

# Terms of Reference | Local Legal Consultant, Afghanistan

*Project: Liability Policy in Afghanistan*

*Project Manager: Advisor for Capacity Development for National Mine Action Standards (NMAS) and Compliance*

*Duty Station: Remote- Kabul, Afghanistan*

Date: 27 July 2020

## **BACKGROUND – LIABILITY IN MINE ACTION**

The Geneva International Centre for Humanitarian Demining (GICHD) works towards reducing risks to communities stemming from explosive ordnance, with particular focus on mines, cluster munitions, other explosive remnants of war and ammunition storages.

The Centre helps supports a wide range of partners including National Mine Action Authorities (NMAAs) and local authorities, donors, the United Nations, other international and regional organisations, non-governmental organisations, commercial companies and academia. It does so by combining three distinct lines of service: field support focused on capacity development and advice, multilateral work focused on norms and standards, and research and development focused on cutting-edge solutions.

Explosive Ordnance (EO) contamination burdens at least 60 countries globally. Victims of EO continue to fall and have been reported increase over the span of the last few years. With the mounting pressures, affected states are pressured to clear lands and return them to their populations. Consequently, affected states are encouraged to apply Safe, effective and efficient Land Release operations, and release lands to all possible interventions including Non-Technical Survey, Technical Survey and Clearance. But utilising all these possible interventions comes with perceived risks.

A well-documented, transparent, evidence-based approach to land release, demonstrating the application of “all reasonable effort” provides the primary mechanism for addressing questions of liability in such a way that decision-makers at all levels have the confidence to take efficient and appropriate decisions. (IMAS 07.11, Land Release).

Integrating liability into encompassing comprehensive and participatory Risk Management Frameworks will foster confidence in the services and products delivered by the mine action sector. The application of a comprehensive and effective risk management system should ensure that those risks associated with legal liability are maintained at a tolerable level. (IMAS 07.14, Risk Management in Mine Action).

GICHD aims to build on previous work in the field of liability in mine action, to support affected states in enhancing their Land Release operations and adopting responsive and relevant liability and risk management frameworks.

The GICHD has a long-established collaboration with the Mine Action Programme of Afghanistan (MAPA), led by the Directorate of Mine Action Coordination in Afghanistan (DMAC) and its implementing partners. For years, the GICHD has offered support to DMAC and its partners in the development of national strategic plans, national standards and policies as well as training and capacity development in various operational areas such as operations efficiency, information management and research.

The GICHD and DMAC will collaborate to strengthen the Afghan National Mine Standards (NMAS) framework and complement the existing standards with a comprehensive policy that addresses the responsibilities and liability of the mine action stakeholders.

Liability refers to any legal responsibility, duty or obligation that a country, organisation or individual may have. In mine action, liability is understood in relation to an adverse event, such as an accident or the discovery of a missed item in an area that has been released, and normally linked to non-compliance with an agreed standards or procedures (IMAS 07.11, Land Release).

## **DESCRIPTION OF THE ASSIGNMENT – LIABILITY POLICY IN AFGHANISTAN**

### **Overall objective of the assignment**

The overall objective of the consultancy is to assist the Directorate of Mine Action Coordination (DMAC) of Afghanistan in addressing complex issues surrounding liability and to develop a relevant policy for the Mine Action Programme of Afghanistan (MAPA). A locally based Legal Consultant will assist the GICHD and DMAC in the development of the Liability Policy. S/he will be responsible to provide legal advice and research with the following specific objectives:

1. To analyse the legal framework in Afghanistan and its implications on the definition of responsibility and liability in various MAPA scenarios and offer possible recommendations; and
2. To assist the GICHD and DMAC from a legal perspective to develop the Liability Policy for MAPA.

### **Requested services**

#### **Task 1: Identification and review of existing legal documentation and resources in relation to the relevant Afghan legal frameworks and regulations.**

The Local Consultant will identify and review existing legal documentation related to liability in the mine action sector in Afghanistan, including the review of relevant contracting modalities how they affect liability, relevant Afghan national standards and policies, as well as the review of current insurance policies and practices amongst major providers.

#### **Task 2: Consultations and outreach with DMAC and stakeholders**

Based on the legal review undertaken, the Local Consultant will assist the GICHD in conducting consultations and interviews with DMAC and other stakeholders, including mine action operators,

international organisations and relevant Afghan ministries to enhance the understanding of the legal implications and definitions of liability in the mine action context in Afghanistan. The Local Consultant will provide support to any required outreach activities that will be designed by the GICHD and DMAC including during workshops or consultation meetings.

### **Task 3: Legal assistance in drafting the Liability Policy for MAPA**

Based on the information gathered under Task 1 and Task 2, the Local Consultant will assist the GICHD and DMAC in drafting the Liability Policy for MAPA. The Local Consultant is expected to provide legal input based on his/ her expertise on the Afghan legal framework. Where needed, the Local Consultant will conduct further interviews with relevant practitioners or authorities in country.

### **Required outputs**

The Local Consultant will deliver the following specific outputs under the three required tasks:

#### **Task-1 Outputs:**

- Bibliography of legal documents reviewed, with complete reference.
- Revision of the relevant NMAS.
- An analysis based on the legal review outlining the limitations and recommendations in developing the Liability Policy for MAPA.

#### **Task-2 Outputs:**

- Documentation of the interviews conducted.
- Provide legal based inputs to the outreach activities that are to be agreed between DMAC and the GICHD.

#### **Task-3 Outputs:**

- Legal inputs, and where required, drafting support to the Liability Policy for MAPA.

## **EXPERT PROFILE**

The Local Consultant is expected to have a good demonstrated experience in understanding the legal responsibilities and handling of liability claims in the public and/or commercial sectors. She/he must have a good understanding of the legal system in Afghanistan. Familiarity with the mine action sector in Afghanistan would be an additional value.

The Local Consultant is solely responsible for obtaining relevant materials required for her/his work. GICHD and DMAC will facilitate access to relevant GICHD and DMAC resources. The Local Consultant will provide feedback and recommendations for developing the Liability Policy for MAPA based on her/his legal review.

The Local Consultant will ensure the timely and effective implementation of the tasks and the delivery of all required outputs. She/he will be responsible for liaison between the GICHD, DMAC and the relevant stakeholders involved in the tasks or whose inputs are required for completing the tasks.

## Qualifications and skills

The Local Legal Consultant must have:

- Afghan Nationality or valid work permit in Afghanistan.
- Adequate medical health care insurance coverage while working for the GICHD.
- Practical legal expertise of at least 7 years working within the Afghan national legal framework, ideally in a relevant capacity in mine action, risk management, and/or other relevant sectors.
  - Strong understanding, ideally based on practical experience, of relevant legal and operational frameworks governing liability and relevant legislation, preferably within or with relevance to mine action.
  - Familiarity with the mine action sector in Afghanistan will be a plus.
- Demonstrated experience in taking part in developing and drafting national policies, regulations or any other legal instruments.
- Outstanding research and policy writing skills.
- Workshop content planning and facilitation experience is desired.
- Experience in managing and delivering multi-task projects.
- A good understanding of Risk Management Frameworks.
- Strong Dari, Pashto and English language skills (written and oral).
- Committed mainstreaming Gender and diversity in her/his work.

## LOCATION AND DURATION

### Location

The task is expected to be conducted in Kabul, Afghanistan with possible traveling within Afghanistan and abroad.

### Starting Period & Duration

The consultancy duration is expected to take place from 30 August 2020 till no later than 31 May 2021. During this time period, the total number of days on this consultancy will be maximum of 50 days. Each of the tasks requested will have a time-frame that will be agreed with the GICHD and DMAC.

## REPORTING

GICHD is the contracting authority for this task in close collaboration with DMAC. All reports and material produced under this project will be in line with GICHD's regulations and submitted to the designated Project Manager.

The Local Consultant shall provide the deliverables as set out in Section `Required outputs`, according to the dates of submission to be confirmed under the consultancy contract.

The Local Consultant must incorporate the comments received by GICHD, DMAC or other stakeholders as directed by the GICHD. The final versions of required outputs must be approved by the GICHD's Project Manager.

All deliverables and reports are to be presented in English (in electronic format) and their receipt by GICHD's Project Manager must be confirmed.

## **APPLICATION**

Interested candidates must submit the following as minimum:

1. **A Financial Offer** specifying the costs (daily rate) that will be incurred throughout the consultancy.
2. Samples of previous research and publications.
3. A short synopsis on their understanding of the concept of liability in mine action in the context of Afghanistan. No more than 1000 words.
4. CV.
5. Cover letter.
6. Two references.

**Currency:** The quotation shall be presented in Swiss Francs (CHF)

**Language:** The application must be submitted in English

**Submit to:** [r.rabie@gichd.org](mailto:r.rabie@gichd.org), cc [a.nellen@gichd.org](mailto:a.nellen@gichd.org)

Successful applicants will be contacted and informed of the status of their applications.

**The deadline for the application is 12 August 2020. Applicants are invited to apply as early as possible. The applications will be assessed on a rolling basis.**

*END*