

REQUEST FOR TENDERS

RFT: 2023/022
File: CONV 2/5/1
Date: 27 April, 2023
To: Interested consultants
From: Karen Baird, Threatened and Migratory Species Adviser

Subject: Request for tenders (RFT): Legal review and advice of Vanuatu's Convention on International Trade in Endangered Species (CITES) legislation.

1. Background

- 1.1. The Secretariat of the Pacific Regional Environment Programme (SPREP) is an intergovernmental organization charged with promoting cooperation among Pacific islands countries and territories to protect and improve their environment and ensure sustainable development.
- 1.2. SPREP approaches the environmental challenges faced by the Pacific guided by four simple Values. These values guide all aspects of our work:
 - We value the Environment
 - We value our People
 - We value high quality and targeted Service Delivery
 - We value Integrity
- 1.3. For more information, see: www.sprep.org.

2. Specifications: statement of requirement

- 2.1. SPREP wishes to call for tenders from qualified and experienced consultants who can offer their services to complete a review of Vanuatu's CITES legislation.
- 2.2. The Terms of Reference of the consultancy are set out in Annex A.
- 2.3. The successful consultant must supply the services to the extent applicable, in compliance with SPREP's Values and Code of Conduct: https://www.sprep.org/attachments/Publications/Corporate_Documents/spreporganisational-values-code-of-conduct.pdf. Including SPREP's policy on Child Protection, Environmental Social Safeguards, Fraud Prevention & Whistleblower Protection and Gender and Social Inclusion.
- 2.4. SPREP Standard Contract Terms and Conditions are non-negotiable

3. Conditions: information for applicants

- 3.1. To be considered for this tender, interested consultants must meet the following conditions:
 - i. Submit a detailed Curriculum vitae detailing qualification and previous relevant experience for each proposed personnel;
 - ii. Provide three referees relevant to this tender submission, including the most recent work completed;

- iii. Complete the **tender application form** provided (*Please note you are required to complete in full all areas requested in the Form, particularly the Statements to demonstrate you meet the selection criteria – DO NOT refer us to your CV. Failure to do this will mean your application will **not** be considered*).
Provide examples of past related work outputs
For the Technical and Financial proposals you may attach these separately.
 - iv. Provide a copy of valid business registration/license.
- 3.2 Tenderers must declare any areas that may constitute conflict of interest related to this tender and sign the **conflict of interest form** provided.
- 3.3 **Tenderer is deemed ineligible due to association with exclusion criteria, including** bankruptcy, insolvency or winding up procedures, breach of obligations relating to the payment of taxes or social security contributions, fraudulent or negligent practice, violation of intellectual property rights, under a judgment by the court, grave professional misconduct including misrepresentation, corruption, participation in a criminal organisation, money laundering or terrorist financing, child labour and other trafficking in human beings, deficiency in capability in complying main obligations, creating a shell company, and being a shell company.
- 3.4 Tenderer must sign a declaration of **honour form** together with their application, certifying that they do not fall into any of the exclusion situations cited in 3.3 above and where applicable, that they have taken adequate measures to remedy the situation.

4. Submission guidelines

- 4.1. Tender documentation should demonstrate that the interested consultant satisfies the conditions stated above and in the Terms of Reference and is capable of meeting the specifications and timeframes. Documentation must also include supporting examples to address the evaluation criteria.
- 4.2. Tender documentation should be submitted in English and outline the interested consultant's complete proposal:
- a) **SPREP Tender Application form and conflict of interest form.** (*Please note you are required to complete in full all areas requested in the Form, particularly the Statements to demonstrate you meet the selection criteria – DO NOT refer us to your CV. Failure to do this will mean your application will **not** be considered*).
Provide examples of past related work outputs
For the Technical and Financial proposals you may attach these separately.
 - b) **Honour form**
 - c) **Curriculum Vitae** of the proposed personnel to demonstrate that they have the requisite skills and experience to carry out this contract successfully.
 - d) **Technical Proposal** which contains the details to achieve the tasks outlined in the Terms of Reference.
 - e) **Financial Proposal** – provide a detailed outline of the costs involved in successfully delivering this project submitted in United States Dollars (USD) and inclusive of all associated taxes.
- 4.3. Provide three referees relevant to this tender submission, including the most recent work completed.
- 4.4. Tenderers/bidders shall bear all costs associated with preparing and submitting a proposal, including cost relating to contract award; SPREP will, in no case, be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

- 4.5. The tenderer/bidder might be requested to provide additional information relating to their submitted proposal, if the Tender Evaluation Committee requests further information for the purposes of tender evaluation. SPREP may shortlist one or more Tenderers and seek further information from them.
- 4.6. The submitted tender proposal must be for the entirety of the Terms of Reference and not divided into portions which a potential tenderer/bidder can provide services for.
- 4.7 The Proposal must remain valid for 90 days from date of submission.
- 4.8 Tenderers must insist on an acknowledgement of receipt of tender.

5. Tender Clarification

- 5.1. a. Any clarification questions from applicants must be submitted by email to procurement@sprep.org before 08 May 2023. A summary of all questions received complete with an associated response posted on the SPREP website www.sprep.org/tender by 10 May 2023.
- b. The only point of contact for all matters relating to the RFT and the RFT process is the SPREP Procurement Officer.
- c. SPREP will determine what, if any, response should be given to a Tenderer question. SPREP will circulate Tenderer questions and SPREP’s response to those questions to all other Tenderers using the SPREP Tenders page (<https://www.sprep.org/tenders>) without disclosing the source of the questions or revealing any confidential information of a Tenderer.
- d. Tenderers should identify in their question what, if any, information in the question the Tenderer considers is confidential.
- e. If a Tenderer believes they have found a discrepancy, error, ambiguity, inconsistency or omission in this RFT or any other information given or made available by SPREP, the Tenderer should promptly notify the Procurement Officer setting out the error in sufficient detail so that SPREP may take the corrective action, if any, it considers appropriate.

6. Evaluation criteria

- 6.1. SPREP will select a preferred consultant on the basis of SPREP’s evaluation of the extent to which the documentation demonstrates that the tenderer offers the best value for money, and that the tender satisfies the following criteria:
- 6.2. A proposal will be rejected if it fails to achieve 70% or more in the technical criteria and its accompanying financial proposal shall not be evaluated.

I. Technical Score – 80%

Criteria	Detail	Weighting
Experience	Appropriate legal qualifications or a field related to environmental management, climate change and/or environmental/natural resource law	20

	Must have experience in drafting regulations or statutes in a commonwealth jurisdiction.	20
	Preferably have drafting experience for environmental laws in Pacific Island jurisdictions.	20
	Have some knowledge of multilateral environmental agreements such as CITES.	10
Technical Proposal / Methodology	Provide a costed workplan for the provision of legal advice as outlined in the description of services in Annex A	10

II. Financial Score – 20%

The following formula shall be used to calculate the financial score for ONLY the proposals which score 70% or more in the technical criteria:

$$\text{Financial Score} = a \times \frac{b}{c}$$

Where:

a = maximum number of points allocated for the Financial Score

b = Lowest bid amount

c = Total bidding amount of the proposal

7. Variation or Termination of the Request for Tender

- 7.1 a. SPREP may amend, suspend or terminate the RFT process at any time.
- b. In the event that SPREP amends the RFT or the conditions of tender, it will inform potential Tenderers using the SPREP Tenders page (<https://www.sprep.org/tenders>).
- c. Tenderers are responsible to regularly check the SPREP website Tenders page for any updates and downloading the relevant RFT documentation and addendum for the RFT if it is interested in providing a Tender Response.
- d. If SPREP determines that none of the Tenders submitted represents value for money, that it is otherwise in the public interest or SPREP's interest to do so, SPREP may terminate this RFT process at any time. In such cases SPREP will cancel the tender, issue a cancellation notice and inform unsuccessful bidders accordingly.

8. Deadline

- 8.1. **The due date for submission of the tender is: 19 May 2023, midnight (Apia, Samoa local time).**
- 8.2. Late submissions will be returned unopened to the sender.
- 8.3. Please send all tenders clearly marked '**RFT 2023/022: Legal review and advice of Vanuatu's Convention on International Trade in Endangered Species (CITES) legislation**'



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Mail: SPREP
Attention: Procurement Officer
PO Box 240
Apia, SAMOA
Email: tenders@sprep.org (MOST PREFERRED OPTION)
Fax: 685 20231
Person: Submit by hand in the tenders' box at SPREP reception,
Vailima, Samoa.

Note: Submissions made to the incorrect portal will not be considered by SPREP. If SPREP is made aware of the error in submission prior to the deadline, the applicant will be advised to resubmit their application to the correct portal. However, if SPREP is not made aware of the error in submission until after the deadline, then the application is considered late and will be returned unopened to the sender.

SPREP reserves the right to reject any or all tenders and the lowest or any tender will not necessarily be accepted.

SPREP reserves the right to enter into negotiation with respect to one or more proposals prior to the award of a contract, split an award/awards and to consider localised award/awards between any proposers in any combination, as it may deem appropriate without prior written acceptance of the proposers.

A binding contract is in effect, once signed by both SPREP and the successful tenderer. Any contractual discussion/work carried out/goods supplied prior to a contract being signed does not constitute a binding contract.

For any complaints regarding the Secretariat's tenders please refer to the Complaints section on the SPREP website <http://www.sprep.org/accountability/complaints>

Annex A: Terms of Reference

Background

Vanuatu became a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) in 1989. Vanuatu domesticated this convention with the 'International Trade (Flora and Fauna) Act N0.56, 1989. A short time later Vanuatu included its 'International Trade (Flora and Fauna) Regulations Order No.2 of 1991. Vanuatu advised in 2021 that their legislation needed updating to fill in gaps particularly in relation to allow for the Automated System for Customs Data (ASYCUDA) customs system to include CITES and in relation to fees for import, export and re-export, among other things. This would also allow Vanuatu to implement an eCITES platform to facilitate effective management of permits and other CITES obligations including reporting.

In 2021 SPREP contracted a consultant legal adviser who provided advice on the Regulation and preliminary advice on the Act. Advice on the Regulation is now complete, however further advice is required in relation to the Act.

During 2022 ASCUDA undertook an assessment of the suitability of Vanuatu to implement their eCITES system. This assessment is nearing completion and advises that Vanuatu would be a suitable recipient of eCITES to assist in management of their CITES trade. SPREP has funding to support the implementation of eCITES, however completion of the CITES Act update is an essential prerequisite.

Scope of work

The legal consultant will be required to review progress so far in the review of legislation including the Regulation and the draft instructions already developed for the Act by the previous consultant. Taking into consideration advice from the Department of Environmental Protection and Conservation (DEPC) and ensuring all issues are captured for the review, provide drafting advice for DEPC and the State Law Office (SLO). Once the advice is accepted by DEPC/SLO and drafting has been completed the consultant will need to check the legislation to make sure that it is fit for purpose and if any other Acts also need amendment as a result of the new Act. Once the Minister is briefed and satisfied, the consultant will assist DEPC to prepare the Council of Minister (COM) paper.

Description of Services

1. Review and finalise the 'draft' drafting instructions on the CITES Act amendment that was previously developed.
2. Refer to guidance material on the CITES website [CITES website on national legislation](#), and model law https://cites.org/sites/default/files/projects/NLP/E-Model_law-revised_Oct.2021.FINAL.DRAFT.pdf
3. Discuss with CITES Secretariat and UNCTAD e-permitting requirements which might be required to be included in the legislation to support implementation and add to drafting instructions.
4. Provide all the necessary technical and legal advice and guidance to DEPC and SPREP on this particular CITES legislative review work.
5. Organise online meetings between SPREP, the CITES Secretariat, DEPC and the consultant to discuss matters related to this work where necessary.



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6. Provide the final drafting advice to DEPC/SLO and once DEPC/SLO informs the consultant the instructions are sufficiently clear they will begin drafting the changes to the Act.
7. Once drafting is completed, the consultant will need to check that it's fit for purpose (there may be more than one draft law, eg, if other Acts need to be amended).
8. Once this is completed and DEPC has briefed the Minister and s/he is satisfied s/he can present this to Cabinet, assist DEPC to prepare the Council of Ministers (COM) paper.

Remuneration.

The budget for the services provided is USD 12,000. Agreed deliverables and invoices will be outlined in the contract.

Work Arrangements.

The consultant is not required to work from Vanuatu but regular meetings online with the government team responsible for completing this work and with the Threatened and Migratory Species Adviser will be required to ensure flow of information.

Duration of consultancy

This consultancy is expected to be completed within 3 months of contract signing.