

Terms of Reference:

Legal counselling and mediation services for garment factory employees and factory owners

Background

sequa is a non-profit development organisation. We promote the development of the private sector and its business membership organisations as well as vocational qualification. sequa's shareholders are Germany's top business membership organisations (DIHK, ZDH, BDA, BDI) and GIZ. Jointly with our partners we have performed more than 750 successful projects in the past 20 years.

SMART Myanmar (SMEs for environmental Accountability, Responsibility and Transparency) is a 4 year project (2016-2019) financed by the European Union through the SWITCH Asia program. The lead agency is sequa. SMART Myanmar regularly conducts social compliance audits and trainings at garment factories, runs HR management training modules, and works to build the organizational capacity of the Myanmar Garment Manufacturers Association, SMART Myanmar's local partner association. As one of the project's targets, SMART Myanmar seeks to initiate advisory services for garment workers in so-called Sunday Cafes operated by Thon Pan Hla.

SMART Myanmar's involvement with worker education

SMART Myanmar's staff provide occasional training to garment workers on OHS issues and labour laws. SMART Myanmar is also creating a guide to educate garment workers on up-to-date labour laws and occupational safety and health best practices and legal requirements in form of a Smart phone application.

In addition, SMART Myanmar is supporting an expansion of Thone Pann Hla, a civil society organization, to create more 'Sunday Cafe' community centers for women garment workers. These cafes are safe spaces where workers can educate themselves on labour laws, OHS and also on their own personal health and well-being.

To further support the mission of these Sunday Cafes, SMART Myanmar is interested in developing a 'legal counselling and mediation desk' which will first be set-up within the Sunday Cafe 2 in January 2017, which will open its doors in November. In March 2017, the services will be expanded to Sunday Café 1. A third Sunday Cafes is planned to be operating in October 2017 where the legal services shall be introduced in November 2017.

Scope of Work

The services provider will be required to:

- Make one or more legal experts available on-site at the Sunday Cafe 2 community center in Hlaing Thayar Township at least one full day per month or two half-days per month. This expert must be very knowledgeable on Myanmar's current labour laws and occupational health and safety related laws and regulations. This/these expert(s) must be available to work on Sundays and/or on Saturdays during the afternoon and evening. The expert(s) must be fluent in Myanmar language and must be able to answer questions posed by garment factory workers and suggest follow-up actions.
- Make one legal expert available at least 2 times per year to provide a detailed half-day briefing for MGMA staff, Board members, interested member companies, and invited members of the public on up-to-date labour laws and regulations, occupational safety and health regulations, and environmental regulations.
- Provide a ToT program with at least three staff of Thone Pann Hla. They shall be trained on Myanmar's labour laws on a regular basis, for an average of 1-2 hours per month. This ToT will be delivered back-to-back with the counselling service on Saturday or Sunday.
- Once per year, edit the content of the SMART phone app on labour and OHS law and provide a list of recommended amendments/citations due to new laws.

More specifically, the legal expert will be responsible for the following areas:

Training, coaching and mentoring

- At the beginning of the assignment, receive both walk-in visitors and take appointments at the Sunday Café 2 to answer questions related with labour laws (especially the 1951 Factory Act and its 2016 Amendments), the Fire Brigade Law, the Payment of Wages Act 2016 and any other relevant labour and OHS laws.
- Where necessary, provide written letters detailing your legal interpretation of particular issues. (please detail in your proposal how many letters/written legal opinions per month your firm would be willing to issue).
- The ToT for Thone Pann Hla staff shall concentrate on all labour laws related to grievances, contracts, overtime and payment of wages.

Monitoring

- Monitor and report on basic KPIs/measurements of the success of the service, including the number of enquiries received, number of legal opinions given in written form, number of visitors satisfied with the quality of information received, results achieved for each case etc.
- Follow-up with clients to determine how useful or successful a letter or particular advice was in achieving an improved workplace situation based on prevailing laws.

Reporting

The legal expert will report the content described above directly to the SMART Myanmar Team Leader and/or any specialist staff he wishes to designate.

Deliverables

1. Monthly email on number of enquiries received, to be sent within 5 days after previous month's end. This email should list the enquiries and describe briefly the topic of the enquiry and nature of the result. (**Example:** 4 in-person visitors and 2 phone calls received in May; of these 6 enquiries, 5 were related with overtime law and one pertained to maternity pay. In 3 of the 6 cases further action was recommended and detailed suggestions for future actions were provided.)
2. A detailed Powerpoint presentation, delivered twice per year (due July 2017 and December 2017) in both English and Myanmar language, on up-to-date laws and regulations relevant for the garment manufacturing industry (labour laws, environmental laws, OHS laws)
3. 5 page bi-annual report (due Mid June 2017 and December 2017) in English detailing in both quantitative and qualitative terms the types of enquiries received by the legal advisory desk and the follow-up responses.
4. Edited content of the Smart phone app on labour and OHS law with a list of recommended amendments/citations (due January 2018)

Skills

- At least 5 years professional experience as either a lawyer or senior legal consultant.
- At least 1-2 years of recent experience issuing opinions or handling cases related with labour laws within Myanmar.
- Fluency in Myanmar language and ability to converse and write in English.
- Expert knowledge of Myanmar labour laws and laws related with occupational health and safety.
- Strong knowledge of environmental laws and environmental guidelines.
- Good communication, presentation and interpersonal skills and the ability to liaise with locals and internationals.
- Strong reporting skills.

Duration and schedule

The assignment will be part-time, commence January 2017 and end January 2018 with the possibility of extension.

Location

The assignment will mainly take place in Yangon, Myanmar, with the possibility of occasional travel to other other regions if agreed to beforehand by both parties. The Sunday Café 2 is located at **No. (365/ 366) Yakhine Yoe Lay village, Htantabin Township, Yangon, Myanmar.**

Submission

All interested firms or individuals should submit the following documents to sequa Simone.Lehmann@sequa.de by 7 November 2016:

- Cover letter and detailed CV(s) of involved legal expert(s)
- Very short technical proposal which satisfies the ToR. Proposals will be considered highly competitive when they satisfy all minimum requirements and propose value-added elements.
- Sample written response to a hypothetical email enquiry from a worker asking this question: “Can the legally required break time be skipped if it is agreed to by all workers and managers in writing?”. The response should be in both Myanmar and English.
- Financial proposal with calculation of each item as per scope of work/deliverables (incl. travel time, cost of travel, preparation of training, reporting etc.) The contract will be based on fixed price packages for each deliverable separately:
 - Counselling service at the Sunday Café incl. ToT program (1 day per month)
 - Half day briefing on labor law and OHS
 - Edit Smart phone app content (once December 2017)
- Case history detailing out experiences with labour law