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11 June 2020

INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

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

Country:	Viet Nam
Description of the assignment:	02 National Consultants to provide service for commentaries on court
Period of assignment/services (if applicable):	June 2020 – October 2020
Duty Station:	Vietnam
Tender reference:	T200504

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

23.59 hrs., 16 June 2020 (Hanoi time)

With subject line:

T200504 - 02 National Consultants to provide service for commentaries on court

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
- One writing sample in English to be submitted

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:

National Consultant (NC1 and NC2)

Consultant(s)' experiences/qualification related to the services		Point
1.	Advanced university degree in law;	200
2.	A minimum of 15 years working experience in civil law; research experience and/or practical working experience in selecting, applying and developing precedents in Viet Nam is highly preferable;	400
3.	Excellent research writing skills; a list of publications to be included in the CV;	300
4.	Good English writing skills.	100
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. $Sf = 1000 \times Fm / F$, in which Sf is the financial score, Fm 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 to the payment.

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



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TERMS OF REFERENCE

Service:	Commentaries on court precedents
National or international:	Two national consultants
Duty station:	Home-based
Country of assignment:	Viet Nam
Duration of assignment:	From June to October 2020

1. Background

The Supreme People's Court (SPC) is assigned “the task of providing guidance for consistent application of [the] law, developing judicial precedent and deciding cases under [the] cassation and reopening procedure” by Resolution No.49-NQ/TW dated 2 June 2005 of the Politburo on Judicial Reform Strategy.

Article 104 of the 2013 Constitution provides that the SPC is responsible to “collect adjudication experience in practice and ensure the uniformity of law application.” In 2014, the Law on the Organization of Courts recognized precedents as one of the methods that the SPC utilizes to guide lower courts to apply the law. Article 22.2 (c) of the Law stipulates that one of the duties of the Council of Justices of the SPC is “to select its cassation trial decisions and judgments and decisions of courts which have taken legal effect and are of standard nature, summarize and develop them into court precedents and publicize [the] precedents for courts to study and apply in trials”; Article 27.5 also stipulated that one of duties of the Chief Justice of SPC is “to direct [...] [the] summarization, development and publicization of court precedents”.

Up to date, the Council of Justices of the SPC has selected 37 judgements to be adopted as precedents. Of the 37 judgements, there are 19 in the field of civil law. All the precedents are now available online.

Although making the precedents public an important step, it does not guarantee that the precedents are understood and applied correctly by judges. In addition, merely publishing the precedents is also not enough for the legal community to understand and appreciate the importance of the precedents. Hence, the needs to accompany with each of the precedents a commentary composed by legal experts in the field. The commentary will set out the necessity of the precedents, discuss the common understanding of the precedents as well as legal fact and reasoning among judges, legal inspectors, court clerks, prosecutors, lawyers and other legal professionals. They might help draw the public's attention on some important legal matters and even provoke some constructive debates. Most importantly, the

commentaries will provide some guidance on the similar situations/ circumstances/ facts in cases in which the precedents may be applicable.

Within the framework of activities for the year 2020 of the Project “Justice and Legal Empowerment Programme in Vietnam” funded by the European Union (EU JULE Programme), UNDP, in collaboration with SPC, commissions two national consultants to provide commentaries on six precedents in the field of civil law that were selected by the Justice Council of the Supreme People’s Court from 2016 - 2020. The commentaries will be published on the official website for precedents in Viet Nam, at www.anle.toaan.gov.vn

The list of the selected precedents is as follows:

- Precedent No: (1) 03/2016/AL (on the identification of parents giving the land use right to their children);
- (2) 07/2016/AL (on the recognition of real estate purchasing contracts established before July 1, 1991);
- (3) 16/2017/AL (on the recognition of a land use right assignment contract as inheritance assigned by one of the co-heirs);
- (4) 24/2018/AL (on inheritance becoming a legally owned and used property of an individual);
- (5) 31/2020/AL (on determining the right to rent or buy state-owned houses under Decree No. 61-CP of July 5, 1994 of the Government being the property rights);
- (6) 32/2020/AL (in case of land exploited by individuals who later took permanent residence abroad and other people have managed and used the land before 1975);

2. Objectives

- To promote common understandings of the precedents as well as legal facts and reasoning among Judges, legal inspectors, court clerk, prosecutors, lawyers and other legal professionals.
- To provide some guidance on similar situations/ circumstances/ facts in cases in which the precedents may be applicable.

3. Scope of work

The commentaries will be carried out by a team 2 national consultants hired by UNDP, who will take joint responsibility to complete the assignment. Each of the consultant will draft 3 commentaries.

National consultant 1 – Draft 3 commentaries

#	Tasks	Days estimated
1.	Design an outline of commentaries (1 day for each commentary)	3
2.	Draft the commentaries (5 working day per commentary)	15
3.	Present the commentaries at the technical meeting organized by SPC	1
4.	Finalize the commentaries based on feedback collected from	3

	SPC, UNDP and participants of the technical meeting	
	Total	22 days

National consultant 2 – Draft 3 commentaries

#	Tasks	Days estimated
1.	Design an outline of commentaries (1 day for each commentary)	3
2.	Draft the commentaries (5 working day per commentary)	15
3.	Present the commentaries at the technical meeting organized by SPC	1
4.	Finalize the commentaries based on feedback collected from SPC, UNDP and participants of the technical meeting	3
	Total	22 days

4. Final product:

Commentaries on six court precedents in the field of civil law. Each commentary will satisfy the following requirements:

- Bilingual (Vietnamese and English)
- Maximum 7 pages (42 pages for 6 commentaries)
- Including (1) the necessity of the precedent; (2) analysis/comments on content of the precedents, to unify the common understanding as well as legal facts and reasoning among judges, legal inspectors, court clerks, prosecutors, lawyers and other legal professionals; and (3) guidance on similar situations/ circumstances/ facts in cases in which the precedents may be applicable.

5. Expected qualifications of consultants:

- Advanced university degree in law;
- A minimum of 15 years working experience in civil law; research experience and/or practical working experience in selecting, applying and developing precedents in Viet Nam is highly preferable;
- Excellent research writing skills; one written sample to be submitted;
- Experience working as a team leader or team member of a consultant team, preferably of similar assignment(s);
- Good English writing skills.

6. Provision of Monitoring and Progress Controls

The 2 consultants will work in close collaboration with each other and under monitoring of the Programme Officer in charge in the UNDP Governance and Participation Team.

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

#	Activities	Timeline/DL
1.	Drafting the outline of each commentary	June 2020
2.	Drafting the commentaries	July 2020

3.	Attending and delivering a presentation at the consultation workshop	August – September 2020
4.	Finalising the commentaries	October 2020

7. Duration of assignment, duty station and expected places of travel

The duty station for this assignment shall be home-based with travels to Hanoi to attend a one-day consultation workshop. Cost for travels must be included in the financial offer. The consultants are expected to provide services specified in this TOR from June 2020 to October 2020.

8. Review Time Required and Payment Term:

- 1st installment: 20% of contract amount upon receiving the commentaries' outlines;
- 2nd installment: 40% of contract amount upon receiving and acceptance by UNDP of draft commentaries;
- Final installment: 40% of contract amount shall be paid upon satisfactory completion of all deliverables specified in the TORs and accepted by UNDP.

9. Consultant presence required on duty UNDP premises

☒ NONE ☐ PARTIAL ☐ INTERMITTENT ☐
FULL-TIME

10. Documents to be submitted for evaluation

- CV in English;
- One written sample in English.

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).			
2.4	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).