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Date: 23 May 2013

## INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

### for individual consultant and consultant assigned by consulting firm/institution

<b>Country:</b>	Viet Nam
<b>Description of the assignment:</b>	Senior International Expert for Comparative Study on “Methods on Land Dispute Resolution: International Practices and Alternative Options for Viet Nam”
<b>Project name:</b>	Empowerment of Women to Claim Land Rights (Project 61404)
<b>Period of assignment/services (if applicable):</b>	June – October 2013

1. Submissions comprising of technical and financial components should be sent in separate email to: [procurement.vn@undp.org](mailto:procurement.vn@undp.org) no later than: **17.00 hrs., 7 June 2013 (Hanoi time)**.

#### With subject line: International expert “Methods on Land Dispute Resolution”

Submission received after that date or submission not in conformity with the requirements specified 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. Documents to be included in the submission:

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

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

- Signed most updated Curriculum vitae
- An abstract of 350 words summarising initial concrete points (including names of countries to be suggested for lessons learnt for Viet Nam) to be made in the research study under this TOR;

- A tentative work-plan for this research; and,
- At least one relevant publication in English.
- Reference contacts of past 4 clients for whom you have rendered preferably the similar service

**a. 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.

6. Evaluation:

Your technical proposals will be evaluated using the following criteria:

<b>1</b>	<b>Consultant(s)' experiences/qualification related to the services</b>	<b>Max points</b>
1.1	Advanced degree in comparative legal studies, interdisciplinary legal studies, and/or political science studies	50
1.2	At least 10 years experience conducting applied research in developing countries, preferably in the analysis of Asian developing countries; Demonstrated expertise on empirical legal studies on land disputes	200
1.3	Preferably having knowledge and/or experiences on Vietnamese legal studies	50
1.4	A strong international publications record; Proven ability to write clear, jargon-free English	100
<b>2</b>	<b>Technical proposal</b>	
2.1	Understanding of the objectives of the assignment	200
2.2	Approach/methodology for carrying out the task and obtaining the expected outputs	300
2.3	Tentative work-plan for this research	100
	<b>TOTAL</b>	<b>1000</b>

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:

<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.

## **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.

1<sup>st</sup> payment: 30% of total contract value shall be paid upon submission and UNDP’s acceptance of acceptance of the research outline

2<sup>nd</sup> payment: 40% of total contract value shall be paid upon submission and UNDP’s acceptance of the draft research report in line with the requirements set forth in Section 3.2 and 3.3 of the TOR.

4<sup>th</sup> and final payment: 30% of total contract value shall be paid upon submission and UNDP’s satisfactory acceptance of the final research report.

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)**

<b>SERVICE</b>	<b>Senior International Expert for Comparative Study on “Methods on Land Dispute Resolution: International Practices and Alternative Options for Viet Nam”</b>
<b>DUTY STATION</b>	<b>Home-base with one mission to Hanoi, Viet Nam</b>
<b>EXPECTED DURATION</b>	<b>The service to be provided from June to October 2013</b>
<b>SUPERVISION</b>	<b>The expert will work closely with UNDP Viet Nam Governance and Participation Team Leader and Programme Officer on Rule of Law and Access to Justice. The expert will report directly to UNDP Viet Nam</b>
<b>PROJECT</b>	<b>Empowerment of Women to Claim Land Rights (Project 61404)</b>

### **1. GENERAL BACKGROUND**

Land grievances dominate complaints sent up to the central government which is usually accounted for no less than 70% of all types of administrative complains and petitions in Viet Nam during 10 years since the existing Land Law of 2003 came into effect.<sup>1</sup> Along with the Land Law, Viet Nam has many laws and related decrees, directives, and guidelines related to land and its management. These normative documents are regularly updated and amended reflecting the pressures associated with a market-driven economy with a socialist orientation.

Tensions and conflicts over land are especially acute on the peripheries of urban areas where the disparity between property values and compensation rates is often widest. Public protests or “mass petitions” against land conversion and land recovery continue to increase in 2012 and early 2013 though property value slumps and economic growth goes downturn.<sup>2</sup> Major problems to land grievances viewed by Government officials are due to (i) inconsistency of the regulatory framework on land use and land management; (ii) historically retrospective incidents; (iii) irresponsiveness of local governments in handling complains; and (iv) lack of legal awareness of petitioners.<sup>3</sup> While the problems relate to, viewed broadly, the lacks of a core set of principles related to the definition of land rights, their orderly transfer, and their protection and adjudication.<sup>4</sup>

The Vietnamese courts have played a limited role in resolving land grievances so far. They are inhibited in dealing with land disputes due to various factors, apart from the shortcomings in the regulatory framework and the institutional design that limits the power of judiciary in taking in “administrative” land disputes, there is the lack of specific and robust remedies besides those stipulated in the laws on land and complaint. To cope with increase of complaints, the Government has promoted a variety of remedies through political and administrative channels, for instance: using grass-root conciliation, setting up special task forces, opening regional front offices to deal with complains. Nevertheless, that does not mean the potentially positive role of the court should be downplayed or ignored given the direction toward judicialization, the court-centric approach is emphasized by Party and the State in their action plan for implementing the Judicial Reform Strategy with vision to 2020.<sup>5</sup>

Revisions of the Land Law have now placed on National Assembly’s agenda for approval in June 2013. The new revisions if approved can come into effect in January 2014. Therefore, it is timely to provide advice on

<sup>1</sup> Report of General Inspectorate to National Assembly on handling administrative complains and denunciations, Session 4, National Assembly XIII, October 2012.

<sup>2</sup> Online interview with General Inspector Huynh Thanh Phong, 31 March 2013, <http://baodientu.chinhphu.vn/Home/Tong-Thanh-tra-Chinh-phu-noi-ve-giai-quyet-khieu-nai-to-cao/20133/165314.vgp>.

<sup>3</sup> See above.

<sup>4</sup> Ho Dang Hoa, Le Thi Quynh Tram, Pham Duy Nghia, and Malcolm F. McPherson, Land Policy for Economic Social Development in Viet Nam, 2011.

<sup>5</sup> Resolution 49 of the Poliburo on Judicial Reform Strategy to 2020, issued 2005.

alternative solutions to remove existing biases in the law, to create equitable treatment across land users, and to ensure due process in land conversion and recovery, fair treatment in resolving complains and grievances. In order to recommend policy options in supporting the protection of all legitimate rights and interests of land users, UNDP Viet Nam will commission a comparative study on international experiences on available remedies for resolving land disputes with emphasis on institutional analysis. The study will help identify alternative good practice and lessons for Viet Nam to consider in its review of the current system of handling land disputes, particularly disputes about land conversion and recovery.

This study seeks to identify and analyze a set of three countries—to be suggested by the expert—who face similar challenges and managed to set up effectual mechanisms in dispute settlement, and compare with Viet Nam's to point out good practices and lessons from similarities and peculiarities across the selected administrations and judiciaries.

## **2. OBJECTIVES**

2.1 The research will adopt a comparative legal analysis approach to examine the role of formal and informal institutions including but not limited to the judiciary, extra-judicial and/or hybrid methods of dispute resolution that the studied country(s) has adopted; and to analyze the way and trend in which the country (within its legal, cultural and institutional context) emphasis in resolving land grievances and disputes.

2.2 Drawing on the overall country analysis in 2.1.1 above, the research will identify the most appropriate or effective way to resolve disputes which appear significant in relation to removing biases toward social stability and to enhancing effectiveness and fairness in resolving land disputes, and to consider the degree to which such factors can be successfully implemented in the context of Viet Nam.

## **3. SCOPE OF WORK AND DELIVERABLE**

3.1 The research will undertake a comparative analysis of methods in resolving land disputes in three (3) selected countries that their experiences can be useful for Viet Nam.

3.2 A research report is expectedly less than 50 paged research paper which addresses a common set of questions and presented in a coherent manner as the Structure of the Country Report suggested in 3.3 below in order to facilitate the analysis of common themes and areas of difference, trends, strengths and weaknesses to provide useful recommendations for Viet Nam.

The country research report will include relevant annexes such as extracts from the country's Constitutions and laws, collected survey data and any other relevant information provided under this assignment in relation to the subject research.

### **3.3 Structure of the country report**

Subject to agreement with the researcher, each country report should follow the following structure:

#### **a. Political, socio-economic context and legal system**

Each country report should begin with a short account of its political and socio-economic context, constitutional and legal framework that shape its land regimes and land management.

#### **b. Land tenure and struggles**

There should be a description of the existing types of land tenures; the types of tensions and conflicts in relation to land tenure, acquisition, conversion and recovery process which are proceeding in many countries for the purpose of development.

#### **c. Forums for resolving land disputes**

This is the main section of the country studies, and should include detailed description of the available forums, their shortcomings as well as their comparative advantages.

In addition, this section should examine:

- the tensions and issues relate the existing forums of dispute resolution;
- the innovations in term of resource, leadership and cultural underpinnings;
- the dynamics force and avenues for initiating alternative dispute resolution.

#### **d. Lessons and recommendations**

There should be overall assessment of the strengths and weaknesses of each system in the context of the country's institutional, cultural, socio-economic and political framework, main current challenges and controversies; key issues for future reform.

Build on the overall analysis, this section should highlight possible remedies and policy options that Viet Nam can look into for greater equitable treatment and just remedies to all land users in line with the development context of the country.

#### **4. METHODOLOGY**

The expert will work under close supervision of the UNDP officers in charge 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 expert 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. UNDP will support the research process when deems necessary, however, the ultimate responsibility on access and accuracy of data relies on the expert.

The research process is participatory and consultative, including meetings with Vietnamese policy makers, judges, Government inspectors and researchers during the mission to Viet Nam. The expert will be expected to come on one (1) mission to Viet Nam after submission of the first draft of the report to discuss with Vietnamese researchers, National Assembly's deputies, judges, Government inspectors and other key stakeholders including representatives of civil society organizations (i) to maximize the synergies between the comparative country research and the handling and adjudication of land disputes in Viet Nam; and (ii) to validate research's primary findings and recommendations in Viet Nam.

UNDP will arrange for translation into Vietnamese and publication in Vietnamese and English. 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 land disputes
- Preferably having knowledge and/or experiences on Vietnamese legal studies;
- A strong international publications record;
- Proven ability to write clear, jargon-free English.

It is required that interested international senior experts include in their application dossiers:

1. a most updated CV with information about three referees for reference check;
2. an abstract of 350 words summarising initial concrete points (including names of countries to be suggested for lessons learnt for Viet Nam) to be made in the research study under this TOR;
3. a tentative work-plan for this research; and,
4. at least one relevant publication in English.

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

The tentative timeframe for this research will be estimated 33 working days, comprising of two concrete phases:

- Phase 1: June - July 2013 – home-based research

- Phase 2: 1 August - October 2013 – home-based and one business trip to Hanoi in August or September for fieldwork for three (3) working days.

*Note:* This is the estimated number of days only and it is up to the consultant to allocate the number of days required to deliver the deliverable in this TOR as per the timeframes and reflect that in the financial offer.

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 3.

## 7. CONTRACT PAYMENT

UNDP Viet Nam shall effect payments to the successful Contractor upon UNDP's satisfaction with the deliverable 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 contract.

Milestone payments for the two phases shall be as follows:

Sequence	Percentage of installments	Indicative Dates for Installments
1 <sup>st</sup> payment	30% of the contract value upon acceptance of the research outline	June 2013
2 <sup>nd</sup> payment	40% of the contract value upon receipt of the draft research report in line with the requirements set forth in Section 3.2 and 3.3	August-September 2013
Final payment	30% of the contract value upon acceptance of the final research report	October 2013

## 8. PROVISION OF MONITORING AND PROGRESS CONTROLS

- Upon contract signing, the contractor shall work closely with UNDP officers in charge to discuss and agree on the task requirements, working methodology;
- UNDP 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;
- UNDP shall monitor every stage of deployment of the project and shall evaluate the deliverables of each phase as described in Section 3 and 6 of this TOR.
- UNDP shall disburse instalments to the contractor against the milestones for each phase of the project. Each payment shall be made upon UNDP's satisfaction with the deliverable. The final instalment 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)



## **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 US\$ .....

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:**

<b>No.</b>	<b>Description</b>	<b>Number of days</b>	<b>Rate (USD)</b>	<b>Total</b>
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).....			
	<b>TOTAL</b>			

*\* 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