

## INDIVIDUAL CONSULTANT/RLA PROCUREMENT NOTICE



Date 09<sup>th</sup> September 2019

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**Number of consultancies** : 1  
**Contract Type :** Individual Contract/RLA  
**Country** : South Africa  
**Description of the assignment** : Individual Contract/RLA

**National/International Consultant to conduct a 5-day Access and Benefit Sharing Contract Law training (for representatives of government, community and industry/researchers); to develop model benefit sharing agreements for the bioprospecting and biotrade sectors and to draft a training manual**

**Estimated Period of assignment/services (if applicable): 2 months**

**Estimated Contract Commencement Date** : 01<sup>st</sup> October 2019

Proposal should be submitted by email to [bid.pretoria@undp.org](mailto:bid.pretoria@undp.org) no later than 20<sup>th</sup> September 2019 11:59 Midnight, South Africa time zone (GMT +02:00).

Any request for clarification must be sent by standard electronic communication to [procurement.enquiries.za@undp.org](mailto:procurement.enquiries.za@undp.org). UNDP will respond by standard electronic mail and will send responses, including an explanation of the query without identifying the source of inquiry, to all consultants.

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## 1. BACKGROUND

South Africa, through the Department of Environment, Forestry and Fisheries, is part of the UNDP-GEF Global ABS Project titled: "Strengthening human resources, legal framework and institutional capacities to implement the Nagoya Protocol" which aims to facilitate the implementation of the Nagoya Protocol on Access and Benefit Sharing (ABS). Under Component 1 of the project, *Strengthening the legal, policy and institutional capacity to develop national ABS frameworks*, a 5-day training session on ABS Contracting, specifically ABS Contract Law, with government, communities and industry representatives, is envisaged.

South Africa is actively engaged in bioprospecting activities which involve the exploration of biodiversity for valuable genetic resources that may be used for commercial purposes. The bioprospecting/biotrade sector has demonstrated the potential for significant development and growth, contributing to job creation, rural development, and the conservation of our natural resources. According to the Convention on Biological Diversity, "Access and benefit-sharing (ABS) refers to the way in which biological or genetic resources may be accessed, and how the benefits that result from their use are shared between the people or countries using the resources (users) and the people or countries that provide them (providers)."

There are many institutional frameworks, international and national, which play a critical role in assisting governments in developing their national policies, legislations and programs to ensure that access to genetic resources and associated traditional knowledge, and the sharing of benefits thereof, happen in a fair and equitable way. Chapter 6 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004); and the Bioprospecting, Access and Benefit-Sharing Amendment Regulations (BABS Regulations) are a few examples of the foundational and compulsory frameworks and legislation that is administered by the Department. In South Africa, the principles of the Nagoya Protocol are implemented through these pieces of legislations. The BABS Regulations prescribes the notification process for the discovery phase of bioprospecting involving any indigenous genetic and biological resources and further prescribes the permit system that applies to bioprospecting activities. In addition, the BABS Regulations set out the form and content of, and requirements and criteria for benefit-sharing and material transfer agreements and the administration process of the Bioprospecting Trust Fund.

Benefit Sharing Agreements (BSA) are entered into by a permit applicant and a relevant stakeholder (eg. Resource provider, TK holder), for access to any indigenous genetic and biological resources (IGBR) and/or Traditional Knowledge associated with the aforementioned resource. The BSA is a legally binding contract that requires information about the IGBR to be accessed, information on Traditional Knowledge and related communities and the mechanisms of benefit sharing (monetary and non-monetary). Due to the complex and dynamic nature of the ABS environment in South Africa, the negotiations involved in, and the drafting of BSAs need to be a systematic process that follows due diligence. It is critical to ensure that the key stakeholders and role players in the bioprospecting/biotrade sector are sufficiently capacitated to facilitate the fair and equitable sharing of benefits that arise from the use of IGBR as well as to ensure a level of standardization on the understanding of benefit sharing and an enhanced knowledge around benefit sharing issues.

As per the approved Annual Work Plan for the year 2019 for South Africa, the body of work will require a national or international consultant to design and conduct a training session tailored to government, community and industry stakeholders, focusing on Contract Law related to Access and Benefit Sharing.

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

The scope of work of the Consultant(s) is to design and conduct a training session tailored to government, community and industry stakeholders, focusing on Contract Law related to Access and Benefit Sharing. The training should focus on negotiation of benefit sharing agreements (BSA); developing a model BSA for bioprospecting and biotrade sectors and drafting a training manual as specified below.

### 3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

#### 3.1 Academic Qualifications/Education:

- Minimum Master's Degree in Environmental Law/ Contract Law

#### 3.2 Experience:

The selection of the consultancy will be aimed at conducting a training session on ABS Contract Law for government, community and industry stakeholders.

- Team Members – technical skills necessary for the activity
  - 5+ years of experience in practicing Contract Law
  - 5+ years of experience in the Access and Benefit Sharing environment
- Expertise of Institution / Organisation submitting the proposal – Number of projects/instances where you have provided services of a comparable nature (provide exact details). Provide at least 3 relevant verifiable project references
- Previous work experience with UNDP and/or other government departments on similar projects will serve as an advantage

#### 3.3 Language skills:

Excellent writing, editing, and oral communication skills in English

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

Applicants are required to submit the following:

- i. A Technical Proposal: (i) Letter of Interest, stating why you consider your service suitable for the assignment; and (ii) a brief methodology on the approach and implementation of the assignment, including broad time-frame (phases), and well-defined deliverables in relation to the scope of work, the costs per deliverable(s);
- ii. Evidence and examples of similar work done;
- iii. Personal CVs highlighting qualifications and experience in similar projects;
- iv. Work references - contact details (e-mail addresses) of referees (organization for whom you've produced similar assignments);
- v. All-inclusive financial proposal indicating consultancy fee (South African Rand) and a breakdown of expenses (unit price together with any other expenses) related to the assignment. The proposal must incorporate all travel costs for the service provider to achieve the required deliverables.

### 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:

The Global ABS Project Manager will agree, in consultation with the UNDP South Africa Country Office, with the consultants, in terms of the final number of field missions to be conducted in, and the duration for each mission in accordance with the scope of work. An indicative plan shall be developed at the induction session following the appointment of the consultant. The Financial proposal should include a breakdown of the estimated costs envisaged for the field missions (travel).

## 6. EVALUATION

Applications will be evaluated based on a cumulative analysis **taking into consideration the combination of the applicants' qualifications and financial proposal.**

Those candidates who obtained at least 70% of points in each of the steps of the process will be considered for financial proposal evaluation.

Technical Criteria - 70% of total evaluation – max. 70 points:

- **Criteria A** – Relevant education background (10)
- **Criteria B** – Knowledge in and experience of the South African ABS regulatory environment (15)
- **Criteria C** – Experience in practicing Contract Law related to ABS (15)
- **Criteria D** – Experience in conducting similar training sessions with various stakeholders (15)
- **Criteria E** – Project Management (10)
- **Criteria F** – Previous work experience with UNDP and/or other government departments or other related organizations and familiarity with their websites and knowledge management requirements (5)

Financial Criteria - 30% of total evaluation – max. 30 points

### **ATTACHEMENTS TO THIS NOTICE:**

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