. Duty Station

This consultancy will be largely home-based. The consultant may be required to travel to Rakhine State for the purposes of this assignment. This will be determined in consultation with the UNDP SARL Project team.

7. Administrative and Logistical Arrangements

8.1) Reporting line:

- The consultant will report progress against deliverables on a weekly basis to the SARL Project Manager.

8.2) Logistical arrangements:

For all in-country travel, where required:

- When in-country missions are requested by UNDP, UNDP will arrange and cover costs related to all domestic travels – such as transportation between the agreed in-country duty stations and living allowances - in accordance with UNDP's regulations and policies.
- UNDP will facilitate security clearances required to travel in-country (if applicable).

Other logistical matters:

- The contractor will arrange their accommodation in the agreed duty stations, and for his/her own transportations to/from the places of work. Field-based transport will be arranged by UNDP.
- UNDP will not consider travel days to/from the duty station as working days. The above stated working days are exclusive of travel time.
- The working language of this assignment is English.
- The contractors are expected to use their own computers and mobile phones.
- UNDP will assist in the facilitation of introduction letters and/or requests for meetings upon request with stakeholders and beneficiaries.

8. Criteria for selection of the best offer

UNDP will use a combined scoring method, in which the technical proposal (the candidate's CV + cover letter) will be weighted at 70% and the financial proposal at 30%. The technical proposal will be evaluated according to the following criteria:

Criteria	Points
Relevant educational background	10
Expert knowledge and practical experience in land rights issues, HLP rights, rule of law and access to justice in Myanmar	20
Good understanding of how gender and marginalisation relate to land rights and access to justice in Myanmar	
Strong familiarity with all relevant land-related laws in Myanmar, and with dispute resolution principles and processes	20
Experience in developing training materials and curricula	15
Excellent command of both Myanmar and English languages (written and spoken)	5
Financial Proposal	30
Total	100

9. How to Apply

Interested persons are requested to submit the following documents:

- a) Duly accomplished **Letter of Confirmation of Interest and Availability** using the template provided by UNDP.
- b) **Personal CV**, indicating all experience relevant to this assignment, as well as the contact details (email and telephone number) of the Candidate and at least three professional references.
- c) Cover Letter, outlining how the candidate considers themselves suitable for the assignment
- d) **Financial Proposal** that indicates the all-inclusive *fixed total contract price*, supported by a breakdown of costs, as per template provided. If an Offeror is employed by an organization/company/institution, and he/she expects his/her employer to charge a management fee in the process of releasing him/her to UNDP under Reimbursable Loan Agreement (RLA), the Offeror must indicate this, and ensure that all such costs are duly incorporated in the financial proposal submitted to UNDP.