



Terms of Reference

Consultant to develop Standard Operating Procedures for the Domestic Workers Department under the Public Authority for Manpower in Kuwait

Applications due by close of business 22 July 2020

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| Requirement: | Consultant |
| Duty Station: | Based in Kuwait |
| Budget: | Based on financial proposal |
| Duration: | 25 working days between 29 July – 27 August 2020 |
| Funding: | International Labour Organization / Kuwait Government |
| Application details: | Interested applicants should send a technical and financial proposal as well as their CV to H el ene Bohyn (bohyn@ilo.org), cc-ing Nour Al-Failakawi (alfailakawi@ilo.org) with the Subject 'ILO/PAM consultant'. |

Background

There are approximately 717,628 male and female migrant domestic workers in Kuwait,¹ who constitute a large proportion of the labour force. Their working conditions, right and responsibilities, as well as those of employers of domestic workers and recruitment agencies, are overseen by the Domestic Work Department (DWD) of the Public Authority for Manpower (PAM), established in April 2019 following the transfer of the sector from the Ministry of Interior to PAM. Amongst its responsibilities, the DWD ensures application of the legislative framework applying to the domestic work sector,² inspects recruitment bureaux, investigates violations and receives complaints. Between April-November 2019, the DWD reported that it had received 2,087 complaints of which 256 were referred to the courts while 1,232 were settled amicably.³ The DWD had also taken steps to inspect or otherwise regulate the 451 officially registered recruitment bureaux (as at August 2019).⁴ While the workload of the DWD is high, there are relatively few technical staff in the department (particularly investigators who aim to resolve complaints filed by workers, employers or recruitment agents), and there are not yet any comprehensive written standard operating procedures in place to ensure that all staff follow exactly the same procedures and work cohesively together.

As with most government services, the work of the DWD has been disrupted by the COVID-19 pandemic. Despite proactive action by the DWD and PAM to ensure continuing compliance with the law, there have been reports of contractual violations faced by domestic workers, including excessive working hours and no weekly rest day (as family members and children are at home, increasing the

¹ UN Human Rights Council 2019. *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21, A/HRC/WG.6/35/KWT/1*, 13 November, available at: <https://undocs.org/A/HRC/WG.6/35/KWT/1>.

² Law No. 68 of 2015 on Domestic Work; Ministerial Order No. 2194 of 2016, and the standard unified contracts (Standard Three-Party Recruitment / Employment Contract, and Standard Two-Party Recruitment / Employment Contract).

³ Above n. 1.

⁴ Ibid.

workload); and non-payment of wages due to the economic hardship of the employer; or sometimes intentional retention of wages as a way to keep the worker from absconding; unfair dismissal and non-provision of personal protective equipment. Other developments as a result of COVID-19 may also include an increased number of workers who wish to return to their country of origin. As with most government departments, the DWD had to temporarily and partially suspend the work of the department (including receipt and amicable resolution of complaints) but reopened in June 2020. This reopening provides an important opportunity to review how the Department functions (both in light of COVID-19, but also beyond the recovery period), and to set down systematized processes in the Department, which are transparent to all stakeholders, and can ensure the trust and support of all parties.

The ILO is providing technical support to the DWD pursuant to the Decent Work Country Programme (DWCP), signed by PAM, the Kuwait Trade Union Federation and the Kuwait Chamber of Commerce and Industry in December 2018. Under Outcome 2.2 of the DWCP,⁵ PAM has requested the ILO's support to develop standard operating procedures (SOPs) for the DWD, based on the legal framework, and inputs from workers, employers, recruitment agents and other relevant stakeholders. The purpose of the SOPs is to create a set of step-by-step instructions for the staff of the DWD to ensure that they apply their functions in a transparent, standardized and coordinated manner, in full compliance with the legislative framework. The SOPs aim to achieve efficiency, quality output and uniformity of performance, while reducing miscommunication and confusion by relevant stakeholders and gaining their trust and respect (thereby leading to more parties, particularly domestic workers, to feel comfortable to turn to the DWD for help and guidance).

Objectives and deliverables

The ILO Kuwait Office is seeking a Kuwait-based consultant to support the DWD to develop SOPs for its staff. The work will comprise several stages as per the methodology below:

1. Information gathering

The consultant's work will commence with a comprehensive dialogue with the appointed DWD focal point in order to:

- Define the scope of the SOPs: Ideally the SOPs will cover all aspects of the work of the DWD; however, a decision may be taken to focus on particular topics in more depth in the SOPs, such as complaints handling, regulation of recruitment agencies, facilitating transfer of sponsorship, facilitating repatriation, etc,
- Identify the target audience: As above, the SOPs will ideally cover all technical staff of the DWD, including investigators, frontline staff (reception), as well as others. The SOPs should also outline how the DWD interacts/coordinates with other government departments (shelter, Ministry of Interior, police, etc.) and courts (in the event that disputes cannot amicably be resolved).
- Determine consultation plan and timeline: The DWD focal point will provide inputs on when, who and how to engage in the envisaged consultations (there should ideally be at least a preliminary consultation with stakeholders as part of the information gathering, and then later, more in-depth consultations on the draft of the SOPs).

The consultant will then gather information on the current processes and work of the department through the following modalities:

⁵ DWCP Outcome 2.2: Improved protection of women and men foreign workers, including through enhanced dispute prevention and resolution mechanisms and enhanced access to justice procedures for foreign and domestic workers.

- Review of written materials provided by the DWD (which may include the DWD’s organigram, staff job descriptions, strategic annual workplans (if any), etc.).
- Review of legislation on domestic work, in particular covering the role of the DWD and PAM (Law No. 68 of 2015 on Domestic Work; Ministerial Order No. 2194 of 2016, and the standard unified contracts).

The consultant will then commence relevant preliminary consultations with relevant stakeholders, as discussed with the DWD focal point. These could include the staff of the DWD, relevant civil society organizations and migrant worker communities supporting domestic workers, employers of domestic workers, the Syndicate of Private Recruitment Agencies, etc.

2. Writing the SOPs

Following the information gathering stage, the consultant will develop the text of the SOPs, representing processes in easy-to-read flow charts, and within each, explaining the steps involved, who is responsible, agreed timelines, etc.

3. Consultation

Following the development of the draft SOPs, the consultant will present the draft in either a face-to-face or virtual dialogue to the staff of the DWD, explaining each diagram/process in detail and seeking feedback and inputs.

After this stage is completed, the consultant will (with the support of the DWD focal point) facilitate consultation(s) with relevant stakeholders – including civil society organizations and migrant worker communities supporting domestic workers, employers of domestic workers, the Syndicate of Private Recruitment Agencies, etc. This will ideally be done in the form of (virtual) focus group discussions, but if this is not feasible due to time constraints, can be accomplished as a single, plenary-style, dialogue, with time available for Q&A and discussion from the participants.

4. Training

After the finalization of the SOPs, the consultant will conduct training sessions on the implementation of the SOPs with key staff of the DWD. Training plan and participants will be determined based on needs identified during the consultation process.

Deliverables

The final deliverable will be the text of the SOPs (in Arabic) following the methodology outlined above, and which meets the expectations of the ILO and PAM.

The approximate timeline is shown below:

| Activity | Approximate number of working days | Deadline |
|----------------------------|------------------------------------|-----------|
| Information gathering | 6 | 6 August |
| Submission of draft SOPs | 6 | 13 August |
| Consultations and editing | 7 | 21 August |
| Submission of final SOPs | 4 | 25 August |
| Training DWD staff on SOPs | 2 | 27 August |
| Total | 25 | |

Payment

The consultant will be paid based on the number of working days specified in the technical proposal (up to 25 working days) in two instalments:

- 50% following the submission of the draft SOPs;
- 50% following the submission of the final SOPs meeting the criteria of this TOR and instructions by ILO and PAM.

Qualifications and experience

- Relevant academic experience in human resources, social sciences, migration, gender studies or related subject areas;
- Relevant experience writing SOPs, processes, procedures, user manuals and/or work instructions;
- Ability to collect, organize, analyse, distil and document significant amounts of information and process steps;
- Ability to work independently and to take initiative and ownership of the task;
- Strong analytical, oral and written communication skills in Arabic with the ability to build quick rapport with interviewees;
- Proficiency in Microsoft Office and ability to develop easy-to-read process flowcharts;
- Demonstrated strong attention to detail and ability to work with accuracy; and
- Ability to work efficiently and adhere to deadlines.

Selection

Interested applicants should send a technical and financial proposal as well as their CV and writing sample to H el ene Bohyn (bohyn@ilo.org), cc-ing Nour Al-Failakawi (alfailakawi@ilo.org) with the subject 'ILO/PAM consultant'.

The technical proposal can be brief (1-2 pages) and should provide tailored information on the consultant's research approach, possible challenges faced in the research and how these will be addressed. The financial proposal must include the consultant's proposed daily rate (and the total amount of the proposal in either USD or Kuwaiti Dinar).

Selection will be based on:

- Quality of the technical proposal;
- Qualifications and experience (based on CV); and
- Cost efficiency of financial proposal.