

Terms of Reference

Review of the different scenarios in which the RaCP reprieve related to Resolution 18-2d is applicable

1. Background

The RSPO Remediation and Compensation Procedure (RaCP) was endorsed on 12 November 2015 to provide Grower¹ members a clear, formal, and transparent procedure to remediate and compensate for land clearance without prior High Conservation Value (HCV) assessment since November 2005. The RaCP is applicable globally for RSPO Members, and to growers who may seek RSPO membership and/or apply for RSPO certification in the future.

The Remediation and Compensation Procedure applies to the following:

- land leased or acquired by an RSPO Member, and to which the majority shareholding rule still applies.
- associated (including schemed) smallholders and all other exclusively contracted out growers of fresh fruit bunch (FFB) being supplied to all units of the member whether they are smallholders or not, since these are defined by the RSPO as part of the supply base of a unit of certification.

Under usual circumstances, the RSPO Growers should be responsible for any land clearance without prior High Conservation Value-High Carbon stock (HCV-HCS) assessment. Considering that the requirement of RaCP would be an insurmountable barrier for scheme smallholders², the Resolution GA18-2d³ entitled “Resolution to review and amendment of the Remediation and Compensation Procedure (RaCP) process as applied to scheme smallholders” was proposed and adopted at the 18th Annual General Assembly (GA18) of the RSPO [2 December 2021]. The resolution called for 2 actions:

- Reprieve from the RaCP 2015 for scheme smallholders, and;
- Review and amendment of the RaCP application for scheme smallholders.

Therefore, pursuant to the adoption of the Resolution GA18-2d, the RSPO Biodiversity and High Conservation Value Working Group (BHCVWG) and Compensation Task Force 2 are calling for tenders to review the applicability of the RSPO RaCP for the different types of scheme engagement between RSPO Growers and scheme smallholders. This work is important as it will relate to the actual situations on the ground whereby a variety of schemes may exist in different countries. By understanding the different type of scheme engagement between the RSPO Growers and the smallholder (individual or groups), this will help identify situations where the scheme smallholders may have roles in full decision-making and

¹ Grower is defined by the RSPO as the person or entity that owns and/or manages a palm oil development, irrespective of their membership category.

² Scheme smallholders are defined by the RSPO as smallholder farmers, landowners or their delegates who do not have: i) The enforceable decision-making power on the operation of the land and production practices; and/or ii) The freedom to choose how they utilise their land, types of crops to plant, and how they manage them (how they organise, manage and finance the land) (source : RSPO P&C 2018)

³ https://garesolutions.rspo.org/_uploads/fb0b0351d310900852a936f1398422a6.pdf

financial control over their land clearing, and therefore should be held to account independently from the RSPO growers and eligible both for this reprieve, and for a separate RaCP process for smallholders.

2. Objectives and scope of the review

The objectives of the review on the applicability of the RSPO RaCP for different types of scheme engagement between RSPO Growers and scheme smallholders are as follows:

- Assess the current variety of scheme smallholder engagement type with RSPO Growers and identify in which circumstances scheme smallholders could be eligible for the RaCP reprieve;
- Identify the roles and responsibilities between RSPO Growers and their scheme smallholders in fulfilling the remediation and compensation plan; and
- Summary of findings in relation to the RaCP procedural steps related to scheme smallholders.

To achieve the objective, the study should review the following:

- Historical context of the establishment of independent and scheme smallholders;
- The legal status of the land and ownership on which independent and scheme smallholders are developed;
- Various modes of smallholder organisation, oil palm production strategies, and corporate partnerships with mills or commercial plantations;
- Description of the different modes of production / organisation and the related costs of oil palm development, management and profit-sharing arrangement between the grower and their scheme smallholders; and
- Documentation of any benefits or consequences of the RaCP implementation by scheme smallholders (if available).

The inclusion of the independent smallholders in this study will provide a baseline for comparison to the different smallholder arrangements and help to identify the critical differences between independent smallholders from scheme smallholders.

3. Methodology and consultation

This study will involve a combination of desktop reviews, field verification, analysis and report writing. The field verification should include consultation with smallholders including scheme smallholders and independent smallholder farmers, related government agencies (if possible) and RSPO Growers managing scheme smallholders.

This study will cover the following countries:

Asia Pacific: Indonesia, Malaysia, Thailand and Papua New Guinea

Africa: Cameroon, Côte D'Ivoire, Ghana and Nigeria

Latin America: Brazil, Colombia, Costa Rica, Ecuador, Guatemala and Honduras

4. Timeframe and forecasted budget

The consultant is expected to deliver the first draft report and present the first draft of recommendations to the Secretariat and relevant TF/WG/SC by June 2024, and finalise the report and recommendations by July 2024.

The budget should be determined by the ability to meet RSPO’s requirements and, ideally, should not exceed MYR 300,000 including applicable taxes.

5. Deliverables

1. A proposed workplan and detailed methodology for the study;

The work plan should include the following:

No.	Description
1	Desktop review Review of documentation, legal and historical context of development of scheme smallholders
2	Field study Interviews with local stakeholders; verification of models
3	Analysis and report writing Review information acquired, providing recommendations, and consultation with the Secretariat and relevant task force (TF)/ working group (WG)/ Standing Committee (SC)
4	Progress updates One progress update for each of the milestones (item 1, 2 and 3) to the Secretariat and relevant task force TF/WG/SC

2. Preliminary report with initial draft findings after the desktop review;
3. First draft of detailed report on the methodology, analysis, findings and recommendations in relation to the objectives;
4. Final draft of report to be submitted for approval by RSPO; and
5. Summary and presentation pack of final recommendations based on this study.

The consultant will provide updates to the Secretariat and relevant TF/WG/SC on the progress of the project (as per the agreed work plan) and communicate the status of the study when requested. The consultant must ensure that all conducting of research and reporting adheres to research ethics, such as no plagiarism. The consultant must ensure that the relevant procurement process within the RSPO Secretariat has been complied with, including submission of relevant documents for processing, during the tender process.

6. Minimum requirements for eligibility

The team conducting the study is expected to have:

- Good level of understanding of the RSPO P&C certification and the RSPO Remediation and Compensation Procedure;
- Experience and familiarity with independent and scheme smallholders modalities especially in key palm oil producing regions (Latin America, Africa, Southeast Asia);
- High level of written and analytical skills; and
- Detail-oriented work ethic, with discipline to ensure the outcome is of high quality.
- The consultant is expected to provide an outline of the work plan (section 5. Deliverables) together with a breakdown of costs in their proposal.

7. Tender Submission Guidelines

a. Submission Timeline

Your submission should adhere to the below Dates:

Date	Tender Activity	Active Party
26 October 2023	ToR Published	RSPO
21 December 2023	Proposals must be received by this date	Vendor
22 December 2023	Start of Clarifications* on proposals (<i>if required</i>)	RSPO & Vendor
29 December 2023	Shortlisting of Vendors	RSPO
3 January 2024	RSPO Tender Committee Review	RSPO
16 January 2024	Award of successful vendor and Contract Signing	RSPO & Vendor

* Clarifications may involve email communication or even online presentations if required.

b. Submissions Evaluation Criteria

RSPO would evaluate your proposal based on the below criteria.

No.	Criteria	Weight
1	The consultant's company experience and familiarity with independent and scheme smallholders modalities especially in key palm oil producing regions (Latin America, Africa, Southeast Asia) with Case Studies	40%
2	The consultant's company level of understanding of the RSPO P&C certification and the RSPO Remediation and Compensation Procedure to show participation in the above processes	20%
3	The proposed core team experience related to the Palm Oil industry and RSPO processes	15%



4	High level of written and analytical skills in one (1) sample report relevant to this study	15%
5	The consultant is expected to provide an outline of the work plan together with a breakdown of costs	10%

c. Submissions email address

Proposals should be submitted as PDF documents, strictly via email to jinmin.lee@rspo.org and tender@rspo.org by 6:00 PM MYT (GMT +8) on **21 December 2023**.

Any enquiries in connection with this ToR shall be submitted to jinmin.lee@rspo.org and CC tender@rspo.org.