

DATE:

RFP No.: CP08/1617

TO: Suitably Qualified Legal Consultants

FROM: JAMES MOVICK, DIRECTOR-GENERAL

**SUBJECT: EXPRESSION OF INTEREST (EOI) FOR LEGAL CONSULTANTS TO PROVIDE EXPERT LEGAL ADVICE AND TRAINING TO MEMBER COUNTRIES WHEN NEEDED ON OCEANS, LAW OF THE SEA AND FISHERIES MATTERS**

Attached herewith is an invitation to submit an Expression of Interest (EOI) to be selected as an FFA Preferred Supplier for the provision of technical legal assistance to FFA member countries on projects as required. The FFA is looking to draw from this list a suitably qualified applicant or applicants with a background in governmental and inter-governmental treaty negotiations and training to develop such skills, as well as international legal assistance to establish a sound legal basis/platform for FFA member countries and the FFA to collate, share and use a Persons of Interest database as part of a suite of measures to combat illegal, unreported and unregulated (IUU) fishing.

Note that the deadline for submission of these Expressions of Interest is **Friday 3 March 2017**.

Should you have any questions, please contact Dr Manu Tupou-Roosen, FFA Legal Counsel on [manu.tupou-roosen@ffa.int](mailto:manu.tupou-roosen@ffa.int). Otherwise we appreciate your assistance in disseminating this to interested parties/persons.

Yours Sincerely

James T. Movick  
Director General

## CALL FOR EXPRESSIONS OF INTEREST

RFP No: CPO8/1617

### EXPRESSION OF INTEREST (EOI) FOR LEGAL CONSULTANTS TO PROVIDE EXPERT LEGAL ADVICE AND TRAINING TO MEMBER COUNTRIES WHEN NEEDED ON OCEANS, LAW OF THE SEA AND FISHERIES MATTERS

#### Background

The Pacific Islands Forum Fisheries Agency (FFA) traces its origin to the South Pacific Forum meeting in Port Moresby in 1978 which adopted a Declaration on the Law of the Sea and the establishment of a regional fisheries agency and outlined its functions. In recent years FFA has been translating its ad-hoc tuna fishery training into accredited qualifications offered through recognised higher educational training providers in the Pacific. These study programmes in fisheries range from competency-based TAFE qualifications to post-graduate courses. The Agency is responsible for assisting its 17 members to build and develop human resource capacity in sustainable tuna fishery management and development of the tuna fishery resources while maintaining operational enforcement and compliance with national laws and regional tuna fisheries arrangements.

#### FFA's Role for its Members

FFA consists of the Forum Fisheries Committee (FFC) of officials and FFC Ministerial Meeting, which are its governing bodies, and a Secretariat. The Secretariat, with a current establishment of approximately ninety positions, is organised into four divisions: Fisheries Management, Fisheries Development, Fisheries Operations, and Corporate Services. FFA is led by an executive management unit headed by the Director-General.

The Vision of the Members of the Pacific Islands Forum Fisheries Agency is: "We will enjoy the highest levels of social and economic benefits for our people through the sustainable development of our fisheries resources".

The Mission of the Forum Fisheries Agency is: "To support and enable our members to achieve sustainable fisheries and the highest levels of social and economic benefits in harmony with the broader environment".

The work of the Agency is delivered through three programmes: Fisheries Management, Fisheries Development and Fisheries Operations. Each of these programmes have specific areas or topics that require training for effective implementation.

#### FFA Legal Unit

The FFA Legal Unit is seated within the High Level Advice Programme headed by the Executive, and reports directly to the Director-General and Deputy. The Unit provides legal advice and training to the FFC and FFA Members in support of the five key FFA Outcomes identified in the FFA Strategic Plan (2014-2020). With the support of FFA members, the FFA Legal Unit works to deliver collective regional solutions within the fisheries sector through:

- Investing in the development of necessary legal and institutional frameworks to take up identified opportunities for collective regional action,

- Promoting strong collective advocacy to ensure that FFA Members play a leadership role with a range of strategic partners, and
- Providing sustained legal support to national administrations in the delivery of effective and professional national fisheries administrations across the region.

Strengthening the capacity of nationals is one of our key objectives.

FFA is seeking to establish a pool of independent legal specialists that can be engaged on specific tasks in support of the legal team. Tasks will vary across the work of the agency, but will include functions such as those described below:

#### *Specialist expertise*

From time to time, the FFA may require specialist legal expertise to respond to ad hoc Member-driven requests for legal assistance or training relating to oceans, fisheries or law of the sea matters. This kind of work may involve reviewing domestic legislation, conducting legislative gaps analyses, assisting with drafting of necessary legislative amendments and delivering legal training for officials.

#### *Fisheries Negotiations Course*

The objective of the course is to build the capacity of Pacific island States to prepare and participate effectively in international fisheries negotiations, negotiate in support of their national and regional interest, and implement all relevant provisions and conservation and management measures. This national focus will also provide benefits for regional and sub-regional co-operative strategies through stronger engagement as FFA members participate more effectively and confidently in regional negotiations.

This work will contribute to FFA's overall objectives and vision by enhancing the skills of its members to achieve their national and regional aspirations, including maximising their economic returns from the fishery.

#### *Persons of Interest*

Robust monitoring, control and surveillance mechanisms at the international, regional and national level in support of fisheries management frameworks are essential to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing.

Following the entry into force of the multilateral cooperative fisheries surveillance and enforcement agreement known as the *Niue Treaty Subsidiary Agreement* (or NTSA), the FFA Secretariat has been working actively with members, on implementation by Parties and ratification and implementation by non-Parties. This work continues to be funded by the Australian Government. The NTSA and the cooperative activities it facilitates will be of significant benefit to the region by strengthening fisheries surveillance and enforcement, and thereby reducing illegal, unreported and unregulated (IUU) fishing. To this end, the NTSA incorporates innovative legal solutions to combat IUU fishing, including:

- coordination of surveillance and enforcement operations targeting IUU fishing
- cross-vesting of personnel and assets, and
- the sharing of fisheries data and intelligence for fisheries and also broader law enforcement purposes.

One tranche of this work has been the establishment and development of a Persons of Interest project to commence profiling of IUU operators. The FFA seeks suitably qualified applicants to provide international legal expertise and advice on the establishment of a sound legal basis and platform for

the FFA and FFA Members to collate, share and use a Persons of Interest database to combat IUU fishing. The intention is to collect information for use in two ways: (1) at the national level, to check the compliance history of a person applying for a licence; and (2) at the regional level, to deny the registration of a vessel on the FFA Vessel Register if the applicants are on a Persons of Interest list.

This work will build on and complement other regional initiatives. For instance, at WCPFC13 (2016), the WCPFC adopted the FFA-led proposal to include information about Persons of Interest on the WCPFC IUU vessel list.

## Summary of why you need such a service

### *Specialist expertise*

At times, the Agency receives urgent ad hoc or special requests from members. Given the current workload for the legal team, it would be very useful to engage available specialist expertise to assist with a pressing task. This would allow a seamless flow of expert services to members.

### *Fisheries Negotiations*

Enhancing the skills of fisheries officials in this area is key to the vision to maximise returns. The skills learned in this course will strengthen the capacity of nationals to deal with various types of negotiations for example, in bilateral meetings or multilateral meetings such as WCPFC.

### *Persons of Interest*

Since its entry into force in July 2014, the FFA has been assisting countries to implement and ratify the NTSA to combat IUU fishing, including by establishing and strengthening national legislation. During the course of this work, the FFA realised that there is a missing link in combating IUU fishing. By focusing on vessels and their compliance history, there has not been a focus on collecting information about 'Persons of Interest' who are the drivers, controllers and operators of rogue vessels. However, establishing an effective Persons of Interest database could lead to the end of the chain where the beneficial owners who hire the masters, controllers and operators of the ships are found.

The addition of the 'Persons of Interest' component to the existing NTSA project will make the NTSA an even more powerful and effective tool in combatting IUU fishing in the Pacific.

## Expression of Interest (EOI)

An EOI is invited from interested candidates who have legal expertise and experience in assisting developing countries to meet and implement their international and regional obligations relating to fisheries management and associated monitoring, control and surveillance. In particular, the work requires expertise in international, Pacific regional and national laws, rules and processes relating to this topic. An understanding of the legal frameworks developed to prevent, deter and eliminate IUU fishing is essential. The successful candidate will have demonstrated experience in facilitating training in oceans, fisheries law or law of the sea.

The advisory function associated with this contract and the fact that some of the work will be FFA Member-driven means that the work may comprise relatively small or discreet tasks that occur at unpredictable intervals and involve aspects of projects, and projects themselves, that cannot be foreseen with any accuracy.

FFA will evaluate the EOI submissions received, and shortlist up to three consultants for our pool of "preferred suppliers". This pool will be drawn from for ad hoc legal consulting and international legal

assistance work that may be required over the next 2 years, without further competitive processes. FFA may also issue selected approved consultants with an 'umbrella contract' which provides for an agreed number of working days over a period of two years with each assignment detailed in a 'tasking note'.

Prior to the commencement of any task commissioned under this contract, FFA and the Consultant will agree on a written summary Terms of Reference, work schedule, anticipated outputs and indicative budget for each such task, which shall be approved by FFA Legal Counsel and counter-signed by the Director-General. This is known as the "Tasking Note".

## TERMS OF REFERENCE

RFP No: CP08/1617

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#### Terms of Reference

##### General

The consultant will be a key member of the FFA legal team and may be engaged to provide legal assistance and training to FFA members on a range of fisheries and oceans projects, including *inter alia*:

1. Provision of expert assistance to enhance skills in negotiations.
2. Provision of international legal assistance to establish a sound legal basis/platform for FFA member countries and the FFA to collage, share and use a Persons of Interest database as part of a suite of measures to combat illegal, unreported and unregulated (IUU) fishing.
3. Conduct legislation and policy gaps analysis for FFA Members, as requested.
4. Provision of legal advice or assistance on law of the sea or international fisheries law, as requested from time to time.

#### Evaluation and Assessment of EOI

All bids shall be evaluated using a two stage procedure with evaluation of the technical proposal being completed prior to any financial proposal being reviewed and compared.

Bidders are required to submit their financial proposal as a separate document.

#### Technical Proposal

The evaluation will be in accordance with the following criteria:

Evaluation Criteria	Weighting
Legal capability, experience and expertise in providing advice and training on international, Pacific regional and national laws, rules and processes relating to fisheries and the law of the sea	30%
Demonstrated experience of working in Developing Country settings	25%
Expected cost of service per day	25%
Demonstrated skills including verbal and written communication and references	20%
Total	100%

## Financial Proposal

Price is to be submitted as a separate document and may be quoted in United States Dollars (USD) or Solomon Dollars (SBD)

## References

All submissions are required to provide evidence of professional or technical capacity such as educational or professional qualifications, details of experience on similar projects.

All submissions are required to verify details of professional indemnity insurance.

## Submission of EOI

1. All EOIs shall be in English. The currency used for quotation of fees and other costs shall be in US Dollars.
2. The EOI should comprise: (a) a detailed CV providing information on relevant qualifications and experience, as well as the contact details of at least two professional referees; (b) a statement of availability indicating the expected number of days that the consultant would be available over the course of the next two years and any availability constraints; (c) any preference for engagement under an umbrella contract or by separate engagement for each consultancy; (d) the daily fee rate to be charged (note that FFA also pays a per diem for days away from the consultant's home country and this should not be included in the quoted fee rate); and (e) a brief 2-page application letter summarising the candidate's claim for the work (key strengths and abilities).
3. Submission of EOIs responding to this invitation should be received **by 5pm on Friday 3 March 2017 (Solomon Islands time and date)**. Late applications will not be considered. Hard copy applications shall be sealed and should comply with the directions contained herein and addressed to: The Director-General, Pacific Islands Forum Fisheries Agency, P O Box 629, Honiara, SOLOMON ISLANDS - Telephone (677) 21124 and Fax (677) 23995. – Attention The Director General. Submission of bids as electronic PDF files will be acceptable, sent by email to [procurement@ffa.int](mailto:procurement@ffa.int).
4. All EOIs must reference '**EOI CP08/1617 Legal Consultant**' in subject title of your email submission.

## Request for further information

For additional information regarding the tender or to arrange an on-site visit please contact Mrs Manu Tupou-Roosen on email: [manu.tupou-roosen@ffa.int](mailto:manu.tupou-roosen@ffa.int)

## Award of Contract

FFA reserves the right to accept any EOI, and to annul the solicitation process and reject all proposals at any time prior to award of any contract, without thereby incurring any liability to the affected Bidder(s) or any obligation to inform the affected bidder(s) of the grounds for such action.

## Notification

The names of successful bidders shall be advertised on the FFA website;  
[www.ffa.int/employment/tenders/tender\\_results](http://www.ffa.int/employment/tenders/tender_results)