

SAINT VINCENT AND THE GRENADINES
HUMAN DEVELOPMENT SERVICE DELIVERY PROJECT
Terms of Reference for Consultancy Services (Individual Consultant)
for the
Review and Update of the Protection of Employment Act 2003
SVG-HDSDP-CS-INDV-30

1. Background Information

The Government of St. Vincent and the Grenadines (GOSVG) has signed an agreement with the World Bank (WB) to finance the SVG Human Development Service Delivery Project. The Project aims to strengthen the quality of service delivery in education, improve the efficiency of social protection systems, and improve the effectiveness of the SVG labour market systems.

One of the Project's sub-component is to provide support in strengthening the labour legislative framework by financing technical assistance to the Labour Department to update the Protection of Employment Act (PEA) of 2003. A tripartite approach will be used to ensure citizen feedback into the legislative update process, including employers, employees, and government.

The PEA 2003 is the principal legislation that governs labour and employment matters in St. Vincent and the Grenadines. This law is administered in accordance with other important employment-related statutes namely the Wages Council Act 1953 and its subsidiary legislations- (the Wages Regulation Orders, which were updated in 2017), the Equal Pay Act 1994, the Accident and Occupational Diseases (Notification) Act 1952 and, the Factories Act 1955. The latter two are to be repealed and replaced by the new Occupational Safety and Health (OSH) Law.

Over the years labour officers have been experiencing many challenges relating to the interpretation of the said law. The defects of the current legislation include among others, issues of inadequacy as it relates to the list of definitions under Interpretations, the absence of specifics in some sections of the law, some provisions lend themselves to multiple interpretations, the absence of penalties in relation to sections that require employers to fulfil certain obligations, and abuse by many employers of one particular section of the law so as to avoid making severance payments to employees.

The Government of St. Vincent and the Grenadines recognizes that labour is one of the main factors of production within the local economy and acknowledges its responsibility in promoting the development and application of sound labour and employment policies in order to ensure growth within the economy. Updated legislation and strengthened capacity at the Labour Department, will improve Government's ability to respond to the needs of both job seekers, the employed and the employers.

To achieve these policy objectives, it is critically important that the deficiencies/defects in many of the provisions of the Law are dealt with expeditiously through this comprehensive review exercise.

2. Purpose

The aim of this consultancy is to undertake a comprehensive revision and update of the PEA, and to recommend guidelines for the establishment of appropriate regulations pursuant to the said Act. In particular, the consultant will be responsible for:

- a) Holding a series of consultations with key stakeholders including the staff of the Labour Department, representatives of employers' and workers' organisations and, any other government and non-governmental agencies deemed appropriate;
- b) Identifying all provisions of the Act which either lack clarity or are left open to multiple interpretations;
- c) Drafting a revised Protection of Employment Act
- d) Developing guidelines for the establishment of regulations pursuant to the law.

3. Methodology

It is expected that the methodology employed will include, but not limited to, structured interviews, focus groups discussions, questionnaires and work place observations.

4. Scope of Work

The consultant will be required to:

- a) Provide an Inception Report detailing the scope of work, programme schedule with timelines and, methodology.
- b) Undertake a comprehensive review of the legislative, administrative, regulatory and governance framework with respect to the administration of the Protection of Employment Act 2003 including but not limited to:
 - i. Reviewing the Protection of Employment Act 2003, in relation to the Wages Council Act 1953 and its subsidiary legislations (*Wages Regulation Orders*), the Equal Pay Act 1994, the Accident and Occupational Diseases (Notification) Act 1952 and the Factories Act 1955;
 - ii. Identifying with explanations any provisions of the above legislations that are inherently weak/ineffective and would require amendments; and

- iii. Specifying any other legislation(s), regulations and instruments which may potentially have implications for the full or effective administration of the Protection of Employment Act.
- c) Present the draft Report at a national stakeholder consultation meeting with relevant Government agencies, nongovernmental organisations, and other stakeholders, aimed at developing proposed drafting instructions and obtaining comments and consensus thereon.
- d) Prepare a first draft of the Protection of Employment Act together with a legal dossier identifying the proposed changes with appropriate justification. A second round of consultations shall be held to solicit the view of national stakeholders on the first draft of the PEA.
- e) Prepare a Second Draft of the PEA on the basis of the national stakeholder consultations.
- f) Draw on international best practices in providing recommendations to further improve the scope of labour and employment laws in St. Vincent and the Grenadines.
- g) Submit a Final Review Report highlighting the nature of the work undertaken noting the level of success and constraints in terms of methodology used, the nature and quality of stakeholder participation and lessons learnt during the process.

5. Deliverables

Indicators to evaluate the consultant's performance

Deliverables	Minimum Requirements
Inception Report & Work Plan within two weeks of contract signature.	<ul style="list-style-type: none"> • Clear outline of scope of work with appropriate timetabling and methodologies
Draft of the Review Report no later than 8 weeks after contract signature	<ul style="list-style-type: none"> • Technical precision and accurate reflection of the current practice regarding the administration and operations of the law (PEA) • All issues of the law fully discussed and analysed • Legal implications for the operations of the law (PEA) in relation to the other labour and employment statutes identified and fully discussed

Report on national stakeholder consultations conducted by the consultant no later than 12 weeks after contract signature	<ul style="list-style-type: none"> • Draft Report clearly and logically presented to Stakeholders • Interactive discussions held • Comments recorded and presented • Consulta's feedback
First draft of revised Protection of Employment Act together with Legal Dossier no later than 16 weeks after contract signature	<ul style="list-style-type: none"> • First draft of the PEA • The Legal Dossier shall clearly identify the proposed revisions which fully explained and justified • Any indication as to whether existing related legislations might need amendments
Draft Final Review Report including a Second Draft of the PEA and a report on national stakeholder consultations on the First Draft of the PEA no later than 20 weeks after contract signature	<ul style="list-style-type: none"> • Second Draft of PEA • Detailed analysis of the issues with full written discussion • All comments and consensus arising out of the second round of negotiations reflected appropriately • Report is clearly outlined and properly written in plain standard English • Recommendations clearly outlined
Final Review Report including the Final Draft PEA no later than 4 weeks after receipt by the consultant of comments on the Draft Final Review Report	<ul style="list-style-type: none"> • Final Draft of the PEA to reflect any requested changes to the second draft of the PEA • Detailed analysis of the issues with full written discussion • Report is clearly outlined and properly written in plain standard English • Recommendations clearly outlined • Acceptance by Cabinet

The initial submissions of deliverables 1-4 would be considered draft submissions pending the Client's comments on those reports. Should revisions be required, the revised report shall be submitted no later than fourteen days after receipt of the comments.

Review and assessment of each deliverable by the Client shall vary from a minimum of one week to a maximum of six weeks, with the exception of the final review report, which must be accepted by Cabinet.

6. Inputs

The Labour Department will make available copies of all existing relevant legislations, policies, guidelines and other relevant documentation to facilitate the completion of the consultancy.

7. Duration

The anticipated time required for completion of the consultancy is within a six (6) month period.

8. Qualifications, Experience, Competences and Knowledge required of the Consultant

Qualification and Experience

- Bachelor's Degree in Law from a recognised university; an advanced degree in the relevant field will be an advantage;
- Minimum ten (10) years of professional expertise in the administration of labour and employment law;
- Minimum five (5) years of professional qualification and training in Legal Practice
- Experience in labour and employment law is essential;
- Must have been admitted to practise as a Barrister at Law and/or Solicitor in the jurisdiction of St. Vincent and the Grenadines or any other Commonwealth Country;
- Experience gained from conducting a similar undertaking is highly desirable;

Competences

- Planning and Organisation: Ability to identify priority activities and assignments, allocation of appropriate amount of time and resources for completing the work;
- Communication: Excellent written and spoken communication skills in English;
- Use of Communication Tools: having well-rounded experience in using various communication tools;
- Questioning Skills: Ability to ask appropriate questions for clarification and exhibit interest in having two-way communication and to be able to demonstrate openness in sharing information and keeping stakeholders informed.
- Excellent computer skills in the complete Microsoft Office Suite (*Word, Excel, PowerPoint, Publisher, Access*)
- Ability to promote the vision, mission and strategic goals of the Labour Department.

Knowledge

- Familiarity and understanding of all labour and employment laws in St. Vincent and the Grenadines;
- Knowledge of common law and practice in St. Vincent and the Grenadines highly desirable;
- Knowledge of the national legislative system;

9. Administrative arrangements

The assigned tasks are to be performed on a part-time basis in a total work time of 26 weeks.

10. Reporting Lines

The Consultancy will be undertaken under the leadership of the Ministry of Finance, Economic Planning, Sustainable Development and Information Technology and the Consultant shall report directly to the Labour Commissioner.