



MINISTRY OF FINANCE AND THE PUBLIC SERVICE

REVENUE PROTECTION DIVISION LEGAL SPECIALIST

TERMS OF REFERENCE

BACKGROUND

The Revenue Protection Department (RPD) was established under section 6 of the Revenue Administration Act as a department of Government with the very critical responsibility to:

1. Carry out investigations into cases involving fraud against the revenue,
2. Institute programmes for the detection of fraud against the laws relating to revenue and ensure that such programmes are implemented, and
3. Provide assistance to the other revenue departments in the planning and conduct of investigations in relation to offences against the laws relating to revenue

Since it was established, the RPD has undergone several organizational changes, including functioning from 2004 to 2008 as a part of the Financial Investigations Division. In 2008 the RPD was re-established by Cabinet as a separate division with authority to investigate fraud in the revenue, minimize corruption in the revenue services and overall to protect the revenue of the Government of Jamaica.

The re-establishment of the RPD occurred within the context of fiscal constraint and tax reform to, among other things, improve compliance and meet the demands of the Budget. This is particularly in light of the fact that Jamaica's low tax compliance rate has been found to result from loopholes within the system, fraud, and corruption in the revenue services.

In order for the RPD to be effective in carrying out its functions, the Division requires an adequate staff structure to examine and review over 25 pieces of revenue legislation, make recommendations in relation to the improvement of systems and procedures in Tax Administration Jamaica and Jamaica Customs Agency, and investigate and prosecute cases involving fraud and corruption at these and other entities.

OBJECTIVE OF THE CONSULTANCY

To provide legal expertise in the areas mandated to the Revenue Protection Division by:

1. Providing expert legal advice and skills to support the mandate of the Revenue Protection Division.
2. Recommending amendments to the relevant revenue laws as may be required.

SCOPE OF WORK

IN ORDER TO ACHIEVE THE STATED OBJECTIVES THE INDIVIDUAL WILL BE REQUIRED TO:

Establish a legal framework to support the initiative of the Revenue Protection Division. In doing so the Legal Specialist:

- Advise on the merit of cases referred to the Revenue Protection Division under the relevant legislation
- Analyze issues and evaluate evidence presented
- Provide guidance and support during the investigative phase of all cases
- Prepare cases where necessary for submission to the Principal Director/Commissioner and/or Director of Public Prosecutions and the Attorney General's Chambers (if applicable); determining the completeness of the information and adequacy of the evidence in the investigators' reports, securing witness statements and preparing briefs supported by relevant case laws.
- Institute legal action(s) and represent the Division before the Courts
- Prepare instructions for the Attorney General's Chambers to include fixed date claim forms; affidavits, supporting documents for affidavits and ensure that there is compliance with the rules associated with the CPR such as the requirement for full disclosure
- Provide or cause to be provided written opinions and interpretations as required.
- Perform other tasks such as drafting agreements, advising on negotiations, and preparing warrants and other legal instruments.
- Ascertain reasonable ground for executing search and obtain approval of the judge where necessary to ensure that search warrants are lawfully executed.
- Liaise with other entities as is necessary in the conduct of investigations.

Recommend amendments to the relevant revenue laws as may be required. In doing so the Legal Specialist:

- Identify weaknesses in revenue laws and recommend appropriate amendments.
- Research and advise the Division on matters relating to revenue and other applicable laws and legislation.
- Prepare opinions in a timely manner by identifying loopholes and exhibiting sound and accurate conclusions.
- Keep up to date with all facets of revenue law by reading new cases; attending seminars; maintaining awareness of amendments to the existing laws and performing research; communicating and interacting with the Director of Public Prosecutions and/or The Attorney General's Chambers

DELIVERABLES

The Legal Specialist will be required to provide annual workplans and monthly reports over the life of the contract. The table below outlines the requirements:

DELIVERABLE	DEFINITION	TIMELINE
Annual Work Plan	<p>The Workplan is the operational document for the consultancy and is used to determine the required inputs for the development and delivery of the output of the consultancy. As such the Workplan document must detail:</p> <ul style="list-style-type: none"> • Methodology for providing the key outputs of the consultancy • Resources required that are outside of the control of the consultant • Time lines for the achievement of tasks associated with the consultant deliverables 	<p>The workplan will be developed for every 12 months of the consultancy and will be revised based on consultation with the officer assigned to supervise the consultancy</p>
Monthly Reports	<p>Each report will detail the progress of activities related to the assignment, highlighting issues, bottlenecks/constraints, adjustments and necessary resources for execution. The reports will also make recommendations and identify next steps for the following month.</p>	<p>Due at the end of each month</p>

REPORTING RELATIONSHIP

The consultant will report to the Principal Director, Revenue Protection Division (RPD) in the Ministry of Finance and the Public Service. He/She will be required to provide all deliverables to the officer and will be guided on the implementation of the project activities accordingly.

- Level of effort: Full time level of effort of Thirty Six (36) consecutive months will be required.
- Duration of contract: The Contract will begin February 2017 and will conclude in January 2020.
- Location: Jamaica
- Type of Contract: Individual Contractor
- Type of contract: Lump sum.

“Sign-off” Procedure

The Principal Director, Revenue Protection Division (RPD) will have primary responsibility for signing off on all final deliverables. Deliverables will only be considered satisfactorily completed once they have received the final approval of the Principal Director, RPD.

Variations

All proposed changes to the work plan and deliverables must be discussed with the Principal Director, Revenue Protection Division (RPD).

QUALIFICATIONS & EXPERIENCE

- Bachelor of Laws degree
- Certificate of Legal Education
- Be admitted to practice in Jamaica
- Six (6) years post qualification experience

SPECIFIC KNOWLEDGE & SKILLS

- Comprehensive knowledge of constitutional law, the revenue laws and regulations, related precedents and associated case law.
- Knowledge of business laws, commercial and trade practices
- Comprehensive knowledge of civil and criminal law and procedure
- Comprehensive knowledge of law enforcement and court procedures
- Competence in the use of computers

COMPETENCIES

- Excellent research and analytical skills
- Excellent oral and written communication skills
- Ability to negotiate
- Good time management and organizational skills
- Good interpersonal skills
- Confidentiality

EVALUATION MATRIX	
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<i>EVALUATION CRITERIA</i>	<i>Score</i>
<i>Qualifications and Experience</i>	30
• Bachelor of Laws degree and Certificate of Legal Education	10
• Be admitted to practice in Jamaica	10
• Six (6) years post qualification experience	10
<i>Specific Knowledge</i>	35
• Comprehensive knowledge of constitutional law, the revenue laws and regulations, related precedents and associated case law.	10
• Knowledge of business laws, commercial and trade practices	5
• Comprehensive knowledge of civil and criminal law and procedure	10
• Comprehensive knowledge of law enforcement and court procedures	10
<i>Competencies</i>	35
• Excellent research and analytical skills	10
• Excellent oral and written communication skills	10
• Ability to negotiate	2.5
• Good time management and organizational skills	5
• Good interpersonal skills	2.5
• Competence in the use of computers	5
TOTAL	100