

## Terms of Reference: Independent review of UNDP activities in the Democratic People's Republic of Korea

### Summary of Services Required

1. Under the auspices of the United Nations Development Programme (UNDP) Executive Board, the services of a highly respected, qualified external expert/firm is sought to conduct an independent review and report on:

- (i) certain aspects of the activities undertaken by the UNDP country office in the Democratic People's Republic of Korea (hereafter referred to as the DPRK);
- (ii) the circumstances surrounding the existence of counterfeit currency with a nominal value of US\$3,500 in the custody of the country office; and
- (iii) an allegation of retaliation by a former contractor of UNDP.

### Background and Context

2. Pursuant to decisions of the Executive Board and in line with established Financial Regulations and Rules, UNDP has funded and implemented a country programme in DPRK for the last 27 years. The UNDP country office manages this country programme and also provides certain services to other international organizations located in the DPRK.

3. In January 2007, following a review of the management of the DPRK country programme, the UNDP Executive Board imposed a number of conditions for the continuation of the country programme. These conditions were not accepted by the DPRK Government, with which the UNDP closely collaborates in the implementation of the country programme. As a result, UNDP's operations in the DPRK were suspended on 1 March 2007 and remain as such to-date.

4. In February 2007, on the recommendation of the Secretary-General of the United Nations, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) commissioned the United Nations Board of Auditors (UNBOA) to conduct a special audit focusing on certain aspects of the operations of four United Nations Organization entities, including UNDP, during the five-year period from 1 January 2002 to 31 December 2006.

5. The UNBOA has already completed a preliminary audit of the UNDP country office operations based on records, personnel and explanations made available in New York. The Report of the UNBOA containing its preliminary findings on the activities of UNDP country office in DPRK was published on 31 May 2007. UNDP's response to these findings was also published on 1 June 2007.

6. At the request of the ACABQ, UNBOA is currently planning the next phase of the audit, which include visits to Pyongyang. In the meanwhile, UNBOA has indicated that the following procedures will be covered in the second phase of the audit:

- (i) further validation of conclusions from the first phase of the audit through access to personnel and documents made available in DPRK;
- (ii) on site validation of results (access to projects);
- (iii) tracing of payments to suppliers and personnel using United Nations records only;
- (iv) reviewing the qualifications, skills and performance of local personnel against defined specifications, as well as their payroll entitlements;
- (v) reviewing the supervision and monitoring controls over local personnel;
- (vi) considering the reasonableness of prices paid for goods and services, including the exchange rates applied; and
- (vii) highlighting through substantive testing any additional findings in respect of the three focus areas (hiring of local personnel, payments in foreign currency, access to projects).

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**Purpose of the independent review**

7. The independent review shall in no way replicate the work of the UNBOA. Instead, the independent review will cover specific aspects of the country office activities that have been excluded from the UNBOA's special audit per the letter of 29 June 2007 from the Chairman of the UNBOA addressed to the Chairman of the ACABQ, and other key issues, as described in paragraph 9 below.

8. The independent review is required to encompass the country office operations during the period 1 January 1999 to 1 March 2007, particularly in the following areas: the management of all the projects forming part of the country programme; financial management related processes and issues; and allegations of retaliatory action by a former contractor of UNDP.

9. The independent review shall result in the submission to the UNDP Executive Board a report(s) on the following:

**(i) On the operations of the country office comprising assertions whether:**

- (a) The statements of disbursements made by the UNDP DPRK country office for the periods: (i) From 1 January 1999 to 31 December 2000; (ii) From 1 January 2001 to 31 December 2005; and (iii) from 1 January 2006 to 1 March 2007, present fairly, in all material respects, all disbursements made by the UNDP DPRK country office as shown in the books and records of UNDP, and that the disbursements were made for the purposes of the country office operations or the projects implemented under the Country Programme.
- (b) The statements of disbursements made on behalf of UN organizations, for the periods (i) From 1 January 1999 to 31 December 2000; (ii) From 1 January 2001 to 31 December 2005; (iii) from 1 January 2006 to 1 March 2007, present fairly, in all material respects, all disbursements made by the UNDP DPRK in accordance with the books and records of UNDP and that these disbursements were made in accordance with instructions received from the UN organizations.
- (c) There is reasonable supporting evidence that all payments were made directly to the suppliers of goods and services and where payments were made through intermediaries there is sufficient evidence of acknowledgement of receipt by the ultimate beneficiaries.
- (d) All the projects implemented under the country programme were properly managed in accordance with UNDP guidelines and practices, including that: (i) the projects were properly approved; (ii) the expenditures accounted as project expenses in fact represents project related expenses as foreseen in the project budgets and that these were incurred in accordance with established procedures; (iii) there is evidence that the progress of the implementation of the projects were regularly monitored and reported on; and (iv) that the projects actually delivered the planned outputs.
- (e) Equipment, which may be classified as having "dual use", procured for the projects were in compliance with applicable export licensing requirements within the parameters of the legal opinion of the Office of Legal Affairs, and where not, the nature of the equipment and the names of the vendors who supplied such equipment.

**(ii) The result of the review of the circumstances surrounding the existence of counterfeit currency in the custody of the country office and in particular:**

- (a) How the Country office came into possession of the counterfeit currency.
- (b) Measures taken to report the existence of and dispose of the counterfeit currency
- (c) Any evidence of direct or indirect dealing in counterfeit currency transactions by the employees of the country office.

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**(iii) Allegations by a former contractor of UNDP with specific determination as to whether:**

- (a) the alleged retaliation did or did not occur; and
- (b) if it was found that indeed there was retaliation, who perpetrated the retaliation and the specific instance when this was perpetrated.

**Scope of the independent review**

10. The review shall cover the period of 1 December 1999 to 1 March 2007 and include the following:

- (i) Activities and operations of the UNDP DPRK country office within DPRK.
- (ii) Accounts, records, documents, files, reports and correspondence either in hard copy format or electronic media covering the DPRK operations that are available both in the office premises in the DPRK or in the Headquarters offices of UNDP in New York, as well as in the United Nations and with outside parties.
- (iii) Projects implemented by the DPRK country office both directly and through implementing partners.
- (iv) Statements of disbursements made by the UNDP country office that will be prepared specially for the purpose of the review

**Methodology**

11. The Independent review shall be conducted in a professional manner in accordance with generally acceptable international standards and best practice..

12. In order to be able to complete the review and provide a comprehensive report(s) within the parameters of these Terms of Reference:

- (i) conduct such tests, analyses, examinations and studies as deemed appropriate, sufficient, and necessary;
- (ii) obtain clarifications and explanations from the personnel of UNDP both in the DPRK and in Headquarters, the United Nations, and other related parties, as deemed appropriate, sufficient, and necessary..

**Access to information and confidentiality**

13. The team conducting the review shall have complete and unfettered access to all UNDP personnel and records in whatever form or media those are available as is necessary to faithfully prepare and complete.

14. All information and documents obtained by the review team in the course of performing their work shall be treated with utmost confidentiality and shall be used solely for the purposes of the review. The Team Leader may give periodic public statements on the status of the review, in consultation with the President of the Executive Board.

15. All working papers of the independent review shall be the property of the UNDP and shall be surrendered to the UNDP upon the submission of the final reports to the Executive Board.

**Key statistical figures**

16. During the period of review (1 January 1999 to 1 March 2007), the UNDP country office had an average of 8 international and 24 locally recruited personnel. The annual management and project related disbursements ranged from US\$1.96m to US\$5.6m and disbursements on behalf of third parties ranged from US\$0.68m to US\$1.55m. Disbursement transactions during the period of operations ranged from 1400 to 1600 per year.

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**Timeframe of assignment:**

17. This assignment is expected to take between 8 to 12 weeks with, if made possible by the DPRK authorities, at least 3 weeks for an in country visit to the UNDP DPRK office at Pyongyang. Further extension of the assignment (as proposed by the team) will be considered and approved by the UNDP Executive Board Bureau as required before the finalization of its report. If such an in country visit is not possible, UNDP will make available to the independent review team all required records and files outside of DPRK.

**Expected profile of proposed candidates:**

18. Given the scope and complexity of the work involved, it is expected that the independent review team will comprise a team of at least 3 professionally qualified candidates to be led by a highly respected and well-qualified Team Leader.

19. The Team Leader will be appointed by the President of the Board, based on informal consultations with Board Members, selected from a shortlist of three highly competent and independent candidates, external to the United Nations, proposed by the UNDP Administrator. Following appointment of the team leader, his/her team would be engaged. Given the scope of the work for this review, it is envisaged that a multi-skilled and independent review team will be required with expertise and experience in financial management, project monitoring and evaluation, legal and contract review etc. Subject to additional considerations of the Team Leader regarding best skill set for the team for the tasks set out in this Terms of Reference, the proposed team members to be fielded should possess the following mix of professional qualifications and relevant experience:

- (i) Familiarity with international organizations systems and operations;
- (ii) Chartered or Certified Public Accounting qualification;
- (iii) Have at least 10 to 15 years public accounting and audit experience;
- (iv) Have at least 10 to 15 years experience in project monitoring and evaluation;
- (v) Have at least 10 to 15 years experience in legal analysis of international export licensing regulations and control;
- (vi) Must be proficient (spoken and written skills) in the English language;
- (vii) Experience with information system audits will be an advantage;
- (viii) Experience with large public sector organizations will be an advantage;
- (ix) Experience in examination of ethics or other human resources related matters using generally-accepted examination procedures that would ensure due process

20. Due consideration will be given to the collective experience and mix of the individual skill set of the proposed team members. The team leader would participate in the selection of his/her team members, subject to applicable UNDP regulations and rules relating to procurement.

21. Where there is no proficiency within the proposed team in the Korean language, the independent review team should make arrangement for its team to have access to resources that have proficiency in the Korean language since certain documentation may be in the local language.

**Selection Criteria**

4. The candidates for the team supporting the Team Leader will be evaluated based on the following criteria determined from review of the candidates' CV and interview (where required). Only proposals that meet the minimum technical standards for technical evaluation will be further evaluated against the financial criteria:

Technical Evaluation

- 30% - Quality of individual accounting, audit qualification and other experience, including legal, of the proposed candidates;

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- 40% - Relevant mix of academic and professional qualifications, relevant experience and skill set of the proposed team;
- 30% - Previous experience and expertise in large or public sector firms or similar complex assignments.

Financial Evaluation

- Value for money

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