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Terms of Reference for a Local Legal Expert to draft an Integrated Waste Management Legislative Framework, including the draft bill for Mauritius

TITLE:	Drafting of an Integrated Waste Management Legislative Framework, including the draft bill for Mauritius
COUNTRY:	Mauritius
REGION:	Africa
DUTY STATION:	Home-based/ UNDP CO Mauritius
CONTRACT TYPE:	Individual Consultant
DURATION:	30 working days
STARTING DATE:	1 October 2021
CONTRACT PERIOD:	5 months

A. Project title

Drafting of an Integrated Waste Management Legislative Framework, including the draft bill for Mauritius

B. Project Description

Mauritius is a small island developing State of total surface area 1868 km² located to the East of Madagascar in the South-West Indian Ocean. Over the years, the island has developed from a low income economy to an upper middle income economy. Coupled with this economic growth and an increase in its population, the island has also experienced an average annual increase of 2% in solid wastes generation. Once the solid wastes are generated, the collection service is ensured by the 12 Local Authorities located on the island through a door-to-door collection service. The solid wastes collected then transit through one of the five transfer stations located on the island prior to ultimate disposal at the landfill. Only solid wastes generated in the South and South-East of Mauritius are directly landfilled. Solid waste management in Mauritius has been mainly focussed on landfilling, with over 95% of the total solid wastes generated annually being disposed at the Mare Chicose landfill. Since 1997, the Mare Chicose landfill, the only landfill on the island, has received over nine Million tonnes of wastes and although the landfill has been ensuring the environmentally safe and sound management of solid wastes over the years, this is not a sustainable approach.

The Government of Mauritius has thus decided to shift the practice in solid waste management from a linear approach to a circular economy model. In this regard, a new Solid Waste Management Strategy and Action Plan was developed in 2017, focussing on resource recovery and recycling in the short to medium term while tapping the energy recovery potential of solid wastes in the long term. Emanating from this strategy, the Ministry is planning on, amongst others, the implementation of waste segregation at source and setting-up of civic amenity centres. Furthermore, in the Government Programme 2020-2024, sustainable solid waste management is at the forefront of the agenda. Thus, a major change is warranted in the solid waste landscape. This will entail institutional reforms and capacity building to be spearheaded by the Solid Waste Management Division (SWMD) of the Ministry of Environment, Solid Waste Management and Climate Change (MoESWMC).

This gradual shift to a circular economy model must be translated into a proper legislative framework. Currently, there is no dedicated legislation in Mauritius that deals with solid waste management

holistically. Regulations for specific waste streams are made under the Local Government Act (as amended) and the Environment Protection Act (as amended) while general provisions on solid waste management are likewise made under these two Acts. The current legislative and regulatory frameworks for solid waste management are not comprehensive and in some cases, the provisions are outdated leading to a weak enforcement of the laws. Furthermore, different Government organisations share concurrent jurisdiction over aspects of solid and hazardous waste management without a proper definition of roles and responsibilities of all involved stakeholders, thereby resulting in a fragmented and ineffective approach to solid and hazardous waste management. Penalties for infringing on solid waste management laws are also inconsistent and thus call for harmonisation. In addition, a number of gaps exist in the current legislative and regulatory frameworks that consider the aspect of waste management.

This Ministry intends to develop an Integrated Waste Management Legislative Framework with the view of providing strategic direction and guidance towards sustainable solid and hazardous waste management practices in line with the concept of circular economy. This new legislative framework will assist the Ministry in adopting an integrated and sustainable approach for the sound management of all forms of waste streams covering solid and hazardous wastes. The legislation will also draw from regional and international best practices on solid and hazardous waste management while taking into consideration the local prevailing conditions.

In this context, it is proposed to procure the services of three consultants: One International Legal Expert and one Local Legal Expert, with the International Legal Expert assuming the role of overall Team Leader, to undertake an in-depth review of existing legislations and regulations and consult related policies on solid and hazardous waste management to draft the contents of an Integrated Waste Management legislative framework, including the draft bill; and one International Solid Waste Management Expert to undertake a situational analysis of solid waste management in Mauritius, review international best practices and carry out an institutional assessment of the SWMD of the MoESW MCC. The assessments of the International Solid Waste Management will serve as inputs to draft the Integrated Waste Management Framework, including the draft bill.

C. Scope of Work

The UNDP Mauritius Country Office seeks to procure the services of a Local Legal Expert, who will work in close consultation with and under the lead of the International Legal Expert, to provide consultancy services as follows:

- i. Carry out an in-depth review of all related legislations and regulations and consult policy documents in Mauritius to ensure that adequate provisions are made in the forthcoming legislation with regards to integrated and sustainable solid and hazardous waste management. These include, but are not limited to the following:
 - The Environment Protection Act (amended) and associated regulations and standards;
 - The Local Government Act (amended) and associated regulations;
 - Public Health Act 1925 and the Dangerous Chemical Control Act 2004;
 - Occupational Safety and Health Act 2005;
 - The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - The Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa;
 - Stockholm Convention on Persistent Organic Pollutants;
 - The Minamata Convention on Mercury; and
 - The Rotterdam Convention.

- ii. Carry out extensive public consultations on solid and hazardous waste management issues using methods deemed appropriate including at least two workshops (one consultative and one validation workshop). The consultations will include, but not limited to the following:
- Ministries;
 - Local Authorities;
 - Parastatal organizations;
 - Non-Government Organizations (NGOs);
 - Recyclers and exporters of wastes;
 - Academia;
 - Business Communities;
 - Waste management service providers (waste transport, processing/treatment, transfer station operators, landfill operator/s); and
 - Industries involved in the following sectors: quarrying, commercial, manufacturing/processing, agriculture, construction, energy, water and transport, amongst others.
- iii. Develop an Integrated Waste Management Legal Framework, including the draft bill that allow enough adjustability to accommodate changing circumstances, including the following:
- International best practices on the holistic management of solid and hazardous waste including new and emerging issues with respect to environmental sustainability, concepts such as green and circular economy, nature-based solutions, sustainable consumption and production, resource efficiency, etc based on the review conducted by the Solid Waste Management Expert;
 - Institutional arrangements and gap assessments, coordination mechanisms and segregation of duties using input from the Solid Waste Management Expert;
 - Recommendations on possible legal and institutional frameworks that could facilitate the domestication of the provisions of Multilateral Environmental Agreements to which the Republic of Mauritius (RoM) is a party (to ensure compliance to Regional and International commitments);
 - Consultative process and community participation in solid and hazardous waste management;
 - Obligations of waste generators, collectors of waste, operators of recovery/recycling facilities, operators of disposal facilities including storage, collection, transportation, disposal of waste and duty of care;
 - Permits/registration of waste operators;
 - Licensing and supervision of waste haulers/carriers;
 - Licensing and supervision of recovery/recycling and treatment facilities;
 - Licensing and supervision of waste transfer and disposal facilities;
 - Industrial waste management plans;
 - Standards and regulations;
 - Guidelines and codes of practice, amongst others, for the local authorities; waste management strategies and plans, operational standards of waste management facilities etc.
 - Reporting and Auditing;
 - Waste information management systems;
 - Economic instruments and cost recovery;
 - Litter and litter abatement measures;

- Enforcement;
 - Advisory Committees;
 - Private sector participation;
 - Extended Producer Responsibility;
 - Banning of specific waste streams from transfer stations and the landfill;
 - Penalties and offences;
 - Miscellaneous provisions; and
 - Gender dimensions.
- iv. Act as resource person for the consultative and validation workshops.

D. Expected outputs

The Local Legal Expert will work in close coordination with the International Legal Expert and the International Solid Waste Management Expert, to provide high quality services to the UNDP and its stakeholders. S/He will prepare necessary deliverables, to be sent to the UNDP Head of Environment. Deliverables have to be presented to the UNDP and its stakeholders. All deliverables shall be paid only after approval by the UNDP and the SWMD of the MoESW MCC.

Note: The international legal expert and the local legal expert will submit the same reports as deliverables.

The assignment includes the following outputs:

- **Inception Report**

The Consultants shall submit an inception report outlining initial observations, a brief background of the regulatory framework on solid and hazardous waste management in Mauritius, a comprehensive methodology and detailed work program including proposed meetings with stakeholders. This report shall be submitted to the Supervising Officer of the SWMD for approval to proceed.

- **Final review of existing legal framework, including gap analysis and recommendations**

The Consultants shall submit an Intermediate Report including, amongst others:

- a) An in-depth review of all existing regulations and provisions pertaining to solid and hazardous waste management in Mauritius. This shall include the identification of gaps and weaknesses of these legal provisions;
- b) A desk review of international legislative and regulatory frameworks for solid and hazardous waste management;
- c) Based on the gap analysis and international legislative and regulatory frameworks, recommendations for improving the existing legal provisions for Mauritius;
- d) Proposals for new legislations with a brief overview of the provisions therein; and
- e) Any other tasks as required under the Scope of work.

- **Final proposed Legislative Framework, including Draft Solid Waste Management Bill**

The Consultants shall, amongst others,

- a) Have consultations with all relevant stakeholders, including the State Law Office and relevant Governmental Institutions, academia, NGO's, civil society, the private sector and development institutions, amongst others, during the drafting of the Integrated Waste Management Legislative Framework;

- b) Draft a section on "Interpretation" which defines all terms pertaining to the solid and hazardous waste sector as applicable in the Integrated Waste Management Legislative Framework;
- c) Provide Explanatory Memorandum associated with the proposed Integrated Waste Management Legislative Framework;
- d) Incorporate all legal and regulatory provisions made under other Acts pertaining to solid waste management in the Integrated Waste Management Legislative Framework;
- e) Make new provisions pertaining to solid and hazardous waste management including the prohibition of illegal dumping, backyard burning, etc.
- f) Define the roles and responsibilities of all stakeholders in the solid and hazardous waste sector;
- g) Define the powers of the Minister for the formulation of regulatory provisions for new Regulations pertaining to waste management in the Integrated Waste Management Legislative Framework, including, but not limited to, waste segregation at source, extended producer responsibility, construction and demolition waste management, end-of-life vehicles, sludge, coal ash, bagasse ash, circular economy, etc.
- h) Make recommendations on possible legal and institutional frameworks that could facilitate the domestication of the provisions of the Basel Convention and other conventions pertaining to hazardous wastes to which Mauritius is a party;
- i) Make provisions for the enforcement of the provisions of the Integrated Waste Management Legislative Framework and any other Regulations enacted;
- j) Make provisions for penalties in case of non-compliance; and
- k) Any other requirements stipulated under the scope of work or as otherwise deemed relevant for inclusion in an integrated waste management legislative framework.

The consultant will be remunerated in accordance with the following time schedule and deliverables.

SN	Outputs / Deliverables	Fee (%)	Means of verification	Timeline
1	Inception Report	10%	Approved Inception Report	15 October 2021
2	Draft review of existing legal framework, including gap analysis and recommendations	25%	Approved draft report	5 November 2021
3	Final review of existing legal framework, including gap analysis and recommendations	5%	Approved final report	23 November 2021
4	Consultative meeting report	10%	Approved consultation report	16 December 2021
5	Draft proposed Legislative Framework, including Draft Solid Waste Management Bill	35%	Approved draft framework	7 January 2022
6	Consultative meeting report	5%	Approved consultation report	4 February 2022
7	Final proposed Legislative Framework, including Final Draft Solid Waste Management Bill	10%	Approved final draft of Legislative Framework	18 February 2022
	Total	100%		

Important Note

All deliverables will be submitted as draft first prior to being approved for submission. All deliverables shall be in **English** and submitted in appropriate format, in MS Word and in PDF as per requirement of the Client to Mr Shakil Beedassy, Head of Environment Unit, a.i., UNDP Mauritius CO at shakil.beedassy@undp.org

and Mrs Sewah Kumari Doorgakant, Permanent Secretary, SWMD, MoESWMCC at sdoorgakant@govmu.org with copy to bbeera@hotmail.com and knoel-dabeecharun@govmu.org.

The designated officer/focal point of the SWMD of the MoESWMCC will be responsible for further distribution. The deliverables should be of high quality in form and substance and with appropriate professional presentation. The consultants should fully comply with the requirements of UNDP in terms of content and presentation and respect UNDP visibility guidelines, since unsatisfactory performance may result in termination of contract.

E. Institutional Arrangement

The Local Legal Expert will provide high quality services to the SWMD of the MoESWMCC and the UNDP. A joint UNDP/SWMD of the MoESWMCC technical committee will be set up to follow-up and monitor, as well as to assess the quality of the deliverables and provide feedback to the consultant. All deliverables shall be paid only after approval by the committee.

F. Duration of the work

The services of the consultant shall be required for a duration of 30 person days spread over 4 months, up to 18 February 2022.

G. Duty Station

Home-based for the consultant. The physical presence of the Local Legal Expert is expected for coordinating meetings with the UNDP/SWMD of the MoESWMCC and for the consultative and validation workshops.

H. Qualifications and Experience of the Successful Individual Contractor

Education:

Holder of a Bachelor in Law (LLB) or equivalent. A Master of Laws (LLM) in Environmental Law or an equivalent qualification will be an advantage.

Experience:

- A minimum of 10 years practicing law in Mauritius with 2 years in the fields of environment and sustainable development; and
- Specific experience in drafting high quality legal documents and policies related to the environment and sustainable development.

Skills:

- Good interpersonal and communication skill with the ability to effectively interact at senior levels of Government in a multi-disciplinary and multi-cultural environment;
- Strong drafting and reporting skills; and
- Fluency in English (both written and verbal) and a good knowledge of French is an advantage.

I. Scope of bid price and schedule of payments

The financial offer is a lump sum amount, including the professional fee, insurance and other costs. Payments will be effected based on deliverables as per above.

While the consultant will act as facilitator to the workshops (one consultative and one validation workshops), the costs of the workshops will be met by the MoESWMCC.

J. Recommended Presentation of Offer

The following documents are requested:

- a) Duly completed **Letter of Confirmation of Interest and Availability** using the template provided by UNDP;
- b) **Personal CV or P11**, indicating all past experience from similar projects, as well as the contact details (email and telephone number) of the candidate and at least three (3) professional references;
- c) **Technical offer: Brief description** of why the individual considers him/herself as the most suitable for the assignment, and a **methodology** on how they will approach and complete the assignment;
- d) **Financial Proposal** that indicates the all-inclusive fixed total contract price, supported by a breakdown of costs, as per template provided by UNDP.

K. Criteria for selection of best offer

Individual consultant will be evaluated based on the following methodology:

Cumulative analysis

The award of the contract will be made to the candidate whose offer has been evaluated using the "Combined Scoring Method" whereby the selection will be based on a Combined Scoring Method where the technical proposal will be 70 per cent and combined with the price offer which will be weighted 30 per cent.

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

- a) Responsive/compliant/acceptable technical proposal; and
- b) Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

Technical evaluation criteria:

Criteria	Max. Point
A Bachelor in Law (LLB) or equivalent. A Master of Laws (LLM) in Environmental Law or equivalent qualification will be a plus	20
Must be a registered lawyer	20
A minimum of 10 years practicing law in Mauritius with 2 years in the fields of environment and sustainable development	20
Experience in dealing with Governments and local stakeholders	10
Experience in working with international funding agencies	10
Language (English mandatory/French is a plus)	10

Conversant with environmental laws and institutional framework for environmental management in commonwealth countries	10
TOTAL max.	100

Candidates scoring a minimum of 70% of the maximum marks on the above criteria will be considered for the financial evaluation. The financial offers will be evaluated giving the lowest price proposal 30 marks and marking the other more expensive proposals reverse proportionally to the cheapest offer. The final scoring of short-listed candidates will take into account the technical score and the financial score:

Criteria	Weight	Max. Point
• Technical score	70%	70
• Financial score	30%	30

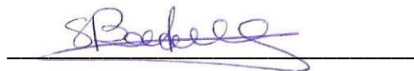
The candidate ranking highest shall be selected.

L. Approval

This TOR is approved by:

Shakil Beedassy

Signature: _____



Designation: Head of Environment Unit, a.i.

Date of Signing: 3 September 2021