

REPUBLIC OF LIBERIA



FORESTRY DEVELOPMENT AUTHORITY

**REQUEST FOR EXPRESSIONS OF INTEREST FOR PROVISION OF
CONSULTANCY SERVICES**

LIBERIA FOREST SECTOR PROJECT

PROJECT ID: P154114

GRANT ID: TFA2427

(REFERENCE NO: FDA/LFSP/CONS/05)

Re-advertised

1. This request for expressions of interest follows the General Procurement Notice for this project that appeared in Development Business No. WB452-01/17 of January 31, 2017.

The Government of Liberia through the Forestry Development Authority (Implementing Agency) has received a grant from the International Development Association (IDA) acting as administrator of the Liberia Single Donor Forest Landscape Trust Fund (financed by the Government of Norway) in the amount of US\$36.7 million towards the cost of the Liberia Forest Sector Project, and it intends to apply part of the proceeds of this Grant to eligible payments under a consultancy contract *to establish the legality of Liberia forest sector, including complementary review of forest concessions.*

2. OBJECTIVES AND SCOPE OF SERVICES

The objective is to conduct a review of logging concessions contracts and agreements by: (i) offering an opinion on the legality of the process followed so far in negotiating, implementing and enforcing these concessions and agreements (FMC, PUP, and CFMA); and (ii) resolving outstanding issues related to legality. This is with a view to improving: (i) the sustainability of the natural resource base of Liberia's forests, (ii) the overall business environment in the forest sector, (iii) the financial and economic results for the government and forest communities, and (iv) the commercial attractiveness and investment environment of the sector.

Major expected outcomes:

- (i) Review of existing logging concession contracts and agreements to establish:
 - a. Legality of the process of negotiation and allocation of concessions and agreements.
 - b. Extent of compliance and enforcement of the terms and conditions of the concession contracts and agreements, and that these meet the requirements of the FDA Code of

Forest Harvesting Practices and Forest Management Guidelines and in line with international good forest management practices

- (ii) Design and put in place a consensus building process whereby involved parties, including Government, concession holders, and communities may acknowledge and if necessary remedy procedural and substantive deficiencies in the awarding and implementation of the concessions under review; and ii) determine if further actions are required by the government to ensure compliance and validity of the concessions.

This assignment is expected to be implemented within six (6) months.

The full terms of reference is attached (Attachment 1) to this request for expressions of interest.

3. The Forestry Development Authority now invites eligible consultancy firms to indicate their interest in providing the required Services for the Liberia Forest Sector Project. Interested consultants must provide documentary evidence indicating that they are qualified to perform the services. Information of all relevant past experience of similar assignments must be submitted for consideration. The qualification and experience criteria to be used for selection are indicated below:

QUALIFICATION AND EXPERIENCE

- At least seven years’ experience in conducting legal and compliance review of natural resources especially forest;
- Must have provided consultancy services related to forest concession review; experience in providing such services to Government agencies in Sub-Saharan Africa is an added advantage;
- Must be familiar with the regulatory frameworks governing Liberia’s forest sector;
- Availability of Competent Staff with relevant qualification and experience to undertake the assignment;
- Experience in the Region (West Africa and/or Liberia is desirable).

Note: In addition to other relevant information to be submitted, Consultants (firms) are advised to present all assignments of similar nature undertaken in the following format:

Duration	Assignment name/& brief description of main deliverables/outputs	Name of Client & Country of Assignment	Approx. Contract value (in US\$ equivalent)/ Amount paid to your firm	Role on the Assignment
{ e.g., Jan.2009– Apr.2010 }	{ e.g., “Improvement quality of.....”: designed master plan for rationalization of; }	{ e.g., Ministry of, country }	{ e.g., US\$1 mill/US\$0.5 mill }	{ e.g., Lead partner in a JV A&B&C }

4. The attention of interested Consultants is drawn to paragraph 1.9 of the World Bank's [Guidelines: Selection and Employment of Consultants \[under IBRD Loans and IDA Credits & Grants\] by World Bank Borrowers](#) Conflict of Interest, January 2011 revised July 2014 (“Consultant Guidelines”), setting forth the World Bank’s policy on conflict of interest.
5. Consultants may associate with other firms in the form of a *joint venture or a sub-consultancy agreement* to enhance their qualifications.
6. A Consultant will be selected in accordance with the Selection based on the Consultants’ Qualifications method (CQS). For reference, please see paragraph 3.7 of the World Bank’s Guidelines on Selection and Employment of Consultants, January 2011 revised July 2014, by following the link below:
<http://pubdocs.worldbank.org/en/894361459190142673/ProcurementConsultantHiringGuidelinesEngJuly2014.pdf>
7. Further information can be obtained at the address below during office hours *0900 to 1600 hours*.
8. Expressions of interest must be delivered in a written form to the address below (in person, by mail or by e-mail) by **16:00 GMT on August 31, 2017**. **Envelopes or subject of emails must be marked “Ref: Review of Liberia Forest Concessions”**.

Forestry Development Authority
Whein Town, Mount Barclay
P. O. Box 3010
Montserrado County
Monrovia, Liberia
Attention: Saah A. David, Jr., National REDD+ Project Coordinator
Tel: +231(0)880699711
Email: redliberiaprogram@gmail.com

LIBERIA FOREST SECTOR PROJECT

ToR for process to establish the legality of Liberia forest sector, including complementary review of forest concessions

Background and process:

For the last decade, the Government of Liberia (the “Government”) has been implementing a forestry reform process. In 2006, the President issued Executive Order No. 1, cancelling all existing forestry concessions. The National Forestry Reform Law (NFRL) that was enacted the same year, laid the basis for the reform process. In 2007 the NFRL was followed by implementing regulations and the Code of Forest Harvesting Practices. The Community Rights Law (CRL) of 2009 with respect to Forest Lands, recognizes local communities’ rights to own forest resources on community forest lands. The reform agenda has allowed for a large part of the country’s forests to be allocated in the form of industrial logging concessions and agreements with emphasis on issues of transparency, sustainability, local consultation and financial benefits for the government and local communities whose livelihood is connected to forest exploitation. There are currently seven (7) Forest Management Contracts (FMC), 2 active Timber Sales Contracts (TCS) as well as 8 expired TSCs that may be eligible for renewal, 63 Private Use Permits (PUP) that have been cancelled, and 10 Community Forest Management Agreements (CFMA).

The implementation of the NFRL and its regulations, the Code of Forest Harvesting Practices, and the CRL has been inadequate and concerns have been raised by stakeholders on the fairness and legality of i) the negotiation and allocation process for the award of the contracts, ii) the implementation of the terms and conditions of the FMC and TSC contracts and iii) the enforcement by the government of the terms of the concessions.

This has led the Government, in line with its mandate and its contractual obligations under Forest Resources Licenses issued by it, to undertake a review of the legal status of the Forest Management Contracts (FMCs) and other forestry licenses awarded by FDA, both with regards to a) the award process and b) compliance with the contractual agreements. A review of both the award process and compliance status of existing Community Forest Management Agreements (CFMAs) will also be conducted in reference to the Community Rights Law of 2009 and the terms of the CFMAs.

The Special Independent Investigative Body (SIIB) conducted a review of compliance of the award process for PUP's and the Liberia Extractive Industries Transparency Initiative (LEITI) Post Award Process Audit conducted by Moore Stephens reviewed four (4) FMCs, five (5) TSCs, and twenty-three (23) PUPs . Conclusions of these reports will be accepted and the review process not duplicated. The SIIB recommended certain legal and corrective actions, which have been partly implemented, while the LEITI Report did not make recommendations for corrective actions. Thus, there remains uncertainty regarding the legal and/or corrective actions being implemented as a result of the SIIB Report and the LEITI Report.

To improve legal compliance in the Liberia forest sector and strengthen the foundation for fair, efficient and sustainable future operations and management, the Government intends to:

- a) Complement the reviews already conducted to ensure all forest concessions as mandated under the current legal framework have been reviewed by the Government acting through an independent party. The review to be completed by the independent party will include a review of;
 1. the legality of issued concession,
 2. the compliance of the existing Forest Management Contracts with:
 - i. the "Strategic Forest Management Plans (25-year);
 - ii. 5-Year Forest Management Plans;
 - iii. Annual Operating Plans;
 - iv. the FDA Forest Management Guidelines; and
 - v. the Code of Forest Harvesting Practices
- b) on the basis of the above review and those conducted by SIIB and LEITI i) design and put in place a consensus building process whereby involved parties, including Government, Concession holders, and communities may acknowledge and if necessary remedy procedural and substantive deficiencies in the awarding and implementation of the concessions under review; and ii) determine if further actions are required by the government to ensure compliance and validity of the concessions.

The Managing Director, Forestry Development Authority, in consultation with the Board of the FDA, the Inter-Ministerial Committee on Concession (IMCC) and the Ministry of Justice will endorse these Terms of References and mandate outlined process. The IMCC will endorse the results of this process.

2- Objective:

The objective is to conduct a review of logging concessions contracts and agreements by: (i) offering an opinion on the legality of the process followed so far in negotiating, implementing and enforcing these concessions and agreements (FMC, PUP, and CFMA); and (ii) resolving outstanding issues related to legality. This is with a view to improving: (i) the sustainability of the natural resource base of Liberia's forests, (ii) the overall business environment in the forest sector, (iii) the financial and economic results for the government and forest communities, and (iv) the commercial attractiveness and investment environment of the sector.

Major expected outcomes:

- (iii) Review of existing logging concession contracts and agreements to establish:
 - a. Legality of the process of negotiation and allocation of concessions and agreements.
 - b. Extent of compliance and enforcement of the terms and conditions of the concession contracts and agreements, and that these meet the requirements of the FDA Code of Forest Harvesting Practices and Forest Management Guidelines and in line with international good forest management practices
- (iv) Design and put in place a consensus building process whereby involved parties, including Government, concession holders, and communities may acknowledge and if necessary remedy procedural and substantive deficiencies in the awarding and implementation of the concessions under review; and ii) determine if further actions are required by the government to ensure compliance and validity of the concessions.

3- Implementation

Such legal review to be effective and useful to stakeholders must be executed by one or more Independent Expert(s) (preferably an institution(s) such as an international non-profit organization or a consulting firm which have conducted similar exercises in other countries)¹ subject to the requirements of Liberian Law, including the NFRL.

The Independent Expert(s) will conduct a comprehensive due diligence of any contracts that have not yet been reviewed, as submitted to it by the parties (Government and the Logging Company). The Independent expert(s) will also review the process followed and the outcomes and recommendations from reviews already completed to inform the reviews of concessions to be conducted through this consultancy. This could take the form of conducting discussions with stakeholders (concessionaires and government, but also affected third parties; , and coordination [as relevant, with work under FLEGT/VPA agreement](#)) to weigh in the solidity of the outcome of the review and recommendations made so far and inform the consensus building process. All commercial logging contracts that were not subject to previous compliance review against the Code of Forest Harvesting Practices and Forest Management Guidelines will be reviewed for compliance with contract terms and condition and international best practices.

The Independent Expert(s) will be endorsed and monitored by the National Multi-Stakeholder Monitoring Committee (NMSMC) of the Voluntary Partnership Agreement between Liberia and the European Union. The NMSMC may establish under the authority of the Managing Director of the, Forestry Development Authority a Technical Working Group (TWG) to provide the Independent Expert(s) with information, data, documentation needed for the legal review, including the seven FMC contracts which are effective and being implemented. The NMSMC shall consider the Independent Expert(s) Report, and forward it along with its own comments, and acceptability of report to an Inter-ministerial Concession Committee (IMCC) for endorsement to allow implementation of report recommendations in a timely manner.

4- Specific tasks for the Independent Experts:

A due diligence of all concessions and agreements that have not yet been reviewed.

A Review Report on the findings of the due diligence including related to:

- (i) legality and transparency of the processes connected to a) negotiations and allocation of the concessions, and agreements and b) implementation and enforcement of concession contracts and agreement terms and criteria;
- (ii) compliance with Liberia's legislation and regulations, forest management plans and other forest management instruments under the terms of the logging concession contracts, permits and licenses , and agreements;
- (iii) gaps and weaknesses in the government's capacity in negotiating, issuing, monitoring and enforcing concession contracts, logging permits and licenses, and agreements.

¹ Independent experts contributed to similar exercise with international NGOs in Cambodia and Cameroon and World Resource Institute in Congo DRC

Based on the findings of the Review Report, the Independent Expert/s shall:

- (i) identify and propose recommendations for (a) non-compliance issues that can be resolved through consensus building process to allow the concession holder to become compliant within a time frame, and (b) resolution of any other identified issues of non-compliance;
- (ii) propose key principles, ToRs and structure of a consensus building process that would allow resolution of outstanding non-compliant issues referred to in (i) above including on recommendations made in reviews already completed such as by SIIB and/or LEITI and validate the proposed consensus building process with NMSMC;
- (iii) Upon approval of the NMSMC and with participation of FDA and other relevant Government entities, facilitate the process with a view to resolving administrative legal non-compliance issues identified through the reviews within a mutually agreed timeframe with relevant Parties, including with Social Agreements with affected communities.
- (iv) Identify capacity building and training programs to remedy the identified gaps and weaknesses in government and other stakeholders' capacity to implement and enforce the terms and conditions logging titles.
- (v) Review the FMC compliance in respects to legal contract, implementation of forestry practices in reference to regulations and forest management guidelines/code forest harvests, and social responsibilities with affected communities.

The execution of each of the tasks (i), (ii) and (iv) shall be preceded by a work plan which shall be presented to the NMSMC for validation. At the completion of each task, a short report shall be presented to the NMSMC for review and recommendation. After execution of steps (i) to (v) has been completed, a final report to NMSMC and with the NMSMC recommendations will be presented to the IMCC for final endorsement.

Some adjustments to the specific tasks may be proposed by the independent expert for approval by the IMCC.

5- Deliverables

- i. Inception report and work plan: This report will be used to record as a minimum the updated status of the project, definition of the key stakeholders (to include concessionaires) and key documents acquired and/or identified. The report will incorporate an integrated work plan for the implementation of the various tasks.
- ii. Review Report: This report will, as a minimum document, be a review of all concession contracts not previously review, including the legality and transparency surrounding their award, implementation and enforcement. This report will also document the expert's review of the process followed and the outcomes and recommendations from reviews already completed. This report must include recommendations on for the resolution of issues identified and a proposal for a consensus building process for ensuring compliance where applicable.

- iii. Report on Consensus Building: This report will record the expert's work on the establishment, structuring and implementation of the process for the resolution of outstanding issues from the legal review and earlier review conducted. This report will incorporate the key principles of the process, the TOR, findings and suggested approach to resolving noncompliant issues identified in the review report.
- iv. Draft Report: This report will incorporate the process of the review consensus building tasks and documents findings from the inception report, review report and Consensus building report. The report must include clear recommendations.
- v. Final Report: This report shall document the process and findings of the review and consensus building process .Identified and recommend solutions for institutional gaps in the forest sector. It shall provide recommendations for ensuring legal compliance of forest concessions

6- Qualification and Experience

(a). Qualification and Experience

The firm must possess the following experience and competencies:

- At least seven years' experience in conducting legal and compliance review of natural resources especially forest.
- Must have provided consultancy services related to forest concession review; experience in providing such services to Government agencies in Sub-Saharan Africa is an added advantage;
- Must be familiar with the regulatory frameworks governing Liberia's forest sector;
- Availability of Competent Staff with relevant qualification and experience to undertake the assignment.
- Experience in the Region (West Africa and/or Liberia is desirable)

(b) Team Composition

1. One Team Leader: Advanced degree in forestry and/or Natural Resource Management Environmental Law, Environmental Economics, with a minimum of seven years' of demonstrated experience as a team leader including in the design, analysis, review and negotiation of concession agreements in natural resource sectors, preferably forestry.
2. Two Legal Analysts : minimum Bachelor Degree in Law with at least 5 years' experience working on legal issues relating to forest resource management and governance.
3. Two Forest or Environmental Compliance Analysts : Bachelor Degree in Forestry or Environmental Science with at least 7 years' experience as a forest auditor or working on forest compliance issue
4. One Financial Analyst: minimum Bachelor Degree in Accounting or related with at least three years' experience as a financial analyst in a natural resource accounting. A professional certificate such as CPA, CFE may serve as an advantage.

5. Two Consensus Building Specialists : Advanced degree in Development Studies, Conflict Management, or related field with at least seven years' experience

7- Timing and Duration

The consultants will propose the schedule for completion of assignment. It is desirable that the assignment is completed within six (6) months of signing of contract.