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Date: 29 March 2013

## INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

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

Country:	Viet Nam
Description of the assignment:	Senior International Expert for policy research on “Criminalising Corruption: A study of international practices and application for Viet Nam”
Project name:	Project: 00069146
Period of assignment/services (if applicable):	1 June – 31 September 2013

1. Submissions should be sent by email to: [procurement.vn@undp.org](mailto:procurement.vn@undp.org) no later than: **17.00 hrs., 3 May 2013 (Hanoi time)**.

**With subject line: Senior International Expert - Criminalising Corruption**

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

**Note:** Maximum size per email is **7 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.

2. Please find attached the relevant documents:

- [Terms of Reference \(TOR\)](#)..... (Annex I)
- [Individual Contract & General Conditions](#)..... (Annex II)
- [Reimbursable Loan Agreement](#) (for a consultant assigned by a firm) & [General Conditions](#) (Annex III)
- [Insurance Coverage Table](#)..... (Annex IV)
- [Vendor Form](#) ..... (Annex V)
- [Guidelines for CV preparation](#)..... (Annex VI)
- [Format of financial proposal](#)..... (Annex VII)

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

a. Technical component:

- Signed Curriculum vitae
- Expression of interest, explaining why he/she is the most suitable for the work.
- An abstract of 350 words summarising initial concrete points (including names of countries to be suggested for lessons learnt for Viet Nam and rationale and relevance for the Vietnamese context) to be made in the research study under this TOR;

- A tentative work-plan for this research; and,
- Copy of at least 01 relevant publications/writing sample (in English).
- Contact reference of past 4 clients for whom you have rendered preferably the similar service

b. Financial proposal **(with your signature)**:

- The financial proposal shall specify a total lump sum amount in **US Dollar** including consultancy fees and all associated costs i.e. airfares, travel cost, meal, accommodation, tax, insurance etc. – see format of financial offer in Annex VII.
- 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 US Dollar at UN Exchange Rate at the submission deadline.

Please note: For the consultancy firm/institution/organization, please provide the above information **of the assigned consultant (only ONE) for this service**, not the experience and information of **YOUR firm**. The documents must be submitted by the assigned consultant.

4. Evaluation:

The technical component will be evaluated using the following criteria:

<b>Consultant's experiences/qualification related to the services</b>		
	<b>Criteria</b>	<b>Maximum Points</b>
1	Advanced degree in comparative legal studies, interdisciplinary legal studies, and/or political science studies	200
2	At least 10 years experience conducting applied research in developing countries, preferably in the analysis of Asian and emerging middle income economies	300
3	Demonstrated expertise on empirical legal studies on criminology in anti-corruption, or on anti-corruption legislation, especially with focus on matters of the same nature with those set forth in this TOR.	300
4	A strong international publications record;	100
5	Proven ability to write clear, jargon-free English.	100
	<b>TOTAL</b>	<b>1000</b>

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.

An interview with the candidate given the highest combined score may be held before contract awarding, if deemed necessary.

8. 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:

- Personal History
- International consultant whose work involves travel is required to complete the course on Basic Security in the Field and submit certificate to UNDP before contract issuance.

Note: The Basic Security in the Field Certificate can be obtained from website: <https://training.dss.un.org/consultants>. The training course takes around 3-4 hours to complete. The certificate is valid for 3 years.

- Full medical examination and Statement of Fitness to work for consultants from and above 62 years of age and involve travel. (This is not a requirement for RLA contracts).
- Release letter in case the selected consultant is government official.

#### 9. Payment

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

1st payment: 30% of total contract amount shall be paid upon receipt and acceptance of Output 1 as set forth in Section 3

2nd and final payment: 70% of total contract amount shall be paid upon receipt and acceptance of Outputs 2 as set forth in Section 3

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

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



## TERMS OF REFERENCE (TOR)

Service	Senior International Expert for policy research on <b>“Criminalising Corruption: A study of international practices and application for Viet Nam”</b>
Duty station:	Hanoi and home-base
Expected Duration	The successful International Service Contractor is expected to provide services from 1 June to 31 September 2013
Supervision:	The Contractor will work closely with UNDP Viet Nam Policy Advisor on Public Administration Reforms and Anti-corruption and with National Expert(s) to be provided by UNDP Viet Nam. The Contractor will report directly to UNDP Vietnam.

### 1. BACKGROUND

Viet Nam as a developing country has grown rapidly over the last two decades. Like many other East Asian countries, it has developed specific context related governance capabilities and economic strategies. In particular, it has developed a comprehensive legal framework to combat and prevent corruption. This includes the Law on Combating and Prevention of Corruption (Law No. 55/2005/QH11); the adoption of a National Strategy for Preventing and Combating Corruption towards 2020 (Resolution 21/2009/NQ-CP); the ratification of the UN Convention against Corruption (UNCAC) and a dozen of secondary legislation on the prevention aspects.

In 2011 and 2012, Vietnam underwent the process of national self-assessment of UNCAC implementation. Findings from the review suggest areas where Vietnam has met UNCAC’s requirements, as well as areas that need further compliance with UNCAC’s provisions and to strengthen its own legislation and enforcement mechanisms on combating corruption. In particular important gaps identified in the self-assessment report<sup>1</sup> regarding criminalization are mostly related to partial compliance on issues of bribery of national public officials (art. 15.a and 15.b); bribery of foreign public officials (art. 16.1 and 16.2); trading in influence (art. 18.a); embezzlement of property in private sector (art. 22); laundering on proceeds of crime (art. 23.2.b); protection of witnesses, experts and victims (art. 32.1; 32.2.a,b; 32.3); protection of reporting persons (art. 33); cooperation with law enforcement authorities (art. 37.5), and issues of criminal records (art. 41). In addition, the self-assessment identified important areas of no-compliance, including “illicit enrichment (art. 20); bribery in the private sector (art. 21a and 21b) and liability of legal persons (art 26.1).

In the Penal Code of Viet Nam, acts like bribe offering and receiving in the private sector have not been regulated as criminal offences, and only acts infringing legitimate operations of agencies and organisations committed by people holding an office while performing a public duty. A recent study commissioned by UNDP in 2012 finds that the definition and coverage of corruption in the Anti-corruption Law in 2005 (revised in 2012 and effective from 1 February 2013) and in the Penal Code makes it limited to the public sector only. Moreover, the definition of corruption limits to acts committed by only position holders, so excluding such acts as giving a bribe out of the concept.<sup>2</sup>

The paper further suggests that in redrafting and reviewing AC related legislation, including the Criminal Code, it is necessary to develop comprehensive and thorough AC legislation that defines clearly that corruption is dangerous for the society and clarifies that all forms of corruption are criminal acts. A consistent list of all forms of corrupt acts needs to be included in revised legislation together with other necessary regulations (e.g. illicit enrichment, bribery in the private sector, bribery that involves international civil servants as provided for in the United Nations Convention on Anti-corruption - UNCAC) as well as the liability of legal persons. A set of administrative and criminal sanctions needs to be associated with such crimes in the revised legislation in

<sup>1</sup> Government Inspectorate (2011). National Self-Assessment Report on UNCAC Implementation. Draft Report. Hanoi, July 2011

<sup>2</sup> Painter, Martin, Dao, Le Thu, Hoang, Manh Chien, and, Nguyen, Quang Ngoc (2012). International Comparative Analysis of Anti-corruption Legislation: Lessons on Sanctioning and Enforcement Mechanisms for Viet Nam. A Joint Policy Discussion Paper on Anti-corruption commissioned by the Department for International Development (DFID) of the United Kingdom and the United Nations Development Programme (UNDP). Ha Noi, Viet Nam.

addition to a set of requirements for accountability by AC agencies and organisations. On sanctions and enforcement, the paper argues that in restructuring the investigation and prosecution system, the mandates of responsible agencies should be clarified so as to concentrate the required authority, competency and resources.

In 2013 the Government of Viet Nam, under the coordination of the Ministry of Justice (MoJ) will draft a series of amendments to the Penal Code. Therefore, it is a high time to provide advice on how corrupt acts are successfully covered and handled in other countries' criminal provisions. In order to analytically support the ongoing process on amendment of the Penal Code, UNDP will commission a research study on international experiences in criminalisation of corruption using a comparative approach with emphasis on institutional analysis. The study will help identify good practices and lessons for Viet Nam to consider in its review of criminalisation of corruption acts to supplement and/or revise in the amendment of the Penal Code.

Adopting a comparative approach, this study seeks to identify and analyse a set of countries whose Penal Codes cover corruption-related offences and compare with Viet Nam's to point out good practices and lessons from similarities and peculiarities across the selected Penal Codes.

The usefulness of this study can be assured when good practices and lessons learnt from other countries are both politically and practically feasible. This exercise does not aim to claim that legislative and other measures in establishing criminal offences to acts of corruption that are adopted in one country can be directly replicated in any other country. Instead, it helps to identify what measures are successfully implemented and the reasons for this implementation. The policy research aims to facilitate debates about what Viet Nam can learn from other countries when amending its Penal Code and on what conditions such amendments (if any to criminalisation of corrupt acts) will work in the country when the revised Penal Code takes effect.

## **2. OBJECTIVES**

### **2.1. Main objective**

The research will adopt a comparative legal/institutional analysis approach to examine what works, what does not and why for a selected number of Penal Codes (including Viet Nam's) regarding criminalisation of corruption. The policy research will present a set of good institutional practices and lessons for Viet Nam to consider in amending its Penal Code.

### **2.2. Specific Objectives**

1. To undertake a comparative analysis of Penal Codes in at least five countries (focusing on MICs and/or countries that have transited towards MICs and including Viet Nam), focusing on the aspects of criminalisation of corruption;
2. To provide examples of how the Penal Codes have been (in)effectively enforced in curbing corrupt practices in those selected country case studies;
3. To identify what lessons Vietnam can consider learning from while amending the Penal Code in order to narrow the gap identified between the Penal Code and Anti-corruption Legislation for better enforcement of the rule of law in anti-corruption.

## **3. RESEARCH STAGES AND EXPECTED OUTPUTS**

The Contractor, according to the following terms of reference, and under the coordination of UNDP's Policy Advisor on Public Administration Reform (PAR) and Anti-Corruption (AC) shall deliver the products described below:

Stage 1: *Estimated 10-15 days of work to conduct in-depth, evidence-based literature review to provide the following output:*

Output 1: A 15-paged briefing note to provide comparative legal analysis on Penal Codes in regards criminal offences against corrupt acts

Stage 2: *Estimated 25-30 days of work in Hanoi and home-base to provide the following output:*

Output 2:

- A full 30 or 40-paged research paper, following the outline below:
- Introduction. Research objectives and rationales (2 pages)
- Section 1. International experiences/legislation on Penal Code in regards criminalisation of corruption offences (15 pages)

- Briefing about Penal Codes regarding criminalisation of corrupt acts and institutional analysis;
- Analysis of strengths and weaknesses in Penal Codes in respect of criminalisation of corrupt acts and discussion on how they are implemented;
- Institutional arrangements for enforcement of criminalisation of corruption per Penal Codes
- Section 2. Lessons learnt for Viet Nam (10 pages)
- Conclusions and policy recommendations for Viet Nam's Penal Code (5 pages)
- Appendices to summarize Penal Codes studied
- PowerPoint presentation (12-15 slides) summarizing key findings and policy recommendations

#### **4. METHODOLOGY**

The international consultant/researcher will work under close supervision of the Policy Advisor on PAR and AC during the assignment. To the possible extent, the analysis will have to be based on statistical data and documented material, including the compilation of recently published studies and reports. The research methodology will include the revision, analysis and synthesis of data, statistics, documents and publications on the theme. The consultant/ researcher will be in charge of collecting the information, with specific inputs from UNDP's PAR and AC Advisor.

The international consultant/researcher will have to identify the sources of all kind of information, and cite them properly in the research. S/he is not necessarily expected to generate primary information, but to develop and present in-depth analysis based on compilation and processing of secondary sources.

The research paper is neither an essay of qualified opinions nor a newspaper type article. It needs to be grounded on evidence and documented data/information. Therefore, the consultant/researcher will keep frequent working sessions with the PAR and AC advisor who can request additional information and clarity where deemed appropriate. UNDP will support the research process; however the ultimate responsibility on access and accuracy of data relies on the consultant/researcher.

The research process is participatory and consultative, including in depth interviews with key Vietnamese policy makers and focus groups discussions during the process of field study and in order to validate findings and arguments from the report.

The international consultant/researcher will be supported by a team of national consultants that will be contracted separately. This support is to make sure of the internalisation of international experience and contextualisation of the research to fit the Vietnamese dynamics. The national research team will support the international consultant/researcher with arrangement of interviews with different relevant stakeholders. Effective teamwork with the national team is therefore part of this assignment.

UNDP will arrange for publication of the final report. The paper will be made publicly available through the normal distribution channels, and distributed to national and international agencies. UNDP also actively encourages the researcher to publish the paper in other outlets, including scholarly journals and institutional websites as long as the researcher fully observes UNDP's general terms and conditions in terms of title rights, copy rights, patents and other proprietary rights to be specified in "General Conditions of Contract for the Services of Individual Contractors.

#### **5. QUALIFICATIONS AND REQUIREMENTS**

The International Senior Expert should meet the following minimum requirements:

- Advanced degree in comparative legal studies, interdisciplinary legal studies, and/or political science studies;
- At least 10 years experience conducting applied research in developing countries, preferably in the analysis of Asian and emerging middle income economies;
- Demonstrated expertise on empirical legal studies on criminology in anti-corruption, or on anti-corruption legislation
- A strong international publications record;
- Proven ability to write clear, jargon-free English.

#### **6. TIMING, DURATION AND LOCATION**

The tentative timeframe for this research will be estimated 40 days, comprising of two concrete phases:

- 1 Jun - 31 Jun 2013: Home-based research and desk reviews
- 1 Jul - 30 Sep 2013: Home-based and one business trip to Hanoi for fieldwork for at least 10 working days.

The interested contractor shall suggest a tentative work-plan for this study to be done for further discussion with UNDP upon being selected, as indicated in Section 5.

*Note:* This is an estimated number of days only and it is up to the consultant to allocate the number of days required to deliver the deliverables in this TOR as per the timeframes and reflect that in the financial offer. The financial offer is expected to include travel costs and per diems and other relevant costs for the 10-day mission in Vietnam.

## 7. PAYMENT TERMS

UNDP Viet Nam shall effect payments to the successful Contractor upon UNDP's satisfaction with expected deliverables set forth in Section 3 above and after acceptance by UNDP of the request for payment submitted by the Contractor to the address specified in the sample contract. Milestones for deliverables and payments for the two phases shall be as follows:

Sequence	Percentage of installments	Indicative Dates for Installments
1 <sup>st</sup> payment	30% upon receipt and acceptance of Output 1 as set forth in Section 3	31-June-2013
Final payment	70% upon receipt and acceptance of Outputs 2 as set forth in Section 3	15-October-2013

## 8. SUPPORT FROM UNDP AND REFERENCE DOCUMENTS

UNDP will provide the following support where deemed appropriate:

- Substantive inputs in and quality control of deliverables;
- Office space for meetings and working sessions when needed;
- When requested, arrangement of introduction letters and/or requests for meetings/interviews;
- Any other substantive support where deemed appropriate.

## 9. PROVISION OF MONITORING AND PROGRESS CONTROLS

- Upon contract signing, the contractor shall work closely with the UNDP Policy Advisor on PAR and Anti Corruption to discuss and agree on the task requirements, working methodology;
- The UNDP Policy Advisor and the relevant stake holders review and comment on the contractor's required outputs/reports in the TOR;
- The contractor reviews the comments and submits the revised outputs/ reports for further review and comments;
- The UNDP Policy Advisor shall monitor every stage of deployment of the project and shall evaluate the deliverables of each phase as described in Section 3 of this TOR.
- UNDP shall disburse installments to the contractor against the milestones for each phase of the project. Each payment shall be made upon UNDP's satisfaction with the deliverables. The final installment shall be made to contractor only when UNDP is fully satisfied with the final deliverable of this assignment.

## **Annex VI**

### **GUIDELINES FOR PREPARING CV**

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.

Please ensure the following statement is included in the resume and that it is signed and dated:

I CERTIFY THAT ALL INFORMATION STATED IN THIS RESUME IS TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE. I AUTHORIZE UNDP/UNOPS OR ITS AGENT TO VERIFY THE INFORMATION PROVIDED IN THIS RESUME.

(Signature)



