

REQUEST FOR TENDERS

File: AP_6/5/8/3
Date: 10 September 2019
To: Interested legal consultants
From: Sela Soakai-Simamao, PWP Finance and Procurement Officer

Subject: Request for tenders: Legislative Review and Assessment of Environmental & Waste Legislative Environment in 15 Pacific island countries for the PacWastePlus Project.

1. Background

- 1.1. The Secretariat of the Pacific Regional Environment Programme (SPREP) is an intergovernmental organisation charged with promoting cooperation among Pacific islands countries and territories to protect and improve their environment and ensure sustainable development.
- 1.2. For more information, see: www.sprep.org.

2. Specifications: statement of requirement

- 2.1. SPREP would like to call for tenders from qualified and experienced legal consultants who can offer their services to conduct a legislative review and assessment of environmental and waste legislative environment in 15 Pacific island countries for the PacWastePlus Project.
- 2.2. The Terms of Reference and the specific duties required of this engagement are set out in Annex A.

3. Conditions: information for applicants

- 3.1. To be considered for this tender, interested suppliers must meet the following conditions:
 - Submit a CV for each project staff to be deployed in the proposed project plan
 - Provide at least 3 referees as part of their tender application
 - Provide examples of related past work outputs
 - Complete the tender application form (*please note you are required to complete all areas in full as requested on the form, particularly the Statements to demonstrate you meet the selection criteria -DO NOT refer us "refer to CV or your technical proposal"*). *Failure to do this will mean your application will NOT be considered.*

4. Submission guidelines

- 4.1. Tender documentation should demonstrate that the interested legal consultant satisfies the conditions stated above and can meet the requirements stipulated in the Terms of Reference. Documentation must also include supporting examples to address the evaluation criteria.

- 4.2. Tender documentation should outline the interested supplier's complete proposal : methods, personnel (skill set and individual CV's), timeframe and cost.
- 4.3. Interested consultants must insist on an acknowledgement of receipt of tenders/proposals/bids.

5. Tender Clarification

- 5.1. Any clarification questions from applicants must be submitted by email to Veronica F. Levi on veronical@sprep.org and copy selas@sprep.org before 02 October 2019. A summary of all questions received with an associated response will be posted on the SPREP website www.sprep.org/tender by 07 October 2019.

6. Evaluation criteria

- 6.1. SPREP will select a preferred legal consultant based on SPREP's evaluation of the extent to which the documentation demonstrates that the tenderer offers the best value for money, and that the tenderer satisfies the following criteria.
- Strong knowledge of environmental issues and governance context in the Pacific Region including Timor Leste
 - Expertise in environmental legislation and waste management legislation including the drafting, assessment and consultation on impacts and possible unintended consequences from poorly researched/framed legislative instruments.
 - Proven track record in undertaking legislative assessments, consultation with government departments on the developing and implementation of legislative instruments.
 - Demonstrated experience in developing legislative assessment reports to guide the development of supporting tools that further the implementation of effective legislative instruments.
 - Detailed Project Methodology that includes activities to be conducted over the term of the engagement.

7. Deadline

- 7.1. **The due date for submission of the tender is: 11 October 2019**
- 7.2. Late submissions will be returned unopened to the sender.
- 7.3. Please send all tenders clearly marked 'TENDER: Legislative Review and Assessment of Environmental & Waste Legislative Environment' to one of the following methods:

Mail: SPREP
Attention: Procurement Officer
PO Box 240
Apia, SAMOA

Email: tenders@sprep.org

Fax: 685 20231

Person: Submit by hand in the tenders box at SPREP reception,
Vailima, Samoa.

SPREP reserves the right to reject any or all tenders and the lowest or any tender will not necessarily be accepted.

For any complaints regarding the Secretariat's tenders please refer to the Complaints section on the SPREP website
<http://www.sprep.org/accountability/complaints>

**Annex A
TERMS OF REFERENCE**

**Legislative Review and Assessment of the Environmental & Waste Legislative
Environment in 15 Pacific Island Countries
For
The PacWaste Plus project**

1. BACKGROUND

The Secretariat of the Pacific Regional Environment Programme (SPREP) is working with the European Union's Delegation to the Pacific, and 14 Pacific Island Countries and Timor-Leste to undertake the PacWaste Plus Project, which seeks to improve and enhance waste management activities and the capacity of governments, industry and communities to manage waste to reduce the impact on human health and the environment.

PacWaste Plus seeks to generate improved economic, social, health and environmental benefits for Pacific Island Countries arising from stronger regional economic integration and the sustainable management of natural resources and the environment. The programme activities will be designed to assist Countries to ensure the safe and sustainable management of waste with due regard for the conservation of biodiversity, reduction of marine litter, health and well-being of Pacific island communities, and climate change mitigation and adaptation requirements.

The PacWaste Plus Project has a specific Key Result Area (KRA) which requires specific action on the development and implementation of appropriate environmental legislation to achieve the above aims. Specifically, the project seeks to,

Assist in developing:

- 1) a regional legislative framework with integrated policies and institutional arrangements for waste management;
- 2) national policies, legislation and implementation strategies to transition to a comprehensive and sustainable waste management system;
- 3) developing mechanisms such as national licensing and certification for waste management service providers and pilot in one - three countries.
- 4) Advocate for change at regional and international meetings to influence the decision making of the Pacific and world leaders to support good environmental governance and action.

Countries participating in the PacWaste Plus project are:

Cook Islands,
Democratic Republic of
Timor-Leste, Federated
States of Micronesia,
Fiji, Kiribati, Nauru,
Niue, Palau, Papua
New Guinea, Republic
of the Marshall Islands,
Samoa
Solomon Islands, Tonga,
Tuvalu, Vanuatu.

2. PROJECT OBJECTIVES

This engagement seeks to gain a comprehensive understanding of the legislative environment governing the environment (with a focus on waste management) in each of the participating countries. We also seek to gain an understanding of the likely project interventions that will assist each country to improve waste management outcomes, and an assessment of the regional alignment to relevant frameworks.

3. PROJECT SCOPE

The PacWastePlus project requires an in-depth understanding of the existing, and pipeline, legislative framework operating in the 15 participating countries.

3.1 Project Delivery

The required project activities covered under this project are included in Table 1

Table 1: Project Activities

| | |
|---------------|--|
| Task 1 | Undertake a comprehensive assessment/stock take of the legislative environment governing environmental and waste management issues in each of the 15 participating countries. |
| Task 2 | Undertake an assessment of pipeline legislative and policy activities planned in each participating country. |
| Task 3 | Assessment of how each participating country regulates the management of the projects eight target waste streams (considering environmental, economic, financial, social, etc., legislative and policy instruments) |
| Task 4 | Assessment of the capacity of each country to implement and enforce their existing legislation |
| Task 5 | Assessment of needs relating to document drafting, capacity building, etc. to enhance each countries management of waste and environmental protection. |
| Task 6 | Regional solutions assessment of the various frameworks, alignment between countries or gaps that could be resolved to strengthen outcomes |
| Task 7 | Draft National Options Papers: proposing options for organising the legal and institutional infrastructure governing wastes; identifying main elements that should be considered when developing or strengthening waste legislation. |

It is expected that consultants will need to spend time in each country liaising directly with staff from waste management / environment departments and government legislative branches, to be able to undertake the required analysis and understand pipeline activities.

Task 1 – Existing Legislative Stock-take

Undertake a comprehensive assessment/stock take of the legislative environment governing environmental and waste management issues in each of the 15 participating countries.

Focus of the assessment should be to review: Conventions; treaty's; legislation; regulation; policy; strategy; and procedures, etc. The review should take into consideration at a minimum: the prime source of the law (including the definition of ministerial powers); laws (primary legislation); regulation (subsidiary legislation); and rules of procedure.

Multilateral Environment Agreements (MEAs) to be considered in the stock-take include: Waigani, Basel, Stockholm, Rotterdam, and Minamata. Various MEAs are dealing with the sound management of chemicals and waste. While many aspects of these agreements require relatively similar interventions, national implementation is often managed by different authorities, and is therefore fragmented.

Focus is necessarily on waste management, but should also consider the broad environment field as waste may not be specifically referenced, but pollution may, etc. We are also keen to understand what requirements may exist on the capture, management and use of data related to environmental / waste issues.

The information from the stock-take should seek, at a minimum to identify the following: Instrument name; enabling legislation; description of intent; operative clauses and how they influence the management of wastes, or the impact on the environment; government department responsible for management; etc.

The stock-take should consider the existence and functionality of any inter-ministerial national chemical (and or waste) coordinating committees. Countries can be categorised into countries where:

- (i) no inter-sectoral coordination mechanism exists and no analysis of national waste situation has been undertaken;
- (ii) some inter-sectoral coordination mechanism exists and an analysis of the main national waste situation has been undertaken; and
- (iii) where a functioning inter-sectoral coordination mechanism is in place, an analysis of national waste situation has been undertaken, and waste priorities have been included in the national development agenda.

Deliverable

The outcomes of the stock-take should be displayed in a tabular format, and electronic copies of all documents referenced in the table should be provided for ease of reference and review by the PacWastePlus programme team. Names and coordinated of designated national authorities (DNAs) for each MEA focal point should also be included.

Task 2 – Pipeline Legislative Stock-take

Activities described in Task 1 should be undertaken for task 2 for any identified pipeline Conventions; treaty's; legislation; regulation; policy; strategy; and procedures, etc.

Where pipeline framework changes are identified, an assessment of the impact to the existing framework should be undertaken noting a description of the previous regime, the new regime, and likely changes to the issue / focus area the legislation is intended to address. Key items for note should be extracted and highlighted. The assessment should also note the focal point for identified framework legislation and the approximate timeframe for development.

Deliverable

The outcome of this task should again be a tabular format, and electronic copies of all documents referenced in the table should be provided for ease of reference and review by the PacWastePlus programme team.

Task 3 –Legislative Assessment as related to the PacWaste Plus project actions

The consultant is to consider the outcomes from Tasks 1 & 2 and analyse these to determine the cumulative impact of current legislation, as well as key gaps. Consideration should be given to:

- Which of the identified legislative instruments directly relate to PacWastePlus program actions or priority waste streams of: healthcare waste, asbestos, e-waste, recyclables, organics, disaster waste, bulky waste and wastewater.
- How does each instrument affect / effect management of the waste stream or the regulated community (provide details of the required management or behavior)
- How departments are required to capture, store, use and report information collected due to the instrument
- How the existing legislative framework impacts or influences cumulative outcomes for the environment (e.g. is the regulation likely to improve waste management activities or environmental protection?, where is the responsibility for management placed? Are resources provided for the responsible entities to undertake the legislative requirements, etc..)
- Are there areas where one instrument is in conflict with other Instruments? What are the issues, and what is the likely outcome of any such conflict?
- Given any stated objectives through any of the instruments, what opportunities exist for countries to develop and implement additional legislative instruments that may assist in achieving the desired management and environmental outcomes?

Deliverable

The consultant is to determine the best way to display the outcome of the assessment either tabular, report style, or a combination.

Task 4 : Country Capacity Assessment

Whilst undertaking Tasks 1-3, the consultant is required to undertake an assessment of the existing ability for each country to draft, enact, implement, enforce, report to conventions, and comply with the various instruments that make up their legislative framework. The assessment methodology should include quantitative data collection on enforcement activities (including fines etc) for domestic legislation, as well as data on compliance with reporting requirements of MEAs.

Where the country has identified pipeline instruments, an assessment of the capacity of the country to implement these should also be made. Any advice or determination of the resource requirements necessary to ensure outcomes are achieved should be noted.

Deliverable

The consultant is to determine the best way to display the outcome of the assessment either tabular, report style, or a combination.

Task 5 – Country legislative opportunity assessment & needs analysis

Utilising the outcomes from Tasks 3 & 4, the consultant is required to assess whether any objectives stated in any of the instruments, provide opportunities, or require countries to develop and implement additional legislative instruments (or modify existing instruments) that may assist in achieving the desired management and environmental outcomes?

An assessment of needs relating to legislative drafting, capacity building, etc. to enhance each countries management of waste and environmental protection should also be undertaken.

Deliverable

The consultant is to determine the best way to display the outcome of the assessment either tabular, report style, or a combination.

Task 6 – Regional Solutions Assessment

Undertake a comprehensive assessment of relevant regional and global frameworks and conventions related to waste management, the alignment of these frameworks to project countries or gaps that could be resolved to strengthen outcomes. This task should also include an assessment if common gaps identified at national level may be addressed through a regionally harmonised approach.

Deliverable

The consultant is to determine the best way to display the outcome of the assessment either tabular, report style, or a combination.

Task 7 – National options papers and possible solutions

Draft National Options Papers: proposing options for organising the legal and institutional infrastructure governing wastes; identifying main elements that should be considered when developing or strengthening waste legislation. Possible solutions should be identified based on a clear problem statement and of the goal for the process of strengthening legal infrastructure governing waste, including opportunities for cost recovery systems.

Deliverable

The consultant should produce short options papers for each country to identify key actions required to increase country capacity to manage wastes and improve social welfare and environmental outcomes through effective waste management (supported by an appropriate legislative structure).

3.2 Project Schedule

The activities are to be completed no later than **1 May 2020** with a preference for the activities to be completed much earlier. Expected project activity is detailed in Table 2, it is expected that tender responses will detail how and when each of these steps will be delivered.

Table 2: Project Schedule

| Activity |
|--|
| <i>Notification of Successful Consultant</i> |
| 1. Commencement Meeting between Successful Consultant and PacWastePlus Team |
| 2. Approval of Workplan & Methodology |
| <i>Contract Signing</i> |
| 3. Undertake a comprehensive assessment/stock take of the legislative environment governing environmental and waste management issues in each of the 15 participating countries. |
| 4. Undertake an assessment of pipeline legislative and policy activities planned in each participating country. |
| 5. Assessment of how each participating country regulates the management of the projects eight target waste streams (considering environmental, financial, social, etc., legislative and policy instruments) |
| 6. Assessment of the capacity of each country to implement and enforce their existing legislation |
| 7. Assessment of needs relating to document drafting, capacity building, etc. to enhance each countries management of waste and environmental protection. |
| 8. Regional solutions assessment of the various frameworks, alignment between countries or gaps that could be resolved to strengthen outcomes |
| 9. Development of National Options Papers |
| 10. Submission of draft report (s) |
| 11. SPREP provides comments on draft report(s) |
| 12. Submission of final reports to SPREP |

3.3 Budget

Submissions are required to itemise all financial elements of their proposal, including, but not limited to, the following:

- Salary costs (hourly rate and proposed hours for each team member, allocated to role)
- Travel Costs & other disbursements
- All applicable taxes

- Proposed Payment Schedule (please note an initial payment on contract signing cannot exceed 30% of the contract value).

Please note: All proposals are to provide the project budget in USD.

4. Selection Criteria

The selection criteria used to determine the successful consultant are outlined below. The criteria are not in any order or to be given equal weighting.

Criteria are as follows:

(i) Experience

- Curriculum Vitae of all project staff and roles to be deployed on in the proposed project plan.
- Strong knowledge of environmental issues and governance context in the Pacific Region including Timor-Leste
- Expertise in environmental legislation and waste management legislation including the drafting, assessment and consultation on impacts and possible unintended consequences from poorly researched/framed legislative instruments
- Proven track record in undertaking legislative assessments, consultation with government departments on the developing and implementation of legislative instruments
- Demonstrated experience in developing legislative assessment reports to guide the development of supporting tools that further the implementation of effective legislative instruments

(ii) Proposed Project Methodology

- Detailing activities to be conducted over the term of the engagement, including detail on which team members will undertake each activity. Methodology presented should be in line with and make reference to the UNEP Guidance On the Development of Institutional Infrastructures and Measures for Recovering Costs of National Administrations (<http://wedocs.unep.org/handle/20.500.11822/12224> –)

(iii) Demonstration of value for money

5. Other Information

It is expected that consultants will need to spend time in each country liaising directly with staff to undertake the required information gathering, and analysis of current and pipeline activities. All in-country arrangements and support from country counterparts will necessarily be initially arranged through SPREP and no direct contact should be made until official introductions are made.

The successful consultant will be provided with any appropriate documents identified and saved by the PacWastePlus project team as part of the preparation for the activity. It is hoped this will assist with reducing the burden of the initial literature review.