

Global Water Partnership South Africa
Block A, Ground Floor Hatfield Gardens
333 Grosvenor Street
Pretoria South Africa

Date: 9 February 2024

REF: **Bid No: ITB No. T00024/2024/GEF7-IW**

Dear Sir/Madam,

SUBJECT: REQUEST FOR PROPOSAL (RFP)/BID

PROJECT: INTEGRATED TRANSBOUNDARY RIVER BASIN MANAGEMENT FOR THE SUSTAINABLE DEVELOPMENT OF THE LIMPOPO RIVER BASIN

CONSULTANCY FOR: AN EQUIVALENT ASSESSMENT OF NATIONAL WATER LAWS, POLICIES, AND INSTITUTIONAL ARRANGEMENTS AMONG RIPARIAN STATES IN THE LIMPOPO BASIN.

Global Water Partnership Southern Africa (GWPSA) NPC, on behalf of the beneficiary, The Limpopo Watercourse Commission (LIMCOM), is pleased to invite you to take part in a Request for Proposal (RFP)/BID for the “CONSULTANCY FOR: AN EQUIVALENT ASSESSMENT OF NATIONAL WATER LAWS, POLICIES AND INSTITUTIONAL ARRANGEMENTS AMONG RIPARIAN STATES IN THE LIMPOPO BASIN” under the below conditions.

This opportunity has been advertised as an open tender process on the GWPSA Website and other water networking platforms and promotes equal opportunities among the research and development community. A quotation based on a fixed price and proposed activity schedule, is requested in the RFP/BID document REF: Bid No: ITB No. T00024/2024/GEF7-IW. The Bidder must submit two proposal documents in either PDF or word in a size that is transferrable via email to the GWPSA contact addresses in this Bid letter, i.e., one Full Technical proposal and one Full Financial proposal.

The deadline for submissions is 13 March 2024 at 12:00 midnight SAST and it is our intention to award the contract shortly thereafter. The start date is estimated for the end of March 2024 and must be completed within a duration of Six (6) months. Any Bid queries must be raised before 17:00hrs SAST by 29th February 2024 and should be directed to gwpaprocurement@gwp.org copied to Eddie eriddell@limpopocommission.org, zmanyangadze@limpopocommission.org. Bids will be opened electronically and reviewed by the 22 March 2024 by the Technical Evaluation Committee, including representatives from the GWPSA procurement team as well as Focal points from the four member states. Bids received after the final date of receipt of tenders will be disregarded. GWPSA may extend the final date for submission of bids for any reason it deems necessary and will notify all bidders in this event.

PLEASE NOTE:

GWPSA NPC shall, in terms of section 58 of the Botswana Income Tax Act CAP 52:01 (Act) deduct a withholding tax at the default rate of 15% or 10% for residents of South Africa or as per the applicable Double Taxation Avoidance Agreement (DTAA) for any other country. The tax so deducted shall be remitted to the Botswana Unified Revenue Service and the company shall issue the payee/contractor with BURS' tax certificates, which may, depending on the tax laws of the country of residency of the contractor, be used to claim foreign tax credits. For the avoidance of doubt, this withholding tax applies on management or consultancy fees, which is defined in the Act as meaning, 'any amount payable for administrative, managerial, technical or consultative services or any similar services, whether such services are of a professional nature or not.' The said term may alternatively be referred to as technical fees in DTAA's.

PROPOSED STANDARD TECHNICAL PROPOSAL EVALUATION CRITERIA

The technical proposal contributes 80% of the total and final evaluation score whilst the financial proposal carries 20% of the weighted score. The Proposal that scores 75% and more will proceed to the financial evaluation stage. This addendum provides a detailed breakdown of how the technical proposals will be evaluated and scored.

Summary of Technical Proposal Evaluation Criteria		Score Weight	Points Obtainable
1	Expertise of Firm / Organization / Individual	30%	30
2	Proposed Methodology, Approach and Implementation Plan	40%	40
3	Management Structure and Key Personnel	30%	30
TOTAL		100%	100

TECHNICAL PROPOSAL EVALUATION (FORM 1)		
Expertise of the Firm/Organisation/Individual		Points Obtainable
1.1	Reputation of the Organisation and Staff/Credibility/Reliability/Industry Standing General Organisational Capability which is likely to affect implementation: <ul style="list-style-type: none"> Financial Stability Loose consortium, Holding company or One firm Age/size of the firm Strength of the Project Management Support Project Financing Capacity Project Management Control 	10
1.2	Extent to which any work would be subcontracted (subcontracting carries additional risks which may affect project implementation, but properly done it offers a chance to access specialised skills.) Quality assurance procedure/warranty	5
1.3	Relevance of: <ul style="list-style-type: none"> Specialized Knowledge Experience on Similar Programme / Projects Experience on Projects in the Region Work for major multilateral/ or bilateral programmes 	15
SUB TOTAL		30

TECHNICAL PROPOSAL EVALUATION (FORM 2)		
Proposed Methodology, Approach, and Implementation Plan		Points Obtainable
2.1	<ul style="list-style-type: none"> To what degree does the Proposer understand the task? Have the important aspects of the task been addressed in sufficient detail? Are the different components of the project adequately weighted relative to one another? 	15

	<ul style="list-style-type: none"> Is the proposal based on a survey of the project environment and was this data input properly used in the preparation of the proposal? 	
2.2	<ul style="list-style-type: none"> Is the conceptual framework adopted appropriate for the task? Is the scope of task well defined and does it correspond to the TOR? Is the presentation clear and is the sequence of activities and the planning logical, realistic and promise efficient implementation to the project? 	25
SUB TOTAL		40

TECHNICAL PROPOSAL EVALUATION (FORM 3)		
Management Structure and Key Personnel		Points Obtainable
3.1	Team Leader – Water Law <ul style="list-style-type: none"> General Qualification/ Suitability for the Project Demonstrated experience and thorough knowledge of international water law. Ability to develop and analyze policy, legal, governance and institutional documents. Demonstrated experience in undertaking similar assignment in River Basin Organizations in the SADC region Language qualification for the region 	
3.2	Other Specialisms for Team Leader and/or Additional Expert(s) <ul style="list-style-type: none"> Demonstrated experience and thorough knowledge of other water relevant legislation in the field of natural resource/environmental management/disaster management/national economics (as per Section 4 of ToR) Experience and familiarity with the socio-economic and bio-physical contexts at national level and the Limpopo River Basin in particular. Demonstrated experience in water governance and institutional set up of the water departments/ministries of the four countries (Botswana, Mozambique, South Africa, and Zimbabwe). Demonstrated experience in water resources development, planning and management processes. Ability to analyse complex water resources management challenges at national and transboundary level. 	
SUB TOTAL		30
GRAND TOTAL		100

Bid submissions should be addressed to:

The Manager GWPSA NPC
Ground Floor, Block A Hatfield Gardens
333 Grosvenor Street Hatfield, Pretoria

and emailed to gwpsaprocurement@gwp.org and copied to eddie.riddell@gwpsaf.org (**note email submissions should be in batches each less than 10Mb**)

The Work will be administered under a standard Consulting Agreement, compliant with the GWPSA NPC Procurement Policy.

We very much look forward to your response and appreciate your participation on this project.

Yours sincerely,



Mr. Mark Naidoo
GWPSA Operations



"Integrated Transboundary River Basin
Management for the Sustainable
Development of the Limpopo River Basin."

In Partnership With



Supported by



TERMS OF REFERENCE

Integrated Transboundary River Basin Management for the Sustainable Development of the Limpopo River Basin

AN EQUIVALENT ASSESSMENT OF NATIONAL WATER LAWS, POLICIES, AND INSTITUTIONAL ARRANGEMENTS AMONG RIPARIAN STATES IN THE LIMPOPO BASIN

JANUARY 2024



Financing Agency: Global Environment Facility (GEF)

GEF Implementing Agency: United Nations Development Programme (UNDP)

UNDP Executing Agency: Global Water Partnership Southern Africa (GWPSA)

Client/Project Responsible Party: Limpopo Watercourse Commission (LIMCOM)

Location: The Limpopo River Basin in Botswana, Mozambique, South Africa and Zimbabwe

Assignment Tenure: Six (6) Months

1. BACKGROUND

The Limpopo Watercourse Commission (LIMCOM) was established in 2003 to manage the transboundary water resources of the Limpopo River Basin (LRB). The LRB, shared among Botswana, Mozambique, South Africa and Zimbabwe, drains an estimated catchment area of 408,000 km². The LRB is home to an estimated 18 million people in the four riparian states, and this population is expected to be over 20 million by 2040. The basin's population expansion is attributed to natural population growth, estimated at around 2.3 per cent per year, and urban and transboundary migration, especially in Botswana and South Africa. The threats to the socio-economic and environmental services of the LRB, and their immediate underlying causes, can be summarised as follows:

- Increasing water scarcity and hydrological variability, exacerbated by climate change
- Water quality degradation
- Land degradation
- Increasing pressures on groundwater resources
- Salinisation of water resources
- Depletion of interconnected groundwater and surface water

Improved water resource management, including the equitable allocation of water between upstream and downstream areas and among urban and rural users, is a critical challenge for the future development of the LRB. The UNDP-GEF Limpopo Project Integrated Transboundary River Basin Management for the sustainable development of the LRB aims to undertake a suite of activities designed to strengthen joint management and planning capacity and practices at the transboundary basin level. These activities will be implemented under five (5) project components:

Component 1: Strengthening the capacities of LIMCOM Member States and the LIMCOM Secretariat to support IWRM implementation at the basin level.

Component 2: Addressing critical information gaps that prevent effective IWRM implementation; developing information management tools to consolidate information and present it to policymakers and other audiences to raise awareness of issues critical to the sustainable management of the Limpopo River Basin.

Component 3: Carrying out a Transboundary Diagnostic Analysis - Strategic Action Program process to build trust among countries through joint development of information, approaches, and strategies.

Component 4: Implementing pilot sustainable land management activities with the goal of reducing land degradation and demonstrating the link between SLM activities and reduced sedimentation, as well as promoting the replication of land degradation control activities in the basin; and,

Component 5: Supporting knowledge exchange with other RBOs in the region to support the effective and efficient delivery of project results.

2. PROJECT DESCRIPTION

Legal Equivalence of Riparian Water Laws and Policies

The Limpopo Watercourse Commission (LIMCOM) requires measures to be undertaken to promote and assist in the harmonisation of national water policies and legal instruments. Specifically, the Secretariat is required to make recommendations to the LIMCOM Commissioners on the harmonisation of the national water policies and laws of the Member States.

These provisions highlight the need for harmonisation of national policies and laws that have a bearing on strengthening basin wide cooperation, environmental management and sustainable development. Harmonisation is a process that may require legislative amendments to ensure that legislative provisions are uniform or mutually compatible. The first step to assist in this process is to assess the degree of equivalence among the legislative provisions among Riparian States. Such assessment will identify any contradictions, conflicts or inconsistencies and ensure that such provisions are equal in value, meaning and function. This will further provide effective delivery of the Strategic Action Plan (SAP) through the National Action Plans (NAPs)/Catchment Management Strategies and ultimately a thematic layer for the Transboundary Diagnostic Analysis (TDA).

There are several benefits of assessing the degree of equivalence among national policies and laws that will help advance the objectives of the LIMCOM Agreement, including formulation of strategies for the development of the shared watercourse and monitoring of execution of integrated water resources development projects/programs. National jurisdictions would benefit by ensuring common standards of measurement, thereby reducing the risk of downstream Riparian States receiving water which by their laws is defined as polluted, but which by the laws of the upstream Riparian States, which allowed the discharge, is defined as not polluted. Similar benefits can be realised through ensuring equivalent provisions for the effective and agreed implementation of environmental flows, to ensure basin wide consistency and sustainability, along with standards for water works to improve protection and safety.

3. OBJECTIVES OF THE ASSIGNMENT

The Limpopo Watercourse Commission (LIMCOM) wishes to engage the services of a Consulting Firm or Individual to assist it to:

- a) Compile and develop a database of institutional arrangements, policy and legal instruments relating to water resources planning, development, and management from all the four Riparian States (Botswana, Mozambique, South Africa, and Zimbabwe).
- b) Review and confirm the accuracy of the database of compiled and collated water related policies, legislation and institutional arrangements from all the four Riparian States;
- c) Assess the degree of equivalence among all the four Riparian States for key provisions of the national water legislation;
- d) Review equivalence with the provisions of the LIMCOM Agreement and identify the existence and implications of any inconsistencies;
- e) Review equivalence with the provisions of regional and international protocols, agreements and others and identify the existence and implications of any inconsistencies;
- f) Conduct (regional/national level) stakeholder workshops and consultations to discuss the findings and interim results; and

- g) Recommend best practice provisions and guidelines for LIMCOM to facilitate the process of harmonizing national policies and laws towards basin wide cooperation.

4. SCOPE OF ASSIGNMENT AND SPECIFIC TASKS

The scope of work for this assignment will include:

- a) Review and confirm the accuracy of the existing database of compiled and collated water related policies, legislation and institutional arrangements from all four Riparian States. This should include conducting a policy, institutional and legislative audit to identify and collect any related national water laws, along with a literature review to identify all previous efforts to harmonise legislative provisions relating to water in the SADC region.

Particular attention should be paid to national and local government primary and secondary legislation. These would include, but are not limited to, laws, and policies related to:

- Water resources management;
- Water pricing
- Water services
- Strategic prior uses such as energy and hydropower development and management,
- Forestry, natural resources, and environmental management;
- Inland fisheries
- Noxious weeds
- Inland waters shipping
- Town and country planning
- Investment planning
- Local authorities;
- Agriculture, irrigation, and drainage; and,
- Mining and industry.
- Climate change/adaptation policies
- Marine resources and ecosystems
- Source to sea approach.

The results should be presented in the form of a gap analysis to ensure that provisions relating to waterworks, hydropower, irrigation, fisheries, navigation, and water dependent environmental provisions are properly identified.

- b) Assessment of Policy, Legal and Institutional arrangements in the four riparian states of LIMCOM. This should consider, but not limited to the following:
1. Evaluate and describe how national and regional policies affect basin-wide management of water resources and the achievement of LIMCOM objectives.
 2. Identify international instruments such as conventions, treaties, protocols relevant to the management of water, water-related resources and activities in the Limpopo River Basin, and how they impact on achieving LIMCOM objectives.

3. Assess and describe how bilateral, trilateral and quadrilateral agreements between or among the Limpopo River basin states impact on basin-wide management of water resources and the achievement of LIMCOM objectives.
 4. Evaluate and describe how legislation in each of the basin states affects basin-wide management of water resources, activities impacting on water resources, and the achievement of LIMCOM objectives.
 5. Assess the level of alignment or lack of alignment among the legislations of the basin states with regards to managing activities impacting on water resources, and the implications for transboundary water resources management.
 6. Assess and describe national and regional institutional arrangements for water-resources management and evaluate how these arrangements affect transboundary water resources management and the achievement of LIMCOM objectives.
 7. Provide recommendations for improving policies, legislations and institutional arrangements and enhancing their effectiveness to overcoming challenges regarding management of water resources at national and transboundary levels.
 8. Present a report synthesising the main findings of the analysis of policies, legislation and institutional arrangements for the Transboundary Diagnostic Analysis and the subsequent formulation of the Strategic Action Programme for the Limpopo River Basin.
- c) Carry out a comparative analysis to assess the degree of equivalence between the national legislative and policy provisions among the four Riparian States. This should consider, but not necessarily be limited to, the following stated elements of the national legislation:
1. Ownership
 2. Institutional arrangements for the management of water resources
 3. International waters and shared watercourses
 4. Equitable and reasonable utilization
 5. Collection, analysis, storage and dissemination or exchange of information
 6. Protection or conservation of a watercourse and the environment in general
 7. Mechanisms for the allocation, and assurance of supply of water
 8. Methods for determining, allocating and monitoring environmental flows
 9. Mechanisms for the application for and granting of water rights
 10. Mechanisms for the application for and granting of permits, such as the right to discharge wastes into a watercourse
 11. Water pollution control
 12. Control of invasive aquatic weeds and species
 13. Waterworks, conveyance infrastructure and safety of dams
 14. Environmental and social impact assessment of water related development projects
 15. Regulation of stream flow and drainage
 16. Flood and drought mitigation
 17. Establishment of hydro-electric installations and generation of hydro-electric power
 18. Control of deforestation/afforestation along watercourses, soil erosion and sedimentation
 19. The use of water for non-domestic purposes
 20. Non-compliances, offences and penalties

The results of the comparative analysis should present each of the legislative provisions assessed as a separate chapter / volume. This should include, but not necessarily be limited to:

1. An Introduction;

2. Summary of the National Provisions;
3. Equivalence Assessment;
4. Recommendations and Good Practice Provisions.

The National Summary and Equivalence Assessment will detail the form and character of the selected legislative provisions derived from the analysis of the policies and laws that have implications on basin wide cooperation, environmental management and sustainable development.

- d) Review and assess the degree of equivalence for each of the stated elements of the national legislation with the provisions of the LIMCOM Agreement and identify the existence and implications of any inconsistencies.
- e) Review and assess the degree of equivalence for each of the stated elements of the national legislation and LIMCOM provisions with those of regional and international protocols and agreements, specifically the Revised SADC Protocol on Shared Watercourses and the UN Convention on the Law of the Non-Navigational Uses of International Watercourses and identify the existence and implications of any inconsistencies.
- f) Develop an Options Paper based on the review and assessment that outlines a menu of potential measures for discussion with the Riparian States. This should include recommended best practice provisions for each of the stated elements of the national legislation and guidelines for LIMCOM. This will facilitate the process of harmonising national policies and laws towards basin wide cooperation.

5. SUMMARY OF DELIVERABLES

Deliverables

1. Inception Report outlining the detailed process and methodology of information collection, review, analysis and consultations with key milestones and outputs.
2. Compilation of national legislation, policies and institutional arrangements and gap analysis
3. Draft Comparative Analysis covering each of the areas, detailing the form and character of stated aspects of water resources management.
4. LIMCOM Agreement Comparative Assessment and Gap Analysis
5. Regional and International Comparative Assessment and Gap Analysis
6. Draft Options Paper
7. Final Options Paper

6. TEAM COMPOSITION WITH AN ESTIMATE OF KEY EXPERTS' INPUT

The consultancy will include a highly qualified team with a combination of skills covering international water law, national water law and water resources management. The team is expected to comprise as a minimum the following expertise:

- International Water Law Expert
 - Regional Legal Specialist
 - Water Resources Management Specialist
-
1. A minimum of 10 years relevant professional experience, and Master's degrees or equivalent combination of education and experience covering the three skills sets highlighted above.
 2. Broad-based work experience and thorough knowledge of water law (national and international); ability to develop, analyse policy and legal documents.
 3. Practical experience of working closely with line ministries, stakeholders, as well as with multilateral and bilateral development partners.
 4. Familiarity with the socio-economic and bio-physical contexts of the SADC Region, and the Limpopo River Basin in particular, is advantageous.
 5. Demonstrated capacity in applying multidisciplinary expertise and critical analysis to complex water resources management challenges, most often in the context of river basin management.
 6. Unique experience of water resources for the purposes of supporting effective institutional design relating to water resources management.
 7. Excellent oral, written, and presentational skills and fluency in English, knowledge of Portuguese would be advantageous.
 8. Exceptional skills in dialogue with diplomacy, ability to work in intercultural environments, travel to remote areas and work under pressure.

7. DURATION AND LEVEL OF EFFORT

The consulting services will have a duration of **six (6) months**.