Project “Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work”

funded by European Union

AND

Project “Improving Occupational Safety in the Mining industry of Ukraine”

funded by the Government of Canada

Terms of Reference (TOR)

Update of the National Occupational Safety and Health (OSH) Profile Ukraine

1. Background

The project “Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work” notably aims at enhancing the Ministry of Social Policy of Ukraine and in particular the State Labour Service contribution to safer and healthier working conditions for workers in Ukraine. In order to reach this objective, the project will provide recommendations to bring national legislation on Occupational Safety and Health (OSH) and selected labour laws issues in line with the European Union (EU) Acquis. The transposition of EU Directives is a gradual process that requires a comprehensive revision of existing legislation.

The Project “Improving Occupational Safety and Health in the Mining Industry of Ukraine” aims to reduce work accidents and occupational diseases in the mining industry of Ukraine through development of updated OSH policies supported by an enhanced capacity of Government stakeholders and social partners to participate in the implementation of these policies. For this purpose, the project will provide a technical assistance in development and implementation of the modern OSH policies in the mining industry in conformity with international labour standards, in particular ILO Safety and Health in Mines Convention, 1995 (No.176), and EU directives in the framework of the National OSH Strategy.

The National OSH Profile is an essential document in the application of systematic approach in OSH. It provides an overview to the existing OSH situation of a country and is used as a diagnostic document to assess gaps in the national OSH system and identify priority areas for national action in OSH. The National OSH Profile is a valuable source of information for policy-makers, government officials,
workers, employers and OSH practitioners to follow and monitor OSH developments and is used as a basis for formulating the National OSH Programme (strategic national action plans in OSH). The procedures and requirements to develop National OSH Profile and Programme are described in ILO Promotional Framework for OSH Convention (No.187, 2006) and its affiliated Recommendation (No. 197, 2006).

Mining is a major industry in Ukraine and is one of the most hazardous industrial sectors. Many miners suffer from work accidents, especially serious and fatal accidents, as well as occupational respiratory and musculoskeletal diseases. This is why a specific chapter of the OSH profile will be dedicated to the mining sector.

For the EU funded project, the update of the 2012 OSH profile will be the first step towards the formulation of recommendations to bring national legislation on OSH in line with the EU Acquis. Based on the updated OSH Profile, Table of Concordance on OSH legal provisions with EU law will be elaborated. The Table of Concordance will then be presented to tripartite constituents and will inform the development of a “white paper” on the necessary reforms to establish a system integrating the EU OSH legislation.

For the Canada funded project, the update of the 2012 National OSH Profile and analysis of existing national legislation on mining is the pre-condition for formulating recommendations on improving existing legislation or elaboration of new legislation concerning OSH in mining, as well as to developing and adopting National OSH strategy and programmes for the mining industry.

2. Objectives

The purpose of the contract is to update the Ukrainian National OSH Profile: a diagnostic instrument which entails a systematic review and evaluation of the national situation in respect of occupational accidents and diseases as well as of the entire range of instruments and resources available in Ukraine to implement a National OSH Programme.

The instrument, to be endorsed by the tripartite constituents, is required as a common reference, grounded in the realities of the stakeholders involved. It will be used for identifying strong and weak points and gaps and then for identifying the priority issues on which the National OSH Programme will be built.

It will serve to:

- Overall, provide policy-makers, government officials, workers, employers, OSH practitioners and the public with the most up-to-date information on the occupational safety and health development of Ukraine;
- For the EU funded project, provide input to preparation of the Table of Concordance on OSH legal provisions with EU law, with the necessary information to make informed recommendations on OSH law reform;
- For the Canada funded project, serve as the zero report for Ukraine’s ratification of ILO Convention C.187.
3. Contents of the National OSH Profile

The contents of the National OSH Profiles to be developed shall meet the requirements of ILO Promotional Framework for OSH Convention (No 187, 2006) and its affiliated Recommendation (No 197, 2006) and shall include the following information covering the period of 2012-2016. The suggested sections for the OSH profile are indicated below. In any case, the content of the OSH profile must include the elements stated in article 14 of ILO Recommendation No. 197 mentioned above.

Abstract

Abbreviations

Forward

1) Laws and regulations, collective agreements;
   1.1 Legislation System of Occupational Safety and Health
   1.2 Occupational Safety and Health Requirement in the Constitution
   1.3 Major OSH Laws
   1.4 Major OSH secondary legislative acts issued by competent authorities
   1.5 OSH Standards
   1.6 Ratified ILO Conventions
   1.7 Application of the ILO Occupational Safety and Health Codes (if and when implemented)

2) Authority or body, or the authorities or bodies, responsible for OSH (National OSH Supervision and Administration Systems)
   2.1 National OSH Supervision and Administration
   2.2 National Tripartite OSH Committee
   2.3 Roles of other ministries in OSH and coordination and cooperation mechanisms such as Ministry of Agrarian Policy and Production, Ministry of Energy and Coal Industry, Ministry of Health etc.

3) Mechanisms for ensuring compliance including the systems of inspection
   3.1 National level OSH Supervision and Inspection systems
   3.2 Number of inspectors, inspection visits and results

4) Arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives
   4.1 Number of OSH committees by the size of the undertaking
   4.2 Other arrangements in OSH at the level of the undertaking

5) National tripartite advisory body addressing OSH issues;
   5.1 Composition and mechanisms
   5.2 Recent discussion items and results

6) Information and advisory services on OSH
   6.1 Websites and other means to disseminate OSH information
   6.2 OSH advisory or consultancy services provided

7) Provision of OSH training;
   7.1 List of National and state level OSH training systems
   7.2 Number of training courses by theme and region
   7.3 Number of participants
8) Occupational health services including industrial hygiene;
   8.1 Mechanisms
   8.2 List of occupational health service providers and their service contents
9) Research in OSH;
   9.1 Main research items and projects in OSH research and which institutions implement these
10) Mechanism for the collection and analysis of data on occupational injuries and diseases and their causes;
11) Collaboration with insurance or social security schemes covering occupational injuries and diseases;
   11.1 Mechanism of collaboration
   11.2 Number of occupational injuries and diseases covered by social security schemes
12) Support mechanisms for disadvantageous groups of workers
   12.1 Workers in small and medium-sized enterprises (having 10 to 200 workers)
   12.2 Workers in micro-enterprises (having less than 10 workers)
   12.3 Workers in the informal economy
   12.4 Migrant workers
   12.5 Self employed
13) Support mechanisms for women workers
   13.1 Special arrangements for reproductive health and maternity care
   13.2 Special arrangements for other special needs of women workers, including transportation for night workers, or adjustment needs due to body size differences
14) Coordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms
15) Technical standards, codes of practice and guidelines on OSH;
16) Educational and awareness-raising arrangements to enhance preventive safety and health culture, including promotional initiatives;
   16.1 National Safety Day activities
   16.2 National Safety awards
   16.3 OSH education in secondary schools/vocational schools/universities
17) Specialized technical, medical and scientific institutions with linkages to various aspects of OSH, including research institutes and laboratories concerned with OSH;
   17.1 List of academic institutions related to OSH
   17.2 Non-Governmental OSH Organization
18) Company personnel engaged in the area of OSH, such as safety and health officers, safety engineers, occupational physicians and hygienists;
19) Occupational injury and disease statistics and events;
   19.1 Statistics on occupational accidents including sex-disaggregated data
   19.2 Statistics on occupational diseases including sex-disaggregated data
   19.3 Examples of recent serious occupational disease outbreaks, including silicosis outbreaks, lead poisoning, or mercury poisoning
   19.3 Underreporting issue, root causes and estimates available
20) Industry-specific policies and programs to hazardous occupations
   20.1 Construction
   20.2 Agriculture
   20.3 Prevention of major industrial accidents
21) OSH in Mining:
21.1 Laws and regulations
21.1.1 Legislation System in OSH in Mining
21.1.2 Major legal acts and regulations in OSH in Mining
21.1.3 State-level Regulations and Departmental Rules in Mining
21.1.4 OSH in Mining Standards
21.1.5 Convention No 176
21.1.6 Application of the ILO Occupational Safety and Health Codes (if and when implemented) concerning OSH in Mining
21.2 Mechanisms for ensuring compliance including the systems of inspection
21.2.1 National and state level OSH Supervision and Inspection systems in mining
21.2.2 Number of inspectors, inspection visits and results
21.3 Authority or body, or the authorities or bodies, responsible for OSH in mining (National OSH Supervision and Administration Systems)
21.3.1 National OSH Supervision and Administration for Mining
21.3.2 National Tripartite OSH Committee for Mining
21.3.3 Role of the Ministry of Energy and Coal for OSH in Mining
21.3.4 Other bodies and authorities and their departments related to Mining sector and their role in OSH by a mine type (coal, ore, open, underground)
21.4 Mechanisms for ensuring compliance including the systems of inspection
21.4.1 National OSH Supervision and Inspection systems for Mining sector
21.4.2 Number of inspectors, inspection visits and results
21.5 Occupational injury and disease statistics and events in Mining sector
21.5.1 Statistics on occupational accidents including sex-disaggregated data
21.5.2 Statistics on occupational diseases including sex-disaggregated data
21.5.3 Examples of recent serious accidents.
21.5.4 Number of occupational injuries and diseases covered by social security schemes.
21.5.5 Underreporting issue, root causes and estimates available
21.6 Financial and budgetary resources with regard to OSH in Mining
21.7 Data addressing demography, literacy, economy and employment, as available, as well as any other relevant information.
21.8 Influence of the Armed Conflict in Ukraine to the budget allocation and overall Mining sector with emphasis on OSH.
21.9 Role of employers and employees’ organizations in OSH in Mining.
21.10 Regular or ongoing activities related to OSH in Mining, including international collaboration.
21.11 Analysis of gaps in existing national OSH systems in Mining and recommendations of action areas to be included in National OSH Programme (national action plans in OSH).
22) Mechanisms to prevent industrial disaster, protect environment and promote public safety
23) OSH policies and programmes of organizations of employers and workers;
   19.1. Policies, programs and activities in OSH by employers’ organizations/companies
   19.2. Policies, programs and activities in OSH by workers’ organizations
24) Regular or ongoing activities related to OSH, including international collaboration;
25) Financial and budgetary resources with regard to OSH (central and local levels);
26) Data addressing demography, literacy, economy and employment, as available, as well as any other relevant information; influence of the Armed Conflict in the East of Ukraine and annexation of Crimea.
27) Analysis of gaps in existing national OSH systems and recommendations of action areas to be included in National OSH Programme (national action plans in OSH).
4. Methodology

The Contractor will carry out its work following ILO guidance on the essential contents of the National OSH Profile, potential information sources and the process for collecting information attached to this ToR.¹

In particular, the Contractor will:

- Conduct a Desk review of the latest information on OSH for Ukraine since 2012 (latest OSH Profile). This includes review of documentation, registers and databases;
- Consult with the experts within the Ministry of Social Policy and SLS;
- Conduct interviews using a series of formal questions with all competent OSH authorities, social partners and research institutions to gather the most updated and comprehensive information as possible;
- Conduct a survey, submitting a questionnaire, to be developed for this purpose, to all relevant organizations and stakeholders if deemed necessary;
- Present the draft updated national OSH profile to the ILO for reviews and comments in English and Ukrainian;
- Edit the document to reflect the ILO comments - in English and Ukrainian;
- Present draft updated national OSH profile to tripartite constituents for validation at the workshop;
- Prepare the report of the validation workshop.
- Finalize the national OSH profile based on the comments and recommendation of the tripartite constituents at validation workshop in English and Ukrainian and ensure consistency between the two texts.
- The national OSH profile shall be produced by Contractor in both English and Ukrainian.

5. Deliverables

The Contractor will deliver the following outputs to the full satisfaction of the ILO:

1. List of institutions/organizations and agenda of interviews requested with the relevant OSH authorities, list of questions for interviews;
2. Questionnaire developed for the survey;
3. Draft updated OSH Profile in English and Ukrainian;
4. Tripartite validation workshop report in English and Ukrainian;
5. Final updated OSH profile in English and Ukrainian.

The documents shall be submitted in MS Word format, Times New Romans font, 12 pt, 1.5 interval space, min 60 pages.

¹ Module 3, National OSH Profile and Analysis of the National OSH Situation, ILO Training Package on Development of a National Programme of Occupational Safety and Health, 2012.
6. Qualifications

The Contractor needed for this consultancy should possess the following qualifications:

- At least five years’ experience in conducting analysis/research;
- Experience in drafting/preparing assessment reports and strategic plans;
- Familiarity on labour laws and occupational safety and health standards;
- Ability to design, organize and facilitate workshops, consultations, meetings, fora and focus group discussions;
- Familiarity working with government, and workers’ and employers’ organizations, an asset;
- Background working with the ILO or any other UN agency, donor agency and international NGOs, an asset;
- Knowledge of English, an asset

7. Timeline & Payment Schedule

Payment will be made as follows upon satisfactory performance of tasks foreseen that is to be confirmed by the ILO:

<table>
<thead>
<tr>
<th>Deliverables</th>
<th>Tentative Time Schedule</th>
<th>Payment tranches</th>
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<tbody>
<tr>
<td>Tentative workplan, agenda of interviews and distribution of tasks (in case a group of consultants will be involved)</td>
<td>10 August 2017</td>
<td></td>
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<tr>
<td>List of interviews conducted organizations covered by survey &amp; Draft updated national OSH profile for ILO review and comments</td>
<td>15 September 2017</td>
<td>30%</td>
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<tr>
<td>Pre-final updated national OSH profile for validation workshop</td>
<td>30 September 2017</td>
<td>30%</td>
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<tr>
<td>Finalized updated national OSH profile after validation workshop and workshop report</td>
<td>30 October 2017</td>
<td>40%</td>
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Expected start day – 1 August 2017

Source of financing the assignment:
The assignment will be co-funded by two ILO projects:

1. EU-funded project “Enhancing the Labour Administration Capacity to Improve Working Conditions and Tackle Undeclared Work”
2. “Improving Occupational Safety and Health in the Mining Industry of Ukraine” project funded by the Government of Canada.
**Requirements to the applications:**

The application documents of potential contactors shall be submitted in English and shall include the following:

1. Cover letter, explaining why the applicant is suitable for the assignment
2. Information about the applicant’s relevant experience (in case of natural person(s) – CV(s), in case of legal entity – company profile and relevant experience). The information provided shall clearly show that the qualifications required are met.
3. Description of and timeline for actions to be taken by the potential contractor to fulfill the assignment.
4. Cost estimates with breakdown by necessary budget lines. The cost of works related to chapters on OSH in mining shall be indicated separately. VAT (if charged) shall be indicated separately.
5. The application documents shall be submitted in non-editable PDF format.

**Deadline for applications and contact details:**

The application documents shall be sent by e-mail to LABADMIN/OSH, ILO Headquarters in Geneva, Ms. Justine Tillier, tillier@ilo.org

**No later than 13:Kiev time of 1st of August 2017.**

For additional information please contact Ms. Sofia Lytvyn (lytvyn@ilo.org, +380503349887) for the administrative arrangements and structure of ToR, Ms. Iryna Peksheva (pekshepva@ilo.org, +38 050 855 00 82) for the section on OSH in mining.