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Date: 21 August 2012

INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

for individual consultant and consultant assigned by consulting firm/institution

Country:	Viet Nam
Description of the assignment:	01 International consultant to conduct a comparative research on standard court procedures for juvenile and drug user in conflict with law
Project name:	Project 'Strengthening Access to Justice and Protection of Rights in Vietnam' (Project 00058492)
Period of assignment/services (if applicable):	Sep – Dec 2012

1. Submissions comprising of technical and financial components should be sent in separate email to: nguyen.thi.hoang.yen@undp.org no later than: **17.00 hrs., 4 September 2012 (Hanoi time)**.

With subject line: **International consultant on court procedures – Project 58492**

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

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. Documents to be included in the submission:

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

- a. **Technical proposal:** The technical proposal shall include:

- Curriculum vitae
- Expression of interest, explaining why they are the most suitable for the work.
- Copy of 1-3 publications/writing samples.

- A brief description of the consultant's past experience on implementing research projects of similar nature to this required research. You should also provide any other information that will facilitate our evaluation of your reliability and capacity to meet the TOR requirements. Explanation on why you consider yourself the most suitable for the work (maximum 2 pages);
- A detailed description of 'Approach and Methodology' on how the consultant will respond to the TOR, describing the consultant's understanding of the objectives of the assignment, the methodology for carrying out the activities and obtaining the expected outputs. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them (maximum 3 pages).
- Implementation plan of detailing activities and timelines
- Contact reference of past 4 clients for whom you have rendered preferably the similar service

a. Financial proposal:

- 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 Viet Nam Dong 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**.

6. Evaluation:

Your technical proposals will be evaluated using the following criteria:

1	Consultant(s)' experiences/qualification related to the services	Max points
1.1	Professional qualification of individual expert	100
1.2	Understanding of court's proceedings, especially those involve judicial decision in relation to drug user and juvenile in conflict with law	100
1.3	Knowledge and understanding related to international human rights standards	50
1.4	Understanding of administrative handling measures of Asian countries, understanding about the Vietnam system is an advantage	100
1.5	Strong analytical, conceptual and facilitation skills; English command	50
2	Technical proposal	
2.1	Understanding of the objectives of the assignment and justification for the country is proposed for this comparative research study	200
2.2	Understanding the difficulties/challenges of the tasks including appreciation of risk factors and proposed mitigation strategies, and solutions/measures to be adopted	150
2.3	Suitability of proposed approach, methodology to implement the research and obtain the expected outputs;	200
2.4	Proposed detailed work-plan to complete the research in timely delivery and with high-quality outputs	50
	TOTAL	1000

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

The technical proposal 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 proposal under consideration.

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

Proposal 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: <http://training.dss.un.org>. 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.

Financial Proposal

9. Your 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.

10. Payment

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

1st payment: 20% of the total contract value upon submission and UNDP’s approval of detailed work plan within five (5) working days after the signing date of contract.

2nd payment: 50% of the total contract value upon acceptance of the consultant’s report on international experiences by DCAL, PMU and UNDP

3rd payment and last payment: 30% of the total contract value upon satisfactory acceptance of comments on the research report prepared by national consultants by DCAL, PMU and UNDP

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

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

You are requested to acknowledge receipt of this Procurement Notice and to indicate whether or not you intend to submit proposals.



TERMS OF REFERENCE (TOR)

TITLE:	International consultant to conduct a comparative research on standard court procedures for juvenile and drug user in conflict with law
PROJECT	Project ‘Strengthening Access to Justice and Protection of Rights in Vietnam’ (Project 58492)
COUNTRY OF ASSIGNMENT:	Home-based and a two-day mission in Viet Nam

I. INTRODUCTION

The National Assembly of Vietnam has passed the Law on handling of administrative violations, which provides new process for handling administrative sanctions to administrative offenders. According to the new law, drug user and juvenile in conflict with law are offenders whose sanctions are subject to be reviewed and decided by court. While the new law will take effect on 1st July 2013, those provisions contain court’s jurisdiction and procedures for making decision on administrative sanctions only come into effect on 1st January 2014 to facilitate transition from the current regulatory system to implementation of the new law and judicial procedure.

Administrative sanctions according to the law restrict the freedom rights of citizens and are applicable to individuals who commit acts in violation of security, social order and safety but not to the extent of being examined for criminal liability. These sanctions are often in form of sending offenders to a closed setting treatment or re-education for a period ranging from 6 months to 24 months. The old regulatory framework –as stipulated in the Ordinance on handling of administrative violations which will be replaced by the new law in 1st July 2013—provides that the head of local administrative agencies are entitled to decide on administrative sanctions to offenders, who are actually Chairman of the People’s Committees at different levels, provincial, district and commune. This process fails to ensure fairness and transparency of the decision making by not granting the offenders, their representatives and counsels with information and opportunity to participate in the process and to protect their legitimate rights and interests.¹

Toward realizing the direction of the Communist Party and State of Vietnam on development and improvement of the legal system, especially development and improvement of the legal system to preserve human rights, freedom and democracy; and requirements to comply with international Human Rights treaties that Vietnam is a member, Article 105 of the new law on handling administrative violations gives the court system jurisdiction to decide sanctions to administrative offenders. Procedure to apply the sanctions is yet stipulated in the law, but will be specified in details in a sub-law document (a decree) guiding the law’s implementation to be issued by the Standing Committee of the National Assembly. It is expected that a summary or streamlined procedure will be applied for the court’s decision making on administrative sanctions.

Giving the court jurisdiction to consider and decide applicable administrative measures is a new development and breakthrough reform in Viet Nam. How should the judicial process be regulated is a great challenge to law drafters. What should be the regulatory conditions to ensure effective implementation of the new process. In particular, there is a need to establish a set of procedures which are fair, speedy and efficient (so that cases are dealt with quickly and cost-effectively) but which also meet the needs of justice and protect the human rights of persons who appear before the courts.

The legal systems of many developed countries have developed practices and procedures for the courts to deal with decisions regarding detention of children and others in conflict with the law, which enable justice to be done swiftly and expediently while protecting human rights. While the circumstances of these procedures differ greatly depending on the legal and policy regimes of different countries, still they can provide useful guidance on how to establish procedures for accessible and speedy justice in line with international human rights standards.

Therefore, in order to seek for basis for a research on standard process for consideration and decision of application of administrative handling measures in the law on handling of administrative violations, within the

¹ To get more information about administrative handling measures in Vietnam, the Project will provide Reports on assessment administrative handling measure (2010) and Report on improvement administrative handling measures in the Bill on handling administrative violations (2011)

framework of Project ‘Strengthening Access to Justice and Protection of Rights in Vietnam’ supported by UNDP, the Department of Criminal and Administrative Legislation (DCAL), Ministry of Justice (MOJ), will recruit one (01) international consultant to provide relevant international experience to the research and in coordination with national consultants (TOR for national consultants will be provided at the beginning of the assignment) to propose recommendations for a standard process.

II. OBJECTIVES

To share experiences of other countries in relation to speedy but human-rights compliant procedures for judicial decisions involving detention, which could be applied in Vietnamese context; and suggest suitable and applicable procedures of application of administrative handling measures for Viet Nam.

To share comparative experiences of procedures related to drug user and juvenile in conflict with law from at least three (3) countries justified and recommended by the international expert, and to propose special process (if any) to be applicable for consideration and decision on administrative sanctions to drug user and juvenile in conflict with law.

To give comments to a report prepared by national consultants in order to improve the report and suggest a standard procedures applicable for Vietnam

The research outputs will be used as reference materials to develop an ordinance for implementation of the law of handling of administrative violations, in particular on procedures of application of administrative handling measures at courts in Viet Nam.

III. SCOPE OF WORK AND METHODOLOGY

The international expert’s report shall at least cover main points as followings:

- Analysis of provisions on administrative handling measures of Vietnam and compare to international human rights standards; and suggest requirements that should be taken into account in the Ordinance on procedures of application of administrative handling measures at courts.
- Analysis of streamlined procedures at courts in other countries for judicial decisions involving detention of drug-user and juvenile in conflict with law, and lessons learnt and suggestions for Viet Nam;
- Analysis of application regulations for drug user and juvenile in conflict with law, and proposals for speedy but human-rights compliant procedures for consideration of application of administrative handling measures in Viet Nam;
- Comments on the research report developed by national consultants, focusing on the standard procedures.
- In term of methodology to carry out the assignment, the international expert should:
 - Conduct a desk review and analyze academic literature, legislation, project, and other reference documents including: reports on assessment administrative handling measure produced in 2010; reports on improvement administrative handling measures in the process of drafting the law on handling administrative violations commissioned in 2011;
 - Draft report based on results of the review and analysis, as well as based upon any directions and guidance provided by the DCAL, PMU or UNDP. The report shall be fully annotated and include a bibliography and list of legislation, regulations, and cases relied upon;
 - Revise and improve the draft report in light of comments from the DCAL, PMU and/or UNDP;
 - Prepare written comment on the report made by national consultants;
 - Prepare the final edited version of his or her report in standard, plain English in electronic format using MS Word. British English spellings are to be employed.

The international consultant shall closely work with national consultants (via email, telephone) in order to share information, comments on their reports and other related assignments.

IV. EXPECTED DELIVERY:

- Overall and summary report of international experience of fair, speedy and efficient procedures in handling drug user and juvenile in conflict with law, including but not limited to the contents mentioned in section III of this TOR. The report will be developed in English of at least 50 pages (excluding annexes) for the overall report and 20-25 pages for the summary report.
- Written comments on the research report of Vietnam’s consultants (available in English).

V. ADMIN SUPPORT AND REFERENCE DOCUMENTS:

Reference documents will be provided upon signing the consultancy contract:

- The law in English
- Available reports and materials on the subject matters produced by the MOJ/ Department of Criminal and Administrative Laws.
- TOR for national consultants

The Department for Criminal and Administrative Law will hold workshop and consultation meetings, as well as prepare related documents for the events.

VI. QUALIFICATIONS:

The international consultant should meet the following qualifications:

- Legal expert with at least 10 years of professional experience in the legal field;
- In-depth knowledge and understanding of courts' proceedings, especially involving judicial decision in relation to drug user and juvenile in conflict with law;
- Knowledge and understandings related to international human rights standards;
- Understanding of administrative handling measures of Asian countries, especially understanding of Vietnam is an advantage;
- Excellent research, analysis and presentation skills;
- Fluency in English.

VII. DURATION OF ASSIGNMENT, DUTY STATION AND EXPECTED PLACES OF TRAVEL:

It is anticipated that the international consultant will work for **20 consultancy days** during the period from September 2012 to December 2012. The international consultant will take part in a two-day workshop held in Hanoi, Vietnam (expected to be held in October - November).

Based on the indicated scope of work and expected outputs, bidders must make their own estimate of the time taken to complete the assignment in line with this Procurement Notice and their own technical proposals, and use this estimate as the basis of the financial proposals to be submitted which should include, among others, in their financial proposals, budget for travel, accommodation and subsistence costs for the field work in provinces.

International consultant will conduct the research from September – December 2012 as follows:

Activities	Timeframe	Responsible parties
Recruitment and contract procedures	8/2012	UNDP, PMU, DCAL
Detailed outline to be submitted to DCAL and PMU	9/2012	International consultant
Development of a report on international experiences	9-10/2012	International consultant
Comments on the research report prepared by Vietnam's consultants	9-10/2012	National, international consultant
Participation at a workshop	10-11/2012	International consultant
Submission of the final report, completion of the assignment	12/2012	International consultant

IX. PAYMENT:

Consultancy fee will be paid via bank transfer according to the following milestones:

- First payment of 20% of the total contract value upon submission and UNDP's approval of Detailed work plan within five (5) working days after the signing date of contract;
- An installment of 50% of the total contract value upon acceptance of the consultant's report on international experiences by DCAL, PMU and UNDP;
- Last installment of 30% of the total contract value upon satisfactory acceptance of comments on the research report prepared by national consultants by DCAL, PMU and UNDP.

IX. MONITORING AND SUPERVISION:

The Department for Criminal and Administrative Law and the UNDP, PMU will be in charge of supervising the work of int'l consultant and holding meetings/ discussion between the international consultant and national consultants (if any).

X. NOTE:

All materials and data collected and accumulated from the Research are considered as assets and achievements of MOJ and UNDP. Utilization and circulation of any parts of these materials and data without permission of the two agencies are not allowed.

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)

Annex VII

FINANCIAL OFFER

Having examined the Solicitation Documents, I, the undersigned, offer to provide all the services in the TOR for the sum of USD.....

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

Note: The number of work-days in the TOR is estimated only. The bidder should make his/her own estimate of the time taken to complete the assignment in line with this TOR and his/her technical proposal, and use this estimate as the basis for financial proposal.

Cost breakdown:

No.	Description	Number of days	Rate (USD)	Total
1	Remuneration			
1.1	Services in Home office			
1.2	Services in field			
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 62 years of age and involve travel – (required before issuing contract). *			
2.5	Others (pls specify).....			
	TOTAL			

** Individual Consultants/Contractors who are over 62 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