

REQUEST FOR PROPOSALS

GEF Project ID: 5532

Disposal of PCB oils contained in transformers and disposal of capacitors containing PCB in Southern Africa

Consultancy on Regional Legal Review– Review of Hazardous Chemicals Legislation with particular emphasis on PCB Management (import, export, use and wastes).

Introduction

The Stockholm Convention on persistent organic pollutants (POPs) is a multilateral environmental agreement aimed at eliminating the intentional production and use and unintentional releases of POPs. POPs are chemicals characterised by their persistence, bioaccumulation, potential for long-range environmental transport and adverse effects on humans and wildlife. To protect human health and the environment from such chemicals, the Convention was adopted by the international community and entered into force in May 2004. As of November 2017 there are 181 Parties to the Convention.

The Convention currently lists 28 chemicals. Among them are industrial chemicals, such as polychlorinated biphenyls (PCBs); pesticides, such as DDT and endosulfan; and unintentionally released chemicals such as dioxins and furans.

PCBs were discovered in the early 20th century. As far back as the late 1960's, poisonings from PCB exposure began to surface. In one incident, over 14,000 persons became ill in Japan from ingesting PCB-contaminated rice bran. Occurrences of PCB toxic effects in birds and other animals are well documented. PCBs were used heavily since the 1930s as dielectric fluids in capacitors and transformers and for other applications such as flame retardants, ink solvents and plasticisers. In the 1970s, their adverse effects on the immune system, liver, skin, reproductive system, gastrointestinal tract and thyroid gland became prominent and their use was phased out. Today, PCBs remain common contaminants of animal and human food chains, generally at low concentrations, and diet remains one of the main sources of exposure of the general population.

The Stockholm Convention prohibits any new production and use of PCBs. The parties to the Convention are required to eliminate the use of PCBs in existing equipment by 2025 and ensure environmentally sound waste management of them by 2028.

While the parties to the Stockholm Convention can no longer produce PCBs and are obliged to stop using this chemical, there are existing equipment that contain or are contaminated with PCBs which may continue to be used until 2025. To ensure that all PCB uses are ceased by 2025, parties, especially those that are developing countries or countries with economies in transition, needed support and funds have been channelled through Global Environment facility to assist these countries to comply with the SC.

Support has been directed towards:

- Completion of national inventories of all PCBs and related contaminated equipment;
- Improvement of the capacity and increase the knowledge of PCB equipment owners on proper maintenance of equipment to avoid further contamination;
- Establishment of proper storage of discontinued equipment and to ensure disposal of all the PCB oils and contaminated equipment in an environmentally sound manner.
- **Development of proper policy and legislation at national and regional levels as a matter of domestication of SC and to ensure sustainable elimination of PCBs**

The following 11 countries are taking part in the project: Botswana, Lesotho, Madagascar, Malawi, Mozambique, Namibia, Seychelles, Swaziland, Tanzania, Zambia, and Zimbabwe. Southern African Power Pool [SAPP] coordination center is a major stakeholder as an association of the Utility companies in these countries.

Request for Legal Review Services

The Stockholm Convention requires that all equipment containing concentrations of PCB above 0.05% (500ppm) be phased out by 2025 and all PCB be subject to environmentally Sound Management (ESM) for final disposal by 2028. This project aims to contribute to attaining this Convention requirement, through organizing the countries in Southern Africa, and achieving the ESM of PCB and destruction of the POP content in the oil and equipment's. The project was approved in 2015 and GEF has provided up to \$ 7.71 million for the full implementation of the five (5) years project, and a co-financing of \$30.77 million by the countries and Utilities is expected.

An assessment of national PCB inventory data gathered from the NIPs indicates that countries participating in this project hold between 1,000 and 2,500 transformers containing PCB oil with an estimated total weight of between 1,000 and 2,500 tonnes. The estimated total weight of these transformers is 10,000 tonnes, including 2,000 tonnes of contaminated oils. The electrical utilities are estimated to hold approximately 80% of this equipment. The report also notes that:

- 1. Participating countries do not, for the most part, have specific regulations or administrative mechanisms governing PCB oils, equipment and wastes (and there is a lack of a purchasing policy with regards to second hand transformers);**
2. The electrical utilities and other owners of PCB equipment currently lack the means to apply ESM practices to PCB equipment in service, in storage or out of service;
3. Despite awareness-raising efforts during NIP preparation, owners of PCB oils, equipment and wastes are frequently unaware of the threats that PCB pose to human health and the environment;
4. Environmentally-sound infrastructure for storage and destruction is not available in participating countries;
5. There are no systematic investment mechanisms to support the ESM of PCB wastes;
6. The preliminary national inventories available as a result of NIP development are not sufficiently detailed for the purposes of phase-out and disposal planning and detailed inventories of equipment will be needed at enterprise level in the early stages of the full project.

A significant amount of the contaminated equipment is currently in service, and considered essential to the proper functioning of the national electricity distribution network, as well as for private and independent facilities requiring their own distribution grids. This equipment will need to be decontaminated and/or replaced by the deadline of 2025, as part of the commitments countries have made when ratifying the Stockholm Convention on PCBs. **However, many of the participating countries lack the required domestic legislation and regulations to allow them to enforce this requirement on owners of such contaminated**

equipment and thus meet their international obligations under the Stockholm Convention.

As a result, PCBs are being released into the environment both at unprotected maintenance and storage sites; and during waste management operations concentrating on metals recovery. Furthermore, PCB fluids from transformers are being mixed with mineral dielectric oils during maintenance and subsequently reused in previously uncontaminated transformers, thereby cross-contaminating, potentially, the whole transformer population.

The project thus is seeking a Regional Legal consultant to review the legal framework and regulations in the 11 participating countries working with the national consultants in each country.

Objectives and Scope of the Consultancy

The purpose of this consultancy is to support selected countries to review and revise their respective national Chemicals Legislation with particular reference to PCB management (import, use, export and waste management) in line with provisions of Stockholm Convention on Persistent Organic Pollutants

Tasks/Activities to be implemented by the Consultant

The consultant will be required to undertake the following tasks towards the completion of the assignment.

- 1 The Regional Consultant shall work closely with and through the national consultants on Legal reviews, providing assistance for the national consultants in the execution of their duties, and with the relevant Ministries of environment or industry and the PCB waste owners.
2. Review existing Chemicals or Hazardous chemicals related policies, legislation and regulations of all 11 participating countries as they relate to PCB management.
3. Examine institutional and operational infrastructures of institutions and departments mandated to manage, enforce or monitor PCBs use and management in the countries, including relevant ministries as well as waste owners.

4. Develop and submit draft gap analyses and recommendations for revisions of existing PCB management Acts for the 11 countries for review by the participants, SAPP, Africa Institute and UN Environment.
5. Incorporate any comments on the revised acts received from the participating countries and project manager into a final version of the proposed guideline to be submitted to the participating country, Africa Institute and UN Environment
6. Prepare guidelines on how to review and develop compliance of regulatory regime to MEA in other countries of the region. These guidelines should include a case study of the activities conducted in reviewing the Hazardous Chemicals Regulations of one of the selected countries.
7. Disseminate for verification the review report and Guidelines to a regional workshop on Legal review to be organized by the project management.

Deliverables

- 11 national Review Reports, outlining chemicals legislation and institutional infrastructure relevant to PCB management, indicating gaps against the needs for ESM of PCBs.
- 11 Guidance documents setting out recommendations for revisions to legislation, and the steps and process through which ESM Legislation and an associated compliance and/or enforcement regime for PCB may be reviewed, developed and put into place.
- Final Consultancy Report composed of Regional technical review and Regional Regulations Development Guidance Document

Time Frame

The consultancy is expected to take up to six(6) months and will start in March 2018 and be finalized by August 2018

Reporting

The Consultant shall report to the Africa Institute Project Manager,

Qualification and Experience

The following are the key attributes required for the consultancy. The criteria should apply to the project leader or individual responsible for the project implementation.

1. Advanced degree in law, international development, or other relevant field;
2. At least five years' experience developing, implementing, or reviewing chemicals related legislation in Africa;
3. Have a working understanding of the legal framework in the 11 project countries, as it relates to hazardous chemicals and wastes;
4. Have an understanding of the international agreements related to chemicals and waste management – especially BRS conventions;
5. Have experience in working in Africa and with African governments in the SADC region;
6. Have the ability to obtain, analyse and interpret data, and present findings in oral and written form;
7. Fluent in English with strong oral and written communication skills and ability to work in a multicultural environment;
8. Proficient in commonly used computer programmes and especially in MS Office suite.
9. Demonstrated good interpersonal skills;

Costs

The Africa Institute shall provide funds for the costs of undertaking the work. Travel to selected countries as well as Daily subsistence allowance and the Fees for the consultants shall be negotiated with the qualifying and selected consultant during the contract negotiation in February 2018. Fees shall not exceed \$ **120 000** as per allocated activity budget.

Submission of Tenders

To be considered, your proposal shall have a cover letter indicating suitability for the job, supported by a comprehensive curriculum vitae, proposed approach and implementation schedule and a financial breakdown of costs. Proposals should be addressed to the Executive Director, Africa Institute and must be received not later than February 23rd 2018.

Contacts

You may email your Proposals by 23rd February 2018 to: kkhalema@environment.gov.za

Attention: **Dr Koebu Khalema,**
Programme Officer
Africa Institute

OR courier them to arrive on or before the 23rd February 2018 to

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