
EUROPEAN FOREST INSTITUTE

TENDER SPECIFICATIONS

PROCUREMENT REFERENCE NUMBER 5-15.2-2019-R

**LEGAL SUPPORT TO INCREASE UNDERSTANDING AND ENHANCE
STAKEHOLDER ENGAGEMENT ON FOREST CONVERSION IN THE TROPICS**

1. TERMS OF REFERENCE

1.1. Introduction

Agricultural expansion is identified as one of the main drivers of deforestation in tropical forest countries: up to 80% of all tropical deforestation is driven by agriculture. Pressure from the agricultural sector, in particular for increasing commodity production, on the global forest cover is expected to increase over time and jeopardise global commitments to limiting climate change to 1.5°C above pre-industrial levels. At the same time, national development policies in tropical forest-rich countries promote sectors such as agriculture, mining and infrastructure to improve the national economy. In order to develop those sectors, these countries may not be able to avoid forest loss entirely. Nevertheless, countries must balance economic growth, food security and protection of the environment. Improving the legal frameworks governing forest conversion could help to achieve this balance and incentivise legal commodity production and related trade. Legal clarity is also expected to assist the establishment an enabling environment for private sector investments in legal and sustainable land use and commodity production.

Much of the global deforestation is caused by illegal conversion of forest land to agriculture¹, including for the production of globally traded commodities, such as soy, palm oil, rubber, cocoa and timber. Therefore, eliminating illegal deforestation from supply chains is a top priority in addressing tropical deforestation² and also research by Forest Trends³ seems to suggest that deforestation in the tropics can be significantly reduced when legal frameworks are clarified and enforced.

The current assignment aims to seize opportunities provided by forest and land-use related processes in EU REDD Facility partner countries⁴ to clarify legal frameworks governing land allocation and forest conversion. These processes include, but are not limited to, FLEGT VPA processes⁵, REDD+ processes⁶ and/or zero-deforestation/sustainable commodity production initiatives⁷. Through this assignment a broad range of in-country stakeholders will be supported to take part in national and local level deliberations, leading up to inclusive and gender-sensitive legal reform.

The information collected and support provided during this assignment can be used to raise the political profile of land allocation and forest conversion in the context of the FLEGT VPAs and support EU action on halting global forest cover loss by 2030, in line with the Sustainable Development Goals and the EU's commitment in the context of the New York Forest Declaration.

Therefore, EFI will contract a Contractor to undertake the following assignment:

¹ Illegal conversion happens when existing legal frameworks are not being respected (e.g. clearance without appropriate permits, not paying taxes,...) or when legal frameworks are incomplete and unclear (missing implementing decrees, overlapping use rights,...).

² Tropical Forest Alliance 2020 (2017). Commodities and Forest Agenda 2020: Ten priorities to remove tropical deforestation from commodity supply chains. World Economic Forum.

³ Forest Trends (2014). Consumer Goods and Deforestation: An analysis of the Extent of Illegality in Forest Conversion for Agriculture and Timber Plantations.

⁴ In 2019, EU REDD Facility partner countries include Cameroon, Colombia, Côte d'Ivoire, Democratic Republic of the Congo, Ecuador, Indonesia, Laos, Republic of the Congo, Thailand and Vietnam

⁵ FLEGT stands for Forest, Law Enforcement, Governance and Trade. The EU FLEGT Action Plan uses trade incentives to strengthen forest governance and bring illegal forestry and land-use activities under the rule of law. Voluntary Partnership Agreements (VPAs) are key elements of the EU FLEGT Action Plan, which aims to prevent the importation of illegal timber into the EU.

⁶ REDD+ stands for 'reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries'. REDD+ is an international framework aiming at incentivising tropical forest countries to address drivers of deforestation and enhance sustainable forest and land management.

⁷ Recently, a growing number of private and public actors have made commitments to eliminate deforestation from agricultural commodity supply chains and trade. While clarity over the concept of zero-deforestation is lacking, these commitments and initiatives set in motion change throughout commodity supply chains and related trade

1.2. Objectives

The Contractor will assist EU REDD Facility partner country stakeholders in clarifying legal frameworks governing land allocation and forest conversion, using a robust and participatory methodological approach. The work is expected to provide legal analysis, policy recommendations and strategic inputs and to reinforce stakeholder engagement that help strengthen legal processes and the rule of law in order to reduce legal and illegal forest conversion.

The Contractor's work and outputs will contribute to and be anchored into existing policy processes in EU REDD Facility partner countries that aim at improving forest and land-use governance. Such processes include, but are not limited to, FLEGT VPA processes, REDD+ processes and/or jurisdictional zero-deforestation/sustainable commodity initiatives.

1.3. Tasks and outputs

Depending on the country processes and dynamics, the Contractor may be expected to conduct legal analysis, or to have a more prominent role and engage with country stakeholders to identify and implement solutions to gaps and weakness in the legal frameworks around forest conversion.

Specific actions required and outputs to be delivered in each country will be identified with and validated by EFI. Therefore, detailed quarterly work plans will be produced by the Contractor, in consultation with EFI. Key tasks are:

1. [BACKGROUND ANALYSIS] Compile back-ground information on relevant laws and legal processes governing land allocation and forest conversion, the stakeholders involved and their roles/capacities, and risk/opportunities provided by ongoing policy processes;
2. [LEGAL ANALYSIS] Assess legal frameworks governing land allocation and forest conversion, thereby using a robust and participatory methodology, identify key risks associated with unclear forest conversion laws and provide concrete policy recommendations;
3. [STRATEGIC SUPPORT] Assist EFI to reflect on possible approaches to support EU REDD Facility partner country stakeholders in clarifying and strengthening legal frameworks and processes around land allocation and forest conversion;
4. [LEGAL QUALITY CONTROL] Where the Contractor does not lead legal analysis related to forest conversion⁸, but where other service providers to EFI are, ensure the use of robust and participatory methodological approaches to the assessments as well the quality-control of the work undertaken by these service providers;
5. [STAKEHOLDER SUPPORT] Assist stakeholders to structure their work, prepare for working sessions, structuring agenda's and providing guiding materials to inform discussions, such as discussion notes, presentations or reports for meetings;
6. [FACILITATION] Support stakeholder meetings to grow domestic ownership, engage stakeholders, foster debate, encourage reflection and analysis as well as decision-making, where appropriate. This could include:

⁸ In some EU REDD Facility partner countries, EFI subcontracts or is planning to subcontract legal assessments related to forest conversion, outside the scope this assignment. Where this is the case, the Contractor may be requested to work closely with these service providers to EFI.

- i. Sharing an understanding of the importance of legal clarity around forest conversion as a key step towards reducing legal and illegal deforestation;
 - ii. Preparing PowerPoint presentations and/or briefs to facilitate introduction of the subject to different stakeholders;
 - iii. Discussing the results of the legal assessments (see above) in order to improve the quality of the legal work but also ensure stakeholder ownership, in particular with partner country governments;
 - iv. Assist stakeholders developing recommendations and finding solutions to overcome gaps and weaknesses in the legal frameworks;
 - v. Assisting stakeholders in identifying priorities of action;
 - vi. Support stakeholders in improving legal processes and/or drafting legal texts;
 - vii. Assisting in identifying the way forward with concrete following steps after each meeting;
 - viii. Preparing a synoptic report of the meetings and reflections;
7. [DOCUMENTATION AND REPORTS] Develop written drafts in relation to the tasks above (e.g. legal assessments, briefs, presentations, meeting reports,...) to serve as a basis for further discussion and elaboration, either with EFI or other country stakeholders;
8. [SHARING LESSONS] Assist EFI and EU REDD Facility partner country stakeholders in the presentation of legal assessments, ideas, lessons learnt and experiences for national, EU and international audiences.

In addition to the work above, the Contractor will be asked to:

- Produce concise quarterly reports outlining achievements, lessons learnt and recommendations;
- Do a mid-term stock-take (by June 2020), including a report and concise PowerPoint presentation capturing lessons learnt and recommendations for further implementation;
- The final report will be a summary of the intermediary reports, with a strong focus on lessons learnt and recommendations for next steps, by national stakeholders, donors and EFI. All written outputs will be referenced in the final report and provided to EFI.

1.4. Timetable, work plan budget and reporting

The tasks are to be performed by 2-3 experts for a maximum of 150 working days in total. The work will be partly home based (estimated around 50%) and partly in-country based (estimated around 50%)⁹, for a period of 2 years. It is estimated that there are maximum 15 missions to partner countries and a maximum of 3 missions to Brussels and 3 missions to Barcelona. Europe-based meetings are for initial work planning, updates and meetings with interested stakeholders. All travel shall be coordinated with EFI prior to departure. The final amount of total working days will be decided by EFI on need basis. The contracting period is estimated from June 2019 until the end of May 2021. The contractor is expected to start within a month of the signature of the contract.

The nature of forest and land-use governance policy processes is such that the tempo of developments can be quite difficult to anticipate. As such, this 2-3 experts' team will be required, with sufficient common understanding and ways of working that ensure cross fertilisation between processes, but that does not rely

⁹ In EU REDD Facility partner countries

solely on a single expert who could become a bottleneck to advance should two or more country processes advance at the same time.

The time spent over the consultancy period of 2 years will not be evenly split and will be driven by country needs.

Every quarter the Contractor will be preparing a specific work plan for the coming period. The work plan also includes an estimation of work days needed and the planned missions, as well as a cost estimation of activities suggested in the quarterly work plan. EFI will make available a separate work plan budget for the Contractor. The work plan budget covers, inter alia, facilitation and meetings costs and well as the mobilisation of short-term local expertise in support of the quarterly work plan. Any bank cost related to the management of this work plan budget are also covered by the work plan budget. The Contractor is responsible for the good management of the work plan budget, in accordance with the approved quarterly work plans. The work plan and related budget needs a prior approval from EFI and can not exceed 75,000€.

Monthly calls will be organised between the Contractor and EFI to discuss progress, content and strategy in order to achieve the goals set out in the quarterly work plans.

The reports will include:

- Concise quarterly reports outlining achievements, lessons learnt and recommendations;
- A mid-term stock-take (by June 2020), including a concise PowerPoint presentation capturing lessons learnt and recommendations for further implementation;
- A final report covering all interventions as well as lessons learnt up to May 2021 shall be prepared by mid June 2021;
- Reports, briefs and PowerPoint presentations as foreseen in the quarterly work plans.

2. TENDER DOCUMENTATION

2.1. Administrative Documentation

The tender shall include the following documentation, properly filled out and signed:

- Cover letter (Annex 1)
- Identification form (Annex 2) including supporting documentation
- Bank identification form (Annex 2a)
- Declaration on Exclusion Criteria and Absence of Conflict of Interest (Annex 3)
- Nomination of Experts form (Annex 4)
- Minimum criteria declaration (Annex 5)

The consortium agreement (Annex 6) shall be included, properly filled out and signed, if the tender is submitted jointly by a consortium of economic operators. The consortium agreement (Annex 6) shall not be included if the tender is submitted by a single Tenderer proposing subcontracting of tasks.

2.2. Technical Proposal

In order to evaluate the tender against the minimum criteria and the award criteria A.I. – A.II in section 3.1. and 3.2, the Tenderer shall submit a technical proposal consisting only of the following elements:

1) A nomination of the following Experts to carry out the tasks in the Terms of Reference:

- **one Team Leader (Expert)**
- **one to two additional Experts**

The Technical Proposal shall include CV's of the nominated Experts.

The Tenderer shall be able to certify the information contained in the CV's for the nominated Experts at EFI's request.

The CV shall be structured as in the EuroPass CV

<https://europass.cedefop.europa.eu/documents/curriculum-vitae>

2) A description of no more than three pages, **making reference to the Terms of Reference and the previous experience of the Expert** showcasing understanding of:

- Legal challenges related to forest conversion and land allocation in at least 4 EU REDD Facility partner countries
- Opportunities for legal reform around forest conversion provided by forest and land-use governance processes in at least 4 EU REDD Facility partner countries
- Participatory approaches to drive legal and governance reforms in the land-use sector in tropical forest countries

- 3) A presentation** of no more than four pages on the Tenderer's methodology for the assignment – building upon the Terms of Reference and the experience of the Experts – addressing the following elements under separate headings:
- Approach to analyse legal frameworks governing land allocation and forest conversion, in a robust and participatory manner;
 - Approach to engage with governmental and non-governmental stakeholders to help promote their active engagement in governance reform processes;
 - Approach to inform and support multi-stakeholder processes and the stakeholders involved, dealing with legal reform in EU REDD Facility partner countries in Asia, Africa and Latin America;
 - Approach to collect knowledge and lessons learnt to inform local, national and international audiences

2.3. Financial Proposal

The Tenderer shall submit a financial proposal, which shall be completed by using the form in annex 7 and by following the instructions therein.

The full general conditions applicable to the payment of fees and per diem as well as the reimbursement of costs can be found in annex 8 (model contract).

3. EVALUATION OF TENDERS AND AWARD OF THE CONTRACT

3.1. Minimum Criteria

The Experts nominated must individually meet the following criteria:

| N° | Criteria description |
|--------|---|
| M.I. | At least 7 years of work experience in legal reform processes in the agriculture, forestry or natural resources sector in developing countries. |
| M.II. | Master's degree in public administration, law, forestry or natural resources management or a relevant, directly related discipline, or equivalent relevant professional experience. |
| M.III. | Experience in facilitating multi-stakeholder meetings as part of a legal reform processes in the agriculture, forestry or natural resources sector in developing countries. |
| M.IV. | Understanding, speaking and writing in English as demanded with respect to all tasks covered by the Terms of Reference in this tender. |

The Experts nominated must collectively meet the following criteria:

| N° | Criteria description |
|------|--|
| M.V. | Experience in the following priority countries and regions: Côte d'Ivoire, Central Africa and the Mekong region. |

At least one of the Experts nominated must meet the following criteria:

| N° | Criteria description |
|-------|--|
| M.VI. | Understanding, speaking and writing in French as demanded with respect to all task covered by the Terms of Reference in this Tender. |

Tenders not fulfilling the minimum criteria will be rejected.

3.2. Award Criteria

Tenders which fulfil the minimum criteria will be evaluated using the following award criteria:

| A. Technical component (maximum 75 points) | | |
|---|--|-------------------|
| N° | Award criteria | Max points |
| A.I. | Understanding of: | 30 |
| i. | Legal challenges related to forest conversion and land allocation in at least 4 EU REDD Facility partner countries | 10 |
| ii. | Opportunities for legal reform around forest conversion provided by forest and land-use governance processes in at least 4 EU REDD Facility partner countries | 10 |
| iii. | Participatory approaches to drive legal and governance reforms in the land-use sector in tropical forest countries | 10 |
| A.II. | Proposed methodology for the implementation of the tasks | 45 |
| i. | Approach to analyse legal frameworks governing land allocation and forest conversion, in a robust and participatory manner; | 20 |
| ii. | Approach to engage with governmental and non-governmental stakeholders to help promote their active engagement in governance reform processes; | 10 |
| iii. | Approach to inform and support multi-stakeholder processes and the stakeholders involved, dealing with legal reform in EU REDD Facility partner countries in Asia, Africa and Latin America; | 10 |
| iv. | Approach to collecting knowledge and lessons learnt to inform local, national and international audiences | 5 |

The Technical component (TC) is calculated according to the following formula:

| |
|--------------------------|
| TC = A.I. + A.II. |
|--------------------------|

Tenders must receive a score of more than half of the maximum Technical component to be considered qualitatively acceptable.

Tenders not considered qualitatively acceptable will not be considered further.

B. Financial component (maximum 25 points)

Tenders presenting a total financial proposal (Fo) superior to the maximum contract value of EUR 235.000 (two hundred and thirty-five thousand) will not be considered further.

For tenders being considered, the Financial component (F) is calculated according to the following formula:

$$F = (F_{min} / F_o) \times 25$$

where

Fmin is total sum in the tender in the evaluation with the lowest total financial proposal; and

Fo is the total sum in the financial proposal being considered.

C. Most economically advantageous tender

A combined score (CS) will be calculated according to the following formula:

$$CS = TC + F$$

The Tenderer with the highest combined score (CS) for Technical component (TC) and Financial component (F) will be awarded the Contract.

Where two or more tenders have an equal combined score the contract will be awarded according to the highest score for the financial component (F).

ANNEXES

| | |
|----------|---|
| Annex 1 | Cover letter |
| Annex 2 | Identification form |
| Annex 2a | Bank identification form |
| Annex 3 | Declaration of exclusion criteria and Absence of Conflict of interest |
| Annex 4 | Nomination of Experts form |
| Annex 5 | Minimum criteria declaration |
| Annex 6 | Consortium agreement |
| Annex 7 | Financial Proposal form |
| Annex 8 | Model contract |
| Annex 9 | EC Per diem rates |