



## INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Date: 18 May 2017

Interested, qualified and experienced individual consultant(s) are hereby invited to forward their applications for the assignment as detailed below.

**Number of positions** : 1  
**Contract Type** : Individual Consultant  
**Country** : South Africa  
**Description of the assignment** : Legal Researcher  
**Estimated Period of assignment/services (if applicable):** 15 days within 1½ months  
**Estimated Contract Commencement Date** : **29<sup>th</sup> May 2017**

Applications should be submitted by email to the following address: -  
[procurement.za@undp.org](mailto:procurement.za@undp.org)

The **deadline** for submission of applications is by close of business on **23<sup>th</sup> May 2017**.

Any request for clarification must be sent by standard electronic communication to the e-mail address indicated above. UNDP will respond by standard electronic mail and MAY send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants who would have acknowledged receipt of this notice and thus confirmed that they shall be submitting their applications.

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## 1. BACKGROUND

The Department of Rural Development and Land Reform (DRDLR) has introduced the Regulations of Agricultural Landholdings Policy and accompanying Bill (RALHB) with the aim of reversing the legacy of colonialism and apartheid, and to ensure a “*just and equitable*” distribution of agricultural land among those who live in, and work, it. The proposed reforms seek to ensure progressive realisation of the objectives and principles enshrined in the Constitution, particularly section 25(5), (7) and (8) as well as Section 27, on equitable access to land by citizens and redress for those who lost tenure and land as well as local and household food security. The RLHB/RLHP stem from the 2011 Green Paper on Land Reform’s unitary and integrated 4-tier tenure system, particularly the tiers on Privately-owned land (freehold with limited extent) and Foreign-owned land (combination of freehold with limited extent). The Regulations of Agricultural Land Holdings Bill (RALHB) was published for public comments on 17<sup>th</sup> of March, 2017 and closed on 17 May 2017. The DRDLR has been collecting and analysing submissions/public comments as they come in.

## 2. SCOPE OF WORK, RESPONSIBILITIES AND DESCRIPTION OF THE PROPOSED ANALYTICAL WORK

The objective of the assignment is to consider and assess these public comments raised on the Constitutionality of the RALHB and conduct necessary legal research which will respond to the various legal concerns raised about the Bill, based upon Constitutional Case Law and precedents. This assessment will build on two constitutional law opinions commissioned by the DRDLR from Senior Council, feedback from the Chief State Law Advisor and draw on latest case law on the matter. A briefing for further work from Senior Council will also be required from the incumbent.

### EXPECTED OUTPUTS

Given the aforementioned, the legal research will provide assessment of the constitutional claims made with respect to the overall and specific sections of the RALHB. The analysis should

1. Consider and assess comments raised on the Constitutionality of the RALHB
2. Base the assessments made against the background and the analysis made by the State Law Advisor, and two Senior Council Opinions secured both on the Constitutionality of the Bill and the change of tenure from freehold to long term lease hold for agricultural land.
3. Carefully assess the advice received against/as well as, the new areas raised as constitutional concerns, including misinterpretations of the constitution
4. Frame and conduct the necessary legal research in responding to the various legal concerns noted on the RALHB, based upon Constitutional case law and precedents;
5. Prepare a brief of Terms of Reference for further work by Senior Council, and

Deliver draft Report in 10-15 days.

### 3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

- \* **Education:** Post Graduate Degree in Law with specialization on Constitutional Law
- **Research:** Strong legal research background on issues of land policy and development;
- A **demonstrable interest** in Section 25 and an affinity to principles and objectives of inclusive development and transformation will be an added advantage
- **Experience:** More than 8 years of consulting experience on the topic of law/policy analysis, land reform and development.
- **Knowledge and Skills:** Project Management; Legal Research and Analysis; Senior Council Briefings and Report Writing;

### 4. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING THE PROPOSALS.

Interested individual consultants must submit the following documents/information to demonstrate their qualifications:

1. Proposal:
  - (i) Explaining why they are the most suitable for the work
  - (ii) Provide a brief methodology on how they will approach and conduct the work (if applicable)
2. Financial proposal
3. Personal CV including past experience in similar projects and at least 3 references

### 5. FINANCIAL PROPOSAL

- **Lump sum contracts**

The financial proposal shall specify a total lump sum amount, and payment terms around specific and measurable (qualitative and quantitative) deliverables (i.e. whether payments fall in installments or upon completion of the entire contract). Payments are based upon output, i.e. upon delivery of the services specified in the TOR. In order to assist the requesting unit in the comparison of financial proposals, the financial proposal will include a breakdown of this lump sum amount (including travel, per diems, and number of anticipated working days).

**Travel:**

All envisaged travel costs must be included in the financial proposal. This includes all travel to join duty station/repatriation travel. In general, UNDP should not accept travel costs exceeding those of an economy class ticket. Should the IC wish to travel on a higher class he/she should do so using their own resources.

In the case of unforeseeable travel, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and Individual Consultant, prior to travel and will be reimbursed

### 6. AWARD OF CONTRACT

The contract will be awarded to the lowest priced technically qualified proposal.

Where 70% is the minimum technical score of the following overall criteria: -

- Methodology

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| <ul style="list-style-type: none"><li>- Experience</li><li>- Qualification</li></ul> |
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**Additional documents attached to this Notice: -**

- **TERMS OF REFERENCES (TOR)**
- **INDIVIDUAL CONSULTANT GENERAL TERMS AND CONDITIONS**
- **CONFIRMATION OF INTEREST AND SUBMISSION OF FINANCIAL PROPOSAL**