

Royal Government of Bhutan, Ministry of Agriculture and Forests
Department of Forests and Park Services,
Watershed Management Division (REDD+ Secretariat)

TERMS OF REFERENCE for National Legal Specialist to support INTERNATIONAL CONSULTANCY WORK ON TARGET WORK PACAKGES UNDER THE FCPF REDD+ READINESS PROJECT OF BHUTAN COVERING

- Strategic Environmental and Social Assessment (SESA)
- Environmental and Social Management Framework (ESMF)
- Safeguard Information System (SIS)

1. Background

Reducing Emissions from Deforestation and Forest Degradation and enhancement of forests carbon stocks, conservation of forests and sustainable management of forests (REDD+) is designed under the United Nations Framework Convention on Climate Change (UNFCCC) negotiations to deliver financial incentives to developing countries for reduce the emissions of greenhouse gases (GHG) from their forest sectors. REDD+ countries are implementing activities to prepare them for future implementation.

The Royal Government of Bhutan (RGoB) has received a grant of US\$3.8 million from the FCPF for implementing its REDD+ Readiness Roadmap (Readiness Preparation Proposal – RPP). Bhutan envisages that REDD+ implementation has the potential to generate carbon revenues as well as non-carbon co-benefits. REDD+ implementation can contribute to Bhutan’s sustainable development through improved management of forest resources, forest law enforcement and governance. Being “ready” for REDD+ will entail increasing capacities to coordinate and harmonize sector policies with the view of mitigating future impacts on forest cover, while ensuring that benefits from forests flow to forest dependent communities and stakeholders that are vested in actions to address deforestation and forest degradation. The national REDD+ architecture will also help in achieving Bhutan's obligation to contribute to global low carbon emission development and sustainable development agenda while responding to commitments under the (Intended) Nationally Determined Contributions (I) NDCs.

Bhutan is currently working towards developing its National REDD+ Strategy / Action Plan (NS/AP) document. In addition to the REDD+ NS/AP which will include the Policies and Measures (PAMs) to be implemented for REDD+, the readiness process will also develop a National Forest Monitoring System, a Forest Reference Emission Level and safeguards, measures for equitable sharing of REDD+ benefits, fund mobilization and grievance redress mechanism for the identified REDD+ PAMs.

The implementation of the REDD+ Strategy is expected to generate benefits through 'Results Based Payments' through the UNFCCC. Bhutan's REDD+ National Strategy will set out how REDD+ safeguards will be addressed and respected throughout REDD+ implementation. The SESA and ESMF requirements of the World Bank are deemed to be an adequate tool that will allow incorporation of environmental and social considerations into the REDD+ Readiness process at a strategic level, and offer a platform for consultation to integrate social and environmental concerns into the upstream policy-making process. In developing the SESA, the safeguard-related work carried out under UN-REDD support, particularly the Roadmap document on REDD+ Safeguards, would be complementary in terms of articulating country-specific needs for safeguard information systems. The SESA will be complemented by an Environmental and Social Management Framework (ESMF), which will contribute to the development of Bhutan's Safeguard Information System (SIS). SIS is a requirement of the UNFCCC for REDD+ results-based payments. SESA, ESMF and SIS work should clearly consider the safeguards requirements of the UNFCCC and take into account national circumstances.

2. Status of REDD+ Readiness in Bhutan

Bhutan is currently in its REDD+ readiness phase and has completed the Stakeholder Engagement Guidelines for REDD+, Corruption Risk Assessment, drivers of deforestation and forest degradation, initial phase of PLR reviews and the Country Approach to Safeguards. The field work for Bhutan's National Forest Inventory and data analysis is in progress. The work on FREL and Valuation of Forest Ecosystem Services are ongoing. The work on SESA, ESMF and SIS as single package, REDD+ Strategy development, Grievance Redress will commence soon.

3. Objective

The role of the National Legal Specialist will be to support Climate Law and Policy (CLP) with the implementation of the consultancy ‘Strategic Environmental and Social Assessment (SESA), Environmental and Social Management Framework (ESMF) and develop Safeguard Information System (SIS)’ in Bhutan. The national expert will be a key member of the team, providing his/her experience and expertise of Bhutan to the international experts.

4. Tasks

The National Legal Specialist will work under the direction of the Team Leader, and support the CLP team with the following tasks:

- i) Analysis of Policies, Laws and Regulations (PLRs) based on the initial review carried out by REDD+ secretariat, followed by a gap analysis of Bhutan’s institutional and governance capacity to operationalize safeguards (including addressing potential risks). [50 days] The national consultant will support CLP to:
 - (a) Identify how the Bhutan’s legal framework could be used to operationalize UNFCCC REDD+ Safeguards, and identify recommendations to address relevant gaps and weaknesses.
 - (b) Using a robust methodological framework (and matrix) developed by CLP, the legal consultant will identify and assess Bhutan’s legal framework in relation to the Cancun Safeguards to:
 - Clearly identify the aspects of the legal framework that recognize, regulate, protect or promote the rights and obligations embodied in the Cancun safeguards language.
 - Identify gaps and weaknesses that need to be addressed
- ii) Clarification/interpretation of Cancun safeguards and linkages to relevant World Bank Operational Policies. Drawing on the legal analysis carried out, the legal consultant will support CLP to prepare a draft clarification/interpretation of the UNFCCC REDD+ safeguards to the country context and outline the linkages to the relevant Operational Policies of the World Bank. [5 days]
- iii) Mapping of relevant actors and platforms to be involved in the evaluation of potential risks and benefits associated with the implementation of REDD+

actions. The national consultant will provide his/her expertise of the national context to support the identification of national actors and platforms. [5 days]

- iv) Contribute towards the identification of social, gender, and environmental risks associated with the proposed REDD+ actions, and of measures to address and mitigate them. This will include a succinct land and resource tenure analysis in Bhutan in accordance with the guidance provided by the World Bank's Methodological Framework. The national consultant will provide his/her expertise of the national context to help provide a clear picture of land tenure issues in Bhutan. [20 days]

5. Products

The consultant must submit the following products:

- i. Methodological legal matrixes completed with all details of the analysis.
- ii. Report synthesising the findings of the legal analysis and providing recommendations to address gaps and weaknesses identified. The report shall include:
 - a. Summary of the findings of the analysis of the legal framework (including which aspects of the legal framework can be used to operationalize REDD+ safeguards in Bhutan and which gaps were identified).
 - b. Recommendations for addressing gaps or weaknesses in the legal framework, and who (e.g. institutions) can take the lead in addressing the identified gaps and weaknesses.
- iii. Succinct report about land tenure issues that may arise in relation to the implementation of the proposed REDD+ Strategy
- iv. Matrix completed with proposed mitigation measures of potential negative impacts arising from proposed REDD+ strategy and which are linked to the legal and policy framework of the country.

6. Required experiences and competencies

a. Qualifications

- Qualified Bhutanese Lawyer (minimum of diploma in law)
- Experience in national environmental law and policy for at least 10 years

b. Experiences

- Minimum 10 years of practical experience in national and/or international environmental law and policy
- Good understanding and/or experience working with government institutions in Bhutan.
- Proven track record in the writing and production of a variety of written materials at highest standard
- Experience in high-level legal analysis through different legal analytical frameworks
- Experience with policy frameworks for REDD+, challenges and related processes
- Experience in contributing to the process of legislative reform

c. Knowledge

- Understanding of legislative processes and legal systems of Bhutan
- Understanding of the Bhutan's institutional system and actors.
- Understanding of REDD+ in general and within the Bhutanese context
- Working knowledge of one or more of the following areas: human rights, environmental, and legal reform processes.
- Knowledge of the problems of climate change and environmental governance in Bhutan

d. Skills and competencies

- Fluent spoken and written English
- Excellent analytical skills

- Excellent skills in written and oral communication
- Critical, creative thinking and solution oriented
- Reliable, dynamic and self-motivated
- Excellent organizational skills
- Able to balance priorities and coordinate work effectively with other counterparts
- Able to work independently and in a team environment

7. . Duration and condition of the assignment

The consultant is expected to work for 80 working days, and should be flexible to spread over the 80 working days for one year period starting July 2017 in consultation with the Climate Law and Policy (CLP: lead and international consultant) and REDD+ secretariat. The detail work plan will be drawn with CLP and REDD+ secretariat after selection and prior to signing of the contract.

8. Selection Procedure

WMD requests all short-listed consulting firm or individuals to prepare a full proposal with detailed plan and budget. The proposal will have to be prepared in line with the provided ToR and with the procedures set out in the World Bank’s Guidelines: Selection and Employment of Consultants under IBRD Loans and IDA Credits & Grants by World Bank Borrowers, January 2011 (Consultant Guidelines) adopting selection method of “Quality- And Cost-Based Selection (QCBS)”. The consulting firms will be evaluated and short-listed based on the approved evaluation criteria. The proposal shall consist of a Technical Part and a Financial Part. Based on the recommendation of the evaluation committee, WMD will select a firm to carry out the study. The interested individuals should submit the technical proposal, financial proposal, curriculum vitae along with valid qualification certificates and experiences **by 30th June 2017** to Chief Forestry Officer Watershed Management Division, Department of Forests and Park Services, MoAF, Bhutan

9. Evaluation Criteria:

Evaluation criteria will be based on QCBS method. Technical Proposal inclusive of CV with qualification, experiences will carry 60% and financial proposal 40 % weightage respectively.

10. Reporting, supervision and copy right

The Consultant will report to the Chief Forestry Officer, WMD (Dr. Pema Wangda, pemaparop@gmail.com) with copy to the World Bank WB Task Team (Andrea Kutter, akutter@worldbank.org +2024585887).

The consultant will work closely with international consultant selected for carrying out SESA, ESMF and SIS for REDD+ Bhutan and will be supervised by WMD/REDD+ secretariat. The consultant will also liaise with REDD+ secretariat, REDD+ Technical Working Group on Safeguards, Governance and Benefit Sharing and will collaborate efforts with other consultants responsible for the REDD+ Strategy and other key deliverables under the REDD Readiness project, with relevant task forces, ministries or government agencies. The consultant should attend and present the document to REDD+ TWG meetings along with lead international consultant for feedback and comments on the documents as and when prompted and necessitated by the REDD+ secretariat. The report should be prepared in English and submitted in both hard and soft copy (unlocked MS word and PDF). All data and documents generated from the consultancy work should be submitted to REDD+ secretariat whereby ownership and copy right shall rest with REDD+ secretariat.