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13 January 2020

INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

for individual consultants and individual consultants assigned by consulting firms/institutions

Country:	Viet Nam
Description of the assignment:	01 International Consultant to support the national consultants to conduct a study on UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards with recommendations for Vietnam.
Period of assignment/services (if applicable):	February – April 2020
Duty Station:	Home-based and in Vietnam (Hanoi and Ho Chi Minh city)
Tender reference:	T200101

1. Submissions should be sent by **email** to: luu.thi.trang@undp.org no later than:

23.59 hrs., 28 January 2020 (Hanoi time)

With subject line:

T200101– 01 International Consultant to support the national consultants to conduct a study on UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards with recommendations for Vietnam.

Submission received after that date or submission not in conformity with the requirements specified in this document will not be considered.

Note:

- Any individual employed by a company or institution who would like to submit an offer in response to this Procurement Notice must do so in their individual capacity, even if they expect their employers to sign a contract with UNDP.
- Maximum size per email is **30 MB**.
- Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. Procurement Unit – UNDP Viet Nam will respond in writing or by standard electronic mail and will send written

copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants.

- After submitting proposal, bidder should send notification by email (without attachment) to: procurement.vn@undp.org informing that the bidder has submitted proposal. UNDP will not be responsible for the missing of proposal if the bidder does not send notification email to above address.
- Female consultants are encouraged to bid for this required service. Preference will be given to equally technically qualified female consultants.

2. Please find attached the relevant documents:

- [Term of References](#).....
(Annex I)
- [Individual Contract](#) & [General Conditions](#).....
(Annex II)
- [Reimbursable Loan Agreement](#) (for a consultant assigned by a firm).....
(Annex III)
- [Letter to UNDP Confirming Interest and Availability](#)
(Annex IV)
- [Financial Proposal](#)
(Annex V)

3. Interested individual consultants must submit the following documents/information (in English, PDF Format) to demonstrate their qualifications:

a. Technical component:

- Signed Curriculum vitae
- Signed Letter to UNDP Confirming Interest and Availability
- 01 track record of conducting research, capacity of analysis, report writing
- must be provided.

b. Financial proposal (with your signature):

- The financial proposal shall specify a total lump sum amount in **VND for national consultant and US dollar for International Consultant** including consultancy fees and all associated costs i.e. airfares, travel cost, meal, accommodation, tax, insurance etc. – see format of financial offer in Annex V.
- Please note that the cost of preparing a proposal and of negotiating a contract, including any related travel, is not reimbursable as a direct cost of the assignment.
- If quoted in other currency, prices shall be converted to the above currency at UN Exchange Rate at the submission deadline.

4. Evaluation

The technical component will be evaluated using the following criteria:

International consultant – Senior legal expert:

Consultant(s)' experiences/qualification related to the services		
1.1	- Master's or doctor's degree in law	100
1.2	- Proven track record of conducting research, capacity of analysis, report writing	200
1.3	- Minimum 5 years of work experience with in depth knowledge in the area of international commercial arbitration, especially recognition and enforcement of foreign arbitral awards	300
1.4	- Expertise and working experience in studying, analyzing, or doing consultancy on the UNCITRAL Model Law on international commercial arbitration, including the provisions on recognition and enforcement of foreign arbitral awards is highly desirable	200
1.5	- Excellent writing skills in English language (a writing sample provided)	200
Total		1000

A two-stage procedure is utilized in evaluating the submissions, with evaluation of the technical components being completed prior to any price proposals being opened and compared.

The price proposal will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 1000 points in the evaluation of the technical component. The technical component is evaluated on the basis of its responsiveness to the Term of Reference (TOR). Maximum 1000 points will be given to the lowest offer and the other financial proposals will receive the points inversely proportional to their financial offers. i.e. $S_f = 1000 \times F_m / F$, in which S_f is the financial score, F_m is the lowest price and F the price of the submission under consideration.

The weight of technical points is 70% and financial points is 30%.

Submission obtaining the highest weighted points (technical points + financial points) will be selected subject to positive reference checks on the consultant's past performance.

Interview with the candidates may be held if deemed necessary.

5. Contract

"Lump-sum" Individual Contract will be applied for freelance consultant (Annex II)

"Lump-sum" RLA will be applied for consultant assigned by firm/institution/organization (Annex III)

Documents required before contract signing:

- International consultant whose work involves travel is required to complete the courses on BSAFE which is the new online security awareness training and submit certificate to UNDP before contract issuance.

- Note: In order to access the courses, please go to the following link:
<https://training.dss.un.org>
The training course takes around 3-4 hours to complete.
- Full medical examination and Statement of Fitness to work for consultants from and above 65 years of age and involve travel. (This is not a requirement for RLA contracts).
- Release letter in case the selected consultant is government official.

6. Payment

UNDP shall effect payments to the consultant (by bank transfer to the consultant's bank account provided in the vendor form upon acceptance by UNDP of the deliverables specified the TOR.

Payments are based upon outputs, i.e. upon delivery of the products specified in the TOR.

If two currencies exist, UNDP exchange rate will be applied at the day UNDP instructs the bank to effect the payment.

7. Your proposals are received on the basis that you fully understand and accept these terms and conditions.

TERMS OF REFERENCE

TITLE: Support the national consultants to conduct a study on UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards with recommendations for Viet Nam

NATIONAL OR INTERNATIONAL: One international consultant – senior expert (12 working days)

DURATION OF ASSIGNMENT: February – April 2020

DUTY STATION: Home based and in Viet Nam (Hanoi and Ho Chi Minh city)

COUNTRY OF ASSIGNMENT: Viet Nam

1) GENERAL BACKGROUND

In an increasingly economically interdependent world, the importance of an improved legal framework for the facilitation of international trade and investment is widely acknowledged. The United Nations Commission on International Trade Law (UNCITRAL), established by the United Nations General Assembly in 1966 plays an important role in promoting the progressive harmonization and modernization of the law of international trade and reducing barriers for international trade development in the world.

In December 2018, Viet Nam became a member of the UNCITRAL for the term 2019-2025. By becoming a member of UNCITRAL, Vietnam has the opportunity to participate more deeply and proactively in shaping international trade law right from the stage of discussion and negotiation in accordance with the interests of the country and the international community.

In Viet Nam, the recognition and enforcement of foreign arbitral awards is based on relevant international treaties and the most important one is the 1958 New York Convention on recognition and enforcement foreign arbitral awards (hereinafter referred to as New York Convention). A number of provisions of Chapter 37 of the 2015 Civil Procedure Code on the procedures for considering requests on recognition and enforcement of foreign arbitral awards in Viet Nam have integrated the relevant provisions of the New York Convention.

The rate of refusal of recognition and enforcement of foreign arbitral awards in Viet Nam is rather high, which has a negative impact on the business investment environment. Between 2014 and 2018, only 28 requests for recognition of foreign arbitral awards were settled against the total 45 requests accepted.

One of the reasons for the above-mentioned situation is the Vietnamese legal system is not really compatible with international standards, including the UNCITRAL Model Law on international commercial arbitration (the UNCITRAL Model Law). The UNCITRAL Model Law is considered as an international standard and applied by many countries around the world to develop their legal system on this matter.

The Regional Project “Promoting a Fair Business Environment in ASEAN” is funded by the UK Prosperity Fund and implemented by UNDP in six countries in ASEAN, namely Indonesia, Malaysia, Myanmar, Philippines, Thailand and Viet Nam. This three – year Project, which started in August 2018, aims at promoting a fair business environment in

ASEAN by minimizing corruption risks and encouraging sustainable practices. The Viet Nam program focuses on three inter related objectives:

- Promoting business integrity and sustainable practices for private companies and state-owned enterprises;
- Strengthening anti-corruption strategies, policies and laws; and
- Improving redress mechanisms for companies, investors and the broader public.

To achieve the third objective, UNDP is supporting the Ministry of Justice to conduct a study on the UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards to propose recommendations on the applicability of these provisions in Viet Nam with a proposal for including the law into law making agenda of the National Assembly.

UNDP seeks to hire an international consultant – a senior legal expert to support a team of two national experts to carry out the above-mentioned study.

2) OBJECTIVES OF THE ASSIGNMENT

The key objective of the assignment is to support a team of two national experts to conduct a study on UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards, including by providing an analysis on international experience in applying these provisions, providing inputs to the study report prepared by the team of national experts.

3) SCOPE OF WORK

- Collect all relevant information and research documents on UNCITRAL Model Law's provisions, specifically on recognition and enforcement of foreign arbitral awards;
- Draft inputs for the report focusing on international best practices in applying and implementing UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards. The report should include:
 - Presentation and analysis of the Model Law's provisions on recognition and enforcement of foreign arbitral awards, including the explanation of the reasons and approach for developing these provisions;
 - Assessment of best practices of at least 3 countries in the world. The selection of the countries should represent different ways of application of the Model Law, such as direct application or integration into domestic laws, full or partial application, with focus on Asian countries, such as Korea, Singapore, Japan. The assessment should include the approaches and views of points of these countries on how to apply the Model Law and analyse the advantages and disadvantages of each approach;
 - Recommendations for Viet Nam on how to apply the UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards;
- Provide continuous inputs/advice to the national experts during the process of preparing the report on UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards;
- Prepare and deliver a presentation at two consultation workshops in Viet Nam (one in Hanoi and one in Ho Chi Minh city) on international best practices and recommendations for Viet Nam to apply and implement UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards;
- Edit/proofread the English final version of the final report for publishing.

4) DURATION OF ASSIGNMENT, DUTY STATION AND EXPECTED PLACES OF TRAVEL

The assignment will be carried out within February – April 2020.

Duty station: Home based and one mission to Hanoi and Ho Chi Minh city for two 1 day-workshops

5) FINAL PRODUCTS***

- Inputs for the report focusing on international best practices in applying and implementing UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards with of at least 3 countries and recommendations for Viet Nam;
- Inputs/advice for the draft report prepared by the team of national experts;
- English final version of the report edited/proofread for publishing.

6) PROVISION OF MONITORING AND PROGRESS CONTROLS

The expert will work in close collaboration with the Programme Officer in charge at the UNDP Governance and Participation Team and with the team of two national experts selected by the International Law Department of the Ministry of Justice of Viet Nam.

Monitoring and Progress Control will be followed up by the timeline below:

#	Activities	Deliverables	Timeline/DL
1.	Signing of contract	Contract signed	Beginning of February 2020
2.	Submission of analysis of international best practices in applying and implementing UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards (practices of at least 3 countries, which adopted and implemented these provisions) and recommendations for Viet Nam	Analysis of international best practices	15 Feb. 2020
3.	Provision of inputs/advice for the draft report prepared by the team of national experts	Inputs/advices	Feb. – March 2020
4.	Attend and deliver presentation at two consultation workshops in Viet Nam on international best practices and recommendations for Viet Nam	PP Presentation	Mid Feb. 2020
5.	The English final version of the report edited/proofread for publishing	English final draft edited/proofread for publishing	April 2020

7) DEGREE OF EXPERTISE AND QUALIFICATIONS

- Master's or doctor's degree in law;
- Proven track record of conducting research, capacity of analysis, report writing;
- Minimum 5 years of work experience with in depth knowledge in the area of international commercial arbitration, especially recognition and enforcement of foreign arbitral awards;
- Expertise and working experience in studying, analyzing, or doing consultancy on the UNCITRAL Model Law on international commercial arbitration, including the provisions on recognition and enforcement of foreign arbitral awards is highly desirable;
- Excellent speaking and writing skills in English language.

8) REVIEW TIME REQUIRED AND PAYMENT TERM

- 40% of contract amount shall be paid upon submission of the analysis of international best practices in applying and implementing UNCITRAL Model Law's provisions on recognition and enforcement of foreign arbitral awards;
- 60% of contract amount shall be paid upon satisfactory completion of all remaining deliverables specified in the TORs.

9) CONSULTANT PRESENCE REQUIRED ON DUTY STATION/UNDP PREMISES

☒ NONE
TIME

☐ PARTIAL

☐ INTERMITTENT

☐ FULL-

ANNEX IV

OFFEROR'S LETTER TO UNDP
CONFIRMING INTEREST AND AVAILABILITY
FOR THE INDIVIDUAL CONTRACTOR (IC) ASSIGNMENT

Date _____

(Name of Resident Representative/Bureau Director)

United Nations Development Programme

(Specify complete office address)

Dear Sir/Madam:

I hereby declare that:

- A) I have read, understood and hereby accept the Terms of Reference describing the duties and responsibilities of [*indicate title of assignment*] under the [*state project title*];
- B) I have also read, understood and hereby accept UNDP's General Conditions of Contract for the Services of the Individual Contractors;
- C) I hereby propose my services and I confirm my interest in performing the assignment through the submission of my CV which I have duly signed and attached hereto as Annex 1;
- D) In compliance with the requirements of the Terms of Reference, I hereby confirm that I am available for the entire duration of the assignment, and I shall perform the services in the manner described in my proposed approach/methodology which I have attached hereto as Annex 3 [*delete this item if the TOR does not require submission of this document*];
- E) I hereby propose to complete the services based on the following payment rate: [*please check the box corresponding to the preferred option*]:
 - ☐ An all-inclusive daily fee of [*state amount in words and in numbers indicating currency*]
 - ☐ A total lump sum of [*state amount in words and in numbers, indicating exact currency*], payable in the manner described in the Terms of Reference.
- F) For your evaluation, the breakdown of the abovementioned all-inclusive amount is attached hereto as Annex V;

G) I recognize that the payment of the abovementioned amounts due to me shall be based on my delivery of outputs within the timeframe specified in the TOR, which shall be subject to UNDP's review, acceptance and payment certification procedures;

H) This offer shall remain valid for a total period of _____ days [*minimum of 90 days*] after the submission deadline;

I) I confirm that I have no first degree relative (mother, father, son, daughter, spouse/partner, brother or sister) currently employed with any UN agency or office [*disclose the name of the relative, the UN office employing the relative, and the relationship if, any such relationship exists*];

J) If I am selected for this assignment, I shall [*please check the appropriate box*]:

- ☐ Sign an Individual Contract with UNDP;
- ☐ Request my employer [*state name of company/organization/institution*] to sign with UNDP a Reimbursable Loan Agreement (RLA), for and on my behalf. The contact person and details of my employer for this purpose are as follows:

K) I hereby confirm that [*check all that applies*]:

- ☐ At the time of this submission, I have no active Individual Contract or any form of engagement with any Business Unit of UNDP;
- ☐ I am currently engaged with UNDP and/or other entities for the following work:

Assignment	Contract Type	UNDP Business Unit / Name of Institution/Company	Contract Duration	Contract Amount

- ☐ I am also anticipating conclusion of the following work from UNDP and/or other entities for which I have submitted a proposal:

Assignment	Contract Type	Name of Institution/ Company	Contract Duration	Contract Amount

L) I fully understand and recognize that UNDP is not bound to accept this proposal, and I also understand and accept that I shall bear all costs associated with its preparation and submission and that UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.

M) **If you are a former staff member of the United Nations recently separated, please add this section to your letter:** I hereby confirm that I have complied with the minimum break in service required before I can be eligible for an Individual Contract.

N) I also fully understand that, if I am engaged as an Individual Contractor, I have no expectations nor entitlements whatsoever to be re-instated or re-employed as a staff member.

O) Are any of your relatives employed by UNDP, any other UN organization or any other public international organization?

YES ☐ NO ☐ If the answer is "yes", give the following information:

Name	Relationship	Name of International Organization

P) Do you have any objections to our making enquiries of your present employer?

YES ☐ NO ☐

Q) Are you now, or have you ever been a permanent civil servant in your government's employ?

YES ☐ NO ☐ If answer is "yes", WHEN?

R) REFERENCES: List three persons, not related to you, who are familiar with your character and qualifications.

Full Name	Full Address	Business or Occupation

S) Have you been arrested, indicted, or summoned into court as a defendant in a criminal proceeding, or convicted, fined or imprisoned for the violation of any law (excluding minor traffic violations)?

YES ☐ NO ☐ If "yes", give full particulars of each case in an attached statement.

I certify that the statements made by me in answer to the foregoing questions are true, complete and correct to the best of my knowledge and belief. I understand that any misrepresentation or material omission made on a Personal History form or other document requested by the Organization may result in the termination of the service contract or special services agreement without notice.

DATE: _____

SIGNATURE: _____

NB. You will be requested to supply documentary evidence which support the statements you have made above. Do not, however, send any documentary evidence until you have been asked to do so and, in any event, do not submit the original texts of references or testimonials unless they have been obtained for the sole use of UNDP.

Annexes *[please check all that applies]:*

- ☐ CV shall include Education/Qualification, Professional Certification, Employment Records /Experience
- ☐ Breakdown of Costs Supporting the Final All-Inclusive Price as per Template

GUIDELINES FOR CV PREPARATION

WE REQUEST THAT YOU USE THE FOLLOWING CHECKLIST WHEN PREPARING Your CV:

Limit the CV to 3 or 4 pages

NAME (First, Middle Initial, Family Name)

Address:

City, Region/State, Province, Postal Code

Country:

Telephone, Facsimile and other numbers

Internet Address:

Sex, Date of Birth, Nationality, Other Citizenship, Marital Status

Company associated with (if applicable, include company name, contact person and phone number)

SUMMARY OF EXPERTISE

Field(s) of expertise (be as specific as possible)

Particular development competencies-thematic (e.g. Women in Development, NGOs, Privatization, Sustainable Development) or technical (e.g. project design/evaluation)

Credentials/education/training, relevant to the expertise

LANGUAGES

Mother Tongue:

Indicate written and verbal proficiency of your English:

SUMMARY OF RELEVANT WORK EXPERIENCE

Provide an overview of work history in reverse chronological order. Provide dates, your function/title, the area of work and the major accomplishments include honorarium/salary.

References (name and contact email address) must be provided for each assignment undertaken by the consultant that UNDP may contact.

UN SYSTEM EXPERIENCE

If applicable, provide details of work done for the UN System including WB. Provide names and email address of UN staff who were your main contacts. Include honorarium/salary.

UNIVERSITY DEGREES

List the degree(s) and major area of study. Indicate the date (in reverse chronological order) and the name of the institution where the degree was obtained.

PUBLICATIONS

Provide total number of Publications and list the titles of 5 major publications (if any)

MISCELLANEOUS

Indicate the minimum and maximum time you would be available for consultancies and any other factors, including impediments or restrictions that should be taken into account in connection with your work with this assignment.

Annex V

FINANCIAL OFFER

Having examined the Solicitation Documents, I, the undersigned, offer to provide all the services in the TOR for the sum of (VND for National Consultant; USD for international Consultant).

This is a lump sum offer covering all associated costs for the required service (fee, meal, accommodation, travel, taxes etc).

Cost breakdown:

No.	Description	Quantity	Unit Rate	Total
1	Consultancy fee			
2	Out of pocket expenses			
2.1	Travel			
2.2	Per diem			
2.3	Full medical examination and Statement of Fitness to work for consultants from and above 65 years of age and involve travel – (required before issuing contract).			
2.5	Others (pls. specify)			
	TOTAL			

** Individual Consultants/Contractors who are over 65 years of age with assignments that require travel and are required, **at their own cost**, to undergo a full medical examination including x-rays and obtaining medical clearance from **an UN-approved doctor** prior to taking up their assignment.*

I undertake, if my proposal is accepted, to commence and complete delivery of all services specified in the contract within the time frame stipulated.

I agree to abide by this proposal for a period of 120 days from the submission deadline of the proposals.

Dated this day /month of year

Signature

(The costs should only cover the requirements identified in the Terms of Reference (TOR) Travel expenses are not required if the consultant will be working from home).