

**Terms of reference - INDIVIDUAL CONSULTANT  
PROCUREMENT NOTICE**



Empowered lives.  
Resilient nations.

Position: Expert on legislation map of *Masyarakat Hukum Adat*  
(National, 1 post)  
Closing date:

**GENERAL INFORMATION**

Title: Expert on legislation map of *Masyarakat Hukum Adat*  
Project Name : PMU  
Reports to: Working Group Chair of Legal Review and Law Enforcement  
Duty Station: Jakarta  
Expected Places of Travel (if applicable): -  
Duration of Assignment: 3 months, from: May – July 2014; OUTPUT Based

**REQUIRED DOCUMENT FROM HIRING UNIT**

|                                     |                                                                |
|-------------------------------------|----------------------------------------------------------------|
| <input checked="" type="checkbox"/> | TERMS OF REFERENCE                                             |
| <input type="checkbox"/>            | CONFIRMATION OF CATEGORY OF LOCAL CONSULTANT , please select : |
| <input type="checkbox"/>            | (1) Junior Consultant                                          |
| <input type="checkbox"/>            | (2) Support Consultant                                         |
| <input type="checkbox"/>            | (3) Support Specialist                                         |
| <input type="checkbox"/>            | (4) Senior Specialist                                          |
| <input type="checkbox"/>            | (5) Expert/ Advisor                                            |
| <input type="checkbox"/>            | CATEGORY OF INTERNATIONAL CONSULTANT , please select :         |
| <input type="checkbox"/>            | (6) Junior Specialist                                          |
| <input type="checkbox"/>            | (7) Specialist                                                 |
| <input type="checkbox"/>            | (8) Senior Specialist                                          |
| <input checked="" type="checkbox"/> | APPROVED e-requisition                                         |

**REQUIRED DOCUMENTATION FROM CONSULTANT**

|                                     |                               |
|-------------------------------------|-------------------------------|
| <input checked="" type="checkbox"/> | CV                            |
| <input checked="" type="checkbox"/> | Copy of education certificate |
| <input checked="" type="checkbox"/> | Completed financial proposal  |
| <input checked="" type="checkbox"/> | Completed technical proposal  |

**Need for presence of IC consultant in office:**

☒ partial, consultant will come to office to work with team two days in a week. The consultant will spend much of his/her time on the field.

☐ intermittent (explain)

☐ full time/office based (needs justification from the Requesting Unit)

**Provision of Support Services:**

Office space: Yes No

Equipment (laptop etc): Yes No

Secretarial Services Yes No

If yes has been checked, indicate here who will be responsible for providing the support services:

Signature of the Budget Owner: Roy Rahendra

## I. BACKGROUND

### Context of the REDD+ initiative:

Indonesia is the third largest emitter of carbon dioxide (CO<sub>2</sub>) and the world's largest emitter from agriculture, forestry and other land use. Over the past five years, Indonesia's annual deforestation rate has averaged around 1 million hectares, which contributes to an estimated 87 percent of Indonesia's annual emissions. In response to this situation, in 2009, President Susilo Bambang Yudhoyono, made a voluntary commitment to the world to reduce emissions as much as 26 percent under a business-as-usual scenario or up to 41 percent with international support by 2020.

According to the Second National Communication from Indonesia to the UNFCCC, Indonesia is expected to emit around 2.9 million metric tons (gigatons) by 2020 under the business-as-usual scenario. A commitment to reduce that amount by 26 percent would mean a reduction of 0.8 gigatons, while 41 percent would amount to a reduction of 1.2 gigatons. A reduction from an expected 2.9 to 1.7 gigatons by 2020 is a challenging commitment for a country aiming to maintain its 7 percent annual growth rate. Nevertheless, this commitment has been translated into a comprehensive National Action Plan known as RAN-GRK (PP 61/2011).

The National Action Plan for the Reduction of Green-house Gas Emissions (RAN-GRK) estimates that 87 percent of the emission-reduction target - approximately 1 gigaton - relates directly to the forestry and peat land sectors and, to address this, the government has adopted an incentive mechanism to improve management of the country's vast forest resources while supporting climate-change mitigation. This mechanism, known as REDD+ (Reducing Emissions from Deforestation and Forest Degradation), has five primary objectives: (a) reduction of deforestation; (b) reduction of forest degradation; (c) conservation of carbon stocks; (d) sustainable forest management; and (e) enhancing carbon stocks.

On 26 May 2010 the Governments of Indonesia and Norway signed a Letter of Intent (LoI) to establish a REDD+ Partnership. The first phase of this REDD+ Partnership (Phase 1) was to establish an agency with the capacity to implement and manage REDD+ projects initially in the pilot province Central Kalimantan and progressively in other priority provinces across Indonesia. A Task Force (*Satuan Tugas*, Satgas) was established to support this initial phase and, as of June 2013 at the end of the Task Force's mandate, the following progress was achieved:

1. Drafting of an integrated Presidential Regulation regarding the establishment of a REDD+ Agency and governance of REDD+ in Indonesia;
2. Finalisation of a REDD+ National Strategy (Stranas) and development of Provincial Strategies and Action Plans (PSAPs) for the eleven priority provinces;
3. Agreement on, and legal basis for, the structure and operations of a REDD+ Financial Instrument (FREDDI); its implementation awaits the establishment of the REDD+ Agency and the subsequent release of funding for Phase 2 of the LoI;
4. A methodology for the structure and Standard Operating Procedures (SOPs) of the MRV technical unit; while international standards and an international/national REDD+ registry remain in development, the unit is ready for mobilisation following the establishment of the REDD+ Agency;
5. Legal review of regulatory requirements related to REDD+ implementation in particular land tenure, forest and peat-land governance, forest monitoring and law enforcement, consolidation of land concessions, and a Moratorium on all new concessions for conversion of peat and natural forest in Indonesia; and
6. Successful implementation of a wide range of projects by the REDD+ Task Force in the pilot province Central Kalimantan with a focus on developing an operational capacity and an enabling environment for REDD+ projects.

These achievements have prepared a basic foundation for a future REDD+ national programme that aims to address the emission-reduction target for the forestry and peat-land sectors and the

national long-term goals associated with sustainable economic development and poverty reduction.

**Context of this ToR:**

Legal certainty on the status of the forest area is one of the main issues in forest governance and land. To date, only about 12 million hectares out of the 128 million hectares of forest area in Indonesia has been determined definitively. The lack of law enforcement is one loophole that might cause corruption. This had been stated by the research of KPK on the system of management and planning of forest area. Another implication of this problem is the proliferation of conflicts in the field, since the completion of the settlement process is not yet accomplished. Therefore, in order to improve the forest governance, eradicate the corruption and conflict of tenure, it is essential to accomplish the determination of forest area immediately.

This is in accordance with the Decision of the Constitutional Court number 45/PUU-IX/2011 and Article 15 paragraph (1) of Law No. 41 of 1999 on Forestry. The gazettelement of forest area covers the processes of appointment, boundary marking, mapping and determination of forest area. Thus, to establish forest area, the boundary marking and mapping should be carried out on 116 million hectares of forest.

In order to accelerate the completion of the forest gazettelement in time, it is necessary for us to make a breakthrough. For this, a mechanism called 'claim-verification' should be implemented. This mechanism requires legal studies to ensure the implementation which is based on the regulations. The studies cover inventory aspect of third parties, including customary rights of indigenous communities. In this context, REDD+ Agency is seeking Expert on legislation map of *Masyarakat Hukum Adat*.

**Objectives of Assignment:**

Developing the model of regulations on the stipulation of the recognition of Masyarakat Hukum Adat and developing the legislation map related to Masyarakat Hukum Adat.

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

### Scope of work:

- a. To map the legislation related to the applicable *Masyarakat Hukum Adat* and to identify the aspects which need to improve, in relations with *Masyarakat Hukum Adat* at national and sub national levels.
- b. To develop model of regulation regarding the stipulation of the recognition of *Masyarakat Hukum Adat* and the indigenous people's territory

## II. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATIONS

### I. Academic Qualifications:

- Doctoral degree, specializing in *Hukum Agraria* with at least 10 years' experience in conducting research related to land dispute which involves indigenous community.

### II. Years of experience:

- Demonstrated ability and experience to draft of law and regulations on land issues.
- Demonstrated ability and experience to develop the academic text on draft law on land rights.
- Ability to produce (bilingual) written material on a broad-range of REDD+ subjects, targeting a wide-range of stakeholders.
- Demonstrated ability to understand the differences and similarities of a wide range of social groups, and through this understanding prepare appropriate stakeholder engagement policies, processes and materials.
- Sound experience in environmental and social issues related to REDD or sustainable development, especially in forestry or agriculture.

### III. Competencies:

#### **Functional Competencies:**

##### Knowledge Management and Learning:

- Promotes knowledge management in UNDP and a learning environment in the office through leadership and personal example; and
- Actively works towards continuing personal learning and development in one or more practice Areas, acts on learning plan and applies newly acquired skills.
- Development and Operational Effectiveness:
  - Ability to conceptualise issues and analyse data;
  - Ability to coordinate the work of others;
  - Ability to implement new systems (business side), and affect staff behavioural/attitudinal change;
  - Good knowledge of Results Management Guide and Toolkit; and
  - Ability to demonstrate good knowledge on Climate Change and/or REDD+ issues.
- Management and Leadership:

- Builds strong relationships with clients, focuses on impact and result for the client and responds positively to feedback;
- Consistently approaches work with energy and a positive, constructive attitude;
- Demonstrates openness to change and ability to manage complexities;
- Leads teams effectively and shows mentoring as well as conflict resolution skills; and
- Demonstrates strong oral and written communication skills.

**Other Requirements:**

- In addition to the scope and output stated above, the incumbent will be required to undertake other *ad hoc* tasks that may arise during the contract period. These tasks should not impede on the incumbent's ability to meet contractual obligations/deliverables.
- All materials and other intellectual property produced while working under contract including, but not limited to, documents, presentations, white papers, photographs and other media, will remain the property of the REDD+ Taskforce and are required to be submitted to WG Coordinator for archiving.
- This assignment will require extensive communications with stakeholders from different locations and in different circumstances and, with this in mind, it may be necessary to accommodate some irregular working hours.

### III. EXPECTED RESULTS

1. The legislation map related to the current *Masyarakat Hukum Adat* and the improvement required, in relations with *Masyarakat Hukum Adat* at national and sub national levels.
2. Model of regulation regarding the stipulation of the recognition of *Masyarakat Hukum Adat* and indigenous people's territory.

| No | Deliverables                                                                                                                                                                                                                                                                                                                                                                                                  | Due Date     |
|----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 1  | Draft I of legislation map related to the current <i>Masyarakat Hukum Adat</i> and the improvement required, in relations with <i>Masyarakat Hukum Adat</i> at national and sub national levels;<br><br>Draft I of regulation model regarding the stipulation of the recognition of <i>Masyarakat Hukum Adat</i> and indigenous people's territory.                                                           | 31 May 2014  |
| 2  | Report of the trial/public testing on legislation map related to the current <i>Masyarakat Hukum Adat</i> and the improvement required, in relations with <i>Masyarakat Hukum Adat</i> at national and sub national levels;<br><br>Report of the trial/public testing on the regulation model regarding the stipulation of the recognition of <i>Masyarakat Hukum Adat</i> and indigenous people's territory. | 30 June 2014 |
| 3  | The legislation map related to the current <i>Masyarakat Hukum Adat</i> and the improvement required, in relations with                                                                                                                                                                                                                                                                                       | 31 July 2014 |

|  |                                                                                                                                                                                                                     |  |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|
|  | <p><i>Masyarakat Hukum Adat</i> at national and sub national levels;</p> <p>Model of regulation regarding the stipulation of the recognition of <i>Masyarakat Hukum Adat</i> and indigenous people's territory.</p> |  |
|--|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|