

## TERMS OF REFERENCE

### **for the provision of services for the development of legislation and by-laws on ecotourism, wildlife and biodiversity offsets**

<b>Position:</b>	National expert on the development of legislation and by-laws on ecotourism, wildlife and biodiversity offsets
<b>Project title:</b>	Biodiversity Finance Initiative (BIOFIN), 00108641/00113227
<b>Type of contract:</b>	Individual contract
<b>Duration of the contract:</b>	180 working days within 18 months of contract signing, estimated June 2021 to November 2022.
<b>Duty station:</b>	Home-based (according to the location/residence of the expert)

#### **A. PROJECT DESCRIPTION:**

- a) A brief description of the project, the purpose of the project, and background information about the project:

Phase 2 of the Biodiversity Finance Initiative - BIOFIN is implemented by the United Nations Development Programme with financial support from the German and Swiss Governments. BIOFIN provides countries with a methodology that shows innovative steps for measuring current biodiversity expenditures, assessing financing needs, determining the most appropriate financial mechanisms, and making recommendations on how to implement these mechanisms to achieve national biodiversity goals.

BIOFIN Phase 2 in Kazakhstan will build on lessons learned from Phase 1 and aim to test 6 financial solutions: (1) subsidizing wildlife breeding, (2) creating a framework for ecotourism certification, (3) capacity building of protected areas to improve financing, (4) biodiversity offsets, (5) carbon offsetting through an internal emission trading system (ETS) and (6) attracting foreign investment to implement projects to absorb greenhouse gases by forest ecosystems.

Implementation of new finance solutions will be based on changing existing and preparing new legal standards, testing, studying the experience of other countries, approaches, building capacity of industry experts, providing extensive information on the problems and possibilities of biodiversity financing. The BIOFIN also aims to promote gender equality and the empowerment of women as a result of introducing new finance solutions, as far as it is relevant and possible within the framework of the project.

The project also seeks to promote gender equality and women's empowerment through the introduction of new financial solutions, as relevant and feasible within the project.

- b) Context of the services needed

BIOFIN Phase 2 aims to introduce new finance solutions based on improvements to current legislation regulating the sustainable use and conservation of biodiversity. In this regard, each BIOFIN finance solution in Kazakhstan covers a wide range of legislative issues.

For several years, BIOFIN has been working on introducing financial solutions into the national environmental legislation of Kazakhstan. As a result, (1) measures to prevent, minimize, mitigate

and compensate biodiversity loss and (2) principles of ecological tourism development in PAs are enshrined in the new Ecological Code of the Republic of Kazakhstan, signed on January 2, 2021 by the President of the Republic of Kazakhstan.

Along with this, the experts of the BIOFIN project made a proposal to introduce a definition of ecotourism in accordance with international criteria and legal nuances of the Kazakh legislation in the framework of the draft law on tourism. The experts formulated *ecotourism as a type of tourism, which involves traveling to natural places in order to get acquainted with natural objects and traditional cultures without destruction and removal of their components and promotes the development of business activities of citizens living in nearby settlements*. However, within the framework of the draft law it was decided to fix the concepts of international and domestic tourism, without division by sectoral, subject and object principles. Regulatory regulation of types of tourism is provided within the framework of the classifier of tourism destinations.

As part of the financial solution to subsidize wildlife breeding developed draft Rules of investment subsidies for breeding of wild animals and their release into the wild on the example of Bukhara deer and Semirechinski pheasant (draft rules). The draft Rules provides for state subsidies to cover the costs incurred by the investor for the purchase of machinery and equipment for breeding of wild animals. Also prepared economic calculations to determine the required amount of funding, state income in the form of tax payments, costs and income of hunting farms in the implementation of the project for the breeding of wildlife.

c) The relevance and purpose of the services needed

The relevance of the necessary services is explained by the fact that the implementation and use in practice of new norms requires rules, instructions and other documents which must be enshrined in the legislation. This term of reference is aimed at amending wildlife legislation and developing bylaws on securing biodiversity offsets and certification in ecotourism as official biodiversity conservation tools. These legislative documents will allow for the sustainability of BIOFIN results. The implementation of the three financial solutions is linked to protected areas (PAs), wildlife and private sector entities, which allows the tasks to be combined into a single term of reference.

In terms of biodiversity offsets, according to paragraph 5 of Article 241 of the new Environmental Code, it is necessary to develop rules for the implementation of compensation for the loss of biodiversity.

In terms of ecotourism, according to the draft law "On making amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues of tourism activity," approved by the Mazhilis of the Parliament of Kazakhstan and sent to the Senate of the Parliament of Kazakhstan on February 22, 2021, paragraphs 20-24 Article 11 authorized body to form and approve a classifier of tourism destinations in the Republic of Kazakhstan on the industry, subject and object principles. This classifier of tourism destinations should include a definition of ecotourism for a proper understanding of the goals and objectives of ecotourism development, its distinction from other types of tourism and approaches to its organization.

In terms of wildlife breeding, guided by paragraph 5 of Article 35 of the Budget Code of RK, it is necessary to legislate the competence of the authorized agency (Ministry of Ecology, Geology and Natural Resources of RK) to develop and approve procedures for subsidizing the breeding of wild animals with subsequent release to the wild.

In this regard, the purpose of the necessary services is to amend the legislation on wildlife and the development of bylaws in the field of compensation for loss of biodiversity and ecotourism.

#### d) Interested parties

The Committee of Forestry and Wildlife of the Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan (hereinafter - FWC), which carries out strategic, regulatory, implementation and control functions in the field of forestry, protection, reproduction and use of wildlife and protected areas. Website of the organization: <https://www.gov.kz/memleket/entities/forest/about?lang=ru>

The Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan (hereinafter - MEGNR), which exercises leadership in the formation and implementation of state policy, coordination of management processes in the field of environmental protection, development of a "green economy", forestry, protection, reproduction and use of wildlife and protected areas, waste management, protection, control and supervision of the rational use of natural resources, state geological exploration of mineral resources, reproduction of the mineral resource base, and the use of natural resources. Website of the organization: <https://www.gov.kz/memleket/entities/ecogeo/about?lang=ru>

The Committee of Tourism Industry (hereinafter CTI) is a department of the Ministry of Culture and Sports of the Republic of Kazakhstan that carries out management, inter-sectoral coordination and state regulation in the areas of tourism activities, gambling, and lottery activities. Website of the organization: <https://www.gov.kz/memleket/entities/tourism?lang=ru>

The Ministry of Culture and Sports of the Republic of Kazakhstan (hereinafter referred to as MCS) provides leadership, inter-sectoral coordination and state regulation in the areas of culture, inter-ethnic harmony, language development, state symbols, archives and documentation, electronic document management and electronic archives, physical culture and sports, gambling, lottery activities. Website of the organization: <https://www.gov.kz/memleket/entities/mcs?lang=ru>

- e) The specifics of the work required (e.g., safety risks associated with conducting work in certain communities, certain cultures and practices unique to the stakeholders, etc.)

The planned work is analytical, involves interaction with the FWC, MEGNR, CTI, MCS, and other government agencies, and does not pose a safety risk to the potential contractor of the work.

## B. SCOPE OF WORK

#### a) Tasks of the national legal expert

Task 1: Preparation of legal documents on the use of the biodiversity offsets mechanism.

- Legal expertise of the norms of the new Environmental Code of the RK and defining a list of necessary by-laws to implement the mechanism of biodiversity offsets;
- Development of draft Rules for the Implementation of Biodiversity Offsets;
- Together with the FWC experts, support the process of agreeing the draft Rules for the implementation of biodiversity offsets with State agencies and NCE "Atameken";
- Study of the methodological guide for the development and implementation of biodiversity offsets (hereinafter - the Methodological Guide), developed by the international expert BIOFIN;
- Preparation of comments on the draft Methodological Guide;
- Transformation of the Methodological Guide into the format of national legal documents.

*For reference: a methodological guide is under development and will be completed by May 2021.*

Task 2. Preparation of legal documents on ecotourism.

- Preparation of recommendations for the inclusion in the classifier of types of tourism or other similar NLA of such a type as "ecological tourism" with the proposed wording of the definition and justification of the need to allocate this type of tourism;
- Conducting preliminary consultations with non-governmental organizations active in the field of tourism and environmental protection, business associations in the field of tourism, individual experts in the tourism industry, with representatives of the Tourism Industry Committee of MCS of RK, the Committee of Forestry and Wildlife MEGNR of RK, the Department of Tourism National Chamber of Entrepreneurs "Atameken" by sending recommendations for inclusion of ecological tourism in the classifier with a definition and justification, in order to consider the views
- Working out a draft classifier of types of tourism or other similar NLA with the Committee of Tourism Industry of the MCS of RK, including by submitting proposals on the portal "Open NLA" of the e-Government of RK;
- Preparation of additional references and justifications for issues arising with the Tourism Industry Committee of the MCS of RK and the Committee of Forestry and Wildlife of the MEGNR of RK, as well as other approving projects of state agencies and authorized organizations regarding ecotourism;
- Development of guidelines for the development of eco-tourism for key stakeholders (population, businesses, sectoral government agencies, non-sectoral government agencies that have an impact on the actual development of eco-tourism).

### Task 3. Preparation of legal documents in the field of wildlife.

- Preparation of draft additions to the Regulations of the Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan, which is the administrator of budgetary programs in the field of wildlife, to include in the powers of this state agency functions to develop and approve the rules for subsidizing the breeding of wild animals;
- Preparation of amendments to the relevant draft law to include proposals on the authority and mechanism of subsidies, preparation of a comparative table on the proposed changes. Participation in working groups to discuss the bill, holding discussions with the legal department of the Parliament of the RK and authorized persons, elaboration of comments if available;
- Working through the proposed changes as part of the agreement with government agencies and refinement of the existing comments, interaction with the responsible executors;
- Interaction with the developers, experts of the FWC, the legal department of the MEGNR and the Majilis of Parliament on the agreement of the proposed changes.

### b) Required activities

In the course of his work, the National Legal Expert:

- interacts with the responsible experts of the FWC, MEGNR, Majilis of Parliament and other state agencies, NCE Atameken, CTI and MCS;
- Initiates, organizes working meetings, online and/or offline meetings, prepares agendas and minutes of meetings as needed;
- participates in seminars, meetings on the topics of the terms of reference organized by UNDP biodiversity projects;
- prepares draft letters and requests to government agencies and other organizations as necessary;

- provides independent translation of the materials provided into English;
  - reviews and uses in its work the reporting materials of UNDP projects in the field of biodiversity;
- c) Literature, data, information to be provided to the national expert by the UNDP BIOFIN project
- Reports of the International Expert on Biodiversity Offsets in English and Russian;
  - Methodological guide BIOFIN methodology in Russian and English upon completion;
  - Reports of national and international ecotourism experts in English and Russian;
  - Reports of the national company on the mechanism of implementation of wildlife breeding subsidies in Russian;
  - Draft Rules for subsidizing the breeding of wild animals with economic calculations;
  - and other materials prepared as part of BIOFIN.
- d) Copyright:

Upon termination of the contract with the national legal expert, UNDP will acquire all direct and related copyrights to the materials prepared under this term of reference. Use of materials prepared under this term of reference by the National Legal Expert for other work/contracts must be approved by UNDP.

### C. EXPECTED RESULTS

Expected results	Duration and estimated time of completion	Required approvals and consents	Payment
<p><b>Result 1:</b> Legal documents and recommendations on implementation of the mechanism of biodiversity offsets were prepared. Methodological guide on development and implementation of biodiversity offsets is redesigned into the format of a national document.</p> <p><b>The form of the result provision:</b></p> <ol style="list-style-type: none"> <li>1) Interim progress report.</li> <li>2) Draft biodiversity offsets regulations.</li> <li>3) List of necessary by-laws to implement the mechanism of biodiversity offsets.</li> <li>4) Methodological guidelines for the development and implementation of biodiversity offsets in the format of a national document.</li> </ol>	50 days, no later than August 6, 2021.	UNDP Biodiversity Project Manager	25%
<b>Result 2.</b> Proposals on the powers and mechanism of subsidizing game breeding in	30 days, no later than		25%

<p>the form of a comparative table were prepared, the proposals were included in the relevant bill and worked out with the legal department of the Parliament of Kazakhstan and authorized persons.</p> <p><b>The form of the result provision:</b></p> <ol style="list-style-type: none"> <li>1) Interim progress report.</li> <li>2) Draft comparative table on the relevant bill of the Majilis of the Parliament of the RK.</li> </ol>	September 17, 2021.		
<p><b>Result 3.</b> The definition of "ecotourism" in the classifier of types of tourism has been prepared, introduced and agreed with the Committee of Tourism Industry of the MCS of RK.</p> <p><b>The form of the result provision:</b></p> <ol style="list-style-type: none"> <li>1) Interim progress report.</li> <li>2) Draft classifier of types of tourism.</li> </ol>	50 days no later than November 26, 2021		25%
<p><b>Result 4.</b> The amendments were agreed to expand the authority of the authorized agency to develop and approve the rules for subsidizing the breeding of wild animals.</p> <p><b>The form of the result provision:</b></p> <ol style="list-style-type: none"> <li>1) Final progress report.</li> <li>2) Confirmation letter from the authorized agency.</li> </ol>	50 days, no later than October 20, 2022.		25%

#### D. INSTITUTIONAL SET-UP

##### a) Responsibility and accountability

The national legal expert is responsible for:

- timely and rational planning, execution of activities and achievement of expected results in accordance with these Term of Reference;
- reliability and legitimacy of the information provided;

The national legal expert may not distribute, transfer data, materials, reports collected/prepared under this term of reference without the permission of UNDP;

The national legal expert reports to the UNDP biodiversity project manager, the BIOFIN financial instruments expert (on compensation for biodiversity losses) and the BIOFIN resource mobilization expert (on ecotourism). All actions related to the implementation of this work must be coordinated with these persons;

The national legal expert advises the project team throughout the contract period through workshops, online meetings, and conferences.

b) Reporting requirements

Documents and reports must be submitted in accordance with the deadlines specified in the "Expected Results" section of this Term of Reference;

Reports and documents should be submitted to UNDP for approval in electronic version in Russian. After approval of the Russian version of the report, a short version in English should be provided.

Requirements for the format of reports and materials: file extension - doc or docx, font - Times New Roman, type size - 14, margins - right (1.5 cm), top, bottom (2 cm), left (3 cm), single line spacing, indent of the first (red) line - 1 cm.

c) Interaction and cooperation

The national legal expert works closely with the responsible experts of the FWC, MEGNR, CTI, MCS and other government agencies, the NCE "Atameken" interaction with which is required in the coordination of developed documents;

The national legal expert needs to interact with all government agencies and other organizations on which performance depends through formal inquiries

d) Logistical support

The National Legal Expert carries out his/her work at his/her place of residence and/or location, using personal computer equipment, facilities and means of communication. UNDP does not provide office space, office equipment or facilities.

The work of the national legal expert is individual and the hiring of auxiliary personnel is not part of this terms of reference.

**E. DURATION OF OPERATION:**

- a) Total duration of work: 180 days for a period not to exceed 18 months from the date of the contract.
- b) Expected start date and full completion June 2021 – November 2022.
- c) Timing of the review of the expert's reports by the UNDP

Submitted results are reviewed by the BIOFIN project team and agreed upon in accordance with the expected results specified in these Terms of Reference within 5 working days of submitting the materials via e-mail.

**F. DUTY STATION**

Home-based (remote) work. Travel and business trips are not expected.

**G. SKILLS AND EXPERIENCE REQUIRED**

- a) Education
  - Higher education in legal, natural and social sciences.
- b) Work experience
  - At least 3 years of experience in sphere of legal, natural and social sciences

- At least 3 years of experience in the development of a normative legal act in the field of ecology, flora and fauna, Protected Areas
- c) Special professional skills
  - Knowledge of the procedures for developing and approving a normative legal act under the regulations of the Government of Kazakhstan
  - Experience in preparing analytical reports
- d) Language skills
  - Excellent knowledge and fluency in Russian; knowledge of English will be an advantage.

#### **H. PROVIDING A QUOTE AND PAYMENT**

The type of contract provided for this type of work/services is a fixed-price contract (for a total amount) in tenge, which includes all costs of performing the work/services (in this case, the fee and any other direct/indirect costs).

The candidate's financial proposal must include all costs associated with the performance of this work, namely the cost of the fee and any other costs provided for under this term of reference. The contract price will be fixed regardless of the change in the component costs.

Payment will be made in installments upon satisfactory completion of the expected results (see the section "Expected Results"), these Terms of Reference, and approval of the results by the UNDP Biodiversity Project Manager.

#### **AGREED BY:**



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**Talgat Kerteshev**

Project Manager

Date: 02-May-2021



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**Nuri Ozbagdatli**

Portfolio Manager

Date: 02-May-2021