

TERMS OF REFERENCE

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|-----------------------------|---|
| Reference Number | TOR- VNM- 2023-024 (Please refer to this number in the application) |
| Title | International Consultant |
| Task(s) | To update technical paper comparing legal frameworks and setting out good practices for legal recognition of gender identity/protection of the human rights of trans persons in other countries/regions |
| Contract duration | 1 September 2023 – 30 November 2023 (17 working days) |
| Duty Station | <input checked="" type="checkbox"/> Remote (Home-based) <input type="checkbox"/> Presential (Office-based) Ha Noi, Viet Nam |
| Supervision | Programme Analyst UN Women Viet Nam Country Office |
| Application deadline | 22 August, 2023 |

I. BACKGROUND

UN Women

The United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), grounded in the vision of equality enshrined in the Charter of the United Nations, works for the elimination of discrimination against women and girls; the empowerment of women; and the achievement of equality between women and men as partners and beneficiaries of development, human rights, humanitarian action and peace and security. Placing women's rights at the center of all its efforts, UN Women leads and coordinates United Nations system efforts to ensure that commitments on gender equality and gender mainstreaming translate into action throughout the world. It provides strong and coherent leadership in support of Member States' priorities and efforts, building effective partnerships with civil society and other relevant actors.

In Viet Nam, UN Women contributes to the development objectives of Viet Nam's Socio-Economic Development Plan and the National Strategy for Gender Equality. Its Country Strategy Note for the period 2022-2026 is aligned to the UN Sustainable Development Cooperation Framework (CF) 2022-2026 and is focused on supporting Viet Nam's fulfilment of gender equality commitments under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and the 2030 Sustainable Development Agenda. The key priorities of UN Women in the 2022-2026 period are:

By 2026, people in Viet Nam, especially those at risk of being left behind, will benefit from and contribute to safer and cleaner environment resulting from Viet Nam's effective and gender responsive mitigation and adaptation to climate change, disaster risk reduction and resilience building, promotion of circular economy, the provision of clean and renewable energy, and the sustainable management of natural resources.

- (i) By 2026, people in Viet Nam, especially those at risk of being left behind, will contribute to and benefit equitably from more sustainable, inclusive and gender-responsive economic transformation based on innovation, entrepreneurship, enhanced productivity, competitiveness, and decent work;
- (ii) By 2026, people in Viet Nam, especially those at risk of being left behind, will have benefited from and have contributed to a more just, safe and inclusive society based on improved governance, more responsive institutions, strengthened rule of law and the protection of and respect for human rights, gender equality, and freedom from all forms of violence and discrimination in line with international standards.

Viet Nam context

In the past 15 years, changes have been made to ensure that the human rights of other gender identity groups are protected. For example, in 2015, legislators changed the definition of “rape” in the Penal Code 2015 to “non-consensual intercourse between two people”. In doing so, they extended this protection to LGBTIQ+ citizens. The law also recognised transgender people’s right to undergo gender-affirming surgery, and the legal recognition of their gender identity in Article 37 of the Civil Code 2015. The new Civil Code reiterated the regulation in Decree 88/ND-CP/2008 on people who are born with intersex status. And, for the first time, the term “LGBT people” has been included in a legal document - No: 28/NQ-CP government resolution (signed on 3 March 2021) on the National Strategy on Gender Equality 2021-2030 under the targets on Health.

Despite progress, there are still many steps to be made to secure equal footing of transgender persons in public and private life. Eight years after the Civil Code (2015) was amended, there is still no legal framework in place to enable legal gender marker change. Without the legal gender recognition, the daily lives of approximately 480,000 transgender persons¹ in Viet Nam are affected. Any time a transgender person applies for a job, wants to get their driver’s license, or has to go through any other simple administrative procedure such as going to the bank, travelling by plane, or even receiving medical check-ups, they face a barrier. As such, this LGBT group in particular is at risk of being left behind.

In April 2023, a new proposal on the Gender Affirmation Law (GAL) by National Assembly Deputy Nguyen Anh Tri was approved by the National Assembly and included in the Law-making program of the 15th National Assembly. It is expected that the Law will be consulted by National Assembly deputies at the session 8th session (October 2024) and approved at the 9th session (May 2025).

A Law Drafting Committee will be established in the coming month, led by Delegate Nguyen Anh Tri as its Head. Currently, the draft Law formulation proposal is proposing four groups of policies: 1) Conditions for gender reassignment; 2) Implement medical interventions for gender reassignment; 3) Recognition of the new gender of transgender people; 4) Recognition of the new gender of the person who performed the transgender intervention before the Law was enacted.

During the drafting process and the consultation process with line ministries, committees of the National Assembly and National Assembly deputies, there are a number of concerns that need to be clarified with practical evidence. For example, the situation of transgender recognition Law in countries that have the legal, cultural, social and economic similar to Viet Nam.

Leaders of the National Assembly assigned the Institute of Legislative Studies under the National Assembly Standing Committee to support National Assembly Deputy (NAD) Nguyen Anh Tri in the law-making process. The GAL development process require more Comparative Recognition Law evidence from countries that have the legal, cultural, social and economic similar to Viet Nam to add to the Law-making Dossier, which contains specific contents of policies to be specified in the law.

In order to provide evidence-based advocacy to the GAL development, UN Women is therefore seeking an International Consultant to update the Comparative Recognition Law assessment in order to advocate for the Gender Affirmation Law development in Viet Nam.

II. SCOPE

The successful performance of the incumbent will effectively contribute to the development of quality projects/programmes reports. In particular, the consultant is expected to carry out the following functions and activities:

- The consultant will work closely with UN Women and other members of the UN HRTG to update the Comparative Recognition Law assessment paper comparing legal frameworks and

¹ GAL official document package

sharing good practices for legal gender recognition and the protection of the human rights of transgender persons in other countries/regions. The paper will form a part of the UN advocacy efforts in provision of evidence for the NAD for Gender Affirmation Law drafting. The key tasks include

- Review existing materials on similar topics comparative legal documents from other countries on the recognition of gender identity specifically and trans rights in general. The potential countries could be the regional with similar social-economic context of Viet Nam that may include four countries from Bangladesh, Hong Kong, Macao, Nepal, Korea, Japan...
- Update the full paper based on the approved outline.
- Present the paper to the key stakeholders. For this meeting, UN Women will invite other relevant stakeholders (later refers as stakeholder meeting).
- Finalize the report taking into consideration the comments from the stakeholder meeting.
- Develop a policy brief with key recommendations for Viet Nam (max 3 pages) based on the technical paper and the previous UN comments on the draft law.

III. DELIVERABLES

| # | Tasks | Deliverables | Timeline | No. of w. days |
|---|--|--|-------------------|----------------|
| 1 | Review existing materials on the similar topics on similar topics comparative legal documents from other countries on the recognition of gender identity specifically and trans rights in general. | Reference list developed and review of resources and share with the UN for review (In English) | 31 August 2023 | 4 days |
| 2 | Develop the updated full report version | Full report updated version (In English) | 20 September 2023 | 5 days |
| 3 | Present the paper at key stakeholder meeting. In this meeting UN Women will invite other relevant stakeholders (stakeholder meeting) | Powerpoint presentation at the meeting Meeting minutes (In English) | 15 October 2023 | 1 days |
| 4 | Finalize the update report version taking into consideration the comments from the stakeholder meeting. | Final version report updated version | 30 October 2023 | 2 days |
| 5 | Develop a brief with key policy recommendations for Viet Nam (max 3 pages) based on the technical paper and the previous UN comments on the draft law. | Brief developed | 15 November 2023 | 4 days |
| 6 | Finalize the brief with key policy recommendations for Viet Nam (max 3 pages) based on the technical paper and the previous UN comments on the draft law in accordance with comment | Final brief | 30 November 2023 | 1 day |
| | Total | | | 17 |

IV. CONTRACT PERIOD AND WORK LOCATION

This a lumpsum contract commencing on 27 August 2023 and ending on 30 November 2023. Consultant will work home-based.

UN Women will provide the consultant with a work laptop and a workstation if the consultant is based in UN Women Viet Nam Country Office in Ha Noi, Viet Nam. If home-based/flexible location, then

the laptop and workstation will not be provided. In the event, that the consultant needs to travel during the consultancy for assignment-related purposes

V. SCHEDULE OF PAYMENT

Payment for services will be made upon delivery of each deliverable outlined in the table above, subject to satisfaction and approval by UN Women following the schedule set forth below.

| # | Deliverable | Timeline | Instalment |
|---|------------------------|------------------|------------|
| 1 | Deliverable 1, 2 and 3 | 15 October 2023 | 55% |
| 3 | Deliverable 4, 5 and 6 | 30 November 2023 | 45% |
| | Total | | 100 |

The SSA contract provides the inclusion of all costs (all-inclusive); the Organization will not assume any costs or benefits in addition to the fee for services. Therefore, it is the consultant's responsibility to have medical insurance for the period of the contract.

VI. REQUIREMENTS

For the applicant to be considered, applicants must meet the following qualifications and requirements:

Education

- Master's Degree in Law, Gender, Human Rights, Political Science, Economics, Development or other relevant disciplines.

Professional Experience

- At least 5 years of relevant experience in the field of comparative legal analysis, gender mainstreaming, CEDAW, gender identity and expression and gender equality and law making.
- Experience working on the development, implementation and monitoring policies related to the transgender community.
- Experience in developing policy analysis and policy recommendations from a gender perspective.

Functional competencies:

- Experience in working with UN agencies will be an advantage.

Language requirement:

- Excellent writing skills in (legal) English.

Core Values and Competencies

In addition to requirements and qualifications, it is important that the consultant shares the core values and core competencies of the organization.

Core Values

- Respect for Diversity
- Integrity
- Professionalism

Core Competencies

- Awareness and Sensitivity Regarding Gender Issues
- Accountability
- Creative Problem Solving
- Effective Communication
- Inclusive Collaboration
- Stakeholder Engagement
- Leading by Example

Please visit this link for more information on UN Women's Core Values and Competencies:

<http://www.unwomen.org/-/media/headquarters/attachments/sections/about%20us/employment/un-women-employment-values-and-competencies-definitions-en.pdf>

VII. EVALUATION

Applications will be evaluated based on the cumulative analysis.

- Technical Qualification (100 points) weight; [70%]
- Financial Proposal (100 points) weight; [30%]

A two-stage procedure is utilized in evaluating the applications, with evaluation of the technical application being completed prior to any price proposal being compared. Only the price proposal of the candidates who passed the minimum technical score of 70% of the obtainable score of 100 points in the technical qualification evaluation will be evaluated.

Technical qualification evaluation criteria:

The total number of points allocated for the technical qualification component is 100. The technical qualification of the individuals is evaluated based on the following technical qualification evaluation criteria:

| No. | Evaluation criteria | Points |
|-----|---|------------|
| 1 | Master's degree in law, Gender, Human Rights, Political Science, Economics, Development or other relevant disciplines. | 10 |
| 2 | At least 5 years of relevant experience in the field of comparative legal analysis, gender mainstreaming, CEDAW, gender identity and expression and gender equality and law making. | 25 |
| 3 | Experience working on the development, implementation and monitoring policies related to the transgender community. | 25 |
| 4 | Experience in developing policy analysis and policy recommendations from a gender perspective | 20 |
| 5 | Experience in working with UN agencies will be an advantage | 10 |
| 6 | Excellent legal writing skills in English | 10 |
| | TOTAL | 100 |

Financial evaluation:

- Only the financial proposal of candidates who have attained a minimum of 70% score in the technical evaluation will be considered and evaluated.
- The total number of points allocated for the financial component is 100.
- The maximum number of points will be allotted to the lowest price proposal that is opened/ evaluated and compared among those technically qualified candidates who have attained a minimum of 70% score in the technical evaluation. All other price proposals will receive points in inverse proportion to the lowest price.
- Financial proposal: the financial proposal shall specify a lump sum amount breaking down the professional fee for each deliverable.

VIII. SUBMISSION OF APPLICATION:

Interested candidates are requested to submit electronic applications no later than August 22, 2023 Hanoi time.

Submission package with email title [TOR-VNM-2023-024- Full Name] needs to send to email: hr.vietnam@unwomen.org

1. Updated CV.
2. Personal History Form (P11). The P11 Form can be downloaded from the following website: <http://asiapacific.unwomen.org/en/about-us/jobs>
3. Financial proposal with your signature specifying a daily consultancy rate in VND and a breakdown per deliverable.
4. Two (02) writing samples/ publications in the topics gender identity and expression and gender equality and law making

NOTE:

* Please see the financial proposal template below:

FINANCIAL PROPOSAL

| Payment phrase no. | Deliverables | Amount |
|--------------------|---|-----------|
| | | Daily fee |
| | <i>Lump Sum fee (equivalent to daily fee x no. of days)</i> | |
| 1 | Deliverable 1 | |
| 2 | Deliverable 2 | |
| 3 | Deliverable 3 | |
| 4 | Deliverable 4 | |
| 5 | | |
| | Others (please provide details as applicable) | |
| | Total Financial Proposal | |

*** Documents required before contract signing:**

- The medical statement from the physician certifying good health to work and travel. (This is not a requirement for RLA contracts).
- Completed UNDSS BSAFE online training course.
EN: <https://agora.unicef.org/course/info.php?id=17891>
- Release letter in case the selected consultant is government official.

*** Regarding application submission:**

- Applications received incomplete or after the closing date will not be considered.
- Only successful applicants will be contacted to be advised of the next phase of the recruitment process.
- All applications will be treated in the strictest confidence.

UN Women is committed to achieving workplace diversity in terms of gender, nationality and culture. People from minority groups, indigenous groups and people with disabilities are equally encouraged to apply.

IX. DIVERSITY AND INCLUSION

At UN Women, we are committed to creating a diverse and inclusive environment of mutual respect. UN Women recruits, employs, trains, compensates, and promotes regardless of race, religion, color, sex, gender identity, sexual orientation, age, ability, national origin, or any other basis covered by appropriate law. All employment is decided on the basis of qualifications, competence, integrity and organizational need.

If you need any reasonable accommodation to support your participation in the recruitment and selection process, please include this information in your application.

UN Women has a zero-tolerance policy on conduct that is incompatible with the aims and objectives of the United Nations and UN Women, including sexual exploitation and abuse, sexual harassment, abuse of authority and discrimination. All selected candidates will be expected to adhere to UN Women's policies and procedures and the standards of conduct expected of UN Women personnel and will therefore undergo rigorous reference and background checks. (Background checks will include the verification of academic credential(s) and employment history. Selected candidates may be required to provide additional information to conduct a background check.)