**TERMS OF REFERENCE (TOR)**

**Review of code of conduct (CoC) for Internet Service Providers (ISPs)**

**1. Introduction:**

Ain o Salish Kendra (ASK), a national legal aid and human rights organization, was established in 1986. Over the last thirty one years ASK has evolved a comprehensive approach to the promotion and protection of legal and human rights. Its strategies promote human rights awareness and community activism; offer legal aid through mediation and litigation, while clients are given psycho-social counseling; investigations into human rights violations and their documentation are supplemented by research which together lead to media campaigns to defend human rights, and public interest litigation for law and policy reform. Being committed to attaining gender equality at every sphere of life, ASK’s activities have special focus on women but providing legal aid to victims/survivors of arbitrary arrest, preventive detention and taking stand against unlawful evictions, extra judicial killings, torture and death in custody, condition of the prisoners and interests of the religious and ethnic minorities very much are its concerns. ASK’s advocacy is carried out both at the national level and international level. ASK’s publication are an important means of disseminating information and knowledge. ASK has no political affiliation, adopts a non-partisan approach in defense of human rights and encourages volunteerism among different stakeholders. ASK implements activities through direct implementation and partnership with the like-minded local NGOs, CBOs and Local Cultural Organizations.

Sexual harassment and exploitation of children in online is a growing issue of concern in Bangladesh. Poverty plays as a key push factor for sexual exploitation of children. The latest UNDP report on human development shows that the proportion of the population living in multidimensional poverty is high throughout the South Asia, with the highest rates in Bangladesh (58%). Other push factors are lack of access to education and quality education, unemployment problem in rural areas, lack of scopes for institutional skill development, lack of knowledge about risk factor, different forms of sexual exploitation etc. Pull factors include dream of city life, aspiration for lucrative jobs, supplement the family income, poor law enforcement, lack of awareness among parents, and Child marriage as form of sexual exploitation and as a contributing factor to this violation continues to be a serious concern.

A recent study conducted by Manusher Jonno Foundation (MJF)-(2nd October 2016, Daily Prothom Alo) revealed that a major portion of both school going and out-of-school children are exposed to porno pictures in the form of poster, picture card and porn CDs. For a number of reasons children are getting involved in pornography. Some of them are: influence of friends, cousins, pimps, boyfriend and video film makers; lack of awareness of parents; lack of sensitization of the law enforcing agencies; and inadequate monitoring from the ministries concerned. Child sexual harassment and exploitation result in both mental and physical consequences for the exploited children. Even due to lack of proper ICT literacy, many of the children don’t know how to use information and communications technology in an assertive way which sometimes makes them vulnerable to sexual harassment and exploitation. Repeated sexual harassment results in fear of being blamed or not being believed, a lack of self-esteem and worthlessness, but also misplaced loyalties towards the perpetrators. For many children, the harassment equates to their first experience of sex and love, of which they have no prior experience to measure it against. It is also important to remember that sexually exploited children are often explicitly threatened with violence if they disclose the harassment.

There are many service providing organizations such as; Internet service provider (ISP) is an organization that provides **‘information society** **services’** for accessing, using, or participating in the Internet. ISP may be organized in various forms, such as commercial, community-owned, non-profit, or otherwise privately owned. An information society service provider can be an organizational sub-unit, it is usually a third party or outsourced supplier, including telecommunications service providers (TSPs), application service providers (ASPs), storage service providers (SSPs), and internet service providers (ISPs).The role of internet service providersis to facilitate the access to internet infrastructure and also to protect the misuse of internet. They directly involve broadband connection serve large companies by providing a direct connection from the company’s network to the internet.Internet Service Providers (ISP’s) refers to a company that provides internet services for personal and business purpose. It is the gateway to the internet and everything that you do online. They act as a mediator between the user and internet. They also take various initiatives to ensure and enhance their services in different ways to the remote areas for delivering their services.

An ISP is the gateway to the Internet and everything else we can do online. We become able to send emails, go online shopping, do research and more through the connection activated by them. The ISP is the link or conduit between our computer and all the other "servers" on the Internet. Every home or organization with Internet access has an ISP. The good news is, we don't all have to have the same provider to communicate with each other and we don't have to pay anything extra to communicate with someone who has a different ISP.Whereas just about anyone can have a website, not everyone can be an ISP. It takes investment, building infrastructure and engagement of smart and skilled technicians. ISPs around the world maintain a network both domestically and internationally so that the customer or the user of the connection provided by the ISP to connect to the global Internet network. Here in the form of network transmission medium that can stream data which can be either wired (modem, leased line, and broadband), radio, satellite transmission etc.

Besides, the service providing agencies (e.g ISP) also seems unaware about the safety and security of children. Private sector particularly, ICT service providing companies, cell phone companies, are not aware as to how their services make the children exploited in accessing. Section 6 of the *Pornography Control Act 2012* provides monitoring mechanism and clearly stipulates that the internet service providing agencies should store data safely and are supposed to keep a log and have an inspection system to monitor the services they provide. However, in reality they do not have the capability and willingness to do so. Although they have contributed their services as a commercial role, they are playing vital role in preventing misuse of internet through protection mechanism. They also have the capacity to control different online sights. Recently Nair Jogajog Kendra in Savar conducted a conference on “violence against children” where most of the women leaders of civil society urged the Bangladesh Telecommunication Regulatory Committee (BTRC) to stop porn sights and strengthen our online monitoring system. But in reality, violence increased as there is no effective law to ensure effective steps against the perpetrator. However BTRC is the authority to regulate content online. The BTRC has the authority to block a website from public access through the international internet gateway, making the site invisible within Bangladesh. The saddest part is BTRC does not seem to take effective actions to block the specific contents on website.

Therefore, considering the magnitude of the issue, Ain o Salish Kendra (ASK) and its partners (Association for Community Development-ACD, Mukti Cox’s Bazar, Agrogoti Sangstha) under the project “Sexual Exploitation of Children Online and in Travel and Tourism”is planning to review the existing broadband policy and other relevant policies of Bangladesh and explore the gaps and challenges of these policies have to effectively address such sexual harassment and exploitation through the cell phone, social media and through over the top (OTT) services. Based on the review, a set of practical policy / recommendations or Code of Conduct recommendations will be presented to the relevant authorities to act upon.

**2. Objectives of the Review:**

The objective of the review is- i) to identify the gaps of the existing broadband policy and other relevant policies to address sexual harassment and exploitation of children through online and Cyber Cafe ii) place appropriate recommendations for policy changes. The ultimate goal of the task is to propose an effective protection mechanism for the survivors of the online sexual harassment.

**3. Scope of work:**

* Review of existing broadband policy and other relevant laws, rules and regulations of Bangladesh;
* Develop an outline/structure/framework of the review and sorting the gaps of the information on the specific policies (Broadband Policy 2009 and other relevant policies) through review and analysis;
* Compiled data and prepared a draft review report, shared the findings with ASK, its partner, relevant Govt. officials and other concerned stakeholders and receive comments and feedbacks;
* Incorporate comments and suggestions from different stakeholders;
* Finalize the review report incorporating comments and suggestions;
* *A*ll documents and data collected will be treated as confidential and used solely to facilitate the review and analysis.

1. **Methodological guidelines:**

The consultant(s) shall follow scientifically appropriate qualitative methodology tools to review these policies for exploring its’ effectiveness to address the online sexual violence and harassment and cyber harassment. The methodology and relevant tools will be finalized in consultation with ASK. All data collected will be provided as appendix. Review will obtain informed consent from the participants.

1. **5. Expected Deliverables**:
2. The consultant shall produce the following deliverables:

A detailed work plan (inception report) with methodology describing how the consultant will implement the review within the timeframe outlined by ASK. This work plan shall be submitted for review and approval by ASK before commencement of the review.

A draft review report including an executive summary. Presentation of the draft report to ASK colleagues joined with other stakeholders. Two hard copies with a soft copy of the final review report and all primary data based on which report has been produced. Recommend some policy recommendations/guidelines which are needed to ensure legal protection of the children, adolescent and young women from online sexual harassment and exploitation. The consultant include the below activity in the workplan.

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| --- | --- | --- |
| **Activities** | **Timeframe** | **Responsible** |
| Desk review and submission of  detailed work plan, | 5 days | Consultant |
| A. Review relevant documents, policy, and  reports,  B. Meeting, consultations,  Interview, FGD, etc.  C. Prepare a draft CoC/policy assessment report, D. Share the draft  report and collect feedback | 18 days | Consultant, Dhaka, and project  areas |
| 1st draft and related annexure and Debriefing | 5 days | Consultant |
| Final report and related annexure | 7 days | Consultant |
| **Total** | **35 days** |  |

**6. General condition and obligations**

The consultant (s) will conduct the review in accordance with the proposal submitted by the team. ASK will provide necessary assistance to design and implement the review program and will ensure active participation in the process.

**7. Timeframe:**

The entire period of this consultancy will be 35 days from the date of signing of the contract.

**8. Required team composition:**

* The consultant team leader/lead consultant must have a recognize university degree in law. If team of consultant applies for the task, there should be a gender expert in the team.
* At least 5 years relevant experience on research /assessment/study and review of law and policy analysis work
* Extra value will be added if he/she has experience to conduct study/review/research/ assessment in the online sexual exploitation and harassment of children, adolescent and women.
* Excellent proven experience and understanding of child protection.
* Demonstrated experience in applying child participatory approaches.

**9. Child Protection Policy:**

The firm/organization/individual shall comply with the Child Protection Policy of ASK. Any violation/deviation is in complying with ASK's child protection policy will result in termination of the agreement.

**10. Disclaimers:**

**Terrorism and money laundering issues:** If there is any proof of engagement in any terrorism and money laundering issues, ASK reject the proposal without assigning any reason.

**11. How to Apply:**

The individual / firm must submit the following documents along with technical and financial proposal (including vat & tax) the financial proposal should include 15% vat as per government rules only. ASK will deduct 10% income tax at source from the agreed consultancy amount. The proposal should be in English. The technical and financial proposal should be submitted in two separate envelopes. These two envelopes are then to be put in one larger envelope which must be sealed with a cover letter addressing the Executive Director, Ain o Salish Kendra, 7/17, Block-B, Lalmatia, Dhaka-120, and Bangladesh. The proposal to be submitted at ASK office not later than 24th June, 2018.

**12. Evaluation:**

**Cumulative analysis:**

When using this weighted scoring method, the award of the contract should be made to the individual consultant whose offer has been evaluated and determined as:

1 Responsive/compliant/acceptable, and

2 Having received the highest score out of a pre-determined set of weighted technical

and financial criteria specific to the solicitation.

\* Technical Criteria weight; [70]

\* Financial Criteria weight; [30]

Only candidates obtaining a minimum of (70 points) would be considered for the Financial

Evaluation

|  |  |
| --- | --- |
| **Criteria** | **Max.Point** |
| **Technical** | **70** |
| Consultant team leader/lead consultant must have a recognize university degree in law. | 10 |
| At least 5 years relevant experience on research /assessment/study and review of law and policy analysis work | 10 |
| Experience to conduct study/research/review/assessment in the online sexual exploitation and harassment of children adolescent and young women. | 10 |
| Excellent proven experience and understanding of child protection. | 5 |
| Excellent written and oral communication skills in English | 5 |
| Prepared a draft proposed Action plan to carry out the assignment | 10 |
| Prepared a draft proposed methodology to carry out the assignment | 20 |
| **Financial** | **30** |
| **Total** | **100** |

**12. For consultancy Firm:**

* Minimum 2 page profile highlighting related assignment completed with client name, contract person and mobile number.
* Lead consultant’s (who will lead the assignment) maximum 2 page CV highlighting related assignment completed, role in of the completed assignment.
* Other team member (who will involve in the assignment on one paragraph sheet CV highlighting related assignment completed and role.
* Firms certificate, TIN and VAT registration.

**For individual consultant:**

* Maximum 2 page profile highlighting related assignment completed with client name, contact person and mobile number along with related CV.
* TIN certificate and any other document (if necessary)

**13. Contact Person:**

Ambica Roy, Coordinator, Sexual Exploitation of Children online and in Travel and Tourism project, funded by TDH project, Child Rights Unit of ASK will be the contact person for this assignment.

**14. Ownership and intellectual Property:**

ASK would have the ownership on the whole document and will use the information for purpose of further research, publication and others.Copyright of all information (findings and the others) final report will remain with ASK.