



Call for proposals to identify, prepare, review and revise phase two standards and guidelines and provide advice for the finalization of the draft regulations on exploitation of mineral resources in the Area

22 November 2021

1. The International Seabed Authority (the Authority) is an autonomous international organization established under the United Nations Convention on the Law of the Sea of 10 December 1982 (the Convention) and the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea (the 1994 Agreement). The Authority is the organization through which States Parties to the Convention shall, in accordance with the Convention, organize and control activities in the Area, particularly with a view to administering the resources of the Area.
2. The Authority is seeking a legal consultant with experience in: (i) drafting regulatory frameworks for mining or offshore oil and gas projects; (ii) the Authority's existing regulatory framework, including the current draft regulations on exploitation of mineral resources in the Area and the draft phase one standards and guidelines; and (iii) public international law, including advising on matters concerning the law of the sea and dispute settlement. The Authority intends to appoint a legal consultant under a project arrangement until the end of July 2023 to: (i) advise and assist on the finalization of the draft regulations on exploitation; and (ii) identify, prepare, review and revise phase two standards and guidelines. The Authority invites proposals to be submitted via email to ola@isa.org.jm on or before **4 December 2021**.
3. If interested in this consultancy, we invite you to submit a proposal of no more than 8 pages detailing your technical skills and experience in: (i) the drafting of regulatory frameworks for either mining or offshore oil and gas projects; (ii) your experience of the Authority's existing regulatory framework, including your experience in the preparation of phase one standards and guidelines; and (iii) public international law, including advising on matters concerning the law of the sea and dispute settlement. Proposals shall thoroughly and sufficiently demonstrate the competence and expertise of the applicant to meet the requirements contained in the Annex. Proposals shall equally reflect a clear methodology on the deliverables for the project as well as a fixed proposed cost, including all disbursements. The outcome will be communicated to applicants using the contact details provided.

Annex

Terms of reference

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BACKGROUND

Standards and Guidelines

1. Draft Regulations 94 and 95 of the draft regulations on exploitation of mineral resources in the Area (ISBA/25/C/WP.1) (Draft Regulations) provide for the development of “standards” and “guidelines” to assist an applicant or contractor comply with their obligations under the Draft Regulations. Standards are regarded as mandatory, whereas guidelines are recommendatory.
2. From 13 to 15 May 2019, a workshop was held in Pretoria, South Africa for the development of standards and guidelines for activities in the Area. A copy of the workshop report is available [here](#). During that workshop, approximately 23 standards and/or guidelines were identified as potentially forming part of phase two.
3. During the first part of the 25th session of the Authority, the Legal and Technical Commission (the Commission) agreed a phased process for the development of standards and guidelines as contained in the Report of the Chair of the Legal and Technical Commission on the work of the Commission at the second part of its twenty-fifth session (ISBA/25/C/19/Add.1) (the Process). An outcome-based approach is to be used in the development of standards and guidelines in the following three phases:
 - A. Phase 1: Completion by the time of the adoption of the draft regulations;
 - B. Phase 2: Completion prior to the receipt of the first application for a plan of work for exploitation;
 - C. Phase 3: Completion by the time of commencement of commercial mining activities.
4. The Commission recommended the adoption of the process set out in Enclosure II of the Process for the development of standards and guidelines. In 2021, the Commission completed its work on the development of phase one standards and guidelines. The Commission is yet to agree on the

specific standards and guidelines to be developed under phase two and phase three.

Draft Regulations on Exploitation of mineral resources in the Area

5. Following stakeholder consultation, during the twenty-sixth session, the Council resumed its consideration of the Draft Regulations, and considered parts IV, V and VI of the draft and the related annexes IV, VII and VIII. The Council also adopted a decision on working methods to advance discussions on the Draft Regulations, in which the Council decided to establish three informal working groups on thematic issues, each to be led by a facilitator, in addition to the existing open-ended informal working group in respect of the development and negotiation of the financial terms of a contract. The informal working groups are:
 - (a) The informal working group on the protection and preservation of the marine environment, facilitated by Raijeli Taga (Fiji);
 - (b) The informal working group on inspection, compliance and enforcement, facilitated by Janet Omoleegho Olisa (Nigeria);
 - (c) The informal working group on institutional matters (including the role and responsibilities of the various organs of the Authority, timelines, recourse to independent expertise and stakeholder participation), to be facilitated by a nominee of the Latin American and Caribbean Group.

6. Since February 2020, the Council has been unable to meet in person and, accordingly, no progress has been made in any of the newly established informal working groups. In relation to the work of the open-ended informal working group in respect of the development of the financial terms and negotiation of the financial terms of a contract, a series of informal webinars were held on 9, 11 and 12 June and 28 October 2020, in which the methodology and outcomes of studies relating to a comparative analysis of the financial aspects of deep seabed mining and land -based mining were presented, as requested by the Council.

Proposed road map for 2022 and 2023

7. In order to ensure that a robust and holistic regulatory framework is adopted by the Council on or before 9 July 2023, the Secretary-General proposed a Road Map, including a provisional schedule of meetings for the 27th session contained in Annex III of ISBA/26/C/44 (Road Map). The Road

Map will be considered by the Council at the Council's upcoming meetings in December 2021.

GOALS AND SCOPE OF WORK

8. Based on: (i) the Process as developed by the Commission; (ii) the three informal working groups established by the Council; (iii) the Pretoria workshop report, including the preliminary listed 23 phase two standards and guidelines; and (iv) the Road Map, the goal of this consultancy is to appoint a single legal consultant to: (a) identify, prepare, review and revise all phase two standards and guidelines as requiring adoption by the Commission; and (b) advise on finalizing the draft regulations on exploitation of mineral resources in the Area to ensure a holistic and robust regulatory framework, including any necessary revisions to the draft phase one standards and guidelines.

DELIVERABLES

9. The consultant should complete the following tasks in coordination with the secretariat:
 - a. Follow the Commission's Process and any further process agreed to by Council.
 - b. Based on the Draft Regulations and the Pretoria workshop report *identify* and prepare a draft final list of all necessary phase two standards and guidelines to be considered by the Commission.
 - c. Once endorsed by the Commission, *prepare* draft standards and guidelines for all remaining standards and guidelines identified under phase two.
 - d. *Review* and advise on all stakeholder comments following stakeholder consultation of the phase two standards and guidelines.
 - e. *Revise* all phase two standards and guidelines following stakeholder consultation and in collaboration with the Commission.
 - f. Advise and assist the organs of the Authority in its deliberations for the adoption of phase one and phase two standards and the finalization of the Draft Regulations, including working with the informal working groups.
 - g. Advise and assist the secretariat in the harmonization and amendment of phase one and phase two standards and guidelines once the Draft Regulations are finalized to ensure a robust and holistic regulatory package.

TIMELINES

10. The consultant should follow the timeline below:
 - a. Commencement of the consultancy in January 2022.
 - b. Travel to Kingston, Jamaica and attend all meetings of the Commission and the Council in accordance with Road Map as contained in ISBA/26/C/44.
 - c. Identify, prepare, review and revise all draft standards and/or guidelines for phase two in accordance with the schedule to be developed by the Commission.
 - d. Prepare and advise on amendments to the phase two standards and guidelines and the Draft Regulations in accordance with the schedule to be developed by the Council.
 - e. Completion of the consultancy at the end of July 2023.

PAYMENT SCHEDULE

11. We invite you to provide us with a fixed fee proposal for the completion of this consultancy, including all disbursements (including travel).

MODALITIES OF WORK

12. The work shall be performed at the consultant's home base; the consultant will be required to meet remotely with ISA secretariat staff on issues related to the deliverables. In relation to travel arrangements, the consultant will be required to attend all meetings of the Commission and Council until 2023 and meet with the secretariat. DSA at the prevailing ICSC rates established on the travel days will be made available to the consultant to attend meetings in Kingston. Please note all flight costs will need to be absorbed and included in the consultant's fixed fee proposal.
13. The Secretariat will make reasonable and practical efforts to facilitate the production of timely, accurate and useful outcomes by promptly responding to the consultant's queries and providing the necessary reference material as identified by the consultant where feasible.
