

**Activity 1. 2: Comparative analysis of international legal and institutional frameworks**

ATTACHMENT 1: TECHNICAL PROPOSAL

CONTACT INFORMATION

Name	Kenyatta Nyirenda
Address	Post Office Box 31662, Capital City, Lilongwe 3
Country	Malawi
Telephone	265 1 761310 or 265 99 302 0009
Fax	265 1 761310
E-mail	<a href="mailto:Kenyatta@globemw.net">Kenyatta@globemw.net</a> or <a href="mailto:kenyattanyirenda@yahoo.com">kenyattanyirenda@yahoo.com</a>
Website	

## Project Summary

The current legal and institutional frameworks in the Caribbean limit the ability of governments to respond to natural disasters. These nations lack relevant state of emergency legislation and an institutional framework capable of mobilizing executive powers in the aftermath of a disaster. The Department of Sustainable Development of the Organization of American States (OAS-DSD) with funding from the World Bank will execute the Caribbean Emergency Legislation Project (CELP).

The CELP aims to raise awareness among government decision makers and make recommendations, to improve legislative channels and administrative procedures during, and immediately after, the occurrence of a natural disaster. The proposed project will (1) conduct a study to improve the legal and institutional frameworks related to state of emergency and budget appropriation powers; and (2) conduct national and regional outreach and validation of findings. The main output of this project will be a set of recommendations for the implementation of clear and transparent procedures triggered under a state of emergency. They will define government powers and responsibilities during these times, with particular emphasis on the emergency declaration and the governance aspects of emergency budget appropriation and budget execution.

## Project Description

### A. Consultant's experience

- Over 22 years of intense experience in various aspects of law with highly developed conceptual, analytical and problem solving skills
- Vast experience in drafting legislation and other legal instruments
- Sound exposure to domestication of international agreements, development and implementation of protocols, networking and collaboration with international cooperating partners
- Abundant courtroom knowledge
- Fluent in motion practice, mediation, arbitration and drafting of various pleadings, discovery papers, motions and petitions
- Excellent research, negotiation, consultancy and facilitation skills
- Highly developed interpersonal, oral and written communication skills in relation to provision of legal services
- Vast knowledge and experience in the field of environmental law and policy, including understanding of institutional and policy issues in the Caribbean
- I have regional experience in the Caribbean having worked from March 2007 to March 2009 as a Senior Legislative Drafter, Attorney General's Chambers, Turks and Caicos Islands (Assignment under the auspices of the Commonwealth Secretariat)
- I have consulted and researched for, among others, the United Nations Environment Program, the Southern African Development Community, the Human Rights Research and Documentation Trust of Southern Africa, United Nations Development Program, GTZ and the Commonwealth Secretariat
- Details are set out in the attached Curriculum Vitae

## **B. DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT**

---

### **Introduction**

This proposal provides my expression of interest to undertake the consultancy to conduct a comparative analysis of existing legal and institutional frameworks for emergency response, in civil and common law countries around the world, with special attention to countries of the Americas (North, Central and South) in accordance with the Request of Proposal – Activity 1.2.

### **Objectives of the Consultancy**

The main objective of the consultancy is to ascertain whether parts of these existing legal and institutional frameworks for emergency response, in civil and common law countries around the world, could serve as models or provide foundations for an improved legal and institutional framework in the Caribbean, considering current legislative and administrative gaps. The comparative analysis will focus on the legal and institutional frameworks related to state of emergency, and budget appropriation and execution by governments in emergency situations

### **Scope of Work and Terms of Reference**

The work will involve the conduct a comparative analysis of existing legal and institutional frameworks for emergency response, in civil and common law countries around the world, with special attention to countries of the Americas (North, Central and South). The following are the specific terms of reference for the Study:

#### **1. Background**

The current legal and institutional frameworks in the Caribbean limit the ability of governments to respond to natural disasters. These nations lack relevant state of emergency legislation and an institutional framework capable of mobilizing executive powers in the aftermath of a disaster. The Department of Sustainable Development of the Organization of American States (OAS-DSD) with funding from the World Bank will execute the Caribbean Emergency Legislation Project (CELP).

The CELP aims to raise awareness among government decision makers and make recommendations, to improve legislative channels and administrative procedures during, and immediately after, the occurrence of a natural disaster. The proposed project will (1) conduct a study to improve the legal and institutional frameworks related to state of emergency and budget appropriation powers; and (2) conduct national and regional outreach and validation of

findings. The main output of this project will be a set of recommendations for the implementation of clear and transparent procedures triggered under a state of emergency. They will define government powers and responsibilities during these times, with particular emphasis on the emergency declaration and the governance aspects of emergency budget appropriation and budget execution.

## **2. Responsibilities of the Consultant**

The Consultant will provide services to support Component 1 of the CELP - "Study to improve legal and institutional frameworks related to state of emergency powers and budget appropriation" More specifically, the Consultant will be responsible for conducting a comparative analysis of existing legal and institutional frameworks for emergency response, in civil and common law countries around the world, with special attention to countries of the Americas (North, Central and South). The objective of this analysis is to ascertain whether parts of these frameworks could serve as models or provide foundations for an improved legal and institutional framework in the Caribbean, considering current legislative and administrative gaps.

The comparative analysis will focus on the legal and institutional frameworks related to state of emergency, and budget appropriation and execution by governments in emergency situations. In particular, the consultant will identify key provisions, at the constitutional and supplementary level and in international legal instruments, assessing their scope, operability and success. Additionally, the consultant will identify key legislative and administrative provisions that could benefit the Caribbean region and improve accountability in disaster management. Further, the consultant will take into account the assessments of the legal and institutional frameworks of Caribbean countries related to state of emergency (the Study) produced under the Project. In particular the consultant will assess how the successful implementation of key legislative and administrative provisions in other regions could benefit, and be successfully replicated in the Caribbean, considering current legislative and administrative gaps.

## **3. Consultant's Description**

The interested consultant should have the following minimum qualifications:

- (a) fluency in oral and written English; proficiency in Spanish and/or French is desirable;
- (b) advanced law degree in international environmental law. A first level university law degree, preferably from a common law jurisdiction, supported by demonstrated experience in the field of environmental law, may be accepted in lieu of an advanced degree;

- (c) knowledge of common, civil and international laws related to the declaration of a state of emergency in natural disaster circumstances, disaster emergency and risk management, budget appropriation and execution;
- (d) thorough knowledge and understanding of institutional and policy issues pertaining to the declaration of a state of emergency in natural disaster circumstances, disaster emergency and risk management, budget appropriation and execution;
- (e) excellent research, analytical and writing skills;
- (f) prior experience preparing reports and studies, preferably on comparative law and policy related issues, for international organizations, such as the World Bank, U.N., or O.A.S.

#### **4. Duration of the Contract**

The contract will have duration of three (3) months.

#### **MY UNDERSTANDING OF THE TERMS OF REFERENCE**

##### **(a) Technical Approach and Methodology**

The Terms of Reference suggest that I:

- (a) conduct a comparison and contrast of the legal and institutional frameworks in countries around the world with the legal and institutional frameworks in the Caribbean, to ascertain the best approach for improving the legal and institutional frameworks in the Caribbean, considering current legislative and administrative gaps;
- (b) assess the effectiveness of legal and administrative provisions in countries around the world, and in international legal instruments, related to channels of responsibility during a state of emergency, and assess their replicability in the Caribbean; and
- (c) outline a set of best practices and recommendations for Caribbean legal and institutional frameworks.

The critical review of the legal and institutional frameworks will provide a state of knowledge within which findings can be made for consideration when assessing the best approach for improving the legal and institutional frameworks in the Caribbean, considering current legislative and administrative gaps in addition to areas for improvement.

I shall use the findings from the desk study analysis to prepare my inception report which shall set out –

- (a) key legislative and administrative provisions at the constitutional and supplementary levels in countries around the world, and in international legal instruments, related to state of emergency and budget appropriation and execution; and an assessment of their scope, operability, and success; and
- (b) a matrix of key legislative and administrative provisions accurately citing the frameworks, in addition to giving a brief description of their scope, operability and replicability.

The inception report shall be submitted to the Project Coordinator and the Senior Legal Specialist for internal review. The comments emanating from internal review will be taken into account in preparing the second report that will primarily focus on a comparative study of the legal and institutional frameworks in countries around the world with the legal and institutional frameworks in the Caribbean, to ascertain the best approach for improving the legal and institutional framework in the Caribbean, considering current legislative and administrative gaps. The study will also include an assessment of the effectiveness of legal and administrative provisions in countries around the world, and in international legal instruments, related to channels of responsibility during a state of emergency; and an assessment of their replicability in the Caribbean and an outline of best practices and recommendations for Caribbean legal and institutional frameworks

The second report shall be submitted to the Project Coordinator and the Senior Legal Specialist for internal review. The comments emanating from internal review will be taken into account in preparing the third report that will be a first draft of the completely composed comparative analysis. The third report will be submitted to the Project Coordinator and the Senior Legal Specialist for internal review. The comments emanating from internal review will be taken into account in preparing the fourth report that will be presented to OAS-DSD for review and the comments by the OAS-DSD will be incorporated into a final draft of the completely composed comparative analysis. Below is a proposed work plan -

**(b) WORK PLAN**

ID	ACTIVITY	PERIOD D DAYS	TARGET OUTPUT
----	----------	---------------------	---------------

1	Obtaining detailed instruction, including document collection	1	Confirmation of instructions and relevant documents collected
2	Desk Review by the Consultant. This will be a situation analysis to summarize the state of knowledge.	28	Inception Report containing preliminary findings, and detailing information gaps
3	Incorporation of comments from the Project Coordinator and the Senior Legal Specialist on the Inception Report	2	Comments from the Project Coordinator and the Senior Legal Specialist on Inception Report incorporated
4	Drafting of the Second Report for review by the Project Coordinator and the Senior Legal Specialist	28	Second Report produced and submitted to the Project Coordinator and the Senior Legal Specialist
5	Incorporation of comments from the Project Coordinator and the Senior Legal Specialist on Second Report	2	Comments from the Project Coordinator and the Senior Legal Specialist on Second Report incorporated by consultant
6	Drafting of Third Report for review by the Project Coordinator and the Senior Legal Specialist	15	Third Report produced and submitted to the Project Coordinator and the Senior Legal Specialist
7	Incorporation of comments from the Project Coordinator and the Senior Legal Specialist on Third Report	2	Comments from the Project Coordinator and the Senior Legal Specialist on Third Report incorporated by consultant
8	Drafting of the Fourth Report for review by OAS-DSD	2	Fourth Report produced and submitted to OAS-DSD
9	Incorporation of comments from OAS-DSD on Fourth Report	2	Comments from OAS-DSD on Fourth Report incorporated by consultant into a Final Draft Report
10	Submission of Final Draft Report	1	Final Draft Report with recommendations submitted



FORM 1: WORK SCHEDULE

N°	Task/ Deliverables			
		1	2	3
1	Obtaining detailed instruction	*		
2	Desk Review by Consultant	*		
3	Drafting of Inception Report	*		
4	Submission of Inception Report	*		
5	Incorporation of comments from the Project Coordinator and the Senior Legal Specialist on the Inception Report	*		
6	Drafting of the Second Report		*	
7	Submission of Second Report		*	
8	Incorporation of comments from the Project Coordinator and the Senior Legal Specialist on the Second Report		*	
9	Drafting of Third Report			*
10	Submission of Third Report			*
11	Incorporation of comments from the Project Coordinator and the Senior Legal Specialist on the Third Report			*
12	Drafting of Fourth Report			*
13	Submission of Fourth Report			*
14	Incorporation of comments from OAS-DSD on the Fourth Report			*
15	Submission of Final Draft Report			*