

# Calabash

Research and Compilation of Public Participation Templates for  
Terms of Reference Related to Environmental Assessment and  
Public Participation (EA/PP) in the SADC Region



Photo: Helge Denker


**A Project of the  
Southern African Institute  
for Environmental Assessment**



# Calabash Terms of Reference for PP

## SCOPE

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Title:	Research and Compilation of Public Participation Templates for Terms of Reference Related to Environmental Assessment and Public Participation (EA/PP) in the SADC Region
Date:	March 2005
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Scope:	<ul style="list-style-type: none"><li>▪ Develop 3 Terms of Reference templates for a public participation programme as part of an EA/SEA/EIS for use by a regulator, proponent or practitioner.</li><li>▪ Ensure that the templates can be applied to a linear EA, a point EA and a regional SEA.</li></ul>
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## 1 LIST OF ACRONYMS

APPA	Appreciative Participatory Planning and Action
AfDB	African Development Bank
CBNRM	Community Based Natural Resource Management
CMP	Comprehensive Mitigation Plan
DWAF	Department of Water Affairs
EA	Environmental Assessment
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EMP	Environmental Mitigation Plan
EPPCA	Environmental Protection and Pollution Control Act
EPA	Environmental Protection Act
GIS	Geographic Information Systems
IAIA	International Association for Impact Assessment
IAPS	Interested And Affected Parties
IAPP	International Association for Public Participation
IFC	International Finance Corporation
IMS	Information Management Systems
PLA	Participatory Learning and Action
PP	Public Participation
PRA	Participatory Rural Appraisal
SADC	Southern African Development Community
SAIEA	Southern African Institute for Environmental Assessment
SIA	Social Impact Assessment
SEA	Strategic Environmental Assessment

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## 2 INTRODUCTION

### 2.1 BACKGROUND

The process of **Environmental Impact Assessment (EIA)** and **Strategic Environmental Assessment (SEA)** are recognised as two of the key tools in support of sustainable development. The ultimate objective of the EIA/SEA is to ensure that government decision-makers and/or private sector proponents are provided with information and indications as to the likely consequences of project activities (Wathena, 1988). In Africa, the introduction of requirements for projects (including policies, programmes and plans) to undertake an EIA or SEA has historically been driven by the international donor agency. Over the past decade however most of the **Southern African Development Community (SADC)** member states have made significant progress in the development of legislation and local tools introducing formal systems for the implementation of EIA and SEA.

The evolution of EIA and SEA has provided an avenue through which stakeholders are afforded the opportunity to engage a government and/or private sector proponents in the decision-making process. While some view such participation as a necessary moral responsibility of the decision-making process, effective participation has the added advantage of being able to impart a sense of project ownership and improve development outcomes as a result. Used effectively, **Public Participation (PP)** is able to harness the skills and enthusiasm of the public, leading to better decisions. The process of Public Participation does not itself guarantee that everyone will be happy with a decision, but can ensure that individuals are given the right to voice their grievances and needs so that these are considered during the decision-making process.

The extent of Public Participation required within an EIA or SEA in the SADC region varies from country to country. Some member states offer greater opportunities for engagement than others in an effort to promote democratic reform and good governance (SAIEA, 2003). Recognising this, the **Southern African Institute for Environmental Assessment (SAIEA)** is undertaking a project over two years to enhance civil society participation in decision-making in Southern Africa called the **Calabash Project**. The objective of the Calabash Project is:

**The capacity of, and opportunity for, civil society in Southern Africa to effectively contribute to decision-making related to sustainable development in SADC through meaningful public participation in EA is recognized, respected, and enhanced.**

### 2.2 TERMS OF REFERENCE

In order to develop a uniform approach to engaging communities based on best practice and conceptualised within the realities of the Southern African condition, the SAIEA commissioned **Create Swaziland** to undertake the *Research and Compilation of Public Participation Templates for Terms of Reference Related to Environmental Assessment and Public Participation (EA/PP) in the SADC Region*. The objectives of this assignment are to:

1. Develop 3 Terms of Reference templates for a public participation programme as part of an EIA for use by a regulator or proponent.
2. Ensure that the templates can be applied to a linear EIA, a point EIA and a regional SEA.

The Terms of Reference for the assignment include the following tasks:

1. Prepare a SADC-wide distribution list (with names and addresses/email etc. of senior contacts) of government agencies, CBNRM organizations, conservancies, community based organizations, non-governmental organizations, industry and industry associations that should receive information about the Terms of Reference templates.
2. Develop a “model” of best practice for PP in EA from which the templates can be developed. The model should contain, but not be limited to, such PP topics as:
  - Managing PP process
  - Identifying issues
  - Identifying interested and affected parties
  - Identifying consultation area
  - Identifying and addressing issues
  - Managing PP communications
  - Managing media relations
  - Managing disputes and conflicts
  - Managing cross cultural issues
  - Working with proponent, regulator and public
  - Reporting PP effectively
  - Managing information availability
  - Managing biodiversity issues for sustainable use
3. Prepare 3 Terms of Reference templates: one each for an EIA of a point project, a linear project and a regional SEA programme
4. Prepare set of recommendations of what would constitute best practice for drafting terms of reference for a public participation programme from the perspective of a regulator and a proponent
5. Prepare a list of key informants involved in the template development work who could be invited at a later date to a project review workshop.

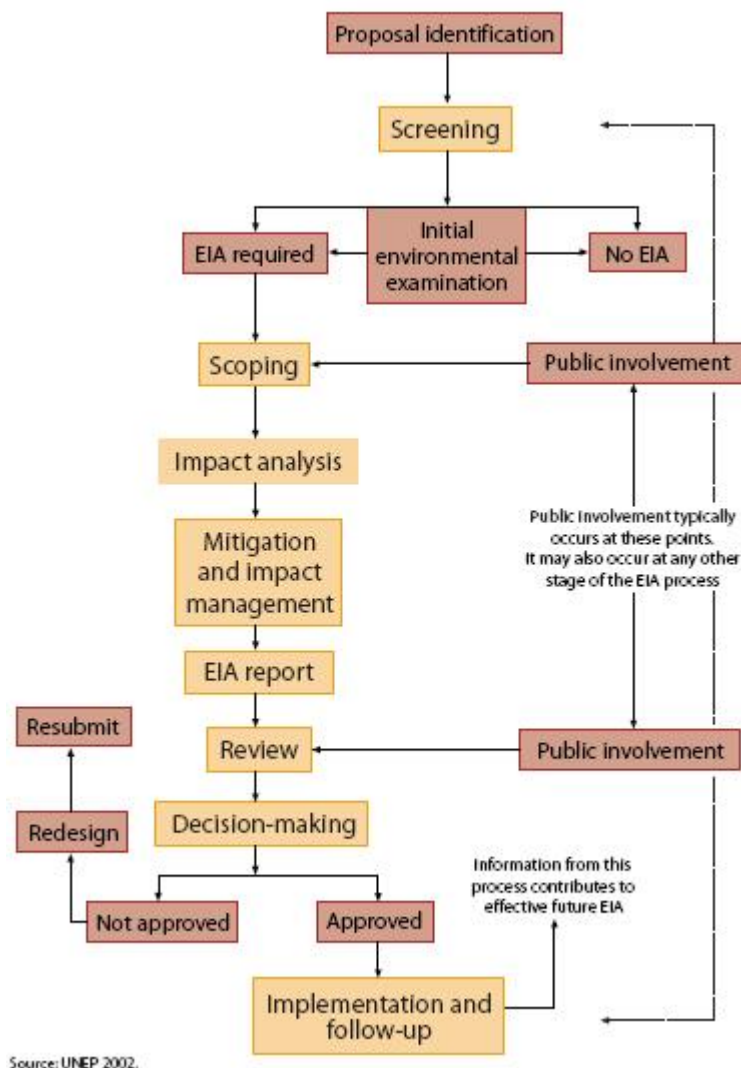
### **3 APPROACH AND METHODOLOGY**

The SAIEA has prepared a *Situation Assessment of Participation of Civil Society in Environmental Assessment in Southern Africa* (SAIEA, 2003). This provided the contextual framework for the development of the Terms of Reference templates. Relevant consideration was given to existing legislative requirements in each of the SADC member states. This was done through review and assessment of the country reviews published by the SAIEA. Contact was made with key individuals in

some of these countries for more detailed information. Annex 1 provides an overview of EIA legislative requirements for the SADC member states.

In keeping with the international standards, the diagram in Figure 3.1 below was used as a generic format to guide the approach used in developing Public Participation methodologies as part of the EIA process.

**Figure 3.1: An example of Public Involvement in an EIA engagement process**



Other key documents from international agencies, such as the World Bank (WB), International Finance Corporation (IFC), the African Development Bank (AfDB) and the International Association for Impact Assessment (IAIA), and Public Participation Guidelines for Stakeholders in the Mining Industry (Golder 2002), United Nations Convention on Biological Diversity, were reviewed, along with existing conventions, such as the Aarhus Convention and the United Nations Convention on Biological Diversity and subsequent publications, to provide broader context. An overview of literature reviewed is provided in Annex 2.

From this review commonalities, requirements and best practices have been synthesised to assist in the development and definition of a generic template and formation of a model that can be used in

SADC countries by desk officers and other persons tasked with the development of Terms of Reference for practitioners engaged in public participation as part of an EIA process.

## **4 BEST PRACTICE FOR DRAFTING TERMS OF REFERENCE FOR PUBLIC PARTICIPATION IN ENVIRONMENTAL ASSESSMENT**

### **4.1 INTRODUCTION**

As a result of a perceived lack of capacity in many SADC countries to prepare Terms of Reference (TORs) for Public Participation in Environmental Assessment, these guidelines have been prepared.

They are designed to assist you in the preparation of TORs for public participation related activities by providing best practice recommendations for drafting TORs.

By outlining the general principles surrounding the use of TORs, we hope you will have a clearer idea of “how-to” set about the task of writing them. You will be able to do the writing-up task more efficiently and effectively. In turn, the project team that uses your terms of reference should operate more productively.

There are two weaknesses in the practice of formulating the TORs. The first is lack of information about the proposed project or activities because the project proponent does not provide information about the project. The second is the perceived over-formality in the procedures employed in gathering the data and information.

By following these guidelines, the intention is that any Proponent tasked with preparing TORs for a public participation process linked to an EIA, will be able to confidently prepare TORs to enable consultants or other service providers to prepare sound and technically competent proposals.

### **4.2 USING THESE GUIDELINES**

These guidelines are not prescriptive: they are written to assist those who may be given the task of drafting Terms of Reference for any participation project related to an EIA.

The guidelines are designed to assist people who are doing the work, not necessarily those who know what they want to get done.

There are three parts to these guidelines:

- the “how to” section for the people actually drafting the Terms of Reference;
- an evaluation section which is designed for the project team which will actually do the work of the assignment; and
- a sample Terms of Reference for three types of EIA projects: Point, Linear, SEA

Even if you are experienced in preparing or working with Terms of Reference, reading the guidelines will help you to frame Terms of Reference in the future.

While flexible, with enough detail, Terms of Reference can help define the project to be undertaken and as such become a pre-plan or indeed an initial project plan, ensuring an increasingly clear outcome that in turn enhances project productivity.

### 4.3 WHAT ARE TERMS OF REFERENCE?

Terms of Reference are a phrase that has evolved to cover many things. Terms of Reference are the “*Scope allowed to persons conducting an enquiry of any kind*” (New Oxford Dictionary).

Thus, TORs articulate the extent of the proposed investigation, and a review of anomalies. Particularly in the public sector, TORs have come to be used in almost a generic sense to cover the base document used as a guide for a wide range of activities.

TORs are employed by a variety of groups including consultants, committees and researchers or reviewers.

### 4.4 PURPOSE

Terms of Reference are a contractual document against which contractors, consultants and proponents have to operate. They are the yardsticks against which the success of an assignment or mission will be measured. They form an attachment to the contract for the consultants and contractors selected to undertake the mission or assignment.

The purpose of the Terms of Reference document is to:

- Provide the rationale for the activities that will be undertaken by an individual or a team;
- Detail the activities required and the time-scale over which they are to be completed; and
- Detail the professional requirements of the individual or team.

### 4.5 HOW TO WRITE THE TERMS OF REFERENCE

#### 4.5.1 What should Terms of Reference Say?

Terms of Reference need to state clearly and specifically the permitted and/or possible extent to which an investigation may reach. Thus, the TORs should enable a project team to:

- Set boundaries on the project;
- Know what is and isn't within their jurisdiction;
- Understand the context in which the TORs have been framed;
- Have a clear idea of where they should begin; and,
- Have a clear idea of outcome/product.

#### 4.5.2 Contents and format

These guidelines suggest a common format for terms of reference, regardless of the task, assignment or stage in the activity cycle to which they refer. The format may need to be amended for specific purposes and the Proponent should not feel constrained to do this.

The content of a TOR document usually include the following sections:

1. Introduction
2. Project Background
3. Project Participation Requirements
4. Project Area of Influence
5. Scope of Work
6. Qualifications of the Consultant
7. Deliverables
8. Cost, Schedule and Payments
9. Project Authorities

#### *4.5.2.1 Introduction and Project Background*

This section provides a briefing on the history and rationale of the assignment and places it in the context of the sector, program or project to which it relates. It should start with a preliminary paragraph something like this:

‘This terms of reference document has been prepared for carrying out <assignment name> in relation to <activity name> in <location>.’

This section will vary in length from a few paragraphs to up to two pages. It should provide a brief history of the project to date. This should state in brief the stages that the project has already been through and should give key dates. It should clearly state the stage of the cycle that the project or activity is in and provide detailed background of recent achievements, opportunities and problems. The assignment should be placed within the context of these recent events.

This section should also present guiding principles and core values for participation. These will ensure that the project, its proponents and the responsible decision-makers along with stakeholders all have a common understanding of the “operating rules”. There are numerous defined principles or values within the literature and implemented in practice. These should be viewed as a point of departure from which projects should build upon in developing their own specific vision and guiding principle. Four cornerstone values upon which sound PP practice is founded are the following:

1. Public must be engaged and
2. Have access to and be presented with all information - transparency
3. Flexibility, adaptive management processes, responsive to stakeholders
4. Accountability

The International Association of Public Participation identifies the following “Core Values for the Practice of Public Participation” (IAPP, 2003):

1. The public should have a say in decisions about actions that affect their lives.

2. Public participation includes the promise that the public's contribution will influence the decision.
3. The public participation process communicates the interests and meets the process needs of all participants.
4. The public participation process involves participants in defining how they participate.
5. The public participation process provides participants with the information they need to participate in a meaningful way.

The public participation process communicates to participants how their input affected the decision.

#### *4.5.2.2 Project Participation Requirements*

The purpose of this section is to specify clearly and concisely the objectives and requirements of the assignment. In other sections of this document, guidance is given on the tools and methods of participation and the Proponent is urged to read these to gain a board understanding of how consultation and participation can be undertaken.

There is a wide range of objectives for public participation assignments depending on the sensitivity of the project being subjected to an EIA.

#### *4.5.2.3 Project Area of Influence*

The purpose of this section is to provide the recipient of the TORs a clear overview of the project's area of influence. This may be a defined geographic area and or specified range of stakeholders to be consulted.

Maps and background information on the stakeholders will facilitate a better understanding of the required scope of work and conceptualise the project in terms of the participatory needs of the EIA.

#### *4.5.2.4 Scope of Work*

The purpose of this section is to provide a detailed description of the tasks required of the individual or team and the outputs required from the assignment.

This is the section that specifies in some detail just what the individual consultant or team is expected to do. As the scope of an assignment can be very variable, the Proponent may find it appropriate not to specify in too much detail the activities that are expected during the assignment, e.g. where there is a significant element of fact-finding.

In general terms, however, consultants and teams respond better to a more detailed definition of their assignments, bearing in mind that the more detailed a scope of services is the less flexibility an individual or team will have to respond to circumstances in the field.

The specification of assignment scope is probably the most difficult part of writing Terms of Reference. A number of suggestions are made in this regard:

- Use a chronological approach to specifying what must be done. For an EIA study this might include a preparatory stage, a stage of consultation at the national level, a field or data collection stage, a consolidation and wrap-up stage, a writing stage and a report finalisation

stage. These stages could be further distilled into preparation, consultation, assessment and activity formulation stages.

- Identify specific technical tasks and assessments that are required during the assignment. Specific sectoral issues for exploration and assessment will need to be mentioned, as will the crosscutting issues gender, environment, human rights and governance. Institutional, financial, economic, cultural and social perspectives also should be mentioned. The scope should refer where relevant to the identification of risks and or the assessment of risk management strategies. Similarly, reference should be made to the identification and analysis of the factors that are likely to influence sustainability, and to an assessment of the sustainability strategy; and
- Specify the outputs required. For written outputs the scope should refer wherever possible to guidelines and formats provided by the Proponent. In some cases the output will be another terms of reference, in others a project design document or a review report.

#### 4.5.2.5 *Qualifications of the Consultant*

The purpose of this section is to specify the professional requirements of the individual and/or team for the assignment including required experience, skills and qualifications. There are two broad approaches to establishing the requirements for an individual or team in terms of reference:

- A skills or attributes approach in which the skills and other qualities required of a team are specified but not either the number or composition of the team; and
- A duties approach in which individual team members are identified by title within the team, and specific duties laid out for them.

The attributes approach broadly corresponds to the use of outputs style contracts. In many cases, in theory at least, the Proponent is not as concerned with who is to undertake which tasks as long as a team can adequately demonstrate (through proposal or bidding) that it can produce the outputs required. The attributes approach is relevant to projects for which contractors are asked to put forward a whole team.

However, the Proponent might wish to make conditions on which professional area undertakes leadership of a team. It might also wish to specify that certain levels of seniority or academic qualification are present in certain professional areas. It might also wish to specify that young professionals are included in a team and may do that by indicating which professional tasks it would be appropriate for young professionals to undertake.

The Proponent, in writing the TORs, may wish to ensure adequate attention to gender balance in teams.

The duties approach, by contrast, will specify:

- The exact number of team members and their required qualifications, experience and other attributes;
- The period of time of engagement for each team member;
- The exact duties each member will be required to undertake; and

- The relationship between the team member and other team members (e.g. in terms of who is to lead whom).

In many cases, the attributes approach is more appropriate as it leaves the exact composition of the team, and who does what up to the individual team leader or contractor. This can result in a more flexible team in which the team leader can get the best out of each team member. Conversely it can also result in mismatched teams if the scope of services is unclear or if the selection procedure results in a less than ideal team.

The duties approach is appropriate to cases where individuals are contracted separately to form a team. If a duties approach is utilised it is important to remember that the sum of all the duties required of different individuals must add up to the total scope of the mission. It is also important to clearly differentiate the duties required of different individuals and to ensure that overlap between team members is minimised.

A hybrid approach to establishing team requirements is also possible. This would see a varying degree of flexibility given to the team leader or contractor.

If partner government personnel are to be involved in the project or participation their roles should be specified. Ensure that crosscutting issue responsibilities are allocated if appropriate (gender, environment, population, poverty, governance).

#### 4.5.2.6 *Deliverables*

The purpose of this section is to specify the written outputs of the assignment. This section is provided so that the reporting requirements are clearly stated in one place. Usually reporting requirements are referred to in the scope of assignment.

However it is useful to recapitulate these in one clear, concise section. In many cases the acceptance of reports is the trigger for payment of consultants. The TOR should state the need for clarity, brevity and usefulness in reports. It should also specify the dates when reports are due, the number of copies required and the team member responsible for coordination of the report preparation (usually the team leader).

#### 4.5.2.7 *Cost, Schedule and Payments*

The purpose of this section is to specify the costs, timescale and proposed payment modalities for the assignment with a clear statement of deadlines and milestones to be achieved.

Good public participation costs money, but poor public consultation can cost a lot more. The cost of public participation is driven, for example, by:

- The level of effort that will be required, that is, a combination of the scale of anticipated impacts, the scale of sensitivity of the receiving environment and, most important, the scale of public sensitivity.
- The number of interested and affected parties who need to be consulted. Where a National Park, Ramsar Site or World Heritage Site is involved, the stakeholder base will be international; where the predicted impacts are small and the project to be established is in an already developed area and would not cause cumulative impacts, the stakeholder list would be much smaller; where the project is linear (e.g. a new long conveyor), more stakeholders would be involved.

- The number of iterations or feedback loops that will be required for stakeholders to verify that their issues have been captured and addressed. Where there has been past lack of trust in government or in the proponent or recent negative press, more iterations will be required (i.e. more meetings or discussion documents).
- The degree of empowerment required. Where local stakeholders are not familiar with mining or industrial processes, changes in legislation and/or their environmental rights, more capacity-building efforts are required.
- Whether the process can be conducted in one language only, or whether more than one language can be used, thus incurring translation costs.
- Whether independent review is required. Apart from the actual cost of the review, the public participation process will require additional iterations.

The budget should allow for expenditures such as hiring consultants, conducting meetings and workshops and producing, translating, printing and distributing written material. As a very rough guide and depending on the number of stakeholders involved, the number of languages to be used and the rates of the consultants employed, the processes shown below, and could in 2002 terms and in South African Rand, cost:

VERY LOW sensitivity project: as little as R10 000.

LOW sensitivity project: between R20 000 and R35 000.

MEDIUM sensitivity project: between R70 000 and R150 000.

HIGH sensitivity project: between R250 000 and R370 000.

VERY HIGH sensitivity project: up to R1 million or more.

It is important to note that between 40 and 50% of the cost of a public participation process represents direct disbursements such as venue hire, catering, copying of documents, mailing, transport and accommodation costs etc.

#### *4.5.2.8 Project Authorities*

This section informs the Consultant where, when and to whom proposals should be delivered and the conditions associated with the proposal e.g. CVs of staff, official documentation relating to the company, statements of competence.

## 4.6 TERMS OF REFERENCE FOR SPECIALIST STUDIES

This section provides a summary of elements to be included in a Terms of Reference for Specialist Studies, which can be adapted for the Public Participation Process.

The specialist should be given:

- The background to, and description of the proposal.
- Maps (or map references) of the affected area.

- ❑ Parameters within which alternatives should be considered throughout the specialist study (to meet the proposal's objectives, taking into account opportunities and constraints of the affected environment), and/or a range of reasonable alternatives already identified by the proponent.
- ❑ Issues raised by IAPs during scoping (if appointed after scoping), of relevance to the specialist. A list of the IAPs should be given to the specialist, to ensure that key parties with responsibility for, and/or stake in biodiversity, have been given the opportunity to participate.
- ❑ Terminology to be used by all specialists involved in the EIA, to ensure consistency and comparison of findings, as well as criteria to be used in the assessment and to determine potential significance of impacts. Criteria for assessment commonly include: spatial scale [e.g. site-specific, local, regional, national, global], time scale or duration [short term, medium term, long term, permanent/irreversible/ irreplaceable] and magnitude or severity of impacts [very low to very high at that spatial scale and for that duration]. These criteria must be clearly defined (e.g. 'short term' means during construction, 'local' means at the scale of the local community, etc). The probability of an impact occurring should also be recorded in the assessment methodology, as well as the degree of confidence that informed the specialists' assessment of an impact. Assessment methodologies should provide for evaluation of impacts, expressed as "significance".
- ❑ Instructions about liaising with other specialists undertaking related studies which are either dependent on the findings of, or will provide essential information for, this study.
- ❑ Instructions regarding the format, structure and timing of reporting.

The specialist, within his/her specific area of expertise, should be asked to consider impacts on all relevant levels of biodiversity, from landscape or ecosystem (with emphasis on threatened ecosystems or habitat), to communities, to species (with emphasis on endemics and known threatened species) to genetic variability (usefully measured in terms of numbers of different viable populations).

## **5 PUBLIC PARTICIPATION TERMS OF REFERENCE TEMPLATES FOR AN EIA OF: A POINT PROJECT, A LINEAR PROJECT AND A REGIONAL SEA PROGRAMME**

### **5.1 INTRODUCTION**

These generic guidelines have been prepared to assist a project proponent in the preparation of Terms of Reference to design and implement a participation process that itself is connected to an environmental assessment process. The TOR invites suitably qualified consultants to tender for the provision of services related to implementing a participation and consultation strategy.

Experience has shown that the Proponent will only get back information he has specifically called for. If the TORs are vague or unclear, the quality of proposal received will also be vague and unclear. It is therefore incumbent upon the author of the TORs to have a clear understanding of the EA process, the project and the PP process. The author should make every effort to have the TORs reviewed by technical specialists in PP prior to issuing the TORs to Consultants. This way, a better quality of proposal will be received and budgets (time and money) are better estimated to meet the needs of the project.

Proponent often misunderstands the cost of undertaking a PP process within the ambit of an EA. In some cases, the TORs issued for a PP result in proposals being way over the budget allocated by the

Proponent. It is therefore very important that the author can associate costs for activities called for to ensure proposals received (or work called for) match the available resources of the Proponent.

A sound public participation process requires a clear definition of the activities, an objective and a series of public activities connected with the several phases of the EIA and project development process. Annex 4 provides a Model for Public Participation, outlining important aspects to be taken into consideration when developing a PP Process.

The objective of a public participation process is to develop informed, visible, majority public understanding, acceptance and support for a valid project proposal. Without a good information base, citizens cannot arrive at sound and lasting views on an issue. Their views need to be expressed, or others will claim the support of the silent majority. After an effective participation process, most people should understand the issues and the alternative solutions; while some may disagree with a proposal, others will accept it (perhaps reluctantly), and others will actively support it.

These TOR in section 5.2 do not address the technical requirements of the wider environmental assessment but focus solely on engaging stakeholders in the decision-making process for the environmental assessment. However, it is important that the Proponent is familiar with the activities called for by the regulator of the environmental consultants to ensure close integration of all assessment related activities.

The stakeholder participation process usually starts at the very beginning of the environmental assessment process and its aim is the identification of environmental issues and concerns likely to be significant and their inclusion in the overall environmental assessment process. The coordination of both groups of actors (the participation team on the one hand and the environmental team on the other) is essential to share information and provide data that feeds into the final project outcome to the satisfaction of all concerned.

The key to a successful participation strategy is the experience of the personnel who conduct it and the framework in which this is carried out. With careful consideration and prioritisation of the key issues, a participation strategy can be cost effective and provide both valuable local information about the impacts or issues surrounding a project as well as engaging the support of those affected.

Following is a framework that is suggested as forming the basis for the drafting of TOR for a participation strategy for the three types of projects (linear, point and regional strategic assessment). It is not, nor can it be, inclusive of all issues that may arise for a particular project as these can be varied (e.g. a road through an open and rural area will have different issues and range of stakeholders than a similar road in an urban setting).

The basic TOR consists of the following sections:

1. Introduction
2. Project Background
3. Project Participation Requirements
4. Project Area of Influence
5. Scope of Work
6. Qualifications of the Consultant
7. Deliverables
8. Cost, Schedule and Payments
9. Project Authorities

Using these generic TOR headings, the following templates attempt to identify the broad content of the TOR. Being generic it is not possible to be fully inclusive of all possible participation scenarios or activities as these depend to a large extent on the location and size of the project and the sensitivity of the project in the eyes of the affected parties. The TORS templates should be used as a guide and model, and modified as needed to suit the respective activity requiring a PP programme.

Under each TOR heading, the template attempts to inform the author of the content requirement whilst at the same time providing some common statements usually found in TORs and advice on how to construct a well thought-out statement that will be understood by a Consultant familiar with PP.

## **5.2 GENERIC TERMS OF REFERENCE FOR PUBLIC PARTICIPATION OF LINEAR ENVIRONMENTAL IMPACT ASSESSMENT PROJECTS**

A linear project is a project that has a sphere of impact often limited to a corridor along the entire length of the project. Typical linear projects include roads, railways, pipelines, power lines etc.

Participation requirements for a linear project are often more diverse than a point project but similar to an SEA as the range and numbers of stakeholders can vary considerably along the length of the project. In a linear EIA, the project will cross many socio-political boundaries perhaps, cultural boundaries, ecosystems, land-use and settlement patterns. This will require a PP that reflects this situation.

Due to the nature of linear projects, the impact of such projects on, for example, biodiversity, water resources, cultural resources, protected areas, protection-worthy areas, existing infrastructure (e.g. roads, railways, canals, urban areas, villages) and cultural heritage can be quite diverse, extensive and important. A consultant undertaking the EIA commonly covers investigating the impact of the project on these types of issues or resources. Though public participation is important for identifying these resources or issues, individual specialists falling under the EIA usually carry out the actual technical investigations. It is beyond the remit of a PP process to investigate these issues or impacts but it is important that the PP process initially identifies or highlights issues requiring further investigation by the technical specialists during the EIA process.

As a result of this diversity, the PP process needs to reflect the varied environment through which the project passes by specifically identifying stakeholders along the entire length of the project and being aware or sensitive to the varied social composition of the affected areas. On a big project, for example a road of several hundred kilometres, the range and composition of stakeholders will be different along the entire length. Any PP process needs to recognise this diversity and ensure methods are developed to identify and engage stakeholders.

Technical and financial proposals are sought from qualified and experienced Consultants to design and implement a wide-ranging public participation process to support a parallel environmental assessment process. Often the qualifications for the team leader should have at least have a Masters Degree in one of the socials disciplines and a Company should have National and/or International experience in the field of PP relating to that type of project. The number of experts that form the PP team will vary depending on the size of the project though commonly a team undertaking a PP process will have at least 10 people including field workers and junior participation officers. An experienced PP Consultant will rapidly decide on a suitable team size and composition in the preparation of the proposal.

The Sections below provide the basic elements to be covered in a TOR for Public Participation. Also refer to relevant sections under Section 4.5.2 above for more detail on the specific elements to be addressed. A summary providing a concise set of instructions for the compilation of Terms of Reference is included in Box 1 in Annex 4. The information below indicates specific aspects that need to be considered with regards to Public Participation Processes. Also see Annex 3 for more detail on important matters to be considered in Public Participation.

These generic TORs are to be used to assist in the development of a more complete set of TORs for a specific PP programme. More importantly though the TORs are used to assist the Proponent in getting back essential information about the approach and methodology the Consultant proposes to implement to ensure PP. The TORs commonly call for a single proposal, or multi bid proposal that will ensure highest possible quality in the selection of the Consultant. Well-crafted TORs that provide all relevant information about the project and the expected participation requirements will ensure that proposals received are comprehensive and relevant.

### **5.2.1 Introduction**

The introduction usually begins with articulating the overall objective for the TORs, e.g. “Technical and financial proposals are sought from qualified and experienced Consultants to design and implement a wide-ranging public participation process to support a parallel environmental assessment process.”

This section should state the purpose of the Terms of Reference, identify the project to be assessed and explain the executing arrangement for the participation assessment.

It should also outline the key objectives of the participation strategy and provide the reader with a sense of the proponent’s commitment and approach to engaging stakeholders in the decision-making process that underpins an environmental assessment that this PP process will support.

Section 4.5.2.1 above provides more detail on aspects to be covered in the Introduction to the TOR.

### **5.2.2 Project Background**

This section presents the reader with pertinent background information about the project and the environmental assessment process. Particular attention must be paid to highlighting the potential

social impacts and issues as known at the time of writing. Withholding relevant information will result in a deficient proposal.

The background information must be as concise as possible to enable the reader have a clear sense of the project's objectives and benefits.

Describe the major components of the proposed project together with a statement of the need for the project and the objectives it is intended to meet. Identify the implementing agency and give a brief history of the project (identify any supporting studies or reports and any/or associated projects).

Also see Section 4.5.2.1 above for more detail on information to be provided with regards to the Project Background.

### **5.2.3 Project Participation Requirements**

This section will summarise the general scope of participation anticipated and the likely range of stakeholders to be involved (government agencies, NGOs, community groups, civil society representatives, etc.). It should state the proponents' vision for participation and any legislative or policy requirements.

Pre project information gathering, e.g. from a feasibility report, will have identified broad areas of possible concern to stakeholders and thus the level and intensity of participation needed.

If the project is being funded by an external donor or agency, specific participation requirements maybe obligatory to support that donor's environmental and social commitment. Consult the donor directly to solicit their specific participation requirements or visit their website for guidelines or further information.

Section 4.5.2.2 provides more detail as to what Project Participation Requirements need to be stipulated in the TOR.

### **5.2.4 Project Area of Influence**

This section presents relevant information about the area likely to be affected by the project, including all its ancillary aspects, such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, and construction camps, as well as unplanned developments induced by the project (e.g., spontaneous settlement, logging, or shifting agriculture along access roads).

A good map illustrating key project features and potential impact areas can usually provide a greater range of information than text. See Section 4.5.2.3 for more detail regarding Project Area of Influence.

### **5.2.5 Scope of Work**

Section 4.5.2.4 discusses some important aspects to be addressed in the description of the proposed Scope of Work for a Public Participation process to be outlined in the TOR.

As participation is usually one of the first activities in an environmental assessment process, it is critical to identify the full range of stakeholders likely to be affected by the project or those that have an interest in the project. This is then followed by a review of the institutional strengths and weaknesses of the stakeholders and interested and affected parties to constructively engage the project

proponent in the decision making process and the physical assets likely to be affected by the implementation of the project. A stakeholder analysis therefore, forms the start of any participation strategy. The sections below describe the tasks that need to be undertaken in conducting a PP process.

Although the tasks indicated below are generic in nature, the author of the TORs may need to adapt them to the circumstances of the project.

#### *5.2.5.1 Task 1: Undertake a Stakeholder Analysis*

A Stakeholder Analysis must be carried out to identify interested stakeholders and/or those potentially affected by the project.

The Stakeholder Analysis should involve all levels of government, from Ministers to those involved in the project management process of the project, through to those tasked with the responsibility of implementing or collecting information pertinent to the project. This should include Permanent Secretaries, quasi government agencies, institutions and development agencies.

The Stakeholder Analysis shall also examine private enterprises, CBOs, NGOs and individuals as custodians of and dependents upon the environment.

For the analysis, stakeholders will be categorised according to various criteria, including stakeholder position, level of interest, role and potential influence over processes relating to the project.

#### *5.2.5.2 Task 2: Undertake a Social Resource Survey*

Most linear projects will directly affect what is broadly termed social assets or resources. At a physical level these could be grazing and arable areas, water supplies, graveyards, structures or biophysical resources. At the human level these include the capacity of the stakeholder to constructively engage in the decision-making process. Particular attention must be paid to local knowledge in the use and preservation of the biophysical resource base.

The extent to which these assets are likely to be affected needs to be identified to enable the PP process to focus on significant issues and impacts or institutional capacity building.

A social resource survey will seek to identify, describe and map key assets and constraints through a process of consultation with the institutions and users of such assets. Using a variety of techniques, a skilled participation team will identify these assets and constraints whilst at the same time inform and engage stakeholders.

Through a variety of techniques, the Consultant will obtain information and data pertaining to the following:

- The location of the project in relation to interested and affected parties;
- The range of assets likely to be affected, e.g. area of arable land to be affected;
- The range of natural assets to be affected, e.g. biodiversity (both floral and faunal) and water resources (both surface and sub-surface water bodies);
- The number of people likely to be involved/affected;
- The socio-economic status of affected communities;

- The level of organisation within the community;
- The capacity or key institutional structures to engage and mobilise constituents and
- History of any previous conflict or lack of consultation.

#### 5.2.5.3 Task 3: Prepare a Public Participation Plan

Following the identification of the key stakeholders and the social and natural assets likely to be affected, the Consultant will prepare a strategy to constructively engage the stakeholders in the project. Consultation, as described in earlier chapters, is critical in contributing to a sense of ownership of the project and or its outcomes by the stakeholders. The level and intensity of consultation will vary from project to project depending to some extent on the numbers involved, the capacity of the stakeholders and the sensitivity of the project to the stakeholder.

Mechanisms must be devised and maintained for participation by stakeholders in decision-making throughout project planning, implementation, and evaluation. Many stakeholders have their own representative organisations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilising people and should be brought into the planning process, with due concern for ensuring genuine representation of the affected parties. In many cases, capacity building of stakeholders will be needed to ensure the stakeholder is well equipped to constructively engage in the process.

Many tried and tested methods exist to engage stakeholders. Many of these methods are described in ANNEX 2 Literature Review.

Stakeholder engagement could take the form of:

- Community Meetings
- Focus Group Discussions
- Story with a Gap Analysis Sessions
- Key Informant Interviews

Other consultation methods are acceptable and should be articulated in the proposal.

The Proponent prior to its implementation must approve the Participation Plan, as one of the key deliverables.

The Participation Plan should be presented using the following headings. Under each heading the Consultant is to introduce his/her methodology and approach in performing these activities.

**Activity 1: Managing the PP process** - In order to streamline the PP process and make sure that there is effective PP, there is a need to ensure from the very beginning that information collated and presented is comprehensive and more importantly, relevant to the stakeholders being engaged. There is a need to identify the appropriate level of detail for the collection of information and its dissemination.

**Activity 2: Identifying the issues** – One of the first activities designed and implemented in an EIA/PP process is to identify the significant issues that could affect the sustainability of the project or

its acceptance amongst the IAPs. Various methods exist where this information can be gathered and the Consultant is required to describe the methodology to be implemented.

**Activity 3: Identifying the consultation area** – A linear project has a pre-defined physical area of impact but its wider impact must also be taken into consideration when soliciting information. The Consultant is required to describe the methodology to be implemented in determining the area of consultation.

**Activity 4: Identifying and addressing issues** - Identification of the potential environmental, social and physical impacts resulting from implementation of the project and suggestions from stakeholders of any possible mitigation measures is a key stage in making informed decisions on the project. It is also important to the stakeholders to appreciate at the earliest possible time, the range and types of impact that the project may impose on them. The Consultant is required to describe the methodology to be implemented in identifying and addressing issues that may be raised by stakeholders.

**Activity 5: Managing PP communications** - The management of PP communications is best carried out through the development of a communication strategy and network that ensures access of all relevant information by the IAPS and facilitates the free flow of information back and forth along communication pathways, using communication media that accurately informs and capacitates the IAPs and ensures equity during the PP decision making process. The Consultant is required to describe the methodology to be implemented in managing the flow of information with all stakeholders.

**Activity 6: Managing media relations** – Utilisation of public media to inform stakeholders about project progress and or PP a process requires careful planning. Media mobilization should be seen as another tool in assisting the dissemination of information both to the affected IAPs and society in general. The Consultant is required to describe the methodology to be implemented in managing media relations that suits both the project as well as the PP process.

**Activity 7: Managing disputes and conflicts** - Disputes and conflicts are a reality of project implementation especially where change is concerned, therefore how change is managed will determine the type of conflict and disputes that will emerge during that change. The Consultant is required to describe the methodology to be implemented in managing disputes and conflict that conforms to local legislation and best practice in the project area.

**Activity 8: Managing cross-cultural issues** - The importance of cross-cultural issues that could affect the project should never be underestimated. The Consultant is required to describe the methodology to be implemented to ensure that cultural protocols are developed and a framework and process is designed before entering the field. Inputs from experts and community leaders should be sought and a cultural protocol checklist created for all project staff.

**Activity 9: Working with proponent, regulator and public** – The PP process is not usually carried out in isolation from other project activities or project authorities. It is extremely important that a framework is developed to ensure the free flow of information in different directions between the public, the PP team and the project proponent as well as relevant regulator. The Consultant is required to describe the methodology to be implemented in ensuring effective communications between the public the proponent and the relevant regulator and the PP team.

**Activity 10: Reporting PP effectively** - Effective reporting is a statute requirement of countries during the EIA and PP processes. It is essential that the process of reporting effectively reflect the project cycle and how the PP process has progressed. The Consultant is required to describe the

methodology to be implemented in ensuring effective reporting of PP outcomes to relevant authorities and stakeholders.

**Activity 11: Managing information availability** – The creation of a Information Management System (IMS) for the, collection, analysis, storage, dissemination and reproduction of information in the form of maps, meeting minutes, schedules and media materials, such as poster and fliers, is of particular importance in capturing and integrating information. The system further enhances the orderly and effectiveness and reporting of PP processes because most, if not all, information is centralised and can easily be networked. The Consultant is required to describe the methodology to be implemented in managing information and making it available to relevant authorities and stakeholders.

#### **Activity 12: Managing Biological Diversity issues during PP**

The SADC member states are signatories to the United Nation Convention on Biological Diversity and as such have obligations towards protecting the countries biodiversity for the sustainable use of its peoples. The *management of biodiversity issues are integral* to the PP process as society's dependence on, use of, and cohabitation with this aspect of the environment is at the very core of human sustainability. Thus any intervention that may change or alter that relationship should feature as an important component of the PP engagement plan. Communities and individuals have over time built up a base of *Indigenous Knowledge* and have *developed Innovative Practices* to use biological diversity in a sustainable manner, furthermore onsite communities normally have *extensive knowledge of local environments*, therefore traditional knowledge can make significant contributions to aiding the PP process and ensuring future use and sustainability. The Consultant is required to describe the methodology to be implemented in managing biodiversity issues during the PP process and making it available to relevant authorities and stakeholders. For further guidance on the use of *Indigenous Knowledge* in development, the Consultant can refer to the Handbook called. *Integrating Indigenous Knowledge* into Project, planning and Implementation. Developed by the World Bank; 'CIDA' and the International Labour Organisation. Site information can be found in the reference section of this document

##### *5.2.5.4 Task 4 Development of a Public Participation Plan*

The development of a PP plan is part of the overall management of the process and should include the following activities:

1. The views on the potential for various segments of the stakeholders to participate in economic and or social opportunities that may arise from the project, and the actions required in facilitating this.
2. Identification of the potential environmental, social and physical impacts resulting from implementation of the project and suggestions from stakeholders of any possible mitigation measures
3. Where resettlement is expected, categorise the people likely to be affected by resettlement in terms of male, female, vulnerable groups, aged, etc.
4. Where resettlement is expected determine, through comprehensive surveys using approved and appropriate methods, the numbers of people likely to be affected.
5. Where possible use locally appropriate criteria for determining who should be eligible for "resettlement" assistance where this is necessary.

6. Identification of Chiefdoms or traditional authorities affected by the project
7. Description of the existing (traditional and legal) mechanisms for dispute resolution on land and resource access and use with recommendations for strengthening such mechanisms.
8. Description of existing resource use patterns (types and quantities of resources utilised, location of users and the degree of exclusivity of this resource use in and around the stakeholder area of influence.
9. Obtain basic socio-economic information of the affected parties (sources of livelihoods, income etc.).
10. Obtain the views of NGO's and or CBO's operating in the area on the project and its participation requirements.
11. The Consultant must demonstrate in his/her proposal how commonly disadvantaged groups (women, youth, disabled, illiterate and victims of the HIV/AIDS pandemic) will be brought into the PP process.

#### *5.2.5.5 Task 5 Implement Public Participation Plan*

Based on the approved Participation Plan, the consultant will begin to implement the plan. Proposed modalities and key activities closely associated with this must be made clear.

Where capacity building is identified as being important to meet the participation strategy envisaged by the Proponent, the Consultant needs to propose strategies to build such capacity and in consultation with the Proponent, implement such capacity building.

Of particular importance in PP are methods to ensure the effective participation of affected parties above all those individuals or communities that are considered poor and marginalized groups with relatively few resources to actively engage with the Consultants and participate in the EIA process. The Consultant must, where appropriate, demonstrate the flexibility of his/her proposal to accommodate such people taking account of language, literacy and culture issues.

#### *5.2.5.6 Task 6: Determination of the Potential Social Impacts of the Proposed Project*

The people related impacts that may materialise during the implementation of the project, will have been identified during the preceding tasks. From the participation point of view, these people impacts have to be communicated to the team preparing the overall project mitigation plan to ensure they're proven concerns are addressed in the overall mitigation plan for the project.

In this analysis the Consultant will be required to distinguish between positive and negative impacts, direct and indirect impacts and immediate and long-term impacts.

Of particular importance is the identification of impacts that are unavoidable or irreversible. Wherever possible, the impacts are to be described quantitatively in terms of social costs and benefits and where possible, economic values assigned.

#### *5.2.5.7 Task 7: Identification of Institutional Needs to Implement the environmental mitigation recommendations*

An environmental assessment concludes with the preparation of a mitigation plan that presents the recommended activities or actions required to maximise the environmental and social benefits of the project whilst managing the undesirable impacts.

The implementation of these mitigation measures is assigned to relevant stakeholders. In many cases, the capacity (both technically and financially) of the stakeholder to undertake specific mitigation actions is a limiting factor that has seen many projects fail.

It is critical to the environmental assessment process that the institutional capacity of stakeholders is assessed and measures taken to provide support where it is needed. During the consultation planning, capacity issues need to be identified and described to enable the environmental assessment process to design mitigation to suit the local conditions or requirements.

The Consultant will be required to undertake a review of the authority and capability of institutions at local, provincial/regional and national levels and recommend steps to strengthen or expand them so that the mitigation recommendations can be implemented successfully.

The Consultant will provide data or information on the following: (i) availability of funds for mitigation investments and associated field operations; (ii) adequacy of the stakeholder (whether experienced professional staff or grassroots level) to implement the recommendations; (iii) ability of stakeholder organisations, local administration authorities, and local NGOs to interact with specialised government institutions to implement the recommendations; (iv) ability of the executing agency to mobilise other agencies involved in the mitigation plan's implementation; and (v) adequacy of field presence.

#### *5.2.5.8 Task 8 Monitoring and Evaluation of the PP Process*

The Consultant must prepare and describe methodologies by which he can monitor the effectiveness of the PP process continuously throughout the lifetime of the implementation of the project. A well constructed monitoring and evaluation plan will assist project managers, including the Proponent, in identifying stakeholders, for example, that have not be effectively engaged in the PP process. This plan would form one of the key deliverables.

### **5.2.6 Qualifications of the Consultant**

The composition, qualification and experience of the participation team are very dependent on the location, scale and size of the project and the anticipated impacts.

For example for a linear road project that traverses a rural area, the team should emphasise community participation and the engagement of traditional authorities. For a similar project in a more urban setting, the team would need to engage specialists with experience in managing a more informed and strategically aware stakeholder.

Typically, however, a team is likely to be composed of a team leader supported by several other specialists.

Team Leader: Sociologist with previous experience in participation related to the project.

Other specialists would include generic participation specialists, workshop facilitators, translators, social anthropologists, field survey staff, and clerical support staff. Where resettlement is likely, resettlement specialists will be required. Where natural resource losses are expected, resource managers and trainers maybe needed to improve resource management in light of the project impacts.

Section 4.5.2.5 above provides more detail on aspects to be addressed in the TOR regarding the qualifications of consultants.

#### **5.2.7 Deliverables**

A Public Participation Plan

An Institutional Needs Plan

A Monitoring and Evaluation Plan

A final report describing the process followed, stakeholders identified, issues or concerns raised, minutes of all meetings (including workshops) conducted and the presentation of all relevant data and information collected during the participation process.

Also see Section 4.5.2.6 for information regarding deliverables to be included in the TOR.

#### **5.2.8 Cost, Schedule and Payments**

Cost and timeline estimates are critical in the proposal evaluation process. Under most circumstances, a project will have a fixed amount of money and time allocated to it and this money and time needs to be invested wisely and strategically to obtain the best possible product from the participation process.

The Consultant bidding for the participation component of the environmental assessment needs to present his best estimate for undertaking the scope of work called for. The better the scope of work is described, the more accurate the Consultant can assign resources to achieve the final outcome.

Generically, the following should be called for:

- An implementation schedule that identifies key stages in the participation process and dates for key deliverables.
- A detailed cost estimate to undertake all appropriate participation activities as described in the implementation schedule or in the technical proposal.
- A proposed schedule for payments, and milestones for such payments.
- Specific dates for progress reviews, interim and final reports and any other significant events.

Section 4.5.2.7 provides more detail on important matters regarding cost schedules to be covered in the TOR.

#### **5.2.9 Project Authorities**

This section informs the Consultant where, when and to whom proposals should be delivered and the conditions associated with the proposal (e.g. CVs of staff, official documentation relating to the company, statements of competence, etc.). Also see Section 4.5.2.8.

### 5.3 GENERIC TERMS OF REFERENCE FOR POINT EIA PROJECTS

A point project is a project that has a sphere of impact limited to a defined spatial area surrounding the main project feature. Typical point projects include factory developments, townships, protected areas, wastewater treatment facilities, irrigation projects, mines, logging. Although these TORs describe PP requirements for a point project, in reality, a point project is often associated with linear developments, e.g. a road to connect the mine with the outside world. However the focus of the project is a point, e.g. the mine, and all other related infrastructure requirements are additional to the key project. The PP process must be designed to also include stakeholders that may fall along linear routes to the project.

Due to the nature of point projects, the impact of such projects on, for example, biodiversity, water resources, cultural resources, protected areas, protection-worthy areas, existing infrastructure (e.g. roads, railways, canals, urban areas, villages) and cultural heritage can be quite diverse. Unlike linear projects, the sphere of influence is often limited but is still important. The Consultant undertaking the EIA commonly covers investigating the impact of the project on these types of issues or resources. Though public participation is important for identifying these resources or issues, individual specialists falling under the EIA usually carry out the actual technical investigations.

It is beyond the remit of a PP process to investigate these issues or impacts but it is important that the PP process initially identifies or highlights issues requiring further investigation by the technical specialists during the EIA process.

These generic TORs are to be used to assist in the development of a more complete set of TORs for a specific PP programme. More importantly though the TORs are used to assist the Proponent in getting back essential information about the approach and methodology the Consultant proposes to implement to ensure PP. The TORs commonly call for a single proposal, or multi bid proposal that will ensure highest possible quality in the selection of the Consultant. Well-crafted TORs that provide all relevant information about the project and the expected participation requirements will ensure that proposals received are comprehensive and relevant.

#### 5.3.1 Introduction

The introduction begins with articulating the overall objective for the TORs, e.g. “Technical and financial proposals are sought from qualified and experienced Consultants to design and implement a wide-ranging public participation process to support a parallel environmental assessment process.”

This section should state the purpose of the Terms of Reference, identify the project to be assessed and explain the executing arrangement for the participation assessment.

It should also outline the key objectives of the participation strategy and provide the reader with a sense of the proponents’ commitment and approach to engaging stakeholders in the decision-making process that underpins and environmental assessment.

Section 4.5.2.1 above provides more detail on aspects to be covered in the Introduction to the TOR.

#### 5.3.2 Project Background

In this section the Proponent presents the reader with pertinent background information about the project and the environmental assessment process that this PP process will support. Particular

attention must be paid to highlighting the potential social impacts and issues as known at the time of writing.

The background information must be as concise as possible to enable the reader with a clear sense of the project's objectives and benefits. Withholding relevant information will result in a deficient proposal.

Describe the major components of the proposed project together with a statement of the need for the project and the objectives it is intended to meet. Identify the implementing agency and give a brief history of the project (identify any supporting studies or reports and any associated projects).

Also see Section 4.5.2.1 above for more detail on information to be provided with regards to the Project Background.

### **5.3.3 Project Participation Requirements**

This section will summarise the general scope of participation anticipated and the likely range of stakeholders to be involved (government agencies, NGOs, community groups, civil society representatives, etc.). It should state the Proponents vision for participation and any legislative or policy requirements.

Pre project information gathering, e.g. from a feasibility report, will have identified broad areas of possible concern to stakeholders and thus the level and intensity of participation needed.

If the project is being funded by an external donor or agency, specific participation requirements maybe obligatory to support that donor's environmental and social commitment. Consult the donor directly to solicit their specific participation requirements or visit their website for guidelines or further information.

Section 4.5.2.2 provides more detail as to what Project Participation Requirements need to be stipulated in the TOR.

### **5.3.4 Project Area of Influence**

This section presents relevant information about the area likely to be affected by the project, including all its ancillary aspects, such as power transmission corridors, pipelines, canals, tunnels, relocation and access roads, borrow and disposal areas, and construction camps, as well as unplanned developments induced by the project (e.g., spontaneous settlement, logging, or shifting agriculture along access roads).

A good map illustrating key project features and potential impact areas can usually provide a greater range of information than text. See Section 4.5.2.3 for more detail regarding Project Area of Influence.

### **5.3.5 Scope of Work**

Section 4.5.2.4 discusses some important aspects to be addressed in the description of the proposed Scope of Work for a Public Participation process to be outlined in the TOR.

As participation is usually one of the first activities in an environmental assessment process, it is critical to identify the full range of stakeholders likely to be affected by the project or those that have an interest in the project. This is then followed by a review of the institutional strengths and

weaknesses of the stakeholders and interested and affected parties to constructively engage the project proponent in the decision making process and the physical assets likely to be affected by the implementation of the project.

A stakeholder analysis therefore, forms the start of any participation strategy.

Although the tasks indicated below are generic in nature, the author of the TORs may need to adapt them to the circumstances of the project.

#### *5.3.5.1 Task 1: Undertake a Stakeholder Analysis*

A Stakeholder Analysis must be carried out to identify interested stakeholders and/or those potentially affected by the project.

The Stakeholder Analysis should involve all levels of government, from Ministers to those involved in the project management process of the project, through to those tasked with the responsibility of implementing or collecting information pertinent to the project. This should include Permanent Secretaries, quasi government agencies, institutions and development agencies.

The Stakeholder Analysis shall also examine private enterprises, CBOs, NGOs and individuals as custodians of and dependents upon the environment.

For the analysis, stakeholders will be categorised according to various criteria, including stakeholder position, level of interest, role and potential influence over processes relating to the project.

#### *5.3.5.2 Task 2: Undertake a Social Resource Survey*

Most point projects, depending on size and scale, will directly affect what is broadly termed social assets or resources. At a physical level these could be grazing and arable areas, water supplies, graveyards, structures or biophysical resources. At the human level these include the capacity of the stakeholder to constructively engage in the decision-making process. Particular attention must be paid to local knowledge in the use and preservation of the biophysical resource base.

The extent to which these assets are likely to be affected needs to be identified to enable the PP process to focus on significant issues and impacts or institutional capacity building.

A social resource survey will seek to identify, describe and map key assets and constraints through a process of consultation with the institutions and users of such assets. Using a variety of techniques, a skilled participation team will identify these assets and constraints whilst at the same time inform and engage stakeholders.

Through a variety of techniques, the Consultant will obtain information and data pertaining to the following:

- The location of the project in relation to interested and affected parties;
- The range of assets likely to be affected, e.g. area of arable land to be affected;
- The number of people likely to be involved/affected;
- The socio-economic status of affected communities;
- The level of organisation within the community;

- The capacity or key institutional structures to engage and mobilise constituents and
- History of any previous conflict or lack of consultation.

#### 5.3.5.3 Task 3: Prepare a Public Participation Plan

Following the identification of the key stakeholders and the social assets likely to be affected, the Consultant will usually prepare a strategy to constructively engage the stakeholders in the project. Consultation, as described in earlier chapters, is critical in contributing to a sense of ownership of the project and or its outcomes by the stakeholders. The level and intensity of consultation will vary from project to project depending to some extent on the numbers involved, the capacity of the stakeholders and the sensitivity of the project to the stakeholder.

Mechanisms should be devised and maintained for participation by stakeholders in decision making throughout project planning, implementation, and evaluation. Many stakeholders have their own representative organisations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilising people and should be brought into the planning process, with due concern for ensuring genuine representation of the affected parties. In many cases, capacity building of stakeholders will be needed to ensure the stakeholder is well equipped to constructively engage in the process.

Many tried and tested methods exist to engage stakeholders. Many of these methods have been described in Annex 2,3,4.

Stakeholder engagement could take the form of:

- Community meetings
- Focus group discussions
- Gap analysis sessions
- Key Informant Interviews

Other consultation methods are acceptable and should be articulated in the proposal.

The Proponent prior to its implementation must approve the Participation Plan, as one of the key deliverables.

The Participation Plan should be presented using the following headings. Under each heading the Consultant is to introduce his/her methodology and approach in performing these activities.

**Activity 1: Managing the PP process** - In order to streamline the PP process and make sure that there is effective PP, there is a need to ensure from the very beginning that information collated and presented is comprehensive and more importantly, relevant to the stakeholders being engaged. There is a need to identify the appropriate level of detail for the collection of information and its dissemination.

**Activity 2: Identifying the issues** – One of the first activities designed and implemented in an EIA/PP process is to identify the significant issues that could affect the sustainability of the project or its acceptance amongst the IAPs. Various methods exist where this information can be gathered and the Consultant is required to describe the methodology to be implemented.

**Activity 3: Identifying the consultation area** – A point project has a pre-defined physical area of impact but its wider impact must also be taken into consideration when soliciting information. The Consultant is required to describe the methodology to be implemented in determining the area of consultation.

**Activity 4: Identifying and addressing issues** - Identification of the potential environmental, social and physical impacts resulting from implementation of the project and suggestions from stakeholders of any possible mitigation measures is a key stage in making informed decisions on the project. It is also important to the stakeholders to appreciate at the earliest possible time, the range and types of impact that the project may impose on them. The Consultant is required to describe the methodology to be implemented in identifying and addressing issues that may be raised by stakeholders.

**Activity 5: Managing PP communications** - The management of PP communications is best carried out through the development of a communication strategy and network that ensures access of all relevant information by the IAPS and facilitates the free flow of information back and forth along communication pathways, using communication media that accurately informs and capacitates the IAPs and ensures equity during the PP decision making process. The Consultant is required to describe the methodology to be implemented in managing the flow of information with all stakeholders.

**Activity 6: Managing media relations** – Utilisation of public media to inform stakeholders about project progress and or PP processes require careful planning. Media mobilization should be seen as another tool in assisting the dissemination of information both to the affected IAPs and society in general. The Consultant is required to describe the methodology to be implemented in managing media relations that suits both the project as well as the PP process.

**Activity 7: Managing disputes and conflicts** - Disputes and conflicts are a reality of project implementation especially where change is concerned; therefore how change is managed will determine the type of conflict and disputes that will emerge during that change. The Consultant is required to describe the methodology to be implemented in managing disputes and conflict that conforms to local legislation and best practice in the project area.

**Activity 8: Managing cross- cultural issues** - The importance of cross-cultural issues that could affect the project should never be underestimated. The Consultant is required to describe the methodology to be implemented to ensure that cultural protocols are developed and a framework and process is designed before entering the field. Inputs from experts and community leaders should be sought and a cultural protocol checklist created for all project staff.

**Activity 9: Working with proponent, regulator and public** – The PP process is not usually carried out in isolation from other project activities or project authorities. It is extremely important that a framework is developed to ensure the free flow of information in both directions between the public, the PP team and the project proponent and where relevant the regulator. The Consultant is required to describe the methodology to be implemented in ensuring effective communications between the proponent and the regulator and the PP team.

**Activity 10: Reporting PP effectively** - Effective reporting is often a statute requirement of countries during the EIA and PP processes. It is essential that the process of reporting effectively reflects the project cycle and how the PP process has progressed. The Consultant is required to describe the methodology to be implemented in ensuring effective reporting of PP outcomes to relevant authorities and stakeholders.

**Activity 11: Managing information availability** - The creation of a IMS for the collection, analysis, storage, dissemination and reproduction of information in the form of maps, meeting minutes, schedules and media materials, such as poster and fliers, is of particular importance in capturing and integrating information. The system further enhances the orderly and effectiveness and reporting of PP processes because most, if not all, information is centralised and can easily be networked. The consultant is required to describe the methodology to be implemented in managing information and making it available to relevant authorities and stakeholders.

**Activity 12: Managing Biological Diversity during PP**

The SADC countries are signatories to the United Nation Convention on Biological Diversity and as such have obligations towards protecting the countries biodiversity for the sustainable use of its peoples. The *management of biodiversity issues are integral* to the PP process as society's dependence on, use of, and cohabitation with this aspect of the environment is at the very core of human sustainability. Thus any intervention that may change or alter that relationship should feature as important component of the PP engagement plan. Communities and individuals have over time built up a base of *Traditional Knowledge* and have developed *Innovative Practices to use biological diversity in a sustainable manner*; furthermore onsite communities normally have extensive knowledge of local environments. The Consultant is required to describe the methodology to be implemented in managing biodiversity issues during the PP process and making it available to relevant authorities and stakeholders. For further guidance on the use of *Indigenous Knowledge* in development, the Consultant can refer to the Handbook called. *Integrating Indigenous Knowledge into Project, planning and Implementation*. Developed by the World Bank; 'CIDA' and the International Labour Organisation. Site information can be found in the reference section of this document

5.3.5.4 *Task 4: Development of a Participation Plan*

The development of a PP plan is part of the overall management of the process and should include the following activities:

- 1) The views on the potential for various segments of the stakeholders to participate in economic and or social opportunities that may arise from the project, and the actions required to facilitate this
- 2) Identification of the potential environmental, social and physical impacts resulting from implementation of the project and suggestions from stakeholders of any possible mitigation measures
- 3) Where resettlement is expected, categorise the people likely to be affected by resettlement in terms of male, female, vulnerable groups, such as the aged, illiterate and victims of HIV/AIDS pandemic.
- 4) Where resettlement is expected determine, through comprehensive surveys using approved and appropriate methods, the numbers of people likely to be affected
- 5) Where possible use locally appropriate criteria for determining who should be eligible or "resettlement" assistance where this is necessary
- 6) Identification of Chiefdoms or traditional authorities affected by the project

- 7) Description of the existing (traditional and legal) mechanisms for dispute resolution on land and resource access and use with recommendations for strengthening such mechanisms
- 8) Description of existing resource use patterns (types and quantities of resources utilised, location of users and the degree of exclusivity of this resource use in and around the stakeholder area of influence.
- 9) Obtain basic socio-economic information of the affected parties (sources of livelihoods, income, and levels of employment.)
- 10) Obtain the views of NGO's and or CBO's operating in the area on the project and its participation requirements
- 11) The Consultant must demonstrate in his/her proposal how commonly disadvantaged groups (women, youth, disabled, illiterate and victims of the HIV/AIDS pandemic) can be brought into the PP process

#### *5.3.5.5 Task 5: Implement Public Participation Plan*

Based on the approved Participation Plan, the consultant will begin to implement the plan. Proposed modalities and key activities closely associated with this must be made clear.

Where capacity building is identified as being important to meet the participation strategy envisaged by the Proponent, the Consultant needs to propose strategies to build such capacity and in consultation with the Proponent, implement such capacity building.

Of particular importance in PP is a method to ensure the effective participation of affected parties above all those individuals or communities that are considered poor with relatively few resources to actively engage with the Consultants and participate in the EIA process. The Consultant must, where appropriate, demonstrate the flexibility of his/her proposal to accommodate such people.

#### *5.3.5.6 Task 6: Determination of the Potential Social Impacts of the Proposed Project*

The people related impacts that may materialise during the implementation of the project, will have been identified during the preceding tasks. From the participation point of view, these people impacts have to be communicated to the team preparing the overall project mitigation plan to ensure they're proven concerns are addressed in the overall mitigation plan for the project.

In this analysis the Consultant will be required to distinguish between positive and negative impacts, direct and indirect impacts and immediate and long-term impacts.

Of particular importance is the identification of impacts that are unavoidable or irreversible. Wherever possible, the impacts are to be described quantitatively in terms of social costs and benefits and where possible, economic values assigned.

#### *5.3.5.7 Task 7: Identification of Institutional Needs to Implement the environmental mitigation recommendations*

An environmental assessment concludes with the preparation of a mitigation plan that presents the recommended activities or actions required to maximise the environmental and social benefits of the project whilst managing the undesirable impacts.

The implementation of these mitigation measures is assigned to relevant stakeholders. In many cases, the capacity (both technically and financially) of the stakeholder to undertake specific mitigation actions is a limiting factor that has seen many projects fail.

It is critical to the environmental assessment process that the capacity of stakeholders is assessed and measures taken to provide support where it is needed. During the consultation planning, capacity issues need to be identified and described to enable the environmental assessment process to design mitigation to suit the local conditions or requirements.

The Consultant will be required to undertake a review of the authority and capability of institutions at local, provincial/regional and national levels and recommend steps to strengthen or expand them so that the mitigation recommendations can be implemented successfully.

The Consultant will provide data or information on the following: (i) availability of funds for mitigation investments and associated field operations; (ii) adequacy of the stakeholder (whether experienced professional staff or grassroots level) to implement the recommendations; (iii) ability of stakeholder organisations, local administration authorities, and local NGOs to interact with specialised government institutions to implement the recommendations; (iv) ability of the executing agency to mobilise other agencies involved in the mitigation plan's implementation; and (v) adequacy of field presence.

#### *5.3.5.8 Task 8: Monitoring and Evaluation of the PP Process*

The Consultant must prepare or describe methodologies by which he can monitor the effectiveness of the PP process continuously throughout the lifetime of the implementation of the project. A well constructed monitoring and evaluation plan will assist project managers, including the Proponent, in identifying stakeholders, for example, that have not be effectively engaged in the PP process. This plan would form one of the key deliverables.

#### **5.3.6 Qualifications of the Consultant**

The composition and qualifications of the participation team is very dependent on the location, scale and size of the project and the anticipated impacts.

For example a mine project that is to be established in a rural area will require the Consultant to identify and engage local communities and traditional leaders in identifying key concerns. The Consultant's team should also be familiar with mine related impacts to ensure the relevant team member(s) can address technical questions raised. For a factory development within a formal administrative setting, the Consultant will need to engage technically more adept stakeholders who are likely to be for informed about potential impacts and thus the team needs to be prepared for engaging such stakeholders.

Typically, however, a team is likely to be composed of a team leader supported by several specialists the Consultant considers essential to engage stakeholders.

Team Leader: Sociologist with previous experience in participation-related projects. Other specialists would include generic participation specialists, workshop facilitators, translators, social anthropologists, field survey staff, and clerical support staff. Where resettlement is likely, resettlement specialists will be required. Where natural resource losses are expected, resource managers and trainers maybe needed to improve resource management in light of the project impacts.

Section 4.5.2.5 above provides more detail on aspects to be addressed in the TOR regarding the qualifications of consultants.

### 5.3.7 Deliverables

A Public Participation Plan

An Institutional Needs Plan

A Monitoring and Evaluation Plan

A final report describing the process followed, stakeholders identified, issues or concerns raised, minutes of all meetings (including workshops) conducted and the presentation of all relevant data and information collected during the participation process.

Also see Section 4.5.2.6 for information regarding deliverables to be included in the TOR.

### 5.3.8 Cost, Schedule and Payments

Cost and timeline estimates are critical in the proposal evaluation process. Under most circumstances, a project will have a fixed amount of money and time allocated to it and this money and time needs to be invested wisely and strategically to obtain the best possible product from the participation process.

The Consultant bidding for the participation component of the environmental assessment needs to present his best estimate for undertaking the scope of work called for. The better the scope of work is described, the more accurate the Consultant can assign resources to achieve the final outcome.

Generically, the following should be called for:

- An implementation schedule that identifies key stages in the participation process and dates for key deliverables.
- A detailed cost estimate to undertake all appropriate participation activities as described in the implementation schedule or in the technical proposal.
- A proposed schedule for payments and milestones for such payments.
- Specific dates for progress reviews, interim and final reports and other significant events.

Section 4.5.2.7 provides more detail on important matters regarding cost schedules to be covered in the TOR.

### 5.3.9 Project Authorities

This section informs the Consultant where, when and to whom proposals should be delivered and the conditions associated with the proposal (e.g. CVs of staff, official documentation relating to the company, statements of competence, etc.). Also see Section 4.5.2.8.

## 5.4 GENERIC TERMS OF REFERENCE FOR REGIONAL SEA.

Strategic Environmental Assessment (SEA) is becoming an accepted and widely used instrument for integrating environmental issues into the formulation of plans and programmes. SEA has been described as *"a process of anticipating and addressing the potential environmental consequences of*

*proposed initiatives at higher levels of decision-making. It aims at integrating environmental considerations into the earliest phase of policy, plan or programme development, on a par with economic and social considerations" (Sadler, 1995). SEA differs from EIA in a number of key respects. Most notably, SEA is a pro-active tool for environmental management whereas EIA is used reactively to assess specific development proposals. An SEA is conducted at a strategic level, which contrasts with an EIA that is carried out for a specific development or activity.*

SEA is an issues driven and participative approach to the environmental assessment of plans and policies. Sustainable development is promoted by assessing the strengths, weaknesses and environmental resources that can support development. Whereas EIA focuses on the effects of development on the environment, SEA looks at the effect of the environment on development opportunities. SEA therefore has considerable potential as a tool for planning and policy-making (CSIR, 1996).

A SEA is often described as an assessment of the positive and adverse effects that implementation of legislation or of a public policy, programme, or plan is likely to have an impact on the enhancement, protection, and conservation of the environment and on the sustainable management of natural resources. An SEA often has a large sphere of influence and thus a wide range of potential stakeholders. As SEA's are carried out on policies, plan, legislation etc. participation arrangements can be complicated due to the wide range of stakeholders and geographic area.

SEA aims particularly at (i) strengthening project-level EIA (by making EIAs more consequential and reducing the time and effort involved in their preparation), (ii) addressing cumulative and large scale effects, and (iii) incorporating sustainability considerations throughout the project cycle, in order to address the fundamental causes of environmental problems.

The primary objective of an SEA is to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes with a view to promoting sustainable development.

Many national environmental authorities require that an SEA is carried out of certain plans and programmes which are likely to have significant effects on the environment. Environmental assessment can be defined as "the preparation of an environmental report, the carrying out of consultation, the taking into account of the environmental report and the results of the consultation in decision-making and the provision of information on the decision".

The issues raised by communities stakeholders and Authorities, as with any good EIA, drive SEA. However, SEA differs from EIA in that the SEA process is itself defined by the issues.

Public involvement should be a fundamental element in the process of SEA, consistent with the potential degree of concern and controversy of proposals. It is imperative that the SEA process is transparent in that the process should have clear, easily understood information requirements including provision for public reporting.

A strategic environmental assessment generally addresses the following five questions:

1. What are the potential direct and indirect outcomes of the proposal?
2. How do these outcomes interact with the environment?
3. What is the scope and nature of these environmental interactions?
4. Can the adverse environmental effects be mitigated?

5. What is the overall potential environmental effect of the proposal after opportunities for mitigation have been incorporated?

### **Aims and objectives of a SEA**

To help achieve environmental protection and sustainable development:

- Consideration of environmental effects of proposed strategic actions
- Identification of the best practicable environmental option
- Early warning of cumulative effects and large-scale changes
- To strengthen and streamline project EIA
- Prior identification of scope of potential impacts and information needs
- Clearance of strategic issues and concerns related to justification of proposals
- Reducing the time and effort necessary to conduct individual reviews
- To integrate the environment into sector-specific decision-making
- Promoting environmentally sound and sustainable proposals
- Changing the way decisions are made

### **Principles of SEA application**

- SEA should cover all proposed policies, plans and programmes likely to have significant environmental effects. It should have a scope proportionate to the importance of the issues, recognising the potential for addressing them at other tiers in the decision-making hierarchy.
- Proponents of a policy, plan or programme should undertake SEA. It should provide relevant information for formulation of proposals and for decision-making.
- SEA should be integrated into the policy, plan and programme making process at key procedural stages. It should start as early as possible as an objectives-led evaluation and provide input into all key stages of policy, plan or programme outlining the elements of process that can assist informed decision-making in support of sustainable development.
- SEA should evaluate the environmental effects of a reasonable range of alternatives to the proposed initiative, recognising the scope of consideration will vary with the level of decision-making. It should identify the best practical environmental option, wherever possible and appropriate.
- SEA should focus on the right issues at the right stages of the policy, plan and programme making process. It should be carried out as a systematic, iterative approach, consistent with the logic and structure of the policy plan and programme making.
- SEA should facilitate early involvement of key stakeholders. It should apply appropriate, easy-to-use consultation techniques that are suitable for the target groups.
- SEA should use appropriate and cost-effective methods and techniques of analysis. It should gather information only in the amount and detail necessary for sound decision-making.

These generic TORs are to be used to assist in the development of a more complete set of TORs for a specific PP programme. More importantly though the TORs are used to assist the Proponent in getting back essential information about the approach and methodology the Consultant proposes to implement to ensure PP. The TORs commonly call for a single proposal, or multi bid proposal that will ensure highest possible quality in the selection of the Consultant. Well-crafted TORs that provide all relevant information about the project and the expected participation requirements will ensure that proposals received are comprehensive and relevant.

#### **5.4.1 Introduction**

The introduction begins with articulating the overall objective for the TORs, e.g. “Technical and financial proposals are sought from qualified and experienced Consultants to design and implement a wide-ranging public participation process to support a parallel SEA process.”

This section should state the purpose of the SEA and describe the policy, programme or plan that is to be subjected to an SEA. The draft policy, programme or plan should be appended to the TOR.

It should also outline the key objectives of the participation strategy and provide the reader with a sense of the proponents’ commitment to engaging stakeholders in the decision-making process that underpins and environmental assessment

Section 4.5.2.1 above provides more detail on aspects to be covered in the Introduction to the TOR.

#### **5.4.2 Background to Policy, Programme or Plan**

This section presents pertinent background information about the policy, programme or plan, its objectives and scope. It must also present relevant information pertinent to the wider regional setting of the SEA.

Identify the implementing agency and give a brief history of the policy, programme or plan (identify any supporting studies or reports).

It is important that the strategic issues for detailed investigation during the SEA are initially identified, e.g. maintenance of marine ecosystem functions and habitats for a port development.

Also see Section 4.5.2.1 above for more detail on information to be provided with regards to the Project Background, in this case background to the proposed Policy, Programme or Plan.

#### **5.4.3 Participation Requirements**

This section will summarise the general scope of participation anticipated and the likely range of stakeholders (national and international) to be involved (government agencies, NGOs, community groups, civil society representatives, etc.).

During the policy, programme or plan formulation, a number of stakeholders will have been involved and some of the key impacts that may result once the policy, programme or plan are implemented may have been identified. Where such information exists, this should be presented in these TOR.

Some policy, programme or plans can be transboundary in their impact so it is important to ensure stakeholders from these areas are identified and consulted during the SEA.

If the SEA is being funded by an external donor or agency, specific participation requirements maybe obligatory to support that donor’s environmental and social commitment. Consult the donor directly

to solicit their specific participation requirements or visit their website for guidelines or further information.

Section 4.5.2.2 provides more detail as to what Participation Requirements need to be stipulated in the TOR.

#### **5.4.4 Area of Influence**

This section presents relevant information about the area likely to be affected by the policy, programme or plan. The area of influence maybe national, regional or international depending on the specifics of the policy, programme or plan.

The author of these TORs should, where practically possible, identify any collaborating regional partners that may have already been consulted, e.g. stakeholders for a transboundary protected area may already be known following pre-SEA studies and feasibility studies. If these people and institutions are known, they should be cited.

See Section 4.5.2.3 for more detail regarding Area of Influence.

#### **5.4.5 Scope of Work**

Section 4.5.2.4 discusses some important aspects to be addressed in the description of the proposed Scope of Work for a Public Participation process to be outlined in the TOR.

Although the tasks indicted below are generic in nature, the author of the TORs may need to adapt them to the circumstances of the project.

##### *5.4.5.1 Task 1: Review of the policy, programme, or plan*

A good-quality SEA process informs planners, decision makers and affected public on the sustainability of strategic decisions, facilitates the search for the best alternative and ensures a democratic decision making process. This enhances the credibility of decisions and leads to more cost- and time-effective PP at the project level.

It is thus the responsibility of the Consultant to describe in lay-mans terms the major objectives of the policy, programme, or plan and make such information easily available to IAPS in a format suited to the recipient of such information. Where the SEA crosses regional or international boundaries, the same information must also be made available in an acceptable language and format.

Carry out a desktop assessment to identify the positive and adverse effects that implementation of the proposed policy, programme or plan is likely to have on the environment, people and on the other related structures and institutions. Where the SEA is transboundary, assessments on those effects in the other affected countries or regions also need to be identified.

Identify, describe and assess the likely effects of alternative means to achieve the objectives of the policy, programme, or plan.

Identify, describe and assess the range of practicable measures that could be taken to avoid, mitigate or remedy any adverse effect that may occur as a result of the implementation of the policy, programme, or plan.

#### 5.4.5.2 Task 2: Undertake a Stakeholder Analysis

A Stakeholder Analysis must be carried out to identify interested stakeholders and/or those potentially affected by the policy, programme or plan. Stakeholders may reside in other countries and regions and thus the analysis must be international taking into account country or region specific protocol, sensitivities and engagement processes.

The Stakeholder Analysis should involve all levels of government, from top officials in the affected ministries to those involved in the administration of the policy, programme or plan.

The Stakeholder Analysis shall also examine the impact of the policy, programme or plan on private enterprises, CBOs, NGOs and individuals as custodians of and dependents upon the environment.

For the analysis, stakeholders will be categorised according to various criteria, including stakeholder position, level of interest, role and potential influence over processes relating to the project.

#### 5.4.5.3 Task 3: Deciding the scope of PP and developing alternatives

The Consultant must undertake the following key activities:

- Identify strategic PP alternatives (keep options open and flexible, so that further measures or other strategies can be put in place in the future)
- Choose preferred PP alternatives
- Consult authorities with environmental (or PP) responsibilities
- Predict and evaluate the effects of the policy, programme or plan on people, organisations or institutions
- Propose methods to identify the scope of PP

From the initial identification of potential impacts, further define the main problems/issues that could be affected by the policy, plan or programme, either negatively or positively.

Review relevant environmental policy plans to list the relevant environmental protection objectives for these impacts.

The Consultant is to undertake 'horizon scanning' to identify emerging issues on the horizon to better deliver both adaptive and preventative policies, and to identify opportunities. The use of horizon scanning as a tool for SEA should help ensure that a more long-term perspective underlies plans, and more effectively address potential futures.

#### 5.4.5.4 Task 4: Prepare a Public Participation Plan

There has been little emphasis to-date on the participation of communities or other stakeholders in the SEA planning process. As a relatively new process, few guidelines are available on how to engage stakeholders. It is of critical importance that communities and stakeholders are identified and brought into the SEA PP process to ensure project transparency, integrity and acceptance (ownership).

As a regional SEA, the range of stakeholders will be larger than for point or linear projects, so it is critical that the Consultant has previous experience in identifying and contacting international stakeholders and builds in sufficient time and other resources to undertake this.

Levels of participation may vary from country to country or region to region due to cultural or political protocols. The Consultant must attempt to overcome these types of restrictions whilst not compromising the integrity of the PP process.

Mechanisms should be devised and subsequently maintained for participation by stakeholders in decision-making throughout planning, implementation and evaluation. Many stakeholders have their own representative organisations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilising people and should be brought into the planning process, with due concern for ensuring genuine representation of the affected parties.

Consultation could take the form of:

- Regional Workshops
- Community Meetings
- Focus Group Discussions
- Key Informant Interviews
- Focus Group Gap analysis sessions

Other consultation methods are acceptable and should be articulated in the proposal.

Submit to the Proponent the Participation Plan for review and approval prior to implementation.

The Participation Plan should be presented using the following headings. Under each heading the Consultant is to introduce his/her methodology and approach in performing these activities.

**Activity 1: Managing the PP process** - In order to streamline the PP process and make sure that there is effective PP, there is a need to ensure from the very beginning that information collated and presented is comprehensive and more importantly, relevant to the stakeholders being engaged. There is a need to identify the appropriate level of detail for the collection of information and its dissemination. Due to the regional focus of the SEA, language differences need to be taken into account and the Consultant is able to present information in different languages, unless English is the de facto medium for all communications.

**Activity 2: Identifying the issues** – One of the first activities designed and implemented in an SEA/PP process is to identify the significant issues that could affect the sustainability of the policy, programme or plan or its acceptance amongst the IAPs. Various methods exist where this information can be gathered and the Consultant is required to describe the methodology to be implemented. The Consultant must develop methods for involving key stakeholders, authorities, role players and project beneficiaries in identifying a vision and priority issues for the project. The vision function in SEA is crucial for a good SEA planning. It must ensure the understanding of the strategy being assessed, the need for a SEA and also the policy framework within which the SEA will be performed. One interesting approach to the establishment of a community vision, and understanding of the perception of stakeholders regarding a certain policy, plan or programme is through a visioning process whereby those interested can contribute to identifying priorities for future strategic development.

**Activity 3: Identifying the consultation area** – A project undergoing an SEA usually has no pre-defined physical area of impact so a wider focus must be considered when soliciting information. The Consultant is required to describe the methodology to be implemented in determining the area of consultation.

**Activity 4: Identifying and addressing issues** - Identification of the potential environmental, social and physical impacts resulting from implementation of the policy, programme or plan and suggestions from stakeholders of any possible mitigation measures is a key stage in making informed decisions on the policy, programme or plan. It is also important to the stakeholders to appreciate at the earliest possible time, the range and types of impact that the policy, programme or plan may impose on them. The Consultant is required to describe the methodology to be implemented in identifying and addressing issues that may be raised by stakeholders.

**Activity 5: Managing PP communications** - The management of PP communications is best carried out through the development of a communication strategy and network that ensures access of all relevant information by the IAPS and facilitates the free flow of information back and forth along communication pathways, using communication media that accurately informs and capacitates the IAPs and ensures equity during the PP decision making process. The Consultant is required to describe the methodology to be implemented in managing the flow of information with all stakeholders (national and international).

**Activity 6: Managing media relations** – Utilisation of public media to inform stakeholders about progress and or PP is a process requiring careful planning. Media mobilization should be seen as another tool in assisting the dissemination of information both to the affected IAPs and society in general. The Consultant is required to describe the methodology to be implemented in managing media relations that suits both the policy, programme or plan under assessment as well as the PP process.

**Activity 7: Managing disputes and conflicts** - Disputes and conflicts are a reality of policy, programme or plan implementation especially where change is concerned, therefore how change is managed will determine the type of conflict and disputes that will emerge during that change. The Consultant is required to describe the methodology to be implemented in managing disputes and conflict that conforms to local legislation and best practice in the project area.

**Activity 8: Managing cross-cultural issues** - The importance of cross-cultural issues that could affect the policy, programme or plan should never be underestimated. The Consultant is required to describe the methodology to be implemented to ensure that cultural protocols (that are likely to differ internationally) are developed and a framework and process is designed before entering the field. Inputs from experts and community leaders should be sought and a cultural protocol checklist created for all project staff.

**Activity 9: Working with proponent, regulator and public** – The PP process is not usually carried out in isolation from other project activities or project authorities. It is extremely important that a framework is developed to ensure the free flow of information in both directions between the PP team and the policy, programme or plan proponent and where relevant the regulator and the public. The Consultant is required to describe the methodology to be implemented in ensuring effective communications between the proponent and where relevant the regulator and the PP team.

**Activity 10: Reporting PP effectively** - Effective reporting is normally a statute requirement of countries during the SEA and PP processes. It is essential that the process of reporting effectively reflects the project cycle and how the PP process has progressed. The Consultant is required to describe the methodology to be implemented in ensuring effective reporting of PP outcomes to relevant authorities and stakeholders.

**Activity 11: Managing information availability** – The creation of a IMS system for the collection, analysis, storage, dissemination and reproduction of information in the form of maps, meeting minutes, schedules and media materials, such as poster and fliers, is of particular importance in

capturing and integrating information. The system further enhances the orderly and effectiveness of and reporting of PP processes as most, if not all, information is centralised and can easily be networked. The Consultant is required to describe the methodology to be implemented in managing information and making it available to relevant authorities and stakeholders.

**Activity 12: Managing biodiversity issues during PP** The SADC member states are signatories to the United Nation Convention on Biological Diversity, and as such have obligations towards protecting the countries biodiversity for the sustainable use of its peoples. The *management of biodiversity issues is integral* to the PP process as society's dependence on, use of, and cohabitation with this aspect of the environment is the very core of human sustainability. Thus any intervention that may change or alter that relationship should feature as important component of the PP engagement plan. Communities and individuals have over time built up a base of *Traditional Knowledge* and have developed *Innovative Practices to use biological diversity in a sustainable manner*, furthermore onsite communities normally have extensive knowledge of local environments, therefore traditional knowledge can make significant contributions to aiding the PP process and ensuring future use and sustainability. The Consultant is required to describe the methodology to be implemented in managing biodiversity issues during the PP process and making it available to relevant authorities and stakeholders. For further guidance on the use of *Indigenous Knowledge* in development, the Consultant can refer to the Handbook called. *Integrating Indigenous Knowledge into Project, planning and Implementation*. Developed by the World Bank; 'CIDA' and the International Labour Organisation. Site information can be found in the reference section of this document

#### 5.4.5.5 Task 5: Implement Public Participation Plan:

Based on the approved Participation Plan, the consultant will begin to implement the plan. Proposed modalities and key activities closely associated with this must be made clear.

Of particular importance in PP are methods to ensure the effective participation of affected parties above all those individuals or communities that are considered poor with relatively few resources to actively engage with the Consultants and participate in the SEA process. The Consultant must, where appropriate, demonstrate the flexibility of his/her proposal to accommodate such people particularly if they reside in different regions or countries.

The Consultant must also demonstrate in his/her proposal how commonly disadvantaged groups (women, youth, disabled) can be brought into the PP process.

#### 5.4.5.6 Task 6: Determination of the Potential Impacts of the policy, programme, or plan

In this analysis distinguish between positive and negative impacts, direct and indirect impacts and immediate and long-term impacts. Identify impacts that are unavoidable or irreversible. Identify key impacts and their boundaries. Establish indicators and targets. Describe current and likely future. Wherever possible, describe impacts quantitatively in terms of social costs and benefits. Assign economic values when feasible.

#### 5.4.5.7 *Task 7: Prepare a PP SEA Report*

The PP SEA Report should:

- Contain a description of the policy, programme or plan under the SEA scrutiny and the affected environment extending beyond the physical boundaries of the area of influence of the policy, programme or plan, focusing on stakeholder identification, outcomes of stakeholder consultation, key assets affected, sensitive areas and threats;
- Review environmental and sustainability objectives of the policy, programme or plan and propose a set of criteria, targets or indicators for evaluating the effects of the policy, programme or plan's objectives and alternatives Particular attention must be paid to local knowledge in the use and preservation of the biophysical resource base;
- Contain a systematic identification, prediction and evaluation of potential impacts, including indirect and cumulative ones, with a level of detail appropriate for appraising the plan and the information needs of decision-makers and stakeholders;
- Include recommendations on preferred alternatives and a description of suggested monitoring and mitigation measures;
- Clearly delineate and explain the methodology by which its findings have been obtained and report on findings from public consultation;

#### 5.4.5.8 *Task 8: Public review of the SEA report for the policy, programme or plan*

The Consultant is required to ensure early, timely and effective public participation in the SEA. To achieve this goal the Consultant must:

- Make the draft plan or programme available for public comment timely, using electronic and other appropriate tools suited to the regional needs;
- Give the public the opportunity to express its opinion on the draft within a reasonable time frame;
- Ensure that all arrangements for informing the public and consulting the public concern are publicly available.
- The Proponent in consultation with the Consultant must take into account comments received from public and environmental and health authorities in the decision to adopt a plan or program.

#### 5.4.5.9 *Task 9: Monitoring and Evaluation of the PP Process*

The Consultant must prepare or describe methodologies by which he can monitor the effectiveness of the PP process continuously throughout the lifetime of the implementation of the project. A well constructed monitoring and evaluation plan will assist project managers, including the Proponent, in identifying stakeholders, for example, that have not been effectively engaged in the PP process. This plan would form one of the key deliverables.

#### 5.4.6 **Qualifications of the Consultant**

The composition and qualifications of the participation team is very dependent on the policy, programme or plan focus, location, scale and size of the policy, programme or plan and the resulting impacts.

For example a programme that seeks to manage transboundary water resources will require a PP team that are familiar with water related issues in addition to skills in PP.

Typically, however, a team is likely to be composed of a team leader supported by various specialists often originating from the different regions affected. Technical the following:

Team Leader: Sociologist with previous experience in participation related to SEA.

Other specialists would include generic national/regional participation specialists, national/regional workshop facilitators, translators, social anthropologists, field survey staff, and clerical support staff.

Section 4.5.2.5 above provides more detail on aspects to be addressed in the TOR regarding the qualifications of Consultants.

#### 5.4.7 **Deliverables**

A Public Participation Plan

An SEA Participation Report

A Monitoring and Evaluation Plan

A final report describing the process followed, stakeholders identified, issues or concerns raised, minutes of all meetings (including workshops) conducted and the presentation of all relevant data and information collected during the participation process.

#### 5.4.8 **Cost, Schedule and Payments**

Cost and timeline estimates are critical in the proposal evaluation process. Under most circumstances, a project will have a fixed amount of money and time allocated to it and this money and time needs to be invested wisely and strategically to obtain the best possible product from the participation process.

The Consultant bidding for the participation component of the environmental assessment needs to present his best estimate for undertaking the scope of work called for. The better the scope of work is described, the more accurate the Consultant can assign resources to achieve the final outcome.

Generically, the following should be called for:

- An implementation schedule that identifies key stages in the participation process and dates for key deliverables.
- A detailed cost estimate to undertake all appropriate participation activities as described in the implementation schedule or in the technical proposal.
- A proposed schedule for payments and milestones for such payments.
- Specific dates for progress reviews, interim and final reports and other significant events.

Also see Section 4.5.2.6 for information regarding deliverables to be included in the TOR.

#### 5.4.9 Project Authorities

This section informs the Consultant where, when and to whom proposals should be delivered and the conditions associated with the proposal (e.g. CVs of staff, official documentation relating to the company, statements of competence, etc.). Also see Section 4.5.2.8.

### 6 CONCLUSION:

There are volumes of published information on the subject of EIA and Public Participation. The information contained in the Public Participation Templates is a synthesis of some of this large body of excellent research and publications. The authors of PP TORs are urged to consult this information base that can be found on web sites and other media sources, *see annex 2 for more information*. Further the authors of PP TORs are urged to reflect the reality of the conditions on the ground and the situation in the particular SADC country where the project is been implemented, the sometimes sternly correct and often sterile nature of TORs used in *developed countries* are not always realistic and indusive to innovative and creative Public Participation Processes in *less developed countries*.

S.J.WOODBURNE

SWAZILAND

27/2/2005.

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[http://governance.wri.org/pubs\\_content\\_text.cfm](http://governance.wri.org/pubs_content_text.cfm) *World Resource Institute*

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## **ANNEXES**

ANNEX 1: EIA LEGISLATIVE REQUIREMENTS FOR SADC COUNTRIES

ANNEX 2: LITERATURE REVIEW

ANNEX 3: MODEL FOR PUBLIC PARTICIPATION

ANNEX 4: INSTRUCTIONS FOR THE COMPILATION OF TERMS OF REFERENCE