###### TERMS OF REFERENCE FOR INDIVIDUAL CONSULTANT

**Consultancy Title: Review of Social Assistance Legal and Regulatory Frameworks in Selected Countries and Legislative Recommendation for the Government of China**

**Requesting Section: SPARC**

**Supervisor: Senior Social Policy Specialist**

**Duration: 17 days from End Feb/Early March to May/June 2020**

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**Nature of Consultancy**: To support a senior consultant and provide inputs to develop an internal Mapping and Strategic Analysis on high level policy advocacy for UNICEF for key priorities for children

1. **Background: The National Approach to Policy Framing and Legislation for Social Protection in China**

The United Nations Convention on the Rights of the Child (CRC) recognizes the right of every child to social security and to a standard of living adequate for his or her physical, mental, spiritual, moral and social development. Social assistance to the poor plays a key role realizing rights of children to social security and to a standard of living.

Since 1990s China has established quite comprehensive social assistance system covering various hardships and risks faced by the poor. The individual programs were created at different times and play various roles in providing means-tested cash grants to different groups of poor people. Children, especially poor children or children living in poor families, directly or indirectly benefit from these programs. However, these social assistance programs haven’t been enshrined and defined in national legal framework or legislation. There is currently only one administrative regulation, i.e. the Interim Measures for Social Assistance, which was released by the State Council in 2014.

The lack of a strong legal framework limits the extent to which social assistance can effectively and efficiently realize children’s rights to social security and an adequate standard of living. It also makes the long-term resourcing of social assistance and the engagement of all relevant stakeholders uncertain. Social assistance programs are therefore vulnerable to political change and economic fluctuations, threatening the rights of beneficiary children. Further, the lack of a legal framework prevents the coordination and cooperation across institutions and levels of government required for reform, expansion, and effective and efficient operation of the system. Finally, the lack of a legal basis makes it more likely for social assistance to be perceived as charity rather than the realization of rights.

Globally, the most successful experiences of social assistance systems are those grounded in legal instruments that create an entitlement to social protection benefits, ensure the permanence of these initiatives, and give rights-holders legal rights.[[1]](#footnote-1) The success of Brazil and South Africa in social protection, for example, can be partially attributed to the systematic legal approach adopted to building their social protection systems.[[2]](#footnote-2)

The Government of China (GOC) has realized that the weak legal foundations for the social assistance system currently in place can be a threat for a strong social assistance system and ultimately damage the development goals and stability of the nation. Therefore, the Ministry of Civil Affairs (MCA) was delegated to lead and coordinate the drafting of the Social Assistance Act, which is envisaged to be approved by the National People’s Congress in 2021.

UNICEF China was invited to provide technical assistance to the MCA while drafting the Social Assistance Act. So far, the Social Assistance Acts of nine countries (Kenya; South Africa; Japan; Indonesia; New Zealand (part of it); Mexico; Honduras; Chile; and U.S.A.) have been translated and shared with the Ministry of Civil Affairs, including an in-depth analysis in the case for the Republic of Korea.

In order to provide enriched technical support to the GoC to develop the Social Assistance Act to establish a strong, effective, transparent and accountable social assistance system, UNICEF China is commissioning a consultancy task to review the legal and regulatory frameworks for Social Assistance/Protection in selected countries and provide legislative recommendation for the GoC. This result of the consultancy task will support UNICEF China to better position itself in a high-level policy dialogue regarding the incoming Social Assistance Act which will surely have long-lasting impacts on children and their families fulfil their rights to social security.

1. **The Current State of Affairs: Drafting of the Act**

The National People’s Congress (NPC) is the legislative body in China. It has listed the Social Assistance Act in its first prioritized category for legislation during the 13th FYP. MCA, as the coordination agency among all the line ministries who oversee relevant social assistance programs, was delegated by the NPC to lead and coordinate the drafting of the Social Assistance Act starting from early 2019.

During this process, MCA has set up a wide consultation platform on which a range of legislative issues from the framework of the Act to specific articles will be debated upon. Then the near final draft will be submitted to the Legislative Working Committee (LWC) of the NPC Standing Committee. The LWC will organize a series of consultation meetings among key stakeholders, including line ministries, Ministry of Finance, academics, local authorities, and civil society, until the Act is ready for submission to the NPC standing committee and then the NPC for approval.

UNICEF China owns the channels as part of the consultation process, which offers a strategic opportunity for UNICEF to advocate both the MCA and the LWC of the NPC Standing Committee for a well-established Act supporting the poorest and most vulnerable children and their families fulfil their rights to social security.

By offering solid analysis of global legislative experiences and advices for China’s Social Assistance Act, and related legislation, rules and regulations, if any, this consultancy will therefore serve as inputs into the development of UNICEF China’s institutional positions and messages as part of advocacy efforts.

1. **Purpose**

This consultancy aims to provide information on China’s social assistance system to support a senior consultant to develop the internal UNICEF position on the forming Social Assistance Act in China with regards to child-sensitive social protection.

1. **Scope and key tasks of the present consultancy**

The whole task to develop the internal UNICEF position on the forming Social Assistance Act in China will be completed through the close collaboration with a senior consultant, with the main responsibility lying with the senior consultant.

The major responsibility for the *senior consultant* will include the following:

1. Review of the current policy debates in China on the social assistance system and emerging directions for child sensitive social assistance;
2. Review of international experiences of addressing policy framing and legislation with regards to social assistance; and
3. Develop proposals on and positions for inclusion in the forming Social Assistance Act.

In order for the senior consultant to fulfil his/her responsibilities laid out above, this *consultant* will act as a resource person to perform the following tasks, including:

1. Preparing a list of documents for review by the senior consultant and sharing with the senior consultant all relevant documents, preferably in English and if needed, providing translation of documents;
2. Providing an introduction on China’s current social assistance system, institutions, and policy goals, and other background knowledge, in specific, the current policy debates on the reform and legislation of the social assistance system to the senior consultant;
3. Identifying key stakeholders who could help elucidate the needed proposals for the draft social assistance law that concern child-sensitivity, setting up the interviews and providing support during the interviews;
4. Reviewing and commenting on the draft report developed by the senior consultant.
5. **Deliverables and deadlines**

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| **Main Tasks** | **Expected Deliverables** | **Days Required** | **Time Frame** |
| Task 1: Collect and share all relevant documents | Preparation of a list of documents for review by the senior consultant, in English and Chinese | 3 | 1 week upon signing of the contract |
| Task 2: Brief the senior consultant on China’s current social assistance system via skype discussion or email exchange | Debrief with the senior consultant | 2 | 2 weeks upon signing of the contract |
| Task 3: Identify key stakeholders, set-up the interview and provide supports during the interviews | 1. Comments on the interview outlines; 2. Preparation of meetings with national counterparts for interviews with the senior consultant; 3. Interviews conducted with the national stakeholders | 10 | 4 weeks upon signing of the contract |
| Task 4: Review and comment on the draft report | Comments on the draft report | 2 | Within 1 week when the draft report is ready |
| *Total Number of days* |  | *17* |  |

1. **Requirements of abilities and experience**

The national consultant should have:

* At least 10 years relevant working experiences in the area of social assistance and relevant social policy analysis;
* Good knowledge and understanding of China’s social assistance system, institutions, and policy goals, etc.;
* Extended experiences working with governments in relevant areas, e.g. social assistance reform and legislation;
* Strong analytical skills and writing skills;
* Fluency in Chinese and English.

1. **Timeframe and schedule of payments**

Below is a tentative work plan. The actual work plan can be further developed based on the discussion and agreement between UNCIEF China and the consultant.

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| *Month/Year* | 02/20 | | | | 03/20 | | | | 04/20 | | | | 05/20 | | | |
| *Week* | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 | 1 | 2 | 3 | 4 |
| Contract issuing |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Relevant materials collected and shared |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Debrief with the senior consultant |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Comments on the interview outlines  Interviews conducted with the national stakeholders |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Comments on the draft report |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

• First tranche (20%): upon delivery of tasks 1 and 2, including: relevant materials collected and shared with the senior consultant, and debrief with the senior consultant;

• Second tranche (50%): upon delivery of task 3, including: comments provided to the interview outline, setting up interviews, and supports provided to the senior consultant during interviews;

• Third and final tranche (30%): upon delivery of task 4, including: comments provided to the draft report which the senior consultant developed.

1. **Contract Duration:**

The contract is signed for 17 days within the period of February to May 2020.

1. Degol Hailu, Marcelo Medeiros and Paula Nonaka, “Legal Protection for Cash Transfers: Why We Need it,” in Poverty in Focus: Cash Transfers, Lessons from Africa and Latin America, (Brazil: international Poverty Centre for inclusive Growth, 2008), 28. [↑](#footnote-ref-1)
2. For example, the 1988 Constitution of Brazil recognises the right to social protection, and Law 10.836/2004 stipulates the right to a basic income in order to obtain food, education and health care. in South Africa, the Social Assistance Act (Act 13 – 2004), charges the national government with responsibility for social security grants.

   53 Simone Cecchini, “Do CCT Programmes Work in Low-income Countries?” International Policy Centre for inclusive Growth One Pager 90 (2009). [↑](#footnote-ref-2)