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INDIVIDUAL CONSULTANT PROCUREMENT NOTICE

Reference: PN/FJI-013-17

Consultancy Title: Fisheries Legal Specialist
Project Name: Implementing a “Ridge to Reef” approach to protect biodiversity and ecosystem functions in Nauru (R2R Nauru).
Period of assignment: 16 May, 2016 to 16 May, 2017 (60 working days excluding travel)
Duty Station: Nauru
Language Required: English

Consultancy Proposal should be mailed to C/- UNDP Fiji MCO, Private Mail Bag, Suva, Fiji or sent via email to procurement.fj@undp.org no later than 27th April, 2016 (Fiji Time) clearly stating the title of consultancy applied for. Any proposals received after this date/time will not be accepted. Any request for clarification must be sent in writing, or by standard electronic communication to the address or e-mail indicated above. UNDP will respond in writing or by standard electronic mail and will send written copies of the response, including an explanation of the query without identifying the source of inquiry, to all consultants. Incomplete, late and joint proposals will not be considered and only offers for which there is further interest will be contacted. **Failure to submit your application as stated as per the application submission guide (Procurement Notice) on the above link will be considered incomplete and therefore application will not be considered.**

1. BACKGROUND

Nauru is a small island state and one of the smallest independent nations in the world. It is located 41 km south of the equator at 0°32'02.5 South and 166°55'57.8 East which is in the dry belt of the equatorial oceanic zone. The one island nation is roughly 6 km by 4 km in length and width respectively covering a land area of 21 km² and with an estimated population of 10,084 in 2011. The country has a coastline of 30 km and claims an Exclusive Economic Zone (EEZ) of 309,888km². The island is divided into 14 different districts of varying sizes and number of inhabitants which are all situated along the coast except for 1 and with a population density of over 1,500 persons per km². Surrounding the island is a fringing coral reef ranging from 120m to 300m wide, which drops away sharply on the seaward edge to a depth of 4,000m. The central plateau which lies between 20-45 meters above sea level is comprised of a matrix of coral-limestone pinnacles and limestone outcrops between which extensive deposits of high grade phosphate rock are found.. *Refer to Annex 1 –[Terms of Reference](#) for details.*

2. SCOPE OF WORK

The principal responsibility of the international consultant is to;
Conduct a review of the current Fisheries Act with a view of strengthening the legal framework for managing coastal fisheries and marine resources as well as aquaculture;
Develop appropriate legislation and a marine regulatory framework that will support community based management of coastal areas and elicit District Community feedback into the process through a consultative process;
Review and formulate legal processes for enabling community based management arrangements;
Clearly delineate responsibilities in the implementation of coastal and aquaculture components of the Fisheries Act.
Refer to Annex 1 -[Terms of Reference](#) for details.

3. REQUIREMENTS FOR EXPERIENCE AND QUALIFICATION

Qualifications:

Post-graduate degree in law (law of the sea, maritime law, fisheries or natural resources law or any other relevant specialization);

Experience:

- a) High level of proficiency in written and spoken English;
- b) Minimum 10 years relevant experience working in the Pacific region on ocean law and policies with a focus in fisheries law;
- c) Proven report writing and communication skills;
- d) Experience in drafting new or review of fisheries legislation (minimum of 3 assignments);
- e) Demonstrated knowledge and understanding of fisheries legal issues in the Pacific as well as international fisheries instruments relating to coastal fisheries;
- f) Experience in carrying out consultancies for UNDP or other international and regional organizations (minimum 5 consultancies);
- g) Experience working with multiple stakeholders (government, civil society and NGOs) in formulating fisheries laws and getting them adopted;
- h) Previous experience working in the Pacific region will be considered an advantage.

Competencies:

- a) Demonstrates integrity by demonstrating positive values and ethical standards through his/her actions;
- b) Promotes the vision, mission, and strategic goals of the Nauru R2R project;
- c) Displays gender, religion, race, nationality and age sensitivity and adaptability;
- d) Treats all people fairly without favoritism and must be culturally sensitive;
- e) Analytical judgment, results-orientation and efficiency in a multi-tasking environment;
- f) Shares information, knowledge and experience through effective and frequent communication;
- g) Ability to plan and prioritize work effectively in order to keep deadlines;
- h) Ability to engage various partners and stakeholders and builds strong relationships with clients and other stakeholders;
- i) Ability to work in an organized and systematic manner and demonstrate professionalism with high level of integrity in the day-to-day performance of duty;
- j) Good inter-personal and teamwork skills, networking aptitude, ability to work in multicultural environment;
- k) Consistently approaches work with energy and a positive, constructive attitude;
- l) Demonstrates openness to change and ability to manage complexities;
- m) Demonstrates strong commitment and patience to deal with competing deadlines, demands, and interests;
- n) Ability to build consensus and garner support under complex situations;
- o) Remains calm, in control and good humoured even under pressure;

Exudes a friendly atmosphere where colleagues/counterparts can easily ask questions and seek assistance.

4. EVALUATION CRITERIA

Evaluation

Cumulative analysis

The proposals will be evaluated using the cumulative analysis method with a split 70% technical and 30% financial scoring. The proposal with the highest cumulative scoring will be awarded the contract. Applications will be evaluated technically and points are attributed based on how well the proposal meets the requirements of the Terms of Reference using the guidelines detailed in the table below:

When using this weighted scoring method, the award of the contract may be made to the individual consultant whose offer has been evaluated and determined as:

- a) responsive/compliant/acceptable, and
- b) having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

* Technical Criteria weighting; 70%

* Financial Criteria weighting; 30%

Only candidates obtaining a minimum of 49 points in the Technical Evaluation would be considered for the Financial Evaluation. Interviews may be conducted as part of technical assessment for shortlisted proposals.

Evaluation Criteria (70%)			
1. Qualifications			
a) Post-graduate degree in law (law of the sea, maritime law, fisheries or natural resources law or any other relevant specialization);	5%		
2. Experience and Skills			
b) High level of proficiency in written and spoken English and proven report writing and communication skills;	5%		
c) Minimum 10 years relevant experience working in the pacific region on ocean law and policies with a focus in fisheries law;	10%		
d) Experience in drafting new or review of fisheries legislation (minimum of 3 assignments);	10%		
e) Demonstrated knowledge and understanding of fisheries legal issues in the pacific as well as international fisheries instruments relating to coastal fisheries;	10%		
f) Experience in carrying out consultancies for UNDP or other international and regional organizations (minimum 5 consultancies);	10%		
g) Experience working with multiple stakeholders (government, civil society and NGOs) in formulating fisheries laws and getting them adopted;	5%		
h) Previous experience working in the Pacific region in similar field will be considered an advantage.	5%		
i) Competency			
a) Ability to lead strategic planning, results-based management and reporting and lead in formulation, implementation, monitoring and evaluation of development programmes and projects, mobilize resources	5%		
b) Experience of evaluating technical projects and organizational strategy, policy development and change management will be an advantage.	5%		
Evaluation Criteria	70%		
Financial	30%		

5. DOCUMENTS TO BE INCLUDED WHEN SUBMITTING CONSULTANCY PROPOSALS

Submission

1. All bidders are required to provide the following documents with their submissions:
2. Specify whether the consultancy will be undertaken by an individual or as a team.
3. Clearly state whether he/she meets the professional skills and experience required for this consultancy.

Offerors must also send the following documents.

- I. Signed P11/CV form including names of at least 2 referees
- II. Completed template for confirmation of Interest and Submission of Financial Proposal

Note: Failing to submit the above listed documents will result in the automatic disqualification from the evaluation process

Consultant must send a financial proposal based on a **Lump Sum Amount**. The total amount quoted shall be all-inclusive and include all costs components required to perform the deliverables identified in the TOR, including professional fee, travel costs, living allowance (if any work is to be done outside the IC's duty station) and any other applicable cost to be incurred by the IC in completing the assignment. The contract price will be fixed output-based price regardless of extension of the herein specified duration. Payments will be done upon completion of the deliverables/outputs.

In general, UNDP shall 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 event of unforeseeable travel not anticipated in this TOR, payment of travel costs including tickets, lodging and terminal expenses should be agreed upon, between the respective business unit and the Individual Consultant, prior to travel and will be reimbursed.

The P11 form and Template for confirmation of interest and Submission of Financial Proposal is available under the procurement section of UNDP Fiji website (www.fj.undp.org)

Annex 1 –Terms of Reference

Objectives:

Statement(s) outlining clearly the anticipated results of the consultancy.

The key role of the Fisheries Legal Expert is to undertake a review of the Nauru Fisheries Act and to strengthen or develop if necessary a strong legal framework to support the sustainable management of coastal marine resources and aquaculture. In doing so, the consultant is expected to give emphasis in developing legislation that will allow the Nauru Fisheries and Marine Resources Authority (NFMRA) to effect community based approaches for the management of the coastal fisheries and marine resources in Nauru.

Specific to this work, the consultant will conduct work that will be guided by the following outcome and outputs.

Outcome 1.1

Improved management effectiveness of Locally Managed Marine Areas (LMMA)s.

Output 1.1.1

A network of locally managed marine areas (community based (CB) or locally managed marine areas (LMMAs) is established through community actions and supported by enabling government actions.

Output 1.1.2

The establishment of LMMAs are strengthened through CB management plans developed and implemented following participatory approaches and Integrated Coastal Management to address threats, including climate change impacts.

Outcome 3.1

Biodiversity conservation and Sustainable Land Management (SLM) mainstreamed in policy and regulatory frameworks.

Output 3.1.1

Relevant policies are developed for environment, waste management, natural resource management, coastal fisheries, and agricultural land-use.

Output 3.1.2

Capacity of national agencies in the development and formulation of new policies, including drafting of legislation, monitoring and evaluation, project implementation/management and oversight, Global Information Systems (GIS) and

Marine Spatial Planning (MSP) is strengthened.

The outcome of this work is expected to strengthen NFMRA ability to work with communities to effectively manage the coastal fisheries and marine resources sustainably.

Background

Nauru is a small island state and one of the smallest independent nations in the world. It is located 41 km south of the equator at 0°32'02.5 South and 166°55'57.8 East which is in the dry belt of the equatorial oceanic zone. The one island nation is roughly 6 km by 4 km in length and width respectively covering a land area of 21 km² and with an estimated population of 10,084 in 2011. The country has a coastline of 30 km and claims an Exclusive Economic Zone (EEZ) of 309,888km². The island is divided into 14 different districts of varying sizes and number of inhabitants which are all situated along the coast except for 1 and with a population density of over 1,500 persons per km². Surrounding the island is a fringing coral reef ranging from 120m to 300m wide, which drops away sharply on the seaward edge to a depth of 4,000m. The central plateau which lies between 20-45 meters above sea level is comprised of a matrix of coral-limestone pinnacles and limestone outcrops between which extensive deposits of high grade phosphate rock are found.

Economic data for Nauru is not current but it is estimated that in 2011, Gross Domestic Product (GDP) per capita was US\$6,954 and GDP growth was 14% per annum. The mining industry since it started have dominated contribution to the GDP. Contribution from the Fisheries Sector have always been considered negligible and was always pooled together with other services even though the revenue from foreign fishing licenses has increased quite significantly over the last 5 years.

The fisheries in Nauru consists of 2 main sectors. The Oceanic Fishery which consists of the pelagic tuna resources and foreign fishing activities in the 200 mile EEZ, allowed through license agreements and which is strictly managed under regional arrangements through the Party to the Nauru Agreement (PNA) and the Forum Fisheries Agency (FFA) under the FSM Arrangement and the Palau Agreement. The Coastal Fishery Sector on the other hand consists of the inshore tuna fishery, the reef fishery including the deep bottom fishery and coastal marine resources which are within the territorial waters (high water mark to 12 nautical miles offshore). The latter sector provides the mainstay for food security and subsistence and livelihoods.

The Nauru Ridge to Reef (R2R) GEF Project has been designed to develop, establish and implement a government and community partnership approach to increase knowledge for better management of natural resources and ecosystem services for the entire Island of Nauru (South Pacific) through innovative integrated land, water, biodiversity, coastal and marine management approaches thereby protecting and increasing livelihoods opportunities, food security, and enhancing climate resilience. These goals will be achieved by building Nauru's capacity to implement a comprehensive cross sectorial regime for sustainable land, freshwater water, solid waste, coastal and marine area management and ensuring the initiatives are mainstreamed and established into all levels of decision making including government policy, laws and regulations and community plans.

The coastal fisheries and marine resources of Nauru are critically important for subsistence and local livelihood activities for the people of Nauru. Over many hundreds of years these resources have been exploited on an open tenure system which allows anyone to fish anywhere in the inshore waters and which has led to heavy exploitation. The management of these resources is subsequently the responsibility of the national government although historically and even currently, communities tend to claim some authority over adjacent community marine and coastal areas.

The increasing high levels of marine resources exploitation including fishing pressure and use of unsustainable fishing practices have directly decreased resource stocks and Nauru's inshore fisheries food security. These threats are compounded by rapid population growth which is increasing the demand for protein sources from the marine ecosystem and the impacts of climate change which is weakening the resilience of the marine ecosystem to such pressures.

To be able to manage these threats and ensure the sustainability of the fisheries and marine resources, a strong and effective governance system is required that will assist the government and the communities in managing these resources in a sustainable manner. Currently this is lacking. The current Fisheries Act which provides the main legal platform for managing fisheries and marine resources have mainly been focused on the management of the offshore tuna resources and foreign fishing arrangements leaving the management of the inshore (within 12 nautical miles) and coastal fisheries and marine resources weak and inadequate.

In recognition of this weakness and need, the Nauru R2R project consistent with the Global Environmental Facility (GEF) 5 Biodiversity Strategy Objective 2 i.e. *Mainstream Biodiversity Conservation and Sustainable Use into Production Landscapes, Seascapes and Sectors* intends to increase and expand sustainably managed landscapes and seascapes that integrate biodiversity conservation while maintaining economic livelihoods that are closely tied to maintenance of healthy ecosystems. More specifically this is to be implemented under the following project outcomes:

Component 1: Conservation of Marine Biodiversity; Outcome1.1: Improved management effectiveness of LMMAs and Component 3: Governance and Institutions; Outcome 3.1: Biodiversity conservation and SLM mainstreamed in policy and regulatory frameworks.

Scope of work/Expected Output

The Fisheries Legal Specialist through this work will be expected to conduct the following for each of the outputs:

Output 1.1.1

- a) Conduct a review of the current Fisheries Act with a view of strengthening the legal framework for managing coastal fisheries and marine resources as well as aquaculture;
- b) Develop appropriate legislation and a marine regulatory framework that will support community based management of coastal areas and elicit District Community feedback into the process through a consultative process;
- c) Review and formulate legal processes for enabling community based management arrangements;
- d) Clearly delineate responsibilities in the implementation of coastal and aquaculture components of the Fisheries Act.

Output 1.1.2

- e) Develop an effective supporting legal framework and arrangements that will allow the District Communities to establish and operate LMMAs;
- f) Provide a draft of appropriate initial community by-laws to support community management and regulative efforts for their LMMAs and possible external impacts;
- g) Develop guidelines for the processes for reviewing the community by-laws and to get them en-acted;

Output 3.1.1

- h) Ensure that the revised Fisheries Act is aligned accordingly with national policies and other national legislations;
- i) Ensure that the revised Fisheries Act and Regulations are coherent and do not compromise existing International Fisheries obligations and requirements;
- j) Work closely with the Justice Department to ensure that the revision of the Fisheries Act follows the required processes and procedures of the Nauru Government;
- k) Present a final draft of a revised Fisheries Act that includes a stronger legal framework for the development and management of coastal fisheries and aquaculture to NFMRA and the Justice Department, ready for submission to Government for their review and endorsement;

Output 3.1.2

- l) Work with a local counterpart to develop local capacity, understanding and awareness of the legal processes and requirements in the legal issues relating to the management of coastal fisheries and marine resources and aquaculture;
- m) Develop guidelines for a review and evaluation process for the Fisheries Act.

In achieving the outcome of this work, the Fisheries Legal Specialist will be expected to work closely with NFMRA and other relevant stakeholders to review and update the existing Fisheries legislation and identify the weaknesses threatening successful fisheries management and development especially with the integration and participation of communities into the coastal fisheries management process. It must also be stressed that the review and update should not only consider the fisheries sector but should take a more holistic approach and consider other sectors that have a direct or indirect impact on fisheries (e.g., the environment, hygiene and sanitation, pollution, investment codes, etc.).

The consultancy should include travel to country to enable sufficient national consultations on proposed legal amendments. The in-country travel will include collecting, reviewing and analyzing relevant documents dealing with the coastal fisheries and aquaculture sectors and consulting with NFMRA as well as other stakeholders (other local administrations and fishing communities). Consultative workshops is encouraged and must be conducted in a participatory fashion following international best practices and according to Nauru's requirements in both the legal development process and the scope and content of the document. The inputs from stakeholders will be critical to the success of the project and the long term compliance with the legislative provisions.

Reporting and Coordination

The consultant will be expected to report and coordinate work with the following key parties:

1. NFMRA for recommendation on process and on the ground consultation support etc
2. Nauru R2R PMU to facilitate travel and workshop logistics

The engagement and achievement of this work will be reflected through the following key result areas:

- a) Amended Fisheries Act – The amendment of the Fisheries Act should be conducted through a series of consultation and workshops with key stakeholders. A draft of the Fisheries Act must be presented to these key stakeholders for comment to confirm that their expectation and needs in relation to both fisheries management and the basic principles of economic development, biodiversity and resource sustainability are met before finalizing it.
- b) Development of a marine legislative and regulatory framework for community-based management planning

c) Development of a guideline for the review and evaluation process for the Fisheries Act

All reports on deliverables will be submitted to UNDP through the endorsement of the involved stakeholders (NFMRA and PMU).

Timelines & Due dates:

This contract is totaled to 60 days over a period of 1 year beginning from when contract will be signed. Deliverables will also be assessed based on key result areas achieved according to the following timeframe:

Deliverable	Timeline
1. Submission and approval of work plan indicating methodology and timeline for the 60 working days excluding international travel	Within 15 days of signing contract (01 June 2016)
2. Submission and approval of all consultation reports reflecting discussions linked to the expected outputs (1.1.1, 3.1.1 and 3.1.2) and key results areas	30 September 2016
3. Submission and approval of 1 st draft of the key results areas which includes an amended Fisheries Act, an identified legislative and regulatory framework for community-based management planning and a descriptive guidelines for review and evaluation of the Fisheries Act. This must be must be presented in-country to the key stakeholders for comments through a validating process	31 January 2017
4. Submission and approval of final versions of deliverable 3	30 April 2017

Resources Provided

- All costs associated with the delivery of this work based on work plan submitted detailing all activities to achieve delivery and timeline.
- Ground transportation to facilitate in-country meetings and consultation. Any other travel expenses can be claimed upon receiving a copy of his/her receipt.
- Travel costs to country , Meals and accommodation in Nauru must be included in consultant's budget based on number of days spent in-country.(Lump sum Proposal)
- Office facility in Nauru will be provided with PMU with possible access to internet, printer and scanner
- Nomination of national counterpart to work with

Supervision/Reporting

- UNDP for deliverables based on endorsement from responsible government partner (NFMRA)
- PMU for all activities in-country and logistic support. He/She will be expected to also provide workplan and report on all activities conducted to PMU.
- Presentation to key working groups and committees as when required

Payment Schedule (if required):

Deliverable	Timeline
1. Submission and approval of work plan indicating methodology and timeline for the 60 working days excluding international travel	20%
2. Submission and approval of all consultation reports reflecting discussions linked to the expected outputs (1.1.1, 3.1.1 and 3.1.2) and key results areas	20%
3. Submission and approval of 1 st draft of the key results areas which includes an amended Fisheries Act, an identified legislative and regulatory framework for community-based management planning and a descriptive guidelines for review and evaluation of the Fisheries Act. This must be must be presented in-country to the key stakeholders for comments through a validating process	25%
4. Submission and approval of final versions of deliverable 3	35%

