

**FEDERAL REPUBLIC OF NIGERIA
MINISTRY OF MINES AND STEEL DEVELOPMENT**

**MINERAL SECTOR SUPPORT FOR ECONOMIC DIVERSIFICATION
PROJECT (MinDiver)**

**Terms of Reference for the engagement of a Consultant for the
Review of Legal and Regulatory Frameworks for Environmental
Management, the Design of Policy Frameworks to apply World Bank
Safeguards Policies and the Development of Mitigation Measures &
Guidelines for Addressing Potential Conflicts between ASM Operators
and other Land Users in the Mining and Steel Sector**

1.0 INTRODUCTION

The Federal Government of Nigeria has obtained a credit from the International Development Association (IDA) to fund the Mineral Sector Support for Economic Diversification (MinDiver) Project. The project has the following development objectives:

- a. To improve the attractiveness of the Nigerian Mining sector, as a driver for economic diversification, for long-term private sector investment in the exploration and production of minerals.
- b. To create a globally competitive sector capable of contributing to wealth creation, providing jobs and advancing our social and human security.

2.0 BACKGROUND

The Federal Government of Nigeria has embarked on an economic diversification campaign with the aim of leveraging on the Nation's vast natural resources to diversify the economy from the oil and gas sector to achieve economic emancipation.

The sector's growth and contributions to GDP have remained less than ideal, accounting for only about 0.33% in 2015. To address this, the Ministry of Mines and Steel Development (MMSD) recently developed a roadmap for mining growth and development with objectives to deepen sector reforms, attract new investors and collaborate with a wide network of partners and stakeholders to rejuvenate the sector and build a prosperous economy propelled by inflows from the solid minerals sector.

The overall objective of the MinDiver Project is to link with the Roadmap and enhance the mining sector's contribution to the economy by strengthening key government institutions, improving information infrastructure and knowledge, and fostering domestic investment in the sector. The Project consists of the following parts:

Part A. Establishing a Strong Foundation for Mining Sector Development

1. Carrying out of a program of activities designed to strengthen the MMSD's capacity for governance and administration of the mining sector;
2. Carrying out of a program of activities designed to strengthen the Nigerian Geological Survey Agency as well as geological knowledge and information infrastructure for the mining sector,
3. Implementing a program of activities designed to strengthen the Recipient's capacity for management of environmental, health and social impacts in the sector

Part B. Facilitating Downstream Sector Development and Enhancing Competitiveness

1. Strengthening administration of the artisanal and small scale mining sub-sector,
2. Implementing a program of activities designed to leverage the mineral sector for regional development
3. Implementing a program of activities designed to enhance value addition to mineral products (including upstream development of industrial minerals and dimension stones domain) in the mining sector,
4. Implementing a program of activities designed to advance proof-of-concept investments and to attract private sector investments

Part C. Project Management and Coordination

1. Strengthening the capacity of the MMSD for implementation, supervision and management of the Project through the provision of goods, consulting services, non-consulting services, operating costs and training for the purpose.
2. Supporting quality control of Project activities and outputs as well as monitoring and evaluation of Project outputs and results.

The key results of the project will include:

- i. Increased availability of precompetitive geo-science data enhancing mineral transactions;
- ii. Institutional information systems integrated with multi-sector planning tools;
- iii. Incentives created for Artisanal and Small-Scale Mining (ASM) formalization;
- iv. Improved environmental and social compliance by mining industry operators

3.0 OBJECTIVES

The National Minerals and Metal Policy which was formulated and adopted in the 2005-2012 period of mining sector reform attempted to address environmental issues. The policy instrument, which later culminated into the Nigerian Minerals and Mining Act, 2007, emphasized sustainable mineral resource development through the provision of adequate environmental and social safeguards. It also acknowledged the need to limit environmental degradation to the barest minimum and encouraged the knowledge and technical input for sound environmental management.

One of the policies for achieving sustainability was to ensure compliance with environmental best practice towards creating an environment conducive to economic growth and development. Accordingly, the Mines Environmental Compliance (MEC) Department was created in the MMSD, with the mandate of enforcing compliance with environmental laws in the mining sector. One of the functions of MEC Department includes the review of statutory documents and review of Environmental Impact Assessments (EIA) with the Federal Ministry of Environment.

In spite of this, the Nigerian mining sector has continued to underperform and continues to witness environmental and social concerns, apparently due to inadequate policy framework and poor implementation of regulations.

The supply of natural resources is limited and this plays a key role in triggering conflict, especially in low economic conditions. With increasing environmental

awareness by mines in host communities, the rate of conflict can increase. The Government has recognized that this has the potential to impede progress in its economic diversification program. There are no current guidelines to help mitigate against the development of possible conflict situations.

The Government of Nigeria is desirous of:

- i. Reviewing the legal and regulatory framework for environmental management in the mining sector to promote sound environmental management and social equity, aimed at improving the benefit streams to host communities whilst, triggering activities that will lead to sectoral development and growth;
- ii. Redesigning a policy framework that will integrate best practice on environmental concerns, involuntary resettlement and participatory stakeholder engagement in a manner that will promote and sustain rapid mineral resource development in Nigeria and
- iii. Providing guidelines in the sector to mitigate against possible conflict between landowners and mining (including ASM) operators.

4.0 SCOPE OF WORK

The main role of this Consultant is to provide technical advisory support to MMSD in the overall implementation of the Ministry's objectives for the MinDiver Project. The focus should be on the following duties and responsibilities:

- i. Review the regional policy required to integrate environmental and social considerations into mineral sector development;
- ii. Identify gaps, inconsistencies or conflicting areas in the extant Nigerian Minerals and Mining Act (NMMA), 2007 and the relevant extant regulations with regard to environmental and social management in the mining sector and advise the Minister on amendment accordingly;
- iii. Define the roles of relevant technical departments, especially with respect to Health and Safety, based on best practice and suggest institutional adjustment for mainstreaming these areas in the environmental and social safeguards;
- iv. Develop guidelines for Mine Closure and Decommissioning Plan for the sector;

- v. Review the extant guidelines on the Community Development Agreement with the aim of improving the benefit streams to the mines' host communities, in a manner that will encourage sustainable investment in the sector;
- vi. Review Guidelines for the production of Environmental Protection and Rehabilitation Programmes for the mining sector alongside International Guidelines (e.g. World Bank Group);
- vii. Review the existing Memorandum of Understanding between the Federal Ministry of Environment and MMSD on EIA administration and advise on how to strengthen it;
- viii. Review the existing synergy on environmental matters between Federal, States and Local Government Councils and suggest ways of strengthening the existing statutory mechanism for collaboration or otherwise;
- ix. Review the existing framework for the establishment of EPPF and advise on its structure and establishment;
- x. Carry out overall assessment of environmental impacts in the mine areas, identify various pollution stocks and recommend an appropriate framework for mitigation;
- xi. Produce mineral specific environmental guidelines with a focus on MinDiver target minerals;
- xii. Map environmentally sensitive areas where the grant of mineral titles may be restricted; identify potential social impacts including economic inequality, displacement, forced relocation etc. and design an appropriate policy framework for mitigation;
- xiii. Identify possible triggers for potential conflicts between mining operators and host communities;
- xiv. Determine the nature, scale, extent or other characteristics of ASM operators and their locations in relation to conflict potential;
- xv. Recommend measures to mitigate potential conflicts based on the conflict triggers identified and with due consideration for the nature of ASM operators;
- xvi. Develop guidelines for addressing conflicts between mining operators and land owners, with particular regard to ASM operators;
- xvii. Provide technical assistance for capacity building of MEC Department staff on conflict resolution and negotiation;

- xviii. Organize overseas study tours for up to 12 staff of MEC Department to Australia to build staff capacity in mining governance with focus on social/environmental safeguards, the acquisitions of skills on involuntary resettlement and stakeholder engagement and practical exposure to addressing conflict in the mining sector.

5.0 CONSULTANT'S QUALIFICATION:

The Advisory firm's team shall include all the necessary expertise required to complete the work as specified within the terms of reference for the assignment.

The experience required of the experts is as detailed below:

- a. Knowledge of and experience in the areas of Environmental , Health, Safety and Community Management in the mining sector, Environmental/Social Science, sustainable governance, development policy of public administration;
- b. Skills and experience in Environmental and Social Impact Assessment, Environmental and Social Auditing, and Environmental and Social Management of mining projects in Africa. Having such experience in Nigeria is an added advantage;
- c. A demonstrable track record of successful project management, team work, and project delivery is essential;
- d. The Project Manager in the Advisory team should have relevant university and postgraduate degrees and at least 15 years of relevant Environmental Management/Science, International Development, International Relationship or related experience and a proven track record in managing similar legal, institutional, and regulatory reform and restructuring projects especially in countries similar to Nigeria. This senior position will involve responsibility for the day-to-day management in carrying out the terms of reference and in the conduct of all negotiations and joint planning with the MMSD and other Government agencies. Good interpersonal skills will be essential, including the ability to work with the staff of MMSD and other stakeholders involved in steering the reform program. It is a requirement of the assignment that the Project Manager works full-time on the assignment.
- e. Senior people under the Project Manager should have a minimum of 10 years of relevant experience in the areas where they will have the lead;

- f. Experience of working on a World Bank assisted project, or similar Multilateral Institution environment such as ADB, is an added advantage.

6.0 REMUNERATION AND PAYMENT TERMS

Remuneration of the consultant is attractive and commensurate with those offered by international bodies for similar assignments. The assignment will be based in Abuja. However, the consultant will also be reimbursed for operational expenses such as travel, accommodation, and telephone incurred while carrying out this assignment and in line with World Bank guidelines and procedures. Before reimbursement can be made, the consultant will need to submit a statement of expenses supported by valid documentation.

The successful consultant would be paid a lump sum amount, on monthly basis, in accordance with an agreed schedule of deliverables, on the agreed rate of professional fee and reimbursable expenses.

7.0 DURATION OF SERVICE

It is expected that service of the Consultant is required for a period of twelve (12) months, subject to adequate consultation periods with stakeholders. The following Table illustrates the anticipated schedule of grouped activities for completion of the consultancy (n.b. Month 1 commencing at contract effective date).

S/N	Activities	Suggested Time Schedule
1	Review the regional policy required to integrate environmental and social considerations into mineral sector development; identify gaps or conflicts in the extant NMMA, 2007 and regulations with regard to environmental and social management and advise MMSD on amendment accordingly; define the roles of relevant technical departments, especially with respect to Health and Safety in mineral operation, based on best practice and suggest institutional adjustment for mainstreaming these areas in E & S safeguards	Month 1 - 3
2	Carry out overall/general assessment of environmental impacts in the mine areas, identify various pollution stocks and recommend appropriate framework for mitigation	Month 2 - 3

3	Overseas study tour to build staff capacity in mining governance with focus on environmental and social safeguards	Month 4
4	Produce mineral specific environmental guidelines with a focus on MinDiver target minerals; develop guidelines for Mine Closure and Decommissioning Plan for the sector; map environmentally sensitive areas where the grant of mineral titles may be restricted; identify potential social impacts including economic inequality, displacement, forced relocation etc and design an appropriate policy framework for mitigation	Month 4 - 5
5	Identify possible triggers for potential conflicts between mineral operations and host communities; determine the nature or characteristics of ASM operators and their locations (in relation to conflict potential); recommend measures to mitigate potential conflicts based on the conflict triggers identified and with due consideration for the nature of ASM operators and develop guidelines for addressing conflicts between ASM operators and land owners	Month 5 - 7
6	Review the extant guidelines on (i) the Community Development Agreement (ii) the production of Environmental Protection and Rehabilitation Programmes WB Guidelines and (iv) the existing Memorandum of Understanding between the Federal Ministry of Environment and MMSD on EIA administration and advise on how to strengthen these	Month 6 - 11
7	Review the existing synergy on environmental matters between Federal, States and Local Government Councils and suggest ways of strengthening the existing statutory mechanism for collaboration or otherwise and review the existing framework for the establishment of EPPF and advise on its structure and establishment;	Month 9-11
8	Provide technical assistance for capacity building for staff on conflict resolution and negotiation	Month 11
9	Overseas study tour for appreciation and skills acquisition on involuntary resettlement and stakeholder engagement	Month 12

8.0 DELIVERABLES

The consultant will produce the following reports:

- a. **An Inception Report** to outline the work plan of the consultant, define its tasks and the planned implementation periods and schedules, identify target submission dates on each task. Particular attention will be given towards the planned coordination within other teams and preparation of a detailed schedule in chart form. A review of policy and gap analysis of the NMMA, 2007 will be included in the Inception Report. The inception

report will be submitted within one month of the commencement of the assignment and once approved and issued in its final form, will serve as the consultancy's baseline for the management and monitoring of the tasks;

- b. **Monthly Progress Reports of activities carried out within the month;** The Consultant shall prepare Monthly Progress Reports covering progress towards achieving the objectives in this ToR as well as identified areas of weaknesses and strategies for improvement. The reports shall provide a brief but comprehensive end-of-month progress assessment and details of impediment to the works and proposals for overcoming them. These reports shall be submitted within the first week of the succeeding month. The report will be assessed and appraised by the Mines Environmental Compliance Department of MMSD.
- c. **Quarterly Progress Reports** will consolidate the information contained monthly reports together with a summary of consultant's activities and conclusions on all pertinent issues concerning the assignment. In addition the Quarterly Progress Reports will outline recommendations, for amendment or solutions to issues and matters raised or found in the course of the study and any other information considered necessary in respect of service delivery. These reports shall be submitted at the end of the first week of the succeeding quarter.
- d. **A Draft Final Report**, within the first week of the last month of the assignment
- e. **A Final Report** bound in three (3) copies and an electronic copy in CD, within the last week of the assignment.

All Reports Shall Be in English and Presented in Hard and Soft Copies

9.0 SELECTION METHOD

The consultant will be selected through Quality and Cost Based selection method.