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Date: 12 August 2013

INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

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

Country:	Viet Nam
Description of the assignment:	International consultant to support a Study on improvement of the current criminal sanction system, focusing on reducing the death penalty
Project name:	Project “Strengthening Access to Justice and Protection of Rights” (Project 58492)
Period of assignment/services (if applicable):	Early September to October, 2013

1. Submissions should be sent by email to: nguyen.thi.hoang.yen@undp.org no later than: **17.00 hrs., 23 August 2013 (Hanoi time)**.

With subject line: International consultant on criminal sanctioning system

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
 - Copy of 1-3 publications/writing samples.
 - Reference contacts 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: Any individual employed by a company or institution who would like to submit an offer in response to this Procurement Notice must do so in their individual capacity, even if they expect their employers to sign a contract with UNDP.

4. Evaluation:

The technical component will be evaluated using the following criteria:

Consultant's experiences/qualification related to the services		
	Criteria	Maximum Points
1	Post-graduate degree on law and having at least 10 years of working experience in the legal field	200
2	Specialized on criminal procedure laws, especially with comparative studies on the penalty system and death penalties.	200
3	Experiences working with international organizations on criminal justice project, or issues related to international human rights conventions.	200
4	Understanding of legal traditions of Asian countries, preferably with knowledge and experience on the criminal system of Viet Nam.	200
5	Skills of doing researches, analysis and presentation skills; Fluency in English.	200
	TOTAL	1000

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.

Interview with the candidates may be held 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: 20% of total contract value will be paid upon submission of detailed outlines.

2nd payment: 50% of total contract value will be paid after the Reports on assessment of the penalty systems are submitted and approved by DCAL, PMU and UNDP.

3rd payment: 30% of total contract value will be paid after Comments on the Draft Report of national experts are submitted.

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)

TITLE:	International consultant to support a Study on improvement of the current criminal sanction system, focusing on reducing the death penalty
PROJECT	Project “Strengthening Access to Justice and Protection of Rights” (Project 58492)
COUNTRY OF ASSIGNMENT:	Home-based and Việt Nam

I. INTRODUCTION

Penalty is the most serious coercive measure of the State to deprive of or restrict rights and interests of the offenders. Penalty’s purposes are not only to punish the offenders, but also educate them in order to become useful person to the society with enhanced awareness of compliance of the law and rules of the socialist life, preventing them from committing new crimes. Penalty also aims to educate other people to respect the law and take part in prevention and fight against crimes.

According to Article 28 of the current Penal Code of Vietnam, the penalty system applicable to the offenders consists of 07 main penalties (including warning, fine, non-custodial reform, expulsion, termed imprisonment, life imprisonment, and death penalty), in which the death penalty is applicable in some cases of especially serious crimes prescribed in specific provisions. In addition to the main penalties, the Penal Code also stipulates 07 additional penalties which the courts may sentence beside the main penalties (including ban from holding certain posts, practicing certain occupations or doing certain jobs; ban on residence; probation; deprivation of some civil rights; confiscation of property; fine and expulsion, when it is not applied as a principal penalty). Through such penalty system, the Penal Code has contributed to protect the national security, social order and safety, legitimate rights and interests of organizations and individuals.

However, through the practice of prevention and fight against crimes, there are many shortcomings in the penalty system prescribed in the current Penal Code. For instance, the applicable scope of termed imprisonment is too broad; the applicable scope of non-custodial penalties remains restricted; death penalty is still applicable to too many crimes, including death penalty for rape against children prescribed in Article 112 clause 3 and 4, etc.). Moreover, in the recent years, there are increasingly widespread and better awareness of the society of the thoughts about human rights, democracy and socialist rule-of-law state which focusing on promoting human rights and citizens’ fundamental rights in order to ensure a safe, peaceful and healthy living environment for the people. Elimination of death penalty from the penalty system is a relatively popular tendency in many countries worldwide. Therefore, it is essential to review and assess the penalty system with focuses on main penalties in order to find out shortcomings and weaknesses, thus timely proposing recommendations on amendment, supplement of the Penal Code. It is to ensure the conformity with the society’s development, enhancement of effectiveness of education and reform of the offenders, prevention of relapsing into crimes as well as the conformity with the world common trends. In particular, in the context of studying the Penal Code’s amendment under the direction of modern amendment which conform with the common development tendency of the world, enhancing protection of human rights and fundamental rights of citizens as well as humanitarization, it is urgent and rational to conduct a research on reducing applicable possibility of imprisonment penalty and expanding applicable scope of non-custodial penalties in the current conditions.

The research report developed by the national expert team shall focus on analysis and assessment of Vietnam’s main penalty system in order to point out shortcomings and weaknesses in comparison with requirements of crime prevention and fight and the modern common tendency, thus making proposals and recommendations in order to further improve the Penal Code on penalty system under the tendency of enhancing application of non-custodial penalties, applicable possibility of fines to some types of crimes (including economic and environmental crimes), and especially reducing applicable scope of the death penalty.

In order to provide more grounds from completion of the research report of the national expert team, sub-component Department of Criminal and Administrative Legislation, Ministry of Justice, shall recruit one international expert to provide information on the penalty systems of some countries in the world, as well as

coordinate with national experts to review and complete the research report on assessment and improvement of Vietnam's penalty system.

II. OBJECTIVES

To provide information about international law and experience of some selected countries on the penalty system; as well as to coordinate with national experts to complete the research report on assessment and improvement of the current regulations on the penalty system of Vietnam.

The expert's research results shall be used as reference material for the Research Report on improvement of the penalty system of Vietnam developed by national experts and for the amendment and supplement of the Penal Code.

III. SCOPE OF WORK

The international expert shall have the following tasks:

- Provide information on laws and experience of some countries on the penalty system; penalties applicable to economic, environmental and stock crimes; death penalty and the world's tendency.
- Comment on the research report and recommendations of national experts.
- Coordinate with national experts to share experience and comment on the Draft Report.
- Participate and present at the consultative workshop to comment on the Draft Report.

VI. RESEARCH CONTENTS AND EXPECTED OUTPUTS

1. Research contents:

- Analysis of international standards on the penalty system; laws on some countries on the penalty system; penalties applicable to crimes committed in economic, environmental and stock areas; death penalty and the world's tendency.
- Comments on the research report developed by national experts.

2. Expected outputs:

- An overall report and a summary report on laws and experiences of international community and some selected countries on the penalty system, including penalties applicable to economic, environmental and stock crimes; death penalty and the world's tendency. The overall report should be at least of 40 pages, excluding annexes. The summary report should be of approximately 12 pages.
- Comments on the research report developed by Vietnamese experts.

These reports shall be presented in English.

V. DEGREE OF EXPERTISE AND QUALIFICATIONS

1. Qualifications:

The sub-component is looking for 01 international expert with the following qualifications:

- LLB with at least 10 years of working experience in the legal field;
- Understanding of the criminal and criminal proceeding laws, especially of the penalty system of many countries in the world;
- Understanding and experience related to human rights;
- Understanding of legal traditions of Asian countries, especially those of Vietnam is an advantage;
- Skills of doing researches, analysis and presentation skills;
- Fluency in English.

VI. DURATION OF ASSIGNMENT, DUTY STATION AND EXPECTED PLACES OF TRAVEL

International expert shall conduct the research within 15 working days from early September to October, 2013. He/she shall arrange the working schedule and coordinate with national experts to share experience, comment on the draft report, propose amendments and supplements, and take part in a 2-day workshop in Vietnam.

IMPLEMENTATION PLAN

The international expert is expected to start their work from 01/09/2012 to 30/11/2012, with the following schedule:

Contents	Timeframe	Responsible person
Recruitment procedures of international expert	8/2012	PMU, DCAL
Detailed outlines to be sent to PMU	Early 9/2012	Expert
Report providing information on international laws and experience of some countries on the penalty system, recommendations for improvement of Vietnam's penalty system. Comment on the Draft Report of national experts. Coordination with national experts.	9-11/2012	Expert
Participation at the workshop	11/2013	Expert

VII. PAYMENT TERMS

International expert shall be paid via bank transfer according to the following milestones:

- 1st payment: 20% of total contract value will be paid upon submission of detailed outlines.
- 2nd payment: 50% of total contract value will be paid after the Reports on assessment of the penalty systems are submitted and approved by DCAL, PMU and UNDP.
- 3rd payment: 30% of total contract value will be paid after Comments on the Draft Report of national experts are submitted.

VIII. MONITORING AND SUPERVISION

1. Department of Criminal and Administrative Legislation and PMU shall take responsibilities in monitoring the works of international expert and organizing meeting(s) between international and national experts (if necessary).
2. Department of Criminal and Administrative Legislation shall take responsibility in holding a consultative workshop and providing relevant materials for the international expert.

IX. NOTE

All datas and materials of this activity are the property of UNDP and Ministry of Justice, which shall not be copied or shared to any individuals, organizations without prior consensus of UNDP and Ministry of Justice./.

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)

