

# **Invitation to Tender**

## **The IWC Aboriginal Subsistence Whaling Survey of Indigenous and Human Rights Instruments**

### **Introduction**

The International Whaling Commission (IWC) is an inter-governmental organisation established under the 1946 International Convention for the Regulation of Whaling. The Commission has a membership of 88 Contracting Governments, and it meets in plenary session every two years. The IWC addresses the issue of indigenous rights and regulation of subsistence whaling through its Aboriginal Subsistence Whaling (ASW) Sub-committee.

In September 2015, the IWC Expert Workshop on ASW met to advance work to improve the Commission's management of subsistence whaling and the consideration of indigenous rights (Maniitsoq Workshop). The report of the Expert Workshop lists 11 recommendations for consideration by the Commission, a task that was then delegated to the ASW Working Group (ASWWG), which met in Utqiagvik (Barrow), Alaska in 2018. The Expert Workshop recommended the Commission undertake a survey of international indigenous and human rights instruments, and that such a survey could inform the Commission's role in addressing indigenous rights. The ASWWG agreed that a review should be undertaken, and that this would be assisted by referring to information in papers by Wold<sup>1</sup> and Johnstone<sup>2</sup>.

Further details are set out in the Scope of Work below.

### **Application Process**

This Invitation to Tender calls for a team of two suitably qualified experts to collect information regarding international indigenous peoples' and human rights instruments and intersecting international treaties, agreements, and other arrangements, evolving practices and policy developments in relation to indigenous peoples' use and management of natural resources and their participation in decision making processes, including within ASW.

Responses to this Invitation to Tender should provide:

1. A description of each expert's background and experience, with evidence of how they meet the requirements in the Team Specifications;
2. A brief concept note of no more than 800 words describing the experts' conceptual understanding of the survey's objectives and the foreseen methodology/ies and approaches to be applied in meeting these objectives.
3. The total costs for the Contracted Team to undertake the work, including, in a summary table a cost breakdown of the cost of each item in the Scope of Work section below, the estimated number of days and associated daily rates.
4. Specification of the timelines and milestones for completing the work, in accordance with those outlined in the Scope of Work below and/or any amendments needed;

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<sup>1</sup> Wold, C. 2017. Integrating Indigenous Rights into Multilateral Environmental Agreements: The International Whaling Commission and Aboriginal Subsistence Whaling. *Boston College International and Comparative Law Review*. Vol. 40, Issue 1, Art. 4 (available at: <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1781&context=iclr>)

<sup>2</sup> Johnstone, R.L., 2017. BRIEFING NOTE #4: 22nd MAY 2017 Indigenous Peoples' Rights to Traditional Fishing and Hunting Under the United Nations Human Rights Instrument. Prepared for the Human Rights Council of Greenland in response to a request for information regarding indigenous rights to resources from the Association of Fishers and Hunters in Greenland (KNAPK). (available at: <http://uni.gl/media/2277745/aogrc-briefing-note-4-en.pdf>)

5. Confirmation that the Contracted Team will be available to have regular meetings (which can be conducted remotely) with the IWC Secretariat.
6. Confirmation that the Contracted Team will be available, if requested by the ASW Subcommittee, to attend part of the forthcoming IWC69 Commission meeting (2024).

Responses to this Invitation to Tender should be provided by email to: [julie.creek@iwc.int](mailto:julie.creek@iwc.int). Responses must be received by 7 April 2023. All responses will be acknowledged. With any informal queries potential respondents can contact [secretariat@iwc.int](mailto:secretariat@iwc.int).

### **Contracted Team Specification**

A team of two experts is sought consisting of a senior and junior expert:

The experts must have excellent interpersonal skills, with a proven ability to work independently, and/or in a small team, and to engage with stakeholders from many fields and diverse cultural backgrounds.

The two experts should have documented experience and knowledge on indigenous peoples' rights and human rights, the international system and international law in general.

The senior expert (team leader) should preferably have a legal or advanced university degree (Masters or equivalent) in social sciences, law, indigenous (aboriginal/native) studies, international relations, natural resource management or related fields with at least 12 years of professional experience from the field.

The junior expert should have a university degree with at least-3 years of experience in the fields described for the senior experts.

Multifaceted and complementary experiences of the two experts spanning participation in international cooperation, diplomatic negotiations and advocacy related to indigenous peoples' rights and issues, work with relevant international or regional organisations, academic work as well as in practical legal litigation would be an asset.

The two experts should have a good knowledge of all issues related to subsistence use of natural resources and demonstrate an understanding of the role of the IWC, and how it manages Aboriginal Subsistence Whaling.

The two experts will be fluent in spoken and written English and have the capacity to prepare high quality documents and oral presentations.

### **Evaluation of Applications**

Applications will be evaluated against the criteria outlined in the Contracted Team Specifications and followed by interviews for shortlisted applicants (via Zoom).

The successful Contracted Team will be notified by 9 June 2023 and work will be completed by 9 June 2024.

### **Scope of work for survey of Indigenous and Human Rights Instruments in relation to ASW**

Working with the IWC Secretariat, the ASW community and other IWC experts, the Contracted Team will:

1. Identify international and regional governmental organisations and entities across the UN and non-UN with a focus on indigenous peoples' rights generally and more specifically relating to sustainable use of natural resources
2. Identify indigenous peoples' rights instruments used in international and regional organisations and their subsidiary bodies, as well as key agreements or treaties to serve as precedents
3. Excerpt key provisions related to indigenous peoples' rights for subsistence use and participation in decision making<sup>3</sup> for each agreement, treaty or instrument (including judicial decisions and organizational policies)
4. Undertake consultations (largely through remote means) with indigenous peoples' representative institutions, governments and organisations active in ASW, as identified on a list developed by the Contracting Team in preparation of the draft report. This outreach process must include the opportunity for review of the list of institutions, governments and organisations by the ASW Sub-committee.
5. Develop a draft report of no more than 100 pages delivered to the IWC Secretariat, to be reviewed by ASW countries and participants in the Maniitsoq and Utgiagvik Workshops.
6. Develop a final report of no more than 80 pages summarizing key precedential provisions and practices regarding indigenous peoples' rights and subsistence use in other international bodies, and addressing any comments received, delivered to the IWC Secretariat, and ASW countries, to be presented to the ASW Sub-committee at IWC69.
7. Assist with the preparation of documents and presentation of the materials (PPTs and the like) on the ASW Survey for the Scientific Committee and Commission meetings.

### **Working Methods**

This work will be conducted through a combination of i) desktop review and consultations; ii) liaison with the ASW Sub-committee and IWC Secretariat and iii) liaison with indigenous peoples' representative institutions, governments and organisations active in ASW.

It is understood that the Contracted Team may act as a Contractor, or be engaged in any other working relationship, or provide services to third parties, provided such relationship or services do not pose a conflict of interest with the objective nature of this contract (for example through a contract or service arrangement with an entity providing comments on or advocating positions on the subject matter of this contract) and such arrangements do not prevent the proper provision of the Services. The Contractor is under obligation to notify the IWC Secretariat and ASW Sub-committee of such arrangements.

For the avoidance of doubt, the Contractor is subject to notification to the Secretariat and ASW Sub-committee regarding the provision of services to any third party with an interest in the subject matter of this contract.

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<sup>3</sup> Recommended key categories of information to be considered related to aboriginal subsistence whaling could include:

1. Cultural Identity, Integrity, and Self-Determination
2. Social/Political Roles and Kinship Ties
3. Traditional Values, Belief Systems/Spirituality, and Indigenous Knowledge
4. Participation in Mixed Cash-Subsistence Economies and Sharing/Trade Systems
5. Participation in Subsistence Harvesting/Processing/Consumption Activities and Access to Traditional Subsistence Resources and Harvesting Areas
6. Food Security/Sovereignty, Nutrition, and Access to Healthy Subsistence Foods

### **Support to contractor**

The Secretariat will assist to ensure all required documents are available and listed and will ensure appropriate ongoing contact between the Contractor and key stakeholders in the IWC ASW community.

The Secretariat will provide guidance on an ongoing basis, as required. The Contractor will be able to draw on the expertise of the ASW Sub-committee and members of the former ASW WG.

### **Reporting**

The Contracted Team will be required to (remotely) attend at least monthly meetings with the IWC Secretariat to discuss progress, and more regularly if required, and also keep the Chair of the ASW Sub-committee updated.

### **Work schedule**

The work will commence by 9 June 2023. Upon commencement of the contract, the Contracted Team and the IWC Secretariat will agree to a work schedule, which will include the following milestones. Payment with respect to development of the draft and final reports and related consultations will be made on delivery of these milestones.

<b>Task</b>	<b>Completion date</b>
Establish process and timetable for development of survey report (building in the consultation needed at various stages)	9 July 2023
Completion of first draft report for submission to IWC Secretariat	8 March 2024
Completion of final report for delivery to the IWC Secretariat and ASW countries, and presentation to the ASW Sub-Committee at IWC69	9 June 2024 for final report delivery. Presentation of report dependent on timing of IWC69
Project completion	Dependent on timing of IWC69

### **Budget**

The maximum budget available for tasks i-vii- in the Scope of Work above is £23,000. If requested by the ASW Sub-committee, costs of the contracted team attending IWC69 for the requested period will be covered separately.