

REQUEST FOR QUOTATION (RFQ)

FOR SERVICES

Project Title:	Pacific Solutions: Integrated Ocean Management (PSIOM)
Nature of the services	Legal analysis and review of legislation and policies to support the PNG Ocean Office
Location:	Remotely
Date of issue:	22/05/2023
Closing Date:	5/06/2023
SPC Reference:	RFQ23-5416

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Part 1: INTRODUCTION

1.1 About the Pacific Community (SPC)

The Pacific Community (SPC) is the principal scientific and technical organisation of the Pacific region, established by treaty in 1947 with the signing of the *Agreement Establishing the South Pacific Commission* (the Canberra Agreement).

Our unique organisation covers more than 20 sectors and is renowned for knowledge and innovation in such areas as fisheries science, public health surveillance, geoscience and conservation of plant genetic resources for food security.

For more information about SPC and the work that we do, please visit our website: <https://www.spc.int/>.

1.2 SPC's procurement activities

SPC's procurement activities are guided by the principles of high ethical standards, value for money, open competition and social and environmental responsibility and are carried out under our Procurement Policy.

For further information or enquiries about SPC's procurement activities, please visit the procurement pages on our website: <https://www.spc.int/procurement> or email: procurement@spc.int

1.3 SPC's Request for Quotation (RFQ) Process

At SPC, procurement valued at more than EUR 2,000 and less than or equal to EUR 45,000 requires an evaluation of at least three quotations to determine the offer that provides the best value for money through a Request for Quotation (RFQ) process.

This RFQ sets out SPC's requirements for a project and it asks you, as a bidder, to respond in writing in a prescribed format with pricing and other required information.

Your participation confirms your acceptance of SPC's conditions of participation in the RFQ process.

Part 2: INSTRUCTIONS TO BIDDERS

2.1 Background

SPC invites you to submit a quotation to deliver the services as specified in [Part 3](#).

SPC has compiled these instructions to guide prospective bidders and to ensure that all bidders are given equal and fair consideration. Please read the instructions carefully before submitting your bid. For your quotation to be considered, it is important that you provide all the prescribed information by the closing date and in the format specified.

2.2 Submission Instructions

You must **submit your quotation and all supporting documents** in English and as an attachment to an email sent to pierreyvesc@spc.int and with the subject line of your email as follows: **Submission RFQ23-5416**. The email should also be copied to rfq@spc.int.

The supporting documents expected in this RFQ are:

- [The Conflict-of-Interest Declaration form](#) completed
- Technical proposal form, CV and work plan

Your submission must be clear, concise and complete and should only include a quotation and information that is necessary to respond effectively to this RFQ. Please note that you may be marked down or excluded from the procurement exercise if your submission contains any ambiguities or lacks clarity.

Bids will be evaluated on the basis of information received by **11.59 pm GMT+12 on 5/06/2023**.

2.3 Evaluation & Contract Award

Each quotation validly received will be assessed against the evaluation criteria matrix set out in [Part 4](#). Any changes in the evaluation criteria will result in the RFQ process being re-issued.

SPC may award the contract once it has determined that a bidder has met the prescribed requirements and the bidder's proposal has been determined to be substantially responsive to the RFQ documents, provide the best value for money (highest cumulative score) and best serve the interests of SPC.

In the event of a bid being accepted, procurement will take place under SPC's [General Terms and Conditions of Contract](#) and depending on the value or nature of the procurement, the award will be made by issuing a purchase order or a signed and dated contract, or both.

2.4 Key Contacts

Please contact SPC should you have any doubt as to what is required or if we can help answer any questions that you may have.

Pierre-Yves Charpentier will be your primary point of contact for this RFQ and can be contacted at pierreyvesc@spc.int. You should copy any communications into rfq@spc.int.

Details will be kept of any communications between SPC and bidders. This assists SPC to ensure transparency of the procurement process. While SPC prefers written communication in the RFQ process, at any point where there is phone call or other conversation, SPC expects to keep a file note of the exchange, with all forms of communication with prospective bidders to be retained as source documents for the procurement of the services.

2.5 Key Dates

Please see the proposed procurement timetable in the table below. This timetable is intended as a guide only and while SPC does not intend to depart from the timetable, it reserves the right to do so at any stage.

STAGE	DATE
RFQ sent to potential vendors	22/05/2023
RFQ Closing Date	5/06/2023
Award of Contract	9/06/2023
Commencement of Contract	12/06/2023
Conclusion of Contract	30/09/2023

2.6 Legal and compliance

Confidentiality: Unless otherwise agreed by SPC in advance or where the contents of the RFQ are already in the public domain when shared with the bidder, bidders shall at all times treat the contents of the RFQ and any related documents as confidential. SPC will also treat the information it receives from the bidders as confidential.

Conflict of interest: Bidders must take all necessary measures to prevent any situation of conflict of interest. You must notify SPC in writing as soon as possible of any situation that could constitute a conflict of interest during the RFQ process. If you have any familial connection with SPC staff, this must be declared, and approval will then be sought for you to engage in the RFQ process. **In support of your response to this RFQ, you must submit to SPC [the Conflict-of-Interest Declaration form](#) available on our procurement page website: <https://spc.int/procurement>.**

Breach of this requirement can result in SPC terminating any contract with a successful bidder.

Currency, validity, duties, taxes: Unless specifically otherwise requested, all proposals should be in EURO and must be net of any direct or indirect taxes and duties, and shall remain valid for 120 days from the closing date. The successful bidder is bound by their proposal for a further 60 days following notification they are the preferred bidder so that the contract may be awarded. No price variation due to escalation, inflation, fluctuation in exchange rates, or any other market factors shall be accepted at any time during this period.

No offer of contract or invitation to contract: This RFQ is not an offer to contract or an invitation by SPC to enter into a contract with you.

Privacy: The bidder is to comply with the requirements of applicable legislation and regulatory requirements in force for the use of personal data that is disclosed for the purposes of this RFQ. SPC will handle any personal information it receives under the RFQ in line with its [Privacy Policy](#), and the [Guidelines for handling personal information of bidders and grantees](#).

Warranty, representation, assurance, undertaking: The bidder acknowledges and agrees that no person has any authority to give any warranty, representation, assurance or undertaking on behalf of SPC in connection with any contract which may (or may not) follow on from this RFQ process.

2.7 Complaints process

Bidders that consider they were not treated fairly during any SPC procurement process may lodge a protest. The protest should be addressed to complaints@spc.int. The bidder must provide the following information: (1) full contact details; (2) details of the relevant procurement; (3) reasons for the protest, including how the alleged behaviour negatively impacted the bidder; (4) copies of any documents supporting grounds for protest; (5) the relief that is sought.

Part 3: TERMS OF REFERENCE

A. Background/context

The PNG Office of Ocean Affairs is seeking a consultant to undertake a legal analysis to guide the development of an Ocean Act. The PNG Office of Ocean Affairs was established by National Executive Council of Papua New Guinea and reports to the Department of Justice and Attorney General.

The Department of Justice and Attorney General (DJAG) is the central agency responsible for the administration of legal services to the State and its instrumentalities, and the provision of law and justice services to the people of the Independent State of PNG. Its core functions, roles, responsibilities and strategic priorities are aligned with the Papua New Guinea Vision 2050 taking our long-term direction and focus from four of the seven pillars: “Human Capital Development”, “Wealth Creation”, “Institutional Development & Service Delivery”, and “Security & International Relations”.

The Office of Ocean Affairs was established to enable consultation and coordination of efforts to develop and implement the legal and implementation phase of UNCLOS in PNG (NEC Decision 03/2015). This Office is an interim arrangement, which will eventually transit out of DJAG, once the National Ocean Office is established. NEC Decision 185/2020 further approved the Papua New Guinea National Ocean Policy (NOP) 2020-2030 and approved the establishment of the National Ocean Committee and the Technical Working Committee. The Department of Personal Management has already approved a structure for the Oceans Office, with its own budget for staff.

Goal for the Oceans Office:

To develop and lead coordination where required of the governance structures to oversee the implementation of the Maritime Zones Act and related legislation and policies. These governance and management frameworks are to be developed under the Maritime Zones Legal Reforms.

Role and Mandate of the Office:

The DJAG and Department of Foreign Affairs (DFA) will provide the political, administrative and legal oversight in accordance within the Maritime Zones Act and other legal instruments and the NOP.

The objective of the Office is to:

Coordinate the administrative workflow of the Government in ocean governance in accordance with the Maritime Zones Act and related legislations and policies of the Government. In particular, the Oceans Office will manage the Integrated Ocean Management approach under the NOP. This function in itself should be recognised under law. Specific functions include:

- i. Development and endorsement of Annual Strategic Plan- requires integration of sectoral plans into the Oceans Office Annual Plan.
- ii. Coordination and reporting implementation of strategic plans;
- iii. Coordinate and ensure agencies share information and data to manage the oceans.
- iv. Coordinate Marine Spatial Planning for maritime zones.

It is expected that the Oceans Office will facilitate a greater cooperation and integration of PNG Ocean governance through the oceans policy and ocean strategy. The policy and strategy will provide the mandate for action among stakeholders. The various Government agencies which have legal mandates in

the oceans will operate transparently and accountable to the sharing of information and data in coordination with their respective legal responsibilities.

The key to achieving sustainable ocean governance involves a holistic approach to be applied by the people, the Government, NGOs, and various stakeholders both through formal and informal processes including dialogue with regional and international networks dealing with ocean governance. It will require a collective effort with individual sector responsibilities feeding into the ocean integrated management approach.

Legal Framework to Govern PNG's Ocean

Maritime Zones Act (MZA)

The Maritime Zones Act 2015 (MZA) ensures that PNG's rights and obligations in its defined maritime zones are reflected in the legislation consistent with the governance framework under UNCLOS. The MZA provides maritime jurisdictional limits for enforcement of PNG's responsibilities as against rights of other coastal States. Some of the ocean responsibilities are found in shipping, maritime security, environmental protection, fisheries development, including potential exploitation of natural resources. NEC Decision 124/96 approved the ratification of the United Nations Convention on Law of the Sea 1982 (UNCLOS) by PNG and PNG implementation of UNCLOS domestically, through DJAG and Department of Foreign Affairs (DFA). The National Fisheries Authority (NFA) and other technical agencies undertook funding and technical implementation of the Maritime Boundaries Delimitation Project, which resulted in PNG's baseline and territorial waters surveyed and charted. The MZA implements the UNCLOS in Papua New Guinea. It is a framework legislation for all activities happening in the ocean space, including the foreshore and coastal areas.

Maritime Zones Legal Reforms (MZLR)

One of the strategic actions for the implementation of the NOP, is the development of the necessary legal frameworks, including specific regulations for the MZA 2015. Appropriate regulations and notices have to be made on specific matters relating to specific IOM actions. The MZA 2015 also covers various responsibilities of several Ministers of Government, which may need further policy and regulatory framework to be developed. This is where the Maritime Zones Legal Reforms (MZLR) activity has been tasked to ensure that the governance and management mechanisms are appropriately placed and recognised under law, for effective mandate, compliance and enforcement of ocean governance in PNG.

The objective of the legal and policy implementation phase as stated in the NOP:

i). provide administrative and legal guidelines to regulate the conduct of marine scientific research in the waters of PNG through an appropriate consent regime.

ii). Several ministerial roles are established under the MZA as follows;

- Minister for Foreign Affairs
- Minister responsible for Transport
- Minister responsible for Civil Aviation
- Minister responsible for Environment and Conservation
- Minister responsible for Fisheries
- Minister responsible for Communication and Information
- Minister responsible for Culture and Tourism

iii). Manage consultations between ministries and the issuance and management of notices provided by these Ministries will be managed accordingly by the Oceans office, through appropriate legislative mandate and regulatory powers.

iv). Streamlined planning and management approach to implement the MZA.

Crosscutting issue – Integrated Management Approach

The cross-cutting issues related to ocean use and space, although varied, cannot be isolated or separated and must be treated holistically. This sets the foundation for an integrated approach on sustainable development which is consistent with *Vision 2050*, the *Strategy on Responsible and Sustainable Development (StaRS)*, *Sustainable Development Goals* and other related national and international policies. An integrated management approach will ensure that there is an integrated conduct of the policy, actions and affairs of the various mandated key sectors to manage their crosscutting issues.

Crosscutting issues create conflicts in management applications and reporting where there is no effective coordination and collaboration. A number of crosscutting issues and common approaches were identified through the consultations. These have results in the desired outcomes outlined under the Policy.

B. Purpose, objectives, scope of services

The Consultant will be tasked with helping the Office of Ocean Affairs to:

- 1) Develop an analytical framework within which to conduct and organise the review.
The framework must allow for each document analysed, the identification of:
 - a. Main objectives
 - b. Main activities that are promoted, controlled and/or managed
 - c. Main management tools (including incentives) employed
 - d. Geographic extent of jurisdiction (whether formal or informal) and
 - e. Other analytical dimensions as mutually agreed
- 2) Conduct a review and analysis of all relevant legislations and regulations, policies and strategies at local, provincial, national levels relating to the management of Papua New Guinea (PNGs) ocean and it relates to integrated ocean management (IOM);
- 3) Collate and review international and/or regional (Pacific) levels laws and policies as it pertains to integrated ocean-wide management of PNG's Ocean space;
- 4) Legal and Policy Mapping and Review with recommendations on MZA regulation, policy recommendations and legal reform recommendations;
- 5) The analysis itself must be well written and must identify areas of:
 - a. Conflict or potential conflict
 - b. Synergy or potential synergy and
 - c. Gaps of any kind
 - d. Key recommendations for integrated ocean management approach that the Oceans Authority can then apply.

C. Timelines

This consultancy is expected to take place between June and September 2023 for approximately 42 working days.

The start of assignment is expected in June with an inception meeting.

Legal and Policy Mapping and Review with recommendations on MZA regulation, policy recommendations, legal reform recommendations – 6 to 8 weeks from inception

Consultation workshop – One Regional Consultations is expected to take place during this assignment, and the consultant will have to be present in PNG (no need for national consultations; two National Oceans workshop were done already).

Presentation of findings and recommendations – a presentation of findings and recommendations is expected to take place involving key stakeholders from the PNG government. The format of the presentation (virtual or in-person) will be jointly defined by the consultation and the Ocean Affairs Office.

End of assignment is expected by the end of September 2023.

Indicative timeline:

Activity or output	Estimated time for Consultant (days)	Date
Finalise Workplan	0	9 June
Inception meeting	10	16 June
Provincial consultation	10	15-25 July
Legal and Policy Mapping and Review	20	20 August
Presentation of recommendations from Legal and Policy Mapping and Review	2	4 September
End of assignment	0	30 September
Estimated time allocated to this assignment	42 days	

D. Reporting and contracting arrangements

- The Consultant will report directly to the Office of Ocean Affairs Interim Director, and to the Integrated Ocean Management Adviser. All approvals will be obtained from the Deputy Secretary, State Legal Services. Fortnightly reporting should be done as and when requested.
- The Consultant duty station is their home country and shall also provide their own workspace and IT equipment for the duration of the assignment along with stable internet connection for zoom interactions when necessary.
- As part of this consultancy's inception, a 10-day to 2-week trip In Port Moresby would take place at the beginning of the assignment. One National Ocean Policy Regional Awareness is expected to take place in Kavieng in July or August 2023. SPC will organise economy airfares and accommodation.
- National Ocean Committee (NOC) members – The Consultant will be expected to engage with national stakeholders and agencies. Presentations to the NOC may be requested to provide updates and gauge views and feedback on work activities, including drafts of documents developed under this TOR.
- **Consultations:** Consequential amendments to 15 legislations were made with the passing of the MZA 2015 Act. The Consultant will engage with the offices overseeing the implementation of these legislations as part of aligning reforms with the MZA Act 2015.

Reference may also be made to the PNG NOP and MZA for carrying out consultations.

Consultations with other stakeholders managing users of the ocean space will also carried out. This includes but is not limited to:

Department of Provincial and Local Government Affairs, Department of Transport, Department of National Planning and Monitoring, State Solicitors Office, Conservation Environment Protection Authority, Department of Mineral Policy and Geohazard Management, National Fisheries Authority, National Maritime Safety Authority, National Information and Communication and Technology Authority, University of Papua New Guinea and Science and Technology. Collaboration between other agencies will be carried out as and when directed by the Deputy Secretary Legal and Policy.

- SPC does not provide insurance for consultants travel or health, professional indemnity or any other risks or liabilities that may arise during the consultancy (this includes any subcontractors or associates the consultant may hire). SPC is also not responsible for any arrangements or payments related to visas, taxes or duties for which the consultant may be liable.

E. Skills and qualifications

- 15 years of experience in legal and policy analyses and review
- Law degree, masters level is preferred
- Demonstrated knowledge of international ocean law including UNCLOS
- Understanding of the regional framework regarding Ocean governance and management
- Demonstrated experience in Pacific Island countries
- Asset: knowledge of the PNG legal system

F. Scope of Bid Price and Schedule of Payments

- The contract price will be based on lump sum payments tied to the milestones (in previous section) set out below.
- The value of the contract will be based on number of days dedicated to the scope of work outlined in this ToR, up to a maximum of 42 person-workdays.
- Terms of payment shall be in accordance with the provisions of Article 10 of the SPC General Conditions

Milestone/deliverables	Deadline	% payment
Approval of the detailed work plan	20 June	20%
Approval of the Legal and Policy Mapping and Review	20 August	50%
Presentation and submission of findings and recommendations with all final approvals	4 September	30%
TOTAL		100%

Part 4: PROPOSAL EVALUATION MATRIX

4.1 Competency Requirements & Score Weight

The evaluation matrix below reflects the obtainable score specified for each evaluation criterion (technical requirement) which indicates the relative significance or weight of the items in the overall evaluation process.

Evaluation criteria	Score Weight (%)	Points obtainable
Mandatory requirements		
<ol style="list-style-type: none"> 1. The Conflict-of-Interest Declaration form completed 2. Proposal Submission Forms 3. CV and 4. work plan 	Mandatory requirements. Bidders will be disqualified if any of the requirements are not met	
Technical requirements		
Technical requirement 1: Appropriate qualification (law degree with masters level being desirable) and level of experience in legal and policy analyses and review (15 years of experience)	30%	300
Technical requirement 2: Demonstrated knowledge of international ocean law including UNCLOS	15%	150
Technical requirement 3: Understanding of the regional framework regarding Ocean governance and management	15%	150
Technical requirement 4: Demonstrated experience in Pacific Island countries, knowledge of the PNG legal system being an asset	10%	100
Financial requirement 1 : Price	30%	300
Total Score	100%	1,000

Part 5: TECHNICAL AND FINANCIAL PROPOSAL FORMS

PART A – Background

RESPONSE BY BIDDER	
Name	
Physical Address	
Postal Address	
Telephone Contact	
Email	

PART B – Technical evaluation criteria

Technical Requirements	
Competency Requirements	Response by Bidder
<p>Experience: Evidence of the bidder’s relevant experience must be submitted. Bidders shall provide details of three contracts that demonstrate their track record in completing works/services similar to the ToR in Part 3 of this RFQ. The bidder should provide contact details of one referee for each of the contracts. The contracts should have been completed or substantially completed within the last 8 years. Please attach CV(s) and any supporting information as necessary.</p>	<p>Details for two references</p>
	<p>1. Client’s name: <i>[insert name of client 1]</i></p>
	<p>Contact name: <i>[insert name of contact]</i></p>
	<p>Contact details: <i>[insert contact details]</i></p>
	<p>Value contract: <i>[insert value of contract]</i></p>
	<p>2. Client’s name: <i>[insert name of client 2]</i></p>
	<p>Contact name: <i>[insert name of contact]</i></p>
	<p>Contact details: <i>[insert contact details]</i></p>
	<p>Value contract: <i>[insert value of contract]</i></p>
	<p>3. Client’s name: <i>[insert name of client 3]</i></p>
	<p>Contact name: <i>[insert name of contact]</i></p>
	<p>Contact details: <i>[insert contact details]</i></p>

	Value contract:	<i>[insert value of contract]</i>
1. Technical Requirement 1		
Appropriate qualification (law degree with masters level being desirable) and level of experience in legal and policy analyses and review (15 years of experience)		<i>[Bidder's answer]</i>
2. Technical Requirement 2		
Demonstrated knowledge of international ocean law including UNCLOS		<i>[Bidder's answer]</i>
3. Technical Requirement 3		
Understanding of the regional framework regarding Ocean governance and management		<i>[Bidder's answer]</i>
4. Technical Requirement 4		
Demonstrated experience in Pacific Island countries, knowledge of the PNG legal system being an asset		<i>[Bidder's answer]</i>

PART C – Financial proposal

All costs indicated on the Financial Proposal should be **inclusive** of all applicable taxes. The format shown below should be used in preparing the price schedule. All prices in the proposal must be presented in **EUR**.

Particulars	Amount (EUR)
Professional fees	Day rate: EUR _____
Total financial offer (exclusive of taxes)	Maximum total fee (max 42 days): EUR _____

Professional fees: Staff salaries, consultant fees and any other professional costs (with details on the level of effort of each person on the team. i.e. 50% full time, full-time, etc.).

SPC will not cover separate lines for visas, overheads/running costs, etc. If these apply, the costs are to be taken into account in the fees charged for the delivery of the specific services.

No payment will be made for items which have not been priced. Such items are deemed to be covered by the financial offer.

Travel and accommodation will be organised by SPC

Bidders will be deemed to have satisfied themselves, before submitting their proposal and to its correctness and completeness, taking into account of all that is required for the full and proper performance of the contract and to have included all costs in their rates and prices.

For the Bidder: *[insert name of the company]*

Signature:

Name of the representative: *[insert name of the representative]*

Title: *[insert Title of the representative]*

Date: *[Click or tap to enter a date]*