Terms of Reference
Consultancy: Legal adviser - Bougainville Post Referendum Process
(Framework or Long-Term Agreement), IC/PNG/066-2021

Location: Home based with travel as required
Type of Contract: Individual Contract (IC)/ Framework Agreement
Project: Sustaining Peace in Bougainville; Post-referendum Process Support Projects
Languages Required: English
Starting Date: 15th December 2021
Duration of Initial Contract: 60 days over 12 months

Background
The United Nations Development Programme (UNDP) has had a long and proud history in Papua New Guinea (PNG), working in all areas of development over the last 30 years, since the first UNDP office opened in PNG in 1981. With the support of the Government of PNG, and partners and donors, UNDP has forged strong bonds and built successful working relationships in all PNG provinces.

The UNDP also works in Bougainville which is an Autonomous Region of PNG. In 2001, the Bougainville Peace Agreement (BPA) was signed between the National Government of Papua New Guinea (GoPNG) and leaders representing the people of Bougainville. The BPA marked the end of a decade-long civil conflict in which up to 20,000 people died and many more were left without family, access to basic services and infrastructure, traumatized and scarred for life. With an estimated population of over 300,000 people, speaking 28 languages, in 33 constituencies stretching from the atolls and islands to the mountains that dominate the Centre of the mainland, Bougainville is an incredibly diverse region. After 2019 Referendum, where 97.7% of Bougainvilleans voted for independence, the two governments are now consulting on the ratification of the referendum outcomes and the next steps in Bougainville’s peace process.

To continue to support the two governments with the implementation of BPA, including the post referendum process, UNDP has three active Projects in Bougainville:

- The Post-Referendum Process Support Project provides for the immediate post-referendum processes, including provision of technical and logistical support, capacity building on the ratification process, continued awareness to the people of Bougainville and PNG on the progress and ensuring inclusive opportunities that supports meaningful participation.
- A cost extension of the PBF’s Sustaining Peace in Bougainville Project, implemented by UNDP, UN Women and UNFPA runs in parallel to the above project and ensure the post-referendum process is inclusive, with the participation of marginalized groups (women, youth and veterans). In addition, the project will work with the key actors to support outlying factions, who remain outside of the peace agreement, engage in the dialogue and come into the peace architecture.
- Sustaining Peace through Economic Empowerment Project is designed to support the ongoing Bougainville peacebuilding process on political and economic dimensions. The project will provide independent, neutral support to the two governments to assist in the progression of the BPA with a particular focus on the post referendum process. Capacity building of key participants involved in the political dialogue Assistance for the ratification process on achieving the future political status of Bougainville following the referendum outcome. In addition, the Government of Japan’s assistance will stimulate opportunities for investment and jobs, particularly for youth and women.
Objectives:
UNDP is seeking an experienced legal practitioner who is well vested on application of constitutional laws, international conventions and treaties to support its Bougainville Programme. The post of the Legal Review Adviser will be focused on providing expert support to national partners in reviewing post referendum process related legal documents, upon request from national partners. The Adviser will work closely with key stakeholders and partners in the Autonomous Bougainville Government and the National Government. The incumbent will serve under UNDP’s peacebuilding and governance programme and will report to the Project Manager in Buka with oversight of the Assistant Resident Representative based in Port Moresby.

Duties and Responsibilities:
The Adviser will, among other tasks, be responsible for the following as a minimum:

1. Conduct legal research and prepare legal briefs and opinions on BPA and matters related to the Post Referendum Process as requested by UNDP and its partners.
2. Assist with legislative reviews to support the implementation of the BPA and Post Referendum Process.
3. Conduct briefings for parliamentarians and government heads and agencies as required.
4. Support key meetings of the two governments. These include meetings of the: Joint Technical Team, Joint Supervisory Body and the Inter-Government Dialogue.

<table>
<thead>
<tr>
<th>Key milestones or deliverables</th>
<th>Report due</th>
<th>Payment Terms</th>
<th>Review and Approvals</th>
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<tbody>
<tr>
<td>Payment upon submission and written acceptance of agreed deliverables consistent with tasks</td>
<td>Upon request</td>
<td>Fixed Daily rate for actual days worked (total 60 days) over 12 months.</td>
<td>Assistant Resident Representative</td>
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Resources Provided
UNDP will provide background information to the Consultant to accomplish activities under this TOR and other necessary support. The Consultant shall have his/her own working equipment (hardware and software).
UNDP will cover the cost of any travel required in the line with the TORs, all travel will be on economy fare. UNDP may assist with various office space to ensure the successful completion of an agreed mission.

Education and experience

Education:
Bachelor of Laws degree in law (LL.B)

Experience:
- 15 years of legal practice with demonstrated experience on application of Constitutional and Organic laws.
- Sounds understanding of International Treaties and application in domestic jurisdiction.
• Sound understanding of the Bougainville Peace Agreement, Organic Law on Peacebuilding in Bougainville, Sharp Agreement and relevant agreements.
• Experience in practicing law within the Papua New Guinea jurisdiction and bar, as well as proven knowledge of key issues related to Bougainville and the Bougainville Peace Agreement is desirable.

Competencies
• Demonstrates integrity by modelling the UN values and ethical standards;
• Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability
• Service oriented
• Demonstrable leadership skills
• Good understanding of PNG/Bougainville culture and politics is strongly desirable
• Demonstrated ability to collaborate and build strong relationship with key internal and external stakeholders
• Strong analytical, evaluation and conceptual thinking skills
• Leads teams effectively and shows mentoring, coaching as well as conflict resolution skills
• Remains calm and in control even under pressure.

Evaluation
Cumulative analysis
The proposals will be evaluated using the cumulative analysis method with a split 70% technical and 30% financial scoring. The proposal with the highest cumulative scoring will be awarded the contract. Applications will be evaluated technically, and points are attributed based on how well the proposal meets the requirements of the Terms of Reference using the guidelines detailed in the table below:

When using this weighted scoring method, the award of the contract to be made to the individual consultant whose offer has been evaluated and determined as:

a) Responsive/compliant/acceptable, and
b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

* Technical Criteria weighting: 70%
* Financial Criteria weighting: 30%

Only candidates obtaining a minimum of 49 points in the Technical Evaluation would be considered for the Financial Evaluation. Interviews may be conducted as part of technical assessment for shortlisted proposals.
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<thead>
<tr>
<th>Criteria</th>
<th>Points</th>
<th>Percentage</th>
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<tbody>
<tr>
<td><strong>Qualification</strong></td>
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<td>10%</td>
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<td>Bachelor of Laws degree in law (LL.B)</td>
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<tr>
<td><strong>Experience</strong></td>
<td></td>
<td>40%</td>
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<td>• Experience in practicing law within the Papua New Guinea jurisdiction and bar, as well as proven knowledge of key issues related to Bougainville and the Bougainville Peace Agreement is desirable.</td>
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<td>20%</td>
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<td>• Demonstrates integrity by modelling the UN values and ethical standards;</td>
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<td>• Displays cultural, gender, religion, race, nationality and age sensitivity and adaptability; Treats all people fairly without fear or favour.</td>
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<td>• Service oriented</td>
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<td>• Demonstrable leadership skills</td>
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<tr>
<td><strong>Technical Criteria</strong></td>
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<td><strong>If necessary interviews shall also be conducted as part of the technical evaluation to ascertain best value for money.</strong></td>
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<td><strong>Financial Criteria – Combined Cumulative Method</strong></td>
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<td>30%</td>
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Recommended Presentation of Offer

The following documents will be requested:

a) Duly accomplished Letter of Confirmation of Interest and Availability using the template provided by UNDP (a separate file from technical proposal which includes P11 and Brief description) and is password protected. Password for financial proposal must not be provided to UNDP until requested by UNDP. The Technical Proposal shall not include any price or financial information. A Technical Proposal containing material financial information or failure to follow this instruction will be declared non-responsive.

b) Signed P11/ Updated CV, indicating all past experience from similar projects, as well as the contact details (email and telephone number) of the Candidate and at least three (3) professional references;

c) Brief description of why the individual considers him/herself as the most suitable for the assignment, and a methodology, if applicable, on how they will approach and complete the assignment. A methodology is recommended for intellectual services, but may be omitted for support services (Limit of 500 characters)

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 at this point, and ensure that all such costs are duly incorporated in the financial proposal submitted to UNDP.

e) Written samples of articles, materials produced by the Consultant, covering thematic areas on legal constitutional review and analysis.

Lump sum contracts

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables (i.e. whether payments fall in instalments or upon completion of the entire contract). Payments are based upon output, i.e. upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this lump sum amount (including travel, living expenses, and number of anticipated working days).

Travel

All envisaged travel costs must be included in the financial proposal. This includes all travel to join duty station/repatriation travel. In general, UNDP should not accept travel costs exceeding those of an economy class ticket. Should the IC wish to travel on a higher class he/she should do so using their own resources.

In the case of unforeseeable travel, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and Individual Consultant, prior to travel and will be reimbursed.
**Submission Instructions**

Completed proposals should be submitted to procurement.png@undp.org, with mandatory email subject: **Consultancy: Legal adviser - Bougainville Post Referendum Process, IC/PNG/066-2021**, no later than 15th December 2021. For any clarification regarding this assignment please write to procurement.pg@undp.org.

Please be guided by the instructions provided in this document above while preparing your submission.

Incomplete proposals and failure to comply with proposal submission instruction may not be considered or may result in disqualification of the proposal.

UNDp looks forward to receiving your Proposal and thank you in advance for your interest in UNDP procurement opportunities.

**Female candidates are encouraged to apply.**

**Approval**

This TOR is approved by:

**Name:** Ms. Julie Bukikun

**Designation:** Assistant Resident Representative (ARR), UNDP

**Date** 25th October 2021