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**Terms of Reference**

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| **Reference number** | *TOR-2021-036* (Please refer to this number in the application) |
| **Assignment title** | National consultant to conduct a gender review on the draft Prime Minister decree providing detailed regulations on recruitment agencies, overseas labour management and management and use of deposit which guilds the implementation of the *Law on Contract-based Vietnamese Overseas Workers****.*** |
| **Purpose** | To enhance gender responsiveness of the draft Prime Minister decree providing detailed regulations on recruitment agencies, overseas labour management and management and use of deposit which guilds the implementation of the *Law on Contract-based Vietnamese Overseas Workers*. |
| **Location** | Home based with technical meetings in Hanoi. |
| **Contract duration** | 25 June 2021 to 30 August 2021 (maximum 12 working days) |
| **Contract supervision** | UN Women Programme Analysist, Safe and Fair programme |

1. **Background**

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.

The key priorities of UN Women in the 2017-2021 period are, (i) to support transformation of government’s growth policies and related key sectoral policies such as rural development, labour and employment, climate change (CC), and disaster risk reduction and management (DRR/M) to progressively promote women’s economic security and resilience; (ii) deepen the implementation of CEDAW recommendations and the gender targets of SDGs that will ensure the gains in the elimination of discrimination and violence against women and girls are sustained and deepened.

Viet Nam is among ten countries which are part of the regional programme SAFE and FAIR: Realizing women migrant workers’ rights and opportunities in the ASEAN region (2018-2022) which is part of the multi-year EU-UN Spotlight Initiative to Eliminate Violence Against Women and Girls. SAFE and FAIR is implemented by the ILO, UN Women in collaboration with UNODC, led by the ILO Regional Office for Asia and the Pacific. The programme delivers technical assistance and support with the overall objective of making labour migration safe and fair for all women in the ASEAN region. It engages with ASEAN Member States’ government authorities; ASEAN institutions; workers’ organizations; employers and recruitment agencies; civil society organizations; community-based organizations; families and communities; research institutions and academia, media networks, youth, and the general public and supports programming in ten countries (Brunei Darussalam, Cambodia, Indonesia, Lao People's Democratic Republic, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam). In Viet Nam, the Safe and Fair Programme has been implemented in collaboration with multiple partners to enhance gender equitable and rights-based policies and legislation that strengthen safe and fair labour migration for women in line with international standards and guidelines; improve capacity of national, local government, social partners to implement gender-responsive policies and services for women migrant workers; as well as improve access to authoritative and integrated support services on safe and fair labour migration, including through the use of innovative technology.

During 2019 and 2020, within the programme framework, extensive technical support was provided to amendment of the *Law on Contract-based Vietnamese Overseas Workers* [later refered as Law 69]. Specifically, through partnership with DOLAB/MOLISA and Viet Nam Women’s Union, efforts were made to facilitate in-depth documentation of the women migrant workers’ experience as well as conduct a gender analysis looking at on how the amended law proposal can bring impact on women. The amendment of the on *Law on Contract-Based Vietnamese Overseas Workers,* here referred to Law 69,was finally approved by the National Assembly of Viet Nam in November 2020. The *Law on Contract-Based Vietnamese Overseas Workers* is the primary law governing the international migration process and outlines the procedures to support the deployment and management of Vietnamese migrant workers going abroad for work. It regulates a range of issues including migration fees and related costs, the regulation of recruitment agencies permitted to send workers abroad, licensing systems and monitoring of recruitment practices, legal channels for migration and the rights and obligations of workers and recruitment agencies. Particularly, Law 69 set out new protections for migrant workers including the right to be protected from vulnerability to exploitation, forced labour, and human trafficking.

In 2021, following the National Assembly’s approval on the Law 69 amendment, the Ministry of Labour, War Invalids and Social Affairs (MOLISA) has been assigned to coordinate drafting four subordinate legal documents to guide the implementation of Law 69. These include (1) Prime Minister decree providing detailed guidance on recruitment agencies, overseas labour management and management and use of deposit; (2) Prime Minister decision on establishment and management of the funds for migrant workers; (3) Circular regulating the preparation of labor resources, contractual conditions and form of contracts, registration documents, orientation education; and (4) Circular on migration related data base. As planned, they will be submitted to the government for approval in early October 2021. In this legislative development context, the SAF team is committed to working with Viet Nam Women’s Union (VWU) to undertake a gender review over all four sub-law documents ensuring they are aligned with the Law 69[[1]](#footnote-1) while providing detailed gender sensitive legal measures for guiding the law implementation. This TOR is formulated to seek a national consultant who can work with the SAF team and VWU to undertake a thorough review on the draft decree as mentioned above from gender lenses and prepare a policy brief which is a basis for UN Women/VWU to advocate for incorporating critical WMW issues into the decree.

1. **Objective of the consultancy**

*Overall objective*: Enhance gender responsiveness of the draft Prime Minister decree providing detailed regulations on recruitment agencies, overseas labour management and management and use of deposit.

*Specific objectives*:

* Conduct a gender review over the draft decree and identifying WMW issues that need to be addressed in the current draft.
* Prepare a policy brief which summarizes key issues and recommendations including concrete suggestions for improving relevant articles of the draft decree.

1. **Specific tasks**

* *Literature review:* Map out and undertake a comprehensive review on different documents especially the gender analysis report on the Law 69 to analyse gender gaps issues and propose recommendations for addressing those issues in the decree. The review will address the following exclusive but not limited just to these questions:
  + What issues facing women migrant workers should be addressed in the draft decree?
  + To what extent these issues have been addressed in the current draft decree?
  + What are gaps and how these should be further addressed in the draft decree?
  + What are concrete recommendations/suggestions for improving relevant articles?
* *Expert consultation:* In additional to the literature review, the consultant might need to undertake individual expert consultation to enrich the understanding about the subject matters and identify appropriate recommendations for improving the decree from gender perspectives.
* *Draft the policy brief.* Based on a rigorous analysis of available documents and individual expert consultation, the consultant drafts the policy brief for further discussion with SAF team/MOLISA or other stakeholders.
* *Finalise the policy brief.* Based on feedback and discussion with participants, the consultant is expected to finalise the policy brief highlighting key gender issues and recommendations for improving the decree.

1. **Institutional arrangement.**

The national consultant will work under the direct supervision of SAF Programme Analysist and will be ultimately responsible to the UN Women Representative in Viet Nam. He/she will also work closely with VWU team to deliver the expected results. If the national consultant is not based in Hanoi, UN Women will cover the travelling cost following the UN-EU cost norm to attend the meetings in Hanoi.

1. **Expected deliverables and timeline.**

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| **Tasks** | **Key deliverables** | **Deadline** |
| 1. Undertake a comprehensive review on different documents especially the gender analysis report on the Law 69 to analyse gender gaps issues and propose recommendations for addressing those issues in each of the 4 sub-law documents. | * A summary of gender issues in Vietnamese available for consideration in the draft decree. * Outline of the policy brief in Vietnamese available. | Home based  10 July, 2021 |
| 2. Based on a rigorous analysis of available documents and individual expert consultation, the consultant drafts the policy brief for further discussion with SAF team/VWU and other stakeholders. | Draft policy brief available in Vietnamese for discussion and consultation | Home based 20 July, 2021 |
| 3. Based on wider feedback and discussion, the consultant is expected to finalise the policy brief that summarizes key issues and recommendations including concrete suggestions for improving relevant articles of the decree. | The policy brief in Vietnamese finalised and submitted to UN Women. | Home based  30 August, 2021 |

In addition, the consultant is required to attend on-line and offline meetings upon the request of UN Women and its relevant partners.

1. **Deliverables and payment schedule**

The payment will be made in Vietnamese currency in one installment upon the submission of the final deliverable which is the policy brief in Vietnamese at satisfaction of UN Women.

1. **Duration of Assignment and Duty Station**

The consultancy will be conducted from 25 June to 30 July 2021 (maximum 12 working days), home-based and with technical meeting in Hanoi, Viet Nam.

1. **Application Evaluation Criteria**

The applicant will be evaluated based on technical capacities (70%) and financial proposal (30%). Technical evaluation will be based on the following criteria stated as below:

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| 1 | Master’s degree in sociology, development studies, gender, human rights or relevant fields | 10 points |
| 2 | At least 10 years of working experience in law/legislative making | 20 points |
| 3 | Good understanding on migration issues | 20 points |
| 4 | Good knowledge on labour governance and management | 20 points |
| 5 | Good writing skills | 20 points |
| 6 | Having an understanding on regulations on recruitment agencies, overseas labour management and management and use of deposit is an advantage. | 10 points |
|  | **Total** | **100 points** |

**Core Values and Competencies**

In addition to aforementioned requirements and qualifications, it is important that the intern 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>

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

Individual consultants will be evaluated based on Cumulative analysis, the award of the contract will be made to the individual consultant whose offer has been evaluated and determined as:

1. Responsive/compliant/acceptable; and
2. Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.
3. **Application Procedure and Deadline**

Candidates are requested to send the following documents in separated attachment in one application email to [procurement.vietnam@unwomen.org](mailto:procurement.vietnam@unwomen.org)

1. Application letter explaining your interest in the consultancy and why you are the most suited candidate for this assignment.
2. Updated CV
3. Personal History Form (P11). The P11 Form can be downloaded from the following website: <http://asiapacific.unwomen.org/en/about-us/jobs>
4. Financial proposal specifying a daily consultancy rate and a breakdown per deliverable. UN Women will bear the costs of requested travel expenses following the UN-EU cost norm.

**Deadline for Application: 18 June 2021**

1. **Evaluation**

The evaluation will be based on the combination of the weighted technical and financial scores (70 per cent technical and 30 per cent financial).

**NOTE**: Documents required before contract signing:

* + UN Personal History Form
  + Full medical examination and Statement of Fitness to work and travel for consultants with travel involved. (This is not a requirement for RLA contracts).
  + Completed UNDSS BSAFE online training course.   
    EN: <https://agora.unicef.org/course/info.php?id=17891>
  + Individual subscribers over 65 years of age are required to undergo a full medical examination including x-rays at their own cost and obtaining medical clearance from the UN Medical Doctor prior to taking up their assignment.
  + Release letter in case the selected consultant is government official.

**For UN Women only**

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| **Prepared by:** | Pham Thi Lan/ Programme Analysist |
| **Reviewed by:** | Vu Phuong Ly, Programme Specialist |
| **Certified (procurement) by:** | Nguyen Thu Huyen /Procurement Assistant |
| **Approved by:** | Elisa Fernandez Saenz/ Country Representative |

1. which was amended in consistency with several other national legislations such as Labour Code 2019, Civil Code 20151, Code of Civil Procedure 2015, Law on Bankruptcy 2014, Social Security Law 2014, Law on Vocational Education 2014, Law on Enterprise 2020, Law on Investment 2020, Law on Promulgation of Legislative Documents, Trade Union Law, among others. [↑](#footnote-ref-1)