



CONSULTANCY NOTICE - EXTENSION

(Open to national and international candidates)

Position Title:	Consultant to conduct preliminary Assessment of the Implementation of Viet Nam's Legislation on contract-based overseas Workers
Duty Station:	Home-based
Type of Appointment:	Consultancy Contract
Estimated Start Date:	As soon as possible
Closing Date:	5PM, 24 March 2024
Reference code:	VN2024/HN/005 (C)

1. Context

Vietnamese migrant workers constitute a significant portion of the country's overseas population. According to the Ministry of Foreign Affairs' statistics, in 2022 alone, more than 3.76 million Vietnamese went abroad, of which more than 70 per cent was estimated to do so for employment purposes. Among them, the Department of Overseas Labour (DOLAB) reported that 142,779 went abroad for work under contracts.¹ In the subsequent year, the number of contract-based migrant workers reached 159,986, with top destinations including Japan, Taiwan Province of the People's Republic of China, and the Republic of Korea.²

In recognition of the contribution made by migrant workers to the country's economic growth, the Government of Viet Nam showed its commitment to strengthen regular labour migration pathways and the protection framework for Vietnamese migrant workers with the adoption of the Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14 (referred to as Law 69), with the latest revision becoming effective on 1 January 2022.

Law 69 explicitly outlines several policies and priorities of the Government of Viet Nam concerning Vietnamese migrant workers. These includes the promotion of acquisition and applying technical skills both during overseas assignments and upon return, protection of migrant workers' legal rights and benefits, ensuring gender inequality and non-discrimination, and providing support for the social reintegration and labour market participation of returnees (Article 4).

The Law has expanded the scope and coverage to include migrant workers participating in government-to-government programmes. This applies to programmes managed by public service units designated by Ministers, heads of ministerial-level agencies and heads of Government agencies to recruit and deploy Vietnamese workers to work abroad under contracts/contractual agreements.

¹ DOLAB, <http://www.dolab.gov.vn/New/View2.aspx?Key=8541>, accessed 7 February 2024

² Ibid

The Law has several provisions aimed at providing a stronger framework for the protection of contract-based migrant workers, including:³

- Removal of the obligation for migrant workers to pay brokerage commissions and an explicit prohibition on recruitment agencies passing these costs on to workers
- Removal of the obligation for migrant workers to pay service fees to public employment services
- If employers or foreign receivers cover part or all of the service fee, workers will only pay for any remaining amount required under Law
- Ability for migrant workers to unilaterally liquidate contracts in situations of threats, sexual harassment, maltreatment or forced labour
- Prohibition on deceitful advertising for the purpose of organizing trafficking in persons, abusing recruitment activities to illegally collect fees, and charging brokerage fees. Violations of these prohibitions results in recruitment agency license revocation
- Pre-departure training must include information on forced labour, human trafficking, gender equality, sexual abuse, gender-based violence and prevention skills
- Provision for legal aid in cases of abuse, violence or discrimination encountered whilst working abroad
- Counselling and support service on employment and start-up opportunities for returnees and accessibility to voluntary psychosocial counseling services;

It has been over two years since Law 69 and its sub-laws came into force. Conducting a review of their implementation with the participation from stakeholders across various sectors—government, employers, service enterprises, international organizations, and migrant workers will be crucial. This review aims to ensure that the new law is operationalized in line with the principles it is intended to uphold.

2. Objectives

The International Organization Migration (IOM) seeks an expert to assist in reviewing the implementation of Law 69 and its sub-laws. The outcomes of the review will offer valuable insights to inform and guide policy making and review by the relevant government agencies and stakeholders, as well as future programming of IOM in support of the government working to enhance protection of migrant workers under contracts and contribute to strengthening migration management in a sustainable and humane manner.

Specifically, the review aims to answer the following questions with a focus on three key regular migration corridors, namely Japan, Taiwan Province of the People's Republic of China, and the Republic of Korea:

- What are the **initial impacts** of law implementation observed on migrant workers in comparison to the intended principles outlined in the law? Are there any group of regular migrant workers falling outside the scope of the law and in need of a robust protection legal framework?
- **Who are the key stakeholders** for effective implementation (of which part of) the law and its sub-laws; how did they become aware of the new law, and what is their level of understanding; and how does their level of awareness/understanding influence effective and compliant law implementation?

³ ILO, https://www.ilo.org/dyn/migpractice/migmain.showPractice?p_lang=en&p_practice_id=208, accessed 6 February 2024

- What are the **enforcement mechanisms for Law 69 and its sub-laws**, including operational measures and resource allocation? What are the strengths and opportunities for improvement? What is the level of consistency of enforcement practices across both central and local levels?
- What are key **challenges and bottlenecks** in the implementation process, and what recommendations can be proposed for improvement?

Additionally in reviewing the Viet Nam – Republic of Korea corridor, the review will also incorporate a case study on the legal protection framework and its impacts on Vietnamese migrant workers participating in the Seasonal Worker Program. The final review report, in its full or summary version, will be publicly available.

3. Methodology

Initial indications on the methodology are presented below. However, the detailed methodology should be developed by the Consultant and finalised with IOM during the inception phase of the assessment. The Consultant will play a crucial role in the formulation of review tools and analysis.

The methodology, data collection and analysis, and deliverables will adhere to gender-responsive principles.

3.1. Data collection methods

Desk review of the legal framework concerning Vietnamese contract-based migrant workers, available research findings and reports on the enforcement of Law 69, including but not limited to:

- Law on Contract-Based Vietnamese Overseas Workers 69/2020/QH14 (Law 69), effective on 1 January 2022
- Decree 112/2021/ND-CP detailing a number of articles and measures to implement Law 69, effective on 1 January 2022
- Decree 12/2022/ND-CP and Decree 28/2020/ND-CP on penalties for administrative violations in the field of labour, social insurance and contract-based overseas workers, effective on 17 January 2022
- Decision No. 40/2021/QĐ-TTĐ dated 31st December 2021 on Overseas Employment Support Fund, effective 21/02/2022
- Circular 21/2021/TT-BLĐTBXH regulating some articles of Law 69, effective on 01/02/2022
- Circular 20/2021/TT-BLĐTBXH on database of contract-based overseas workers, effective on 01/02/2022
- Directive No. 20-CT/TW dated December 12, 2022 of the Secretariat on strengthening the Communist Party's leadership in sending Vietnamese workers to work abroad in the new situation

Primary data collection methods include, but are not limited to:

- Key informant interviews (KII) with legal/UN agencies' experts, government officials at both central and local levels, and officials of local mass organizations.
- In-depth interviews (IDI) with service enterprises and the Viet Nam Association of Manpower Supply
- IDI and/or focus group discussions (FDG) with prospective/returned migrant workers.

3.2. Sampling

The initially suggested sample size includes a minimum of:

- 05 legal/ UN agencies' experts, government officials at central level (in Hanoi)
- 02 employers/brands employing Vietnamese migrant workers within their operations and/or supply chains
- 05 service enterprises (in Hanoi)
- 10 local government officials (Department of Labour, Invalids and Social Affairs and Employment Service Centers) and mass organizations in three provinces (to be determined in collaboration with IOM)
- 03 service enterprises located in the three provinces visited
- IDIs and/or FDGs with 15 migrant workers in the three provinces visited

Nevertheless, the sample size will be subject to further discussions with the selected consultant, particularly after their initial review and inception report.

The sampling for this review will be purposive and convenience-based. IOM will collaborate closely partners to generate a list of potential interview candidates. It is essential to note that the participation of individuals in the interviews will be contingent upon their willingness. Upholding the principles of safeguarding and ethics, rigorous measures will be implemented to ensure the confidentiality, well-being, and voluntary engagement of participants.

4. Ethics, norms and standards

IOM abides by the [norms and standards](#) of the UN Evaluation Group and expects all stakeholders to be familiar with the [ethical conduct guidelines](#) of UNEG and the consultant(s) with the [UNEG codes of conduct](#). The review shall be carried out following the IOM Data Protection Principles.

5. Deliverables and workplan

The selected individual consultant/team of consultants/consultancy firm will be responsible for leading the planning and execution of the review as well as writing the report. Close consultation with IOM at every step is required. The assignment is expected to commence as soon as the contract is signed with the final report expected **by 31 July 2024**. The estimated timeline is below:

Key milestones	Timeline
Inception report with clear methodologies, specific assessment questions and detailed schedule	5 days
Data collection	10-12 days
Briefing on key findings	1 day
Draft report	5 days
Final report	5 days
Briefing paper	1 day
Total	27-29 days

Below are the expected deliverables of the review:

1. An inception report (maximum 5 pages excluding annexes):

The first deliverable of the consultant/team is an inception report, which details the selected approach and methodology, including refined review questions and sub-

questions, the workplan, interview schedule, all data collection tools and the outline of the final report. The Consultant may adopt the methodology spelt out in this TOR, but any fundamental changes should be agreed upon between IOM and the Consultant and reflected in the inception report. The methodology should clearly state the limitations of the chosen methods. The inception report will operationalize the TOR and must be approved by IOM before data collection begins.

2. Debriefing workshop and accompanying initial findings PowerPoint and report

Following the conclusion of the data collection, the Consultant will present initial findings, case studies and lessons learned in a PowerPoint presentation to the project team and other primary stakeholders invited by IOM. The findings will be presented at a virtual debriefing session. The workshop will be logistically supported by IOM but organized and managed by the Consultant.

3. Draft and final reports (not exceeding 15 pages, excluding annexes):

Based on the results of data analysis and insights gathered from the debriefing workshop, the Consultant will compose the report. The initial draft, inclusive of case studies and lessons learned, will be prepared for feedback. IOM will collate all feedback and provide a consolidated set of comments to the Consultant within a 15-working-day timeframe for incorporation into the finalization of the report.

Upon integrating consolidated feedback, the Consultant will complete the report and submit the final version. The final report will undergo approval by IOM before publication, either in full or as a summary.

4. Briefing paper (2 pages):

The brief will present an easily accessible overview of the review objectives, main findings, conclusions, and recommendations.

6. Specification of roles

- **Management:** IOM will assign a National Programme Officer to be the main contact for the selected Consultant(s). She will provide the Consultant(s) with the list of documents and suggested interviewees. Additionally, the National Programme Officer in coordination with relevant IOM colleagues will organize a kick-off meeting with the Consultant(s) upon selection and assume responsibility for granting final approval to all deliverables.
- **Consultant(s):** The chosen vendor will be accountable for executing the review in accordance with the current TOR and the specified deliverables. Approval from the Management is requisite for all deliverables, and coordination with the IOM National Programme Officer is essential throughout the process.

7. Submission of Application

In light of the above, IOM is looking to receive proposals from individual consultants or service providers to deliver the outlined scope of work.

Qualifications and Experience

Education

Academic or professional background in Law, Migration Studies, Social Sciences, or other relevant areas.

Functional competencies

- At least 05 years' experience in legal professional
- Demonstrated experience in conducting similar work related to reviewing legal frameworks;
- Proficiency in conducting qualitative research;
- In-depth understanding of the local context in Viet Nam, particularly regarding migrant workers;
- Proficiency in both Vietnamese and English
- Proven track record in conducting researches that involve sensitive populations, such as victims of trafficking and migrants in vulnerable situations (an advantage)
- Exceptional writing skills, with the ability to articulate complex findings in clear and concise English;
- Familiarity with the terminology, language, and style used by IOM and the UN;
- Ability to align communication and reporting with the standards and guidelines of IOM and the UN.

Behavioural competencies

- Demonstrated ability to meet deadlines and work under pressure;
- Ability to be flexible and respond to changes to text/layout as part of the review and feedback process;
- Strong interpersonal skills, able to communicate and work with diverse people;
- Participate effectively in team-based, information-sharing environment, collaborating and cooperating with others;
- Focus on impact and results for the client.

Proposal submission

Interested candidates are required to submit their proposal (not exceeding 5 pages excluding resumes) with the following details:

- A Technical Proposal which includes a breakdown of inception phase and data collection methodology and the suggested approach to be used in the review. A brief explanation of data collection, analysis and report writing phases should also be included, along with a draft work plan and timeline.
- A Financial Proposal with a cost breakdown, including travel, accommodation and other costs if required. Travel expenses shall be based on the most direct route and economy fare. Quotations for business class fare will not be considered.
- The Technical Proposal shall also include updated CVs of the expert(s) to be part of the review, and electronic copies/links of two most recent and relevant publications/research performed by the applicant.

How to apply:

Completed applications, including cover letter, proposal, CV and copies of diplomas and certificates may be delivered to the IOM Mission Office in Hanoi at 304 Kim Ma, Ba Dinh

District, Ha Noi or submitted electronically to iomvietnamhr@iom.int referring to this Consultancy Notice's Position Title.

Applications are non-returnable and only short-listed candidates will be contacted.

Posting period:

From 27.02.2024 to 17.03.2024, extended until 24.03.2024

Female consultants are encouraged to bid for this required service. Preference will be given to equally technically qualified female consultants.