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TERMS OF REFERENCE

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| Assignment Title | Human Rights Due Diligence Expert |
| Type of Contract | Individual Contract (International) |
| Start/End Dates | 1 December 2019 – 31 May 2020 |
| Working Days | 120 days (6 Months) |
| Supervisor(s) | Deputy Resident Representative |
| Duty Station | Yangon with in Country field missions |

1) Background

UNDP Country Programme (2018-2022)

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 in the near future.

The first UNDP Country Programme was delivered from 2013-2017. As a key development partner of the government of Myanmar, UNDP will implement a new UNDP Country Programme for the period 2018-2022, which will deliver on a large and relevant programme portfolio that is responsive to the main development challenges facing the country. The UNDP Country Programme Document (2018-2022) will be implemented through the following two key programme areas: Governance and Sustainable Peace Program aligned to Myanmar Sustainable Development Plan (MSDP) Goal : Peace, National Reconciliation, Security and Good Governance and and Sustainable and Inclusive Growth Program that aligns with MSDP Goal 5: Natural Resources & the Environment for National Posterity.

In the framework of the new Country Programme, the Country Office is leading an Area Based Programme in Rakhine and exploring adopting a similar approach in Kachin state in addition to its other development programmes in other subnational levels like South East Myanmar. All these regions have both Nationwide Ceasefire Agreement (NCA) signatory Ethnic Armed Organised (EAOs) and non NCA Signatory EAOs. The Tatmadaw EAOs clashes in these areas has resulted in reported human rights violations and abuses as documented by the UN Independent International Fact Finding Mission reported established in March 2017 by the United Nations Human Rights Council. Programming in such context therefore requires UNDP to proactively monitoring risk put in place mitigation measures and safeguards to inform its engagement with various stakeholders, programme support, procurement, hiring practices etc

2) Description of the Assignment

On 24 March 2017 the United Nations Human Rights Council decided through Resolution A/HRC/RES/34/22 to dispatch an independent international fact-finding mission (FFM), to be appointed by the President of the Human Rights Council, to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State.

In its initial report issued 17 September 2018, the FFM established consistent patterns of serious human rights violations and abuses in Kachin, Rakhine and Shan States, in addition to serious violations of international humanitarian law. Many violations were found to have amounted to the gravest crimes under international law. In the light of the pervasive culture of impunity at the domestic level, the mission found that the impetus for

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accountability should come from the international community. The FFM has subsequently issued three reports the first focused on the situation in Kachin, Rakhine and Shan States since 2011, the second on the economic interests of the military and the third on sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts.

In its 2018 report, the FFM recommended that:

'The United Nations should urgently adopt a common strategy to ensure that all engagement with Myanmar takes into account, and addresses, human rights concerns, in line with the Human Rights Up Front Action Plan. This should guide all United Nations engagement in Myanmar, particularly in relation to Rakhine State, and include policies and public advocacy stances. All United Nations support to Myanmar authorities should undergo a full Human Rights Due Diligence analysis.' (Para 1705)

In order to obtain the appropriate support, guidance and advice for the application of human rights due diligence by the UNCT in Myanmar, the Resident Coordinator requested an advisory and support mission from OHCHR. OHCHR provided the UNCT with advice on the development of a human rights due diligence framework (HRDD Framework) for the work of the UN agencies, funds and programmes operating in Myanmar. The recommendations and next steps were agreed and adopted at a meeting of the UNCT on 9 July 2019.

In addition to the above UNCT initiative, UNDP seeks to carry out its own human rights due diligence review and is looking for a Human Rights Due Diligence Expert to carry out the due diligence risk assessment and prepare a report advising UNDP on mitigation measures in the design and implementation of its development programming. The Expert may also advise UNDP on the application of the UNCT due diligence findings and recommendations to UNDP's work including with regard to engagement with national authorities and other external partners, programmes, procurements and hiring practices

The assignment is aligned to the Myanmar Sustainable Development Plan (2018 – 2030) as it recognizes the essential and reinforcing roles played by open, inclusive and well-governed institutions, adherence to the rule of law and respect for human rights, the adoption of inclusive and conflict-sensitive approaches to socio-economic development and service provision (with a particular focus on marginalized and vulnerable groups).

3) Objective of the Assignment

The objective of undertaking HRDD exercise is to enable UNDP to proactively and in a systematic manner identify risks of and actual adverse impact on human rights, take measures to prevent and mitigate them, monitor the effectiveness of the measures taken, and account for how such adverse impact is addressed in programmatic engagement and operations

4) Scope of Work

Under the supervision of the Deputy Resident Representative, the HRDD Expert is responsible to ensure and coordinate HRDD Framework implementation for UNDP by performing the following tasks:

1. Advising UNDP on an overall HRDD strategy and other aspects of HRDD implementation, including with regard to engagement with national authorities and other external partners, based the review of UNDP's current project portfolio;
2. Organise two awareness raising and training sessions for the UNDP staff on HRDD and why it is important for UNDP programming and operations teams – (1 session at the beginning of the assignment and the 1 at the end, incorporating how to use the developed HRDD strategies/SOPs)
3. Contributing to the development of procedures for the implementation of the HRDD Framework, the establishment of coordination mechanisms within other UN entities to ensure information sharing and joint analysis cases of human rights violations committed by relevant institutions and actors in Myanmar;
4. Develop a communication strategy and support the dissemination and awareness of HRDD requirements and procedures within relevant actors and institutions;
5. Supporting the UNCT-wide HRDD risk assessment analysis by providing relevant information and analysis.
6. Coordinating the development of an HRDD risk and impact assessment for UNDP's individual and joint programming, with contribution from all relevant UN agencies, including the identification of mitigation measures as relevant;
7. Ensuring close coordination with the monitoring of OHCHR to ensure the gathering and analysis of human rights information to support HRDD application and monitoring of mitigation measures;
8. Ensuring the recording and sharing of good practices and lessons learned on HRDD Framework application, and any new guidance needs;
9. Develop HRDD Standard Operating Procedures (SOPs) to inform UNDP programming and operations in Myanmar
10. Drafting, in coordination with relevant UN agencies, contributions on HRDD Framework implementation for relevant reports
11. Review and update entire delivery chains and those of downstream partners, and other procurement supply chains on UNDP programmes and operations to confirm no association with companies listed in the FFM report and any enhanced list provided by donors

5) Deliverables

Based on the details mentioned in Section 4) Scope of Work, the deliverables are as follows. Payments will be made after completion of deliverables 1 & 2, 3, 4 and 5, 6 & 7 (three payments)

| # | Deliverables | Working Days | Target due dates |
|----|---|--------------|------------------|
| 1. | Produce inception report outlining the timeline, activities and programme of work to be approved by the DRR. | 13 | |
| 2 | Organise two awareness raising and training sessions for the UNDP staff on HRDD and why it is important for UNDP programming and operations teams | 2 | |
| 3. | Review of UNDP Country Programme and portfolio, FFM report and other reports and assessments related to the scope of work and | 20 | |

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| | conduct consultations within UNDP, UNCT and other relevant stakeholders. | | |
| 4 | Review and update entire delivery chains and those of downstream partners, and other procurement supply chains on UNDP programmes and operations to confirm no association with companies listed in the FFM report and any enhanced list provided by donors | 15 | |
| 5 | Prepare risk analysis and organize consultations to inform finalization of analysis and impact assessment. Prepare risk matrix and mitigation measures for UNDP programme and projects. | 20 days | |
| 6 | Development of procedures for the implementation of the HRDD Framework | 10 days | |
| 7 | Communication Strategy | 5 days | |
| 8 | Record and share of good practices and lessons learned on HRDD Framework application, and develop new guidance | 18 | |
| 9 | Develop HRDD Standard Operating Procedures (SOPs) to inform UNDP programming and operations in Myanmar | 15 days | |
| 10 | Organise two awareness raising and training sessions for the UNDP staff on HRDD and why it is important for UNDP programming and operations teams – at the end, incorporating how to use the developed HRDD strategies/SOPs) | 2 | |
| Total number of days | | 120 days | |

6) Duration of Assignment and Duty Station

The assignment will include up to 120 fee days (6 months) to be carried out in the period of 1 December 2019 to 31 May 2020. National holidays observed by the UN in Myanmar will be non-working days. The primary duty station will be Yangon and will include in-country missions.

7) Institutional Arrangements

7.1 Reporting line:

The HRDD Expert will work under the overall guidance and supervision of the UNDP Deputy Resident Representative

7.2 Logistical arrangements:

- For all international travel:

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- Candidates are requested to include international travel costs from probable point of departure in the financial proposal and arrange the flight. The travel cost should be based on the most economical class fare, with most direct routes.
- UNDP will provide support for the visa process and reimburse the visa fee, based on the actual receipt.
- UNDP will provide terminal charges at the applicable UN rate.
- UNDP does not consider travel days as working days.
- For all in-country travels:
 - Candidates are requested to include in country travel costs (lumpsum) from and to Yangon in the financial proposal as per UNDP's regulations and policies.
 - UNDP will facilitate security clearances required to travel in-country (if applicable).
- Other logistical matters:
 - The Contractor is expected to use their own computer.

8) Qualifications

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| Education: | Advanced University Degree (Masters or equivalent), including in law or other disciplines related to human rights. Preference will be given to human rights degree. |
| Experience: | <ul style="list-style-type: none"> • At least 7 years of experience in the human rights field, including at least 3 years at the international level and experience in a UN human rights field presence. Experience of work on human rights due diligence, impact assessments and the human rights based approach is an asset. |
| Competencies | <ul style="list-style-type: none"> • PROFESSIONALISM: Comprehensive knowledge of and exposure to a range of human rights issues related to operational, institution building and accountability of national institutions and actors; very good knowledge of UNCT structures and mechanisms; very good knowledge of institutional mandates, policies and guidelines related to human rights in the U.N. system; very good knowledge of national human rights protection systems, including law enforcement and security agencies; strong analytical and research skills and ability to conduct in-depth studies and reach conclusions on possible causes and solutions to human rights problems; ability to develop frameworks, methodological tools and guidelines. • COMMUNICATION: Excellent communication (spoken and written) skills, including the ability to convey complex concepts, both orally and in writing, in a clear and concise style. • TEAMWORK: Ability to interact and to establish and maintain effective working relations across divisions and with people in a multi-cultural environment. • JUDGMENT/DECISION-MAKING: Ability to identify the key issues in a complex situation, provide advice on sensitive issues and courses of action. • PLANNING and ORGANIZING: Proven ability to plan and organize own work and the work of others. |
| Language Requirements: | <ul style="list-style-type: none"> • Proficiency in English is required (both oral and written). |

9) Recommended Presentation of Offer

The following should be included in the offer;

- a) **Letter of Confirmation of Interest and Availability** using the template provided by UNDP.
- b) **Personal CV or P11**, indicating all experience from similar projects, as well as the contact details (email and telephone number) of the candidate and at least three professional references.
- c) **Brief description** of why the candidate considers him/herself as the most suitable for the assignment.

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- 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

10) Selection criteria and basis of evaluation

Submissions will be evaluated based on the cumulative analysis of the technical evaluation (weight: 70%) and financial criteria (weight: 30%). Only candidates obtaining a minimum of 70 points from the technical evaluation would be considered for the financial evaluation.

| Criteria | Total points |
|--|--------------|
| a. Technical | 70 |
| At least 7 years of experience in the human rights field, including at least 3 years at the international level and experience in a UN human rights field presence | 30 |
| Experience of work on human rights due diligence, impact assessments and the human rights based approach | 20 |
| Experience in advisory roles on HRDD for wider UN programmes and operations in fragile and/or post conflict contexts especially in South East Asia | 20 |
| b. Financial | 30 |
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