



**Government of the Republic of Nauru  
And  
United Nations Development Programme**

# **Nauru Constitutional Reform Project**

## **Project Summary**

The Republic of Nauru is facing serious governance problems resulting from weaknesses in the Constitution adopted at independence. The 2005 Nauru Sustainable Development Strategy (NSDS) has provided the blueprint for comprehensive economic, financial, public sector and political reform. A critical aspect of this blueprint is constitutional reform to strengthen accountability institutions, mechanisms and address structural causes of political instability.

This project will facilitate a consultative process to revise the constitution thus providing the starting point for capacity building of key institutions, including Parliament.

The key objectives of the Constitutional Review Project are:

1. To complete a constitutional review process in a number of steps that is inclusive, open and reflects global democratic best practice in constitutional review processes. Through this constitutional review process to achieve amendments to the constitution of Nauru that result in fulfilment of the National Sustainable Development Strategy (NSDS) goal of ensuring 'a stable, trustworthy, fiscally responsible government with transparent, accountable parliamentarians, cabinet and public service'
2. Through this constitutional review process to achieve amendments to the constitution of Nauru that result in fulfilment of the National Sustainable Development Strategy (NSDS) goal of ensuring 'a stable, trustworthy, fiscally responsible government with transparent, accountable parliamentarians, cabinet and public service'

**Country: Republic of Nauru**  
**Project Document**

**UNDAF Outcome(s)**

**Good Governance and Human Rights**

National governance systems exercise the principles of inclusive good governance, respecting and upholding human rights; and resilient Pacific island communities participate in decision-making at all levels

**Expected CP Outcome(s)**

2.1 Republic of Nauru demonstrates and upholds the Forum Principles of Good Leadership and Accountability protect human rights and make available mechanisms to claim them

**Expected CP Output(s):**

2.1.1 Improved capacity of national parliaments and Government institutions and systems to enable the efficient and effective performance of oversight, accountability, legislative, representative functions and roles including improved capacity for equitable representation and participatory democracy through civic and human rights education.

**Expected Project Output(s):**

- Output 1: step 5: Committee of the Whole is supported
- Output 2: Step 6: Referendum supported
- Output 3: Effective Project Management

**Implementing Partner/Executing Entity:**

Office of Parliamentary Counsel

**Responsible Party/Implementing Agency:**

United Nations Development Programme

Programme Period: 2008 – 2012	Total resources required <b>USD\$184,500</b>
Project Title: Nauru Constitutional Reform Project	Total allocated resources:
Atlas Award ID:	• Regular <b>USD\$184,500</b>
Start date: 2009	• Other:
End Date 2009	○ Donor _____
PAC Meeting Date	○ Donor _____
	○ Government _____
	Unfunded budget: _____
	In-kind Contributions _____

Agreed by (Government)



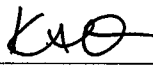
*Hon. Dr. Kieren Keke, MP*  
*Minister for Finance*

Agreed by (Implementing Partner/Executing Entity):



*Parliamentary*  
*Counsel*

Agreed by (UNDP):



*Resident Representative*

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## I. SITUATION ANALYSIS

### LEGAL, INSTITUTIONAL AND SOCIO-ECONOMIC CONTEXT

Nauru is the world's smallest independent republic. It is a single island of 21 square kilometers located in the Pacific Ocean, 1000 km north-west of the Solomon Islands and just 40 km south of the equator. Nauru was first colonised by Germany, and later became a League of Nations Trust Territory jointly administered by Britain, New Zealand and Australia. After World War 2 Nauru was a United Nations Trust Territory administered by the same powers. Nauru gained independence in 1968, thanks in part to support and assistance from the United Nations.

Upon independence, Nauru adopted a written constitution establishing a democratically elected unicameral Parliament of 18 Members, and an executive drawn from and sitting in Parliament with a President as both Head of State and Head of Government. The President is elected by Members of Parliament from amongst themselves. The Constitution contains a Bill of Rights closely resembling the European Convention on Human Rights, and provides for a Supreme Court of Nauru with original, appellate and constitutional jurisdiction.

Due to the circumstances surrounding independence and the very short space of time between Australia agreeing to Nauru's independence and the actual date that had been set for independence, the Constitution was drafted in haste on foreign soil by a non-Nauruan who had not been to Nauru. This draft was then debated by a Constitutional Convention of Nauruan men, but the Convention had only three weeks to consider, debate and pass the draft. There was not enough time for full debate of the draft, and few amendments were made. The Constitution is unusual for the brevity of its preamble, omission of any reference to custom, limited financial provisions and omission of any reference to the Nauru Local Government Council (an important institution before and after independence, but now defunct). The Constitution is not widely available or understood, although people are familiar with their basic system of government, and many have expressed a desire for constitutional change.

Nauru has a unique preferential voting system, and is divided into 8 constituencies - one returning 4 members and all others returning 2 each. Parliament has three year terms. There is universal suffrage for citizens who have attained the age of 20. There is no formal political party system in Nauru. It has been common in the past for Members to change allegiance and there has been a history of short-lived and unstable governments. The Constitution provides for motions of no confidence, which require only half of the members voting in favour, not a majority. Following a successful motion of no confidence a new President is elected from Parliament. The Constitution also provides broad emergency powers which have been invoked once and which are open to abuse. Nauru also has a history of serious financial mismanagement and abuse of public funds. There are currently few accountability mechanisms.

In November 2005, the Government of Nauru finalised its National Sustainable Development Strategy (NSDS). The NSDS was prepared with assistance from some of Nauru's development partners: the Pacific Islands Forum Secretariat, the Asian Development Bank, and the governments of Australia, Japan and Samoa. The NSDS sets out the reforms required to achieve a positive future for Nauru and a better quality of life for Nauruans. Broad consultations were held to ensure the NSDS would reflect the priorities of the people of Nauru. One of the NSDS priorities is to achieve 'a stable, trustworthy, fiscally responsible government with transparent and accountable parliamentarians, cabinet and public service'. Part of the short term plan to achieve this priority goal is to 'complete essential governance, policy and institutional reforms'. To this end, one of the specific strategies listed in the NSDS is to undertake a review of the Constitution. This process of constitutional review was effectively commenced prior to the compilation of the NSDS, but has proceeded at a slow pace up to this point, largely because the Government did not have the technical assistance it required.

The Government of Nauru requested the assistance of the UNDP to conduct a thorough and inclusive review of the Constitution. There have been several attempts to review the Constitution of Nauru since independence, but none have progressed far due to the size of the undertaking and lack of human and financial resources. The current constitutional review has been thoroughly planned by a constitution-making expert in conjunction with the Parliamentary Committee on Constitutional Review. It is hoped that the review will result in amendments that improve the institutions of Nauru and the way in which they operate. The current process of constitutional review also provides a unique opportunity to ensure that the Constitution is more widely understood, and to produce a truly home grown constitution that is owned by the people of Nauru.

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## **II. STRATEGY**

The project seeks to address the problems of instability and lack of accountability in Nauruan government, and to facilitate the realisation of the specific constitutional review objective of the NSDS. The project should ultimately enhance the legitimacy of the Nauruan constitution and its institutions, as a result of an open and inclusive process of review which maximises public participation. The project strategy is based on ‘best practice’ in constitution making and has been designed with comparative lessons and local context in mind.

The overall development goal of this project is defined as follows:

To create a stable and sustainable future for the people of Nauru by ensuring that Good Governance Principles are embedded in the Constitution.

### **Key Objectives:**

- *To complete a constitutional review process in a number of steps that is inclusive and open and reflects global democratic best practice in constitutional review processes;*
- *Through this constitutional review process to achieve amendments to the Constitution of Nauru that result in fulfilment of the NSDS goal of ensuring ‘a stable, trustworthy, fiscally responsible government with transparent and accountable parliamentarians, cabinet and public service’.*

To achieve the above objectives the steps (activities) involved in the process agreed to with the Constitutional Review Committee are outlined below.

### **Step 1: Public Information Campaign.**

### **Step 2: Public Consultations**

### **Step 3: Constitutional Commission**

### **Step 4: Constitutional Convention**

### **Step 5: Passage of Legislation in Parliament**

### **Step 6: Referendum**

Steps 1 to 4 have already been completed, under the DIM Constitutional Review Project. The review process is now in the midst of Step 5. Two constitutional amendment bills were introduced to Parliament in November 2008. The bills were referred to and reported on by a Select Committee (Reported 10 March 2009), and will next be considered by the Committee of the Whole, and possibly amended, before Parliament votes on the passage of the bills.

The major risks that could affect the successful implementation of the project & recommended mitigations are outlined below:

**Timely availability of required resources:** The tight timeline for undertaking the constitutional reform is based on the assumption that work will commence in the first week of May 2006. Any slippage would have serious implications on the later phases of the review/reform process hence the outcome of the exercise. The critical factor in this risk is the timely availability of the required financial resources. This risk is made more urgent by the fact that UNDP core resources are not sufficient to fund the entire exercise.

To mitigate against the above risk, the following were recommended:

- (a) That the UNDP fund the information campaign that runs from May to June 2006 from the UNDP Programme Formulation PA for Nauru.
- (b) Further mobilisation of resources: This is been mitigated by approval for funding by UNDEF.
- (c) Additional funds from TRAC 2 which were initially allocated to the support to Parliament Project were reallocated to address funding gaps in the Constitutional Reform Project.

**Timely availability of external technical experts:** The tight timeframe for the exercise requires timely availability of technical experts identified to ensure that there is no slippage.

Mitigation recommended is to identify in advance external individuals/institutions to provide the required technical expert input and work out contractual arrangement to ensure that technical inputs are delivered on time.

**Ownership of the review process by the people of Nauru:** If the awareness and outreach programme are insufficient to obtain broadbase consensus amongst a wide cross-section of Nauruans. To mitigate the referendum awareness campaign will seek to reach all voters in Nauru, including vulnerable groups such as those without access to transport or media.

There is a risk that Parliament will fail to pass the proposed amendments. It is difficult to predict what might produce such a scenario and what the public response to that scenario might be. This risk has been mitigated by the encouragement of widespread public involvement in the process. The Committee is of the view that if the process and ultimately the proposed changes are truly owned by the people of Nauru, Members of Parliament would find it difficult to justify opposing the proposals. A similar risk and similar mitigation apply to the referendum stage.

Lack of media, limited access to power and similar factors may cause the project to fall short of its objectives in terms of each step in the process running smoothly, and achieving the extensive public involvement that is desired. This is being mitigated by involving a large group of Nauruans in the project directly and making best use of the resources available. People can be notified about public meetings directly by messengers when radio and TV announcements are not possible due to restricted power supply.

## **1. Sustainability**

The achievements of the project should be enduring. The Constitution will have been amended and is unlikely to be amended again in the near future due to the onerous requirements for amendment. Institutions of government and accountability will have been enhanced for the long term. People will have an improved constitution which they participated in creating and will be more informed citizens.

There can be no guarantee that a future government will not attempt to undo any amendments that have been made, or to replace them with their own significant changes. Like any government, a future renegade government would need to have 12 votes out of 18 within the Parliament and would also need a successful referendum (two thirds of people voting in favour) to change any of the Articles listed in Schedule 5 of the Constitution, which would be very difficult to achieve. It is hoped that the process involved in the current project is sufficiently inclusive to achieve desirable improvements in the Constitution. Further changes in future without such an open constitutional review process would be more difficult. Referenda are notoriously difficult to pass, and undesirable changes proposed by a 'renegade' government in future would be very unlikely to succeed, in part because people will be informed about their Constitution as a result of this project and will not be easily fooled.

The capacity of the different types of Intended beneficiaries would have been built during this whole process and should be retained in country for future use and will have the capacity to deal with future Constitutional issues. For example 9 local members of the Constitutional Review Awareness Campaign, 7 member Public Consultation team, majority of the population, school children, NGO's and women's groups.

## **2. Gender & Marginalised or Vulnerable Groups**

**Gender Considerations:** The consultation process for constitutional review has ensured that the voices of all citizens of Nauru were heard. Special efforts have been made to ensure that the voices of women and their needs are adequately reflected in the proposed revisions to the Nauru Constitution. An important aspect of the constitutional review process has been the involvement of Community-Based organizations which include women in the consultations.

At present there are no women in the Nauru government however inclusion of women was made in the Constitutional Review Awareness Campaign Team with 7 out of the 9 team members being women. In the Public Consultations phase the Team which conducted and facilitated public meetings there was a team of 7 of which 5 were women.

**Marginalised or vulnerable groups:** The government has ensured that all sectors of the community were heard during the constitutional consultations. This included consultations with NGO's and community based organisations which are especially strong in Nauru. There are also plans for longer term civic education programmes which would educate citizens of their rights and responsibilities building confidence in the people to engage more actively with the government. The referendum awareness campaign will seek to reach all voters in Nauru, including vulnerable groups such as those without access to transport or media.

## NAURU CONSTITUTIONAL REFORM RESULTS AND RESOURCES FRAMEWORK

### Intended Outcome as stated in the Country Programme Results and Resource Framework:

*2.1 Nauru demonstrates and upholds the Forum Principles of Good Leadership and Accountability; and Nauru is aware and protects human rights and makes available mechanisms to claim them*

### Outcome indicators as stated in the Country Programme Results and Resources Framework, including baseline and targets:

#### Indicators:

Constitutional foundations for political stability and socio-economic progress established

#### Baseline:

Limitation of current constitutional frameworks to address economic and political stability in Nauru

Target: Nauru effectively contributing to accountability and oversight through improved governance and constitutional frameworks

#### Source:-

### Applicable Strategic Plan Outcome:

**Corresponding MYFF Service Line: 2.4 Justice and Human Rights; 2.7 Public Administration Reform and Anti-Corruption; 2.2 Parliamentary Development**

**Partnership Strategy** Partnerships are central to the success of this project. It provides new opportunities for joint advocacy, joint programming, and knowledge sharing, networking and resource mobilisation. UNDP will strengthen corporation with the Government of Nauru to promote forum and fora for dialogue amongst national, and international partn

**Project title and ID (ATLAS Award ID): 000xxxx**

INTENDED OUTPUTS	OUTPUT TARGETS FOR (YEARS)	INDICATIVE ACTIVITIES	RESPONSIB LE PARTIES	INPUTS
<b>Output 1 step 5: Committee of the Whole is supported</b>				
<b>Baseline:</b> 1. Draft Constitutional Amendment Bills completed for review by Committee of the Whole  <b>Indicators:</b> 1. Legal advisory services provided to Committee of the Whole		<b>Activity result 1 Advisory services completed</b> 1. Committee of the Whole considers constitutional amendment bills and reports to Parliament  2. Recruit consultant  3. Travel and accommodation  4. Consultant constitutional lawyer fees (for work on	Parliamentary Secretariat/CRC Secretariat; UNDP; Government of Nauru.	USD\$42,000   USD\$5,000

		transitional provisions, off-island) 5. Parliament votes on bills		USD8,400
<b>Subtotal: USD\$55,400</b>				
<b>Output 2 Step 6: Referendum supported</b>				
<p><b>Baselines:</b></p> <ol style="list-style-type: none"> <li>1. A referendum is held if the Constitution of Nauru (Referendum Amendments) Bill has been passed by 2/3 of Parliament</li> <li>2. Lack of comprehensive understanding amongst Nauru citizens on the proposed constitutional amendment bills</li> <li>3. Constitutional amendments had not been voted have not been approval nationally</li> </ol> <p><b>Indicators:</b></p> <ol style="list-style-type: none"> <li>1. Resource persons recruited</li> <li>2. Materials produced and disseminated</li> <li>3. Referendum conducted</li> </ol>	Annual Targets: 2009	<p><b>Activity Results 2 Preparation for referendum completed</b></p> <p><b>Actions:</b></p> <ol style="list-style-type: none"> <li>1. Recruit constitutional lawyer<sup>1</sup></li> <li>2. Consultant Travel &amp; pedium</li> <li>3. Local team of 10 staff 14 weeks</li> <li>4. Graphic design of Awareness material</li> <li>5. Printing of Awareness material</li> <li>6. Freight of awareness material</li> <li>7. Fuel (for public meetings)</li> <li>8. Refreshments (for public meetings)</li> <li>9. Stationery and consumables</li> </ol> <p><b>Activity Results 2.1 Conduct of Referendum completed</b></p> <p><b>Actions:</b></p> <ol style="list-style-type: none"> <li>1. Recruit Consultant<sup>2</sup> (from AEC?)</li> </ol>		<p>USD\$40,000</p> <p>USD\$15,400</p> <p>USD\$22,000</p> <p>USD\$4,000</p> <p>USD\$6,000</p> <p>USD\$3,000</p> <p>USD\$500</p> <p>USD\$1,000</p> <p>USD500</p> <p><b>Subtotal: USD\$92,400</b></p>

<sup>1</sup> Terms of Reference for this Consultant will be developed by Secretary to CRC and shared with UNDP for inputs and review and final approval to come from Government of Nauru.

<sup>2</sup> Terms of Reference for this Consultant will be developed by Secretary to CRC and shared with UNDP for inputs and review and final approval to come from Government of Nauru.



		<ul style="list-style-type: none"> <li>2. Consultant travel</li> <li>3. Printing ballot papers</li> <li>4. Freight ballot papers</li> <li>5. Polling day staff and refreshments (see appendix)</li> <li>6. Stationery and consumables</li> </ul>		<p>USD\$7,500</p> <p>USD\$3,000</p> <p>USD\$2,000</p> <p>USD\$1,500</p> <p>USD\$12,400</p> <p>USD\$500</p> <p><b>Subtotal: USD\$26,900</b></p>
<b>Output 3 Project Monitoring and Review</b>				
<p><b>Baseline:</b></p> <ul style="list-style-type: none"> <li>1. Capacity Assessment for project implementation report 2009</li> <li>2. Results Management Guide</li> </ul> <p><b>Indicators:</b></p> <ul style="list-style-type: none"> <li>1. Financial and narrative reports shows quality of deliverables and accountability for resources</li> <li>2. Risks and issues logs are regularly updated</li> </ul>		<p><b>Activity results 4. Effective Project management and Implementation</b></p> <p><b>Activity 3.1 Results</b></p> <p><b>Project Results, Issues and Risks tracked and monitored in ATLAS</b></p> <ul style="list-style-type: none"> <li>▪ <b>Actions</b></li> <li>1. Quarterly Narrative and Financial reports submitted to Project Board</li> <li>2. Audit report produced</li> <li>3. Quarterly narrative and financial reports prepared and distributed to project Board and MCO.</li> <li>4. MCO in country travel for monitoring and review</li> </ul>	<p>Office of the Speaker, Parliamentary Counsel &amp;</p> <p>UNDP</p>	<p><b>USD\$3,000</b></p> <p>Auditing services.</p> <p>Project monitoring visit by UNDP Country Office:</p> <p><b>USD\$5,000</b></p> <p>Communication/advocacy</p> <p><b>USD1,800</b></p> <p><b>Subtotal:</b></p> <p><b>USD\$9,800</b></p>
<b>TOTAL PROJECT BUDGET</b>				<b>USD\$ 184,500</b>

## NAURU CONSTITUTION REFORM PROJECT ANNUAL WORK PLAN

**YEAR: 2009**

EXPECTED OUTPUTS <i>And baseline, indicators including annual targets</i>	PLANNED ACTIVITIES <i>List activity results and associated actions</i>	TIMEFRAME				RESPONSIBLE PARTY	PLANNED BUDGET		
		Q 1	Q 2	Q 3	Q 4		Funding Source	Budget Description	Amount
<p><b>Output</b> Improved capacity of national legislatures and government institutions and systems to enable the efficient and effective performance of oversight, accountability, legislative, representative functions and roles including improved capacity for equitable representation and participatory democracy through civic and human rights education</p> <p><b>Baseline for activity 1:</b> Draft Constitutional Amendment Bills completed for review by Committee of the Whole</p> <p><b>Indicators for Planned activities:</b> Legal advisory services provided to Committee of the Whole</p> <p><b>Target</b> <b>By 2012:</b></p>	<p><b>Activity result 1 Advisory services completed</b></p> <p>Actions:</p>						TRAC 2	International Constitutional Consultant	
	COTW considers bills and reports to Parliament		✓						
	Recruit consultant		✓				TRAC 2	Reimbursement	USD\$42,000
	Travel and accommodation							Travel	USD\$3,500
	Consultant constitutional lawyer fees Parliament votes on bills			✓			for work on transitional provisions, off-island	USD\$8,400	
<p>4. <b>Baseline:</b> A referendum is held if two thirds of the members of Parliament vote in favour of the bills; Lack of comprehensive understanding amongst Nauru citizens on the proposed constitutional amendment bills; Constitutional amendments had not been voted have not been approval nationally</p> <p><b>Indicators for planned activities:</b> Resource persons recruited; Materials produced and disseminated; Referendum conducted</p>	<p><b>Activity Results 2 Referendum on proposed Constitutional Amendment Bills completed</b></p> <p><b>Actions:</b></p> <ol style="list-style-type: none"> <li>1. Recruit constitutional lawyer (8 weeks)</li> <li>2. Consultant Travel &amp; pedium</li> <li>3. Local team of 10 staff 14 weeks</li> <li>4. Graphic design of Awareness material</li> <li>5. Printing of Awareness material</li> </ol>			✓	✓	Office of the Speaker, Parliamentary Counsel and UNDP	TRAC 2	Constitutional Lawyer	USD\$40,000
				✓	✓		Travel; peridium	USD\$15,400	
				✓	✓		Temporary staff	USD\$22,000	
				✓	✓		Graphic Design/Layout cost	USD\$4,000	
							Printing	USD\$6,000	

	6. Freight of awareness material 7. Fuel (for public meetings) 8. Refreshments (for public meetings) 9. Stationery and consumables  <b>Activity Results 2.1 Conduct of Referendum completed</b> <b>Actions:</b> 7. Recruit Consultant (from AEC?) up to two weeks 8. Consultant travel 9. Printing ballot papers 10. Freight ballot papers 11. Polling day staff and refreshments (see appendix) 12. Stationery and consumables			✓	✓		TAC 2	Freight cost Transport Catering Stationery  <b>Subtotal:          USD\$92,400</b>  Consultant  Travel Printing Freight  Voting costs  Miscellaneous  <b>Subtotal:          USD\$26,900</b>	USD\$3,000 USD\$500 USD\$1,000 USD500  USD\$7,500 USD\$3,000 USD\$2,000 USD\$1,500 USD\$12,400 USD\$500
<b>Output 3</b>	<b>Effective Project Management</b>								
<b>Baseline:</b> Capacity Assessment Report	<b>Activity 3.0 Results Effective Project Management and Implementation</b>		✓	✓	✓				

<b>Indicators:</b> Financial and narrative reports shows quality of deliverables and accountability for resources; Risks and issues logs are regularly updated	<b>Actions:</b>								
	<b>Activity 3.1 Results</b> <b>Project Results, Issues and Risks tracked and monitored in ATLAS</b> <ul style="list-style-type: none"> <li>▪ <b>Actions</b></li> </ul> Quarterly Narrative and Financial reports submitted to Project Board Quarterly narrative and financial reports prepared and distributed to project Board and MCO. UNDP MCO mission costs			✓	✓		TRAC 2	Communications/advocacy  UNDP Travel to Nauru	1,800  5,000
<b>TOTAL</b>									<b>USD\$ 184,500</b>

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### **III. MANAGEMENT ARRANGEMENTS**

The project will be nationally executed by the Government of the Republic of Nauru with country office support services to be provided by UNDP. The Office of the Parliamentary Counsel in Nauru Parliament will be the national implementing partner and will maintain project accounts and financial responsibility.

As agreed the Government will advance its own funds for the activities/inputs stated in the AWP, and following UNDP's policies and procedures as referred to in the Project Document. The request for reimbursement are to be made using the Funding Authorization and Certificate of Expenditures form (FACE); reporting the expenditures already made and requesting any reimbursement for such expenditures.

The national implementing partner will maintain financial records which are subject to audit in accordance with UNDP guidelines.

For the Implementing Partner to request reimbursement (or payments, etc.), the highest authority of the Implementing Partner must clearly designate the project personnel authorized to make such requests. The Implementing Partner must provide the CO with a detailed record of authorized project personnel, including samples of their signatures. This record must be kept in the CO for internal control and audit purposes.

UNDP will provide support services on request including recruitment of international or local personnel, procurement of equipment, supplies, etc. The Government of Nauru will prepare and sign a Request for Services form for the required support. Services provided will be subject to charges based on the UNDP Universal Price list.

The Chairman of the CRC will be the National Project Director (NPD). The Project Manager will be the Parliamentary Counsel. An Audit will be conducted at the request of the UNDP by the Director of Audit in Nauru. Costs for the audit will be met by the Government and will be considered as in-kind contribution.

The Project Board outlined below will participate in annual review meeting. The Project Board is responsible for ensuring that project finance is accountably managed and results are delivered in an efficiently and effectively manner. It will be responsible for building consensus around project strategy for the achievement of planned results. It will be used as a mechanism for leveraging partnerships and mobilisation of resources for the implementation of the project outputs. In addition, the Project Board is responsible for making consensual management decision concerning project issues or risks and provides advice and guidance when required by the Project Manager. Approval of project budget revisions and approval of Annual Work plan (AWP) is also a key role of the project board. Project reviews by the project board are made at designated decision points during the running of a project, or as necessary when raised by the Project Manager. This group is consulted by the Project Manager for decisions when tolerances (i.e. constraints normally in terms of time and budget) have been exceeded.

**Roles and responsibilities of the parties involved in managing the project:**

A Project Board will be responsible for making executive management decisions for the project and will comprise of the Senior Beneficiary, Executive and Senior Supplier.

**Executive:** Chair of the CRC assumes overall project ownership to chair the group.

**Senior Supplier:** This is assigned to UNDP representing the interests of the parties concerned which provide funding and/or technical expertise to the project. The Senior Supplier's primary function within the Project Board is to provide guidance regarding the technical feasibility of the project. UNDP will designate a representative to serve in this role.

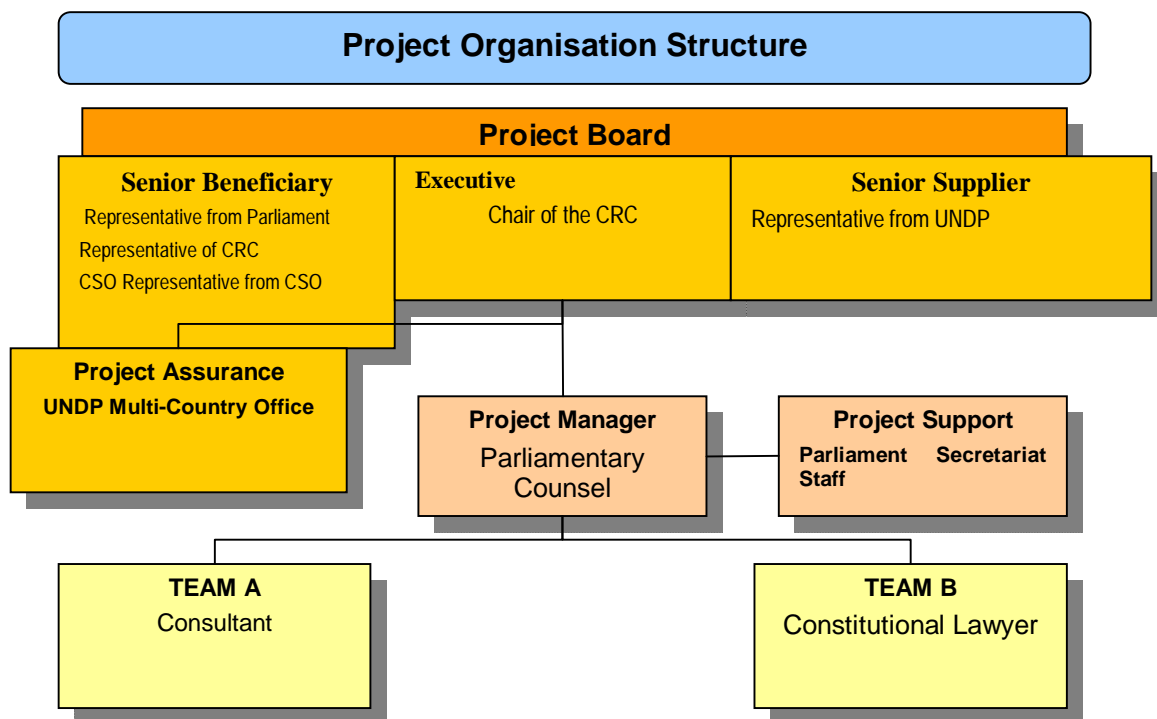
**Senior Beneficiary:** This role will be assumed by a designated member of the CRC; representing the interests of those who will ultimately benefit from the project. The Senior Beneficiary's primary function within the Board is to ensure the realization of project results from the perspective of project beneficiaries.

**Project Assurance:** Project Assurance is the responsibility of each Project Board member; however the role can be delegated. The project assurance role supports the Project Board by carrying out objective and independent project oversight and monitoring functions. This role ensures appropriate project management milestones are managed and completed. Project Assurance has to be independent of the Project Manager; therefore, the Project Board cannot delegate any of its assurance responsibilities to the Project Manager. UNDP will designate a representative to perform the project Assurance role.

**Project Manager:** The Project Manager has the authority to run the project on a day-to-day basis on behalf of the Implementing Partner within the constraints laid down by the Board. The Project Manager is responsible for day-to-day management and decision-making for the project. The Project Manager's prime responsibility is to ensure that the project produces the results (outputs) specified in the project document-, to the required standard of quality and within the specified constraints of time and cost. The Parliamentary Counsel is appointed as the Project Manager.

**Project Support:** The Project Support role provides project administration, management and technical support to the Project Manager as required by the needs of the individual project or Project Manager. It is necessary to keep Project Support and Project Assurance roles separate in order to maintain the independence of Project Assurance.

The NPD may call for special meetings should the need arise for these. The NDP will prepare the Agenda in consultation with the project manager and circulate this at least two weeks in advance of the CPAP Board meeting. Minutes of the Meeting are to be circulated within two weeks after a meeting is held.



## Audit

The audits of the project will be undertaken in accordance with UNDP's Office of Audit and Investigation guidelines and requirements

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## IV. MONITORING FRAMEWORK AND EVALUATION

In accordance with the programming policies and procedures outlined in the UNDP User Guide, the project will be monitored through the following:

### Within the annual cycle

- On a quarterly basis, a quality assessment shall record progress towards the completion of key results, based on quality criteria and methods captured in the Quality Management table below.
- An Issue Log shall be activated in Atlas and updated by the Project Manager to facilitate tracking and resolution of potential problems or requests for change.
- Based on the initial risk analysis submitted (see annex 1), a risk log shall be activated in Atlas and regularly updated by reviewing the external environment that may affect the project implementation.
- Based on the above information recorded in Atlas, a Project Progress Reports (PPR) shall be submitted by the Project Manager to the Project Board through Project Assurance, using the standard report format available in the Executive Snapshot.
- a project Lesson-learned log shall be activated and regularly updated to ensure on-going learning and adaptation within the organization, and to facilitate the preparation of the Lessons-learned Report at the end of the project
- a Monitoring Schedule Plan shall be activated in Atlas and updated to track key management actions/events

**Annual Work plan and Budget**

The annual workplan and budget, will serve as the primary reference documents for the purpose of monitoring the achievement of results. The NPD is tasked with the responsibility of implementing the project in accordance with these documents.

**Annually**

**Annual Review Report** - an Annual Review Report shall be prepared by the Project Manager and shared with the Project Board and the Outcome Board.

**Annual Project Review** – based on the above report, an annual project review shall be conducted during the fourth quarter of the year or soon after, to assess the performance of the project and appraise the Annual Work Plan (AWP) for the following year. In the last year, this review will be a final assessment. This review is driven by the Programme Board and may involve other stakeholders as required. It shall focus on the extent to which progress is being made towards outputs, and that these remain aligned to appropriate outcomes

**Monitoring Visits by UNDP Suva**

A budget of US\$5,000 has been provided and this will be accessed by the UNDP office upon consultation and agreement of the National Project Director on the agenda for the monitoring visit for UNDP officials. A detailed mission report outlining project progress and follow-up actions will be the outputs of these missions.

Financial and Operational Progress Reports will be prepared by the project manager and signed off by the implementing agency and submitted to UNDP on a quarterly basis in accordance with the “UNDP User Guide”. These reports monitor the project progress according to the annual work plan and will be used as the basis for the Annual Project Report (APR), which will be presented by the Project Manager during the Tripartite Review Meeting. Any substantive changes to the budget and annual work plan will be decided at the Tripartite Review Meeting. Quarterly Progress Reports must be submitted to UNDP, together with the Financial Report, on the 15th day of each month following the end of the quarter. Approval of any reimbursement payment will be subject to the submission of these reports/documentation to UNDP for consideration. UNDP will provide feedback on the most recent progress report and other relevant reports before releasing any reimbursement payments.

**Quality Management for Project Activity Results<sup>3</sup>**

<b>OUTPUT 1: step 5: Committee of the Whole is supported</b>		
<b>Activity Result 1 (Atlas Activity ID)</b>	<b>Activity result 1 Advisory services completed</b>	Start Date: End Date:
<b>Purpose</b>	<i>What is the purpose of the activity? To provide legal advice to the Committee of the Whole in its consideration of amendments to the constitutional amendment bills</i>	
<b>Description</b>	<i>Planned actions to produce the activity result</i>	
<b>Quality Criteria</b> <i>how/with what indicators the quality of the activity result will be measured?</i>	<b>Quality Method</b> <i>Means of verification. what method will be used to determine if quality criteria has</i>	<b>Date of Assessment</b> <i>When will the assessment of quality be performed?</i>

<sup>3</sup> To be completed during jointly with Implementing Partner when activities are implemented



<i>Assessment of whether the legal advice has enabled the Committee of the Whole to produce sound and coherent final version of the bills</i>	<i>been met? Project manager affirms whether quality legal advice has resulted in a final version of the bills that is legally sound</i>	<i>When the COTW has finished its work on the bills and reported to Parliament</i>

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**V. LEGAL CONTEXT**

**Standard annex to project documents for use in countries which are not parties to the Standard Basic Assistance Agreement (SBAA)**

**Standard Text: Supplemental Provisions to the Project Document: The Legal Context**

**General responsibilities of the Government, UNDP and the executing agency**

1. All phases and aspects of UNDP assistance to this project shall be governed by and carried out in accordance with the relevant and applicable resolutions and decisions of the competent United Nations organs and in accordance with UNDP's policies and procedures for such projects, and subject to the requirements of the UNDP Monitoring, Evaluation and Reporting System.
2. The Government shall remain responsible for this UNDP-assisted development project and the realization of its objectives as described in this Project Document.
3. Assistance under this Project Document being provided for the benefit of the Government and the people of (the particular country or territory), the Government shall bear all risks of operations in respect of this project.
4. The Government shall provide to the project the national counterpart personnel, training facilities, land, buildings, equipment and other required services and facilities. It shall designate the Government Co-operating Agency named in the cover page of this document (hereinafter referred to as the "Co-operating Agency"), which shall be directly responsible for the implementation of the Government contribution to the project.
5. The UNDP undertakes to complement and supplement the Government participation and will provide through the Executing Agency the required expert services, training, equipment and other services within the funds available to the project.
6. Upon commencement of the project the Executing Agency shall assume primary responsibility for project execution and shall have the status of an independent contractor for this purpose. However, that primary responsibility shall be exercised in consultation with UNDP and in agreement with the Co-operating Agency. Arrangements to this effect shall be stipulated in the Project Document as well as for the transfer of this responsibility to the Government or to an entity designated by the Government during the execution of the project.

7. Part of the Government's participation may take the form of a cash contribution to UNDP. In such cases, the Executing Agency will provide the related services and facilities and will account annually to the UNDP and to the Government for the expenditure incurred.

**(a) Participation of the Government**

1. The Government shall provide to the project the services, equipment and facilities in the quantities and at the time specified in the Project Document. Budgetary provision, either in kind or in cash, for the Government's participation so specified shall be set forth in the Project Budgets.

2. The Co-operating Agency shall, as appropriate and in consultation with the Executing Agency, assign a director for the project on a full-time basis. He shall carry out such responsibilities in the project as are assigned to him by the Co-operating Agency.

3. The estimated cost of items included in the Government contribution, as detailed in the Project Budget, shall be based on the best information available at the time of drafting the project proposal. It is understood that price fluctuations during the period of execution of the project may necessitate an adjustment of said contribution in monetary terms; the latter shall at all times be determined by the value of the services, equipment and facilities required for the proper execution of the project.

4. Within the given number of man-months of personnel services described in the Project Document, minor adjustments of individual assignments of project personnel provided by the Government may be made by the Government in consultation with the Executing Agency, if this is found to be in the best interest of the project. UNDP shall be so informed in all instances where such minor adjustments involve financial implications.

5. The Government shall continue to pay the local salaries and appropriate allowances of national counterpart personnel during the period of their absence from the project while on UNDP fellowships.

6. The Government shall defray any customs duties and other charges related to the clearance of project equipment, its transportation, handling, storage and related expenses within the country. It shall be responsible for its installation and maintenance, insurance, and replacement, if necessary, after delivery to the project site.

7. The Government shall make available to the project - subject to existing security provisions – any published and unpublished reports, maps, records and other data which are considered necessary to the implementation of the project.

8. Patent rights, copyright rights and other similar rights to any discoveries or work resulting from UNDP assistance in respect of this project shall belong to the UNDP. Unless otherwise agreed by the Parties in each case, however, the Government shall have the right to use any such discoveries or work within the country free of royalty and any charge of similar nature.

9. The Government shall assist all project personnel in finding suitable housing accommodation at reasonable rents.

10. The services and facilities specified in the Project Document which are to be provided to the project by the Government by means of a contribution in cash shall be set forth in the Project Budget. Payment of this amount shall be made to the UNDP in accordance with the Schedule of Payments by the Government.

11. Payment of the above-mentioned contribution to the UNDP on or before the dates specified in the Schedule of Payments by the Government is a prerequisite to commencement or continuation of project operations.

**(b) Participation of the UNDP and the executing agency**

1. The UNDP shall provide to the project through the Executing Agency the services, equipment and facilities described in the Project Document. Budgetary provision for the UNDP contribution as specified shall be set forth in the Project Budget.

2. The Executing Agency shall consult with the Government and UNDP on the candidature of the Project Manager <sup>4</sup> who, under the direction of the Executing Agency, will be responsible in the country for the Executing Agency's participation in the project. The Project Manager shall supervise the experts and other agency personnel assigned to the project, and the on-the-job training of national counterpart personnel. He shall be responsible for the management and efficient utilization of all UNDP-financed inputs, including equipment provided to the project.

3. The Executing Agency, in consultation with the Government and UNDP, shall assign international staff and other personnel to the project as specified in the Project Document, select candidates for fellowships and determine standards for the training of national counterpart personnel.

4. Fellowships shall be administered in accordance with the fellowships regulations of the Executing Agency.

5. The Executing Agency may, in agreement with the Government and UNDP, execute part or all of the project by subcontract. The selection of subcontractors shall be made, after consultation with the Government and UNDP, in accordance with the Executing Agency's procedures.

6. All material, equipment and supplies which are purchased from UNDP resources will be used exclusively for the execution of the project, and will remain the property of the UNDP in whose name it will be held by the Executing Agency. Equipment supplied by the UNDP shall be marked with the insignia of the UNDP and of the Executing Agency.

7. Arrangements may be made, if necessary, for a temporary transfer of custody of equipment to local authorities during the life of the project, without prejudice to the final transfer.

8. Prior to completion of UNDP assistance to the project, the Government, the UNDP and the Executing Agency shall consult as to the disposition of all project equipment provided by the UNDP. Title to such equipment shall normally be transferred to the Government, or to an entity

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<sup>4</sup> May also be designated Project Co-ordinator or Chief Technical Adviser, as appropriate.

nominated by the Government, when it is required for continued operation of the project or for activities following directly therefrom. The UNDP may, however, at its discretion, retain title to part or all of such equipment.

9. At an agreed time after the completion of UNDP assistance to the project, the Government and the UNDP, and if necessary the Executing Agency, shall review the activities continuing from or consequent upon the project with a view to evaluating its results.

10. UNDP may release information relating to any investment oriented project to potential investors, unless and until the Government has requested the UNDP in writing to restrict the release of information relating to such project.

### **Rights, Facilities, Privileges and Immunities**

1. In accordance with the Agreement concluded by the United Nations (UNDP) and the Government concerning the provision of assistance by UNDP, the personnel of UNDP and other United Nations organizations associated with the project shall be accorded rights, facilities, privileges and immunities specified in said Agreement.

2. The Government shall grant UN volunteers, if such services are requested by the Government, the same rights, facilities, privileges and immunities as are granted to the personnel of UNDP.

3. All persons, other than Government nationals employed locally, performing services on behalf of the UNDP, a Specialized Agency or the IAEA, shall:

(a) Be immune from legal process in respect of all acts performed by them in their official capacity in the execution of the project;

(b) Be immune from national service obligations;

(c) Be immune together with their spouses and relatives dependent on them from immigration restrictions;

(d) Be accorded the privileges of bringing into the country reasonable amounts of foreign currency for the purposes of the project or for personal use of such personnel, and of withdrawing any such amounts brought into the country, or in accordance with the relevant foreign exchange regulations, such amounts as may be earned therein by such personnel in the execution of the project;

(e) Be accorded together with their spouses and relatives dependent on them the same repatriation facilities in the event of international crisis as diplomatic envoys.

3. All personnel of the Executing Agency's contractors shall enjoy inviolability for all papers and documents relating to the project.

4. The Government shall either exempt from or bear the cost of any taxes, duties, fees or levies which it may impose on any firm or organization which may be retained by the Executing Agency

and on the personnel of any such firm or organization, except for nationals of the host country employed locally, in respect of:

- (a) The salaries or wages earned by such personnel in the execution of the project;
- (b) Any equipment, materials and supplies brought into the country for the purposes of the project or which, after having been brought into the country, may be subsequently withdrawn therefrom;
- (c) Any substantial quantities of equipment, materials and supplies obtained locally for the execution of the project, such as, for example, petrol and spare parts for the operation and maintenance of equipment mentioned under (b), above, with the provision that the types and approximate quantities to be exempted and relevant procedures to be followed shall be agreed upon with the Government and, as appropriate, recorded in the Project Document; and
- (d) As in the case of concessions currently granted to UNDP and Executing Agency's personnel,  
any property brought, including one privately owned automobile per employee, by the firm or  
organization or its personnel for their personal use or consumption or which after having been brought into the country, may subsequently be withdrawn therefrom upon departure of such personnel.

5. The Government shall ensure:

- (a) prompt clearance of experts and other persons performing services in respect of this project; and
- (b) the prompt release from customs of:
  - (i) equipment, materials and supplies required in connection with this project; and
  - (ii) property belonging to and intended for the personal use or consumption of the personnel of the UNDP, its Executing Agencies, or other persons performing services on their behalf in respect of this project, except for locally recruited personnel.

6. The privileges and immunities referred to in the paragraphs above, to which such firm or organization and its personnel may be entitled, may be waived by the Executing Agency where, in its opinion or in the opinion of the UNDP, the immunity would impede the course of justice and can be waived without prejudice to the successful completion of the project or to the interest of the UNDP or the Executing Agency.

7. The Executing Agency shall provide the Government through the resident representative with the list of personnel to whom the privileges and immunities enumerated above shall apply.

8. Nothing in this Project Document or Annex shall be construed to limit the rights, facilities,

privileges or immunities conferred in any other instrument upon any person, natural or juridical, referred to hereunder.

### **Suspension or termination of assistance**

1. The UNDP may by written notice to the Government and to the Executing Agency concerned suspend its assistance to any project if in the judgement of the UNDP any circumstance arises which interferes with or threatens to interfere with the successful completion of the project or the accomplishment of its purposes. The UNDP may, in the same or a subsequent written notice, indicate the conditions under which it is prepared to resume its assistance to the project. Any such suspension shall continue until such time as such conditions are accepted by the Government and as the UNDP shall give written notice to the Government and the Executing Agency that it is prepared to resume its assistance.

2. If any situation referred to in paragraph 1, above, shall continue for a period of fourteen days after notice thereof and of suspension shall have been given by the UNDP to the Government and the Executing Agency, then at any time thereafter during the continuance thereof, the UNDP may by written notice to the Government and the Executing Agency terminate the project.

3. The provisions of this paragraph shall be without prejudice to any other rights or remedies the UNDP may have in the circumstances, whether under general principles of law or otherwise.

## VI. ANNEXES

### Annex1. INITIAL RISK LOG



Project Title: Nauru Constitutional Reform Project	Award ID:	Date:
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#	Description	Date Identified	Type	Impact & Probability	Countermeasures / Mngt response	Owner	Submitted, updated by	Last Update	Status
1	Nauru Government not satisfied with performance of consultant		<i>Programmatic</i>	<i>P =2 I = 2</i>	<i>Government of Nauru selected consultant through national recruitment process</i>				
2	Bills not passed by Parliament (12 out of 18 members required to pass; Govt has 11 on the floor)		<i>Political</i>		<i>Workshop for all MPs on the bills prior to COTW to ensure all members feel included and that bills are not political issue; previous steps in project mean public support proposed changes and MPs may therefore find difficult to oppose</i>				
3	Proposed amendments not passed by referendum		Operational & Programmatic	P =2 I = 2	Thorough public awareness				

4	Political Instability		Political	P = 2 I = 4					
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**Annex 2**  
**NAURU CONSTITUTIONAL REVIEW PROJECT**

**TERMS OF REFERENCE**  
**CONSULTANT CONSTITUTIONAL LAWYER**  
**JUNE 2009**

## **1. BACKGROUND**

In 2006, the Standing Committee on Constitutional Review ('CRC'), with the assistance of the United Nations Development Programme ('UNDP') devised a comprehensive program of constitutional review comprising six steps:

- The first step, the public awareness program, was completed in August 2006;
- The second step, public consultation meetings and the receipt of written submissions from the public, was completed in November 2006;
- The third step, the preparation of a report and recommendations by an independent Constitutional Review Commission, was completed in March 2007;
- Step four, the conduct of a Constitutional Convention to debate the recommendations of the Commission and to decide which proposed constitutional changes should be submitted to Parliament, was completed in May 2007;
- Step 5, which involves the consideration and possible passage of constitutional amendments by Parliament, is partially complete: draft legislation to effect the amendments proposed by the Constitutional Convention has been drafted in accordance with the requirements of the Constitutional Convention Act 2007 (the bills reflect the proposed constitutional amendments endorsed by the Convention, but Parliament may amend the bills) and introduced to Parliament; A Select Committee has considered and reported on the bills; and it still remains for Parliament to consider amending the bills in the Committee of the Whole, and for Parliament to vote on passage of the bills; and
- Step 6 will involve a referendum, preceded by an extensive public awareness campaign on the referendum questions (step 6 will only be undertaken if Parliament passes the Constitution of Nauru (Referendum Amendments) Bill.

This consultancy concerns part of step 5, the provision of legal advice and technical assistance to the Committee of the Whole Parliament in its consideration of amendments to the constitutional amendment bills.

## **2. OBJECTIVES OF THE CONSULTANCY**

The objectives of the consultancy are:

- To provide expert advice to the Committee of the Whole Parliament on proposed constitutional amendments (including, as appropriate, advice on whether proposed amendments are legally sound, likely effects of proposed amendments; relevance of the interrelationship between various proposed amendments, appropriateness of motions to amend the bills, etc);
- To assist the Committee of the Whole Parliament with the drafting and passage of amendments to the two constitutional amendment bills and to assist the Committee in arriving at a final version of the two constitutional amendment bills that is legally sound;
- If time permits, to advise the Committee of the Whole on what transitional provisions would be necessary or desirable if all of the proposed constitutional amendments contained in the final version of the bills were to be successfully passed, and to draft such transitional provisions

### **3. CONSULTANT QUALIFICATIONS**

The Consultant must have a Bachelor of Laws degree with first class honours or equivalent and a postgraduate degree in law, and must be admitted to practise in a common law jurisdiction. The consultant should have academic research experience, and knowledge of and experience in comparative constitutional law and constitutional review mechanisms. Previous work experience in the Pacific islands region and an understanding of the small islands' social, economic and political context would be an advantage.

### **4. TASKS AND RESPONSIBILITIES**

In accordance with the objectives outlined in 2, above, the consultant will be responsible for providing expert legal advice to the Committee of the Whole Parliament on proposed amendments to the Constitution, including for example: advice on whether proposed amendments are legally sound, likely effects of proposed amendments; relevance of the interrelationship between various proposed amendments, and the appropriateness of motions to amend the constitutional amendment bills. The consultant will sit in the Parliamentary Chamber with the Committee of the Whole and provide advice in response to questions from members of Parliament and in response to instructions from the Chairman. The consultant will be required to advise members on the advisability of proposed amendments and to assist members in drafting amendments to the bills in a form that is appropriate and legally sound. If time permits, the consultant will be responsible for advising the Committee of the Whole on what transitional provisions would be necessary or desirable if all of the proposed constitutional amendments contained in the final version of the bills were to be successfully passed, and for drafting such transitional provisions.

### **5. OUTPUTS**

The outputs of this consultancy will be:

- Provision of expert legal advice to the Committee of the Whole during the sittings of the Committee of the Whole
- Maintenance of a running record of all amendments made to the constitutional amendment bills by the Committee of the Whole
- Preparation of a Report on the constitutional amendment bills as amended for submission by the Chairman of the Committee of the Whole to Parliament (this Report may not be completed within the timeframe of the consultancy, but the consultant should prepare as much of the Report as relates to all of the amendments passed during the period of the consultancy by the Committee of the Whole).

### **1. TIMETABLE**

The consultant will spend nine full days on Nauru advising the Committee of the Whole (of which it is anticipated that eight days will be sitting days) and will spend three full days preparing for the Committee of the Whole prior to travel. The Consultant will travel to Nauru on 16 June 2009 and depart on 26 June 2009. The consultant will be paid for 15 days' work, which shall include payment for time spent travelling to and from the island.

**Nauru Constitutional Reform Project  
Capacity Assessment Project Implementation Report**

Project Title: Nauru Constitutional Reform Project

Name of the Institution: Government of Nauru

Date of Assessment: 10 June 2009

**PART I – REFERENCES AND PRELIMINARY CHECKS**

**1.1 History and Compliance with International Resolutions/Standards**

**1.1.1 History**

The Republic of Nauru came into existence upon Independence in 1968. Since then there has been no restructuring as such and the UNDP supported Constitutional Reform project is designed to enable some restructuring of public institutions in addition to some government led reform since 2004.

**1.1.2 United Nations Security Council 1267**

This concern the United Nations Security Council 1267 Committee's list of terrorists and terrorist where Nauru is not a concern for this resolution

**1.1.3 Certification**

This is not applicable in the context of Nauru.

**PART II. ASSESSING NATIONAL INSTITUTION CAPACITY FOR PROJECT MANAGEMENT**

**2.1 Managerial Capacity – Ability to plan, monitor and coordinate activities**

**Planning, Monitoring & Evaluation**

When the project started in 2006 the Aid Management Unit has just been established with limited capacity for programme/project management. Following its establishment development partners have been providing ongoing capacity development support to the Aid Management Unit. At present the AMU and the Office of the Parliamentary counsel who is the project manager are capable of designing projects and standard work plans. The Parliament Secretariat involves in regular review meetings since the Nauru Constitutional Reform project started in 2006. Through the CRC project and involvement with other donor partners the implementing partner participated in defining indicators for the project work plan and was introduced to the UNDP results based management project management methods and tools.

**2.1.2 Reporting and performance track record**

The implementing partner has reported against well defined indicators since Nauru adopted the National Sustainable Development Strategy ('NSDS') which involved strategic planning, setting of targets and goals, strategies and milestones for monitoring and evaluating performance government performance across sectors. The institution provides reports to donors including UNDP particularly on the progress of the Constitutional Reform project.

**2.2 Technical Capacity**

**2.2.1 Specialization**

The implementing partner has the required technical skills to support both the management and substantial issues relating to the project. This is through the services of the Parliamentary Counsel/project manager; who is a full time staff of the Parliamentary Secretariat. In addition, the Department of Justice also has qualified Lawyers in Nauru whose support can be sought when required by the project. Therefore, the institution possesses the knowledge needed for this project. The Parliamentary Counsel is a member of

an international academic project which is involved in research and publications on best practice in constitution making both at the regional and international levels.

### **2.2.2 Ability to monitor the technical aspects of the project**

The institution has access to knowledge and technical capacity to monitor project with the support of the Aid Management Unit and Parliamentary Counsel. The Institution has contacts and networks with Parliament in the region and with bilateral and multilateral development partners and regional organization. The Institution is capable of developing baselines and indicators and it applies participatory approaches in its work.

### **2.2.3 Human Resources**

The institution has staff to support the project with the support of the AMU which has extensive project experience, lawyer with extensive constitutional experience, senior managers with human resource management skills, qualified accountants and auditor. Increasingly local capacity is slowly being developed with the support of development partners' sponsored technical advisors in key departments and institutions including the Parliament Secretariat; National Audit Office; Finance Department. The Aid Management Unit receives ongoing training on project management.

## **PART III. ASSESSING NATIONAL INSTITUTION CAPACITY FOR ADMINISTRATIVE AND FINANCIAL MANAGEMENT**

### **3.1 Administrative capacity**

#### ***Ability to provide adequate logistical support and infrastructure***

##### *3.1.1 Ability to manage and maintain infrastructure and equipment*

At present logistical infrastructure and equipment is limited but office space and basic utilities and equipment is available. The management and maintenance of equipment is one of the weak points of the institution but there is slow improvement in this regard. The ICT manager keeps a full inventory of equipment and the auditor also inspects and monitors equipment.

##### **3.1.2 Ability to procure goods services and works on a transparent and competitive basis.**

The institution has the ability to procure goods and services although costs are always high because of isolation and transportation costs. The institution also has the ability to enter into contracts and has legal counsel required to provide legal support to protect UNDP and the interests of the Parliament Secretariat.

##### **3.1.3 Ability to recruit and manage the best-qualified personnel on a transparent and competitive basis**

Yes there is ability to do this within the framework of government recruitment procedures and the Parliament Secretariat uses Terms of Reference as basis for recruiting staff and short term consultant which is based on competencies and qualification.

### **3.2 Financial Capacity**

#### ***Ability to ensure appropriate management of funds***

##### *3.2.1 Financial management and funding resources*

The national government budget process is based on a financial year starting from 1 July to 30 June the following. Government manages millions of dollars every year. Physical security for cash is provided by the Finance Department. The institution disburses funds in a timely manner subject to review and approval from approving authorities. Before any payment is processed, a purchase order is produced with supporting documentation. All expenditure requires multiple approvals. For example, Minister and Secretary for Finance have to review all requests for payment and advice and verifications are normally required from requesting institutions. This is to ensure payments requested are within the framework of the project or programme. Fiscal stability and reliability has been a problem in Nauru but since 2004 this

has improved considerably. For example, there is now a director of audit who regularly checks government expenditures to ensure funds are properly expended and accounted for.

### 3.2.2. Accounting System

Financial information and records are kept in Finance Department and the Audit Office. The implementing partner's financial records are kept within the Parliamentary Office by maintaining a record of financial transactions which are then reconciled with the Finance Department and the Aid Management Unit.

### 3.2.3. Knowledge of UNDP financial system

At present there is limited knowledge but should the need to use ATLAS is required, training could be provided by UNDP to support the implementing partner accessing and using ATLAS.

#### Recommendations:

- (1) **It is recommended that:** the project implementation modality be changed from Direct Execution (DIM) to National Execution (NIM) in view of the increased capacity with the Implementing Partner and Finance Department to support
- (2) **It is recommended that:** Implementing Partner and UNDP should agree on the nature of services to be provided by UNPD under the nationally executed project.
- (3) **It is recommended that:** The implementing Partner keeps documentation for all transactions both financial and narrative for reference and future audit proposes.

Annex 4  
**Nauru and UNDP**  
**Constitutional Amendment Project**

**DRAFT PROJECT BUDGET**

Activity	Date	Expense	Amount US\$
1* – Ctee of the Whole considers const amd bills (part of CRP Step 5)	June 2009	Consultant constitutional lawyer fees	42,000
	June 2009	Consultant travel	3,500
	June 2009	Consultant accommodation	1,500
	Aug 2009	Consultant constitutional lawyer fees (for work on transitional provisions, off-island)	8,400
2^ – Preparation for referendum (part of CRP Step 6)	Sep-Nov 09	Consultant constitutional lawyer fees (8 weeks)	40,000
	Sep-Nov 09	Consultant travel	7,000
	Sep-Nov 09	Consultant per diem	8,400
	Aug-Nov 09	Local team of 10 staff 14 weeks	22,000
	Sep 09	Graphic design of Awareness material	4,000

	Sep 09	Printing of Awareness material	6,000
	Sep 09	Freight of awareness material	3,000
	Oct-Nov 09	Fuel (for public meetings)	500
	Oct-Nov 09	Refreshments (for public meetings)	1,000
	Sep-Nov 09	Stationery and consumables	500
3# – Conduct of Referendum	Oct/Nov 09	Consultant (from AEC?) up to two weeks	7,500
	Nov/Dec 09	Consultant travel	3,000
	Nov 09	Printing ballot papers	2,000
	Nov 09	Freight ballot papers	1,500
	Nov/Dec 09	Polling day staff and refreshments (see appendix)	12,400
	Nov/Dec 09	Stationery and consumables	500
TOTAL US\$			174,700

\* for activity 1, the cost of refreshments, printing, stationery etc during Committee of the Whole will be paid for by Parliament Committee budget (GoN contribution)

^ for activity 2, GoN will provide office space and computers to the project free of charge, and will also contribute some stationery and consumables (Parliament) (GoN contribution)

# for activity 3, GoN will approach AEC about possibility of providing assistance free of charge

#### Appendix – Projected Cost of Conduct of Referendum Election

Item	Cost (AUD\$)	No. required	Sub-total
Returning Officer	\$350	1	\$350
Electoral Registrar	\$300	1	\$300
Deputy Electoral Registrar	\$250	1	\$250
Presiding Officer	\$150	18	\$2,700
Poll Clerk	\$100	18	\$1,800
Scrutineers	\$200	36	\$7,200
Gazette Officer	\$150	1	\$150
Computer Team	\$100	8	\$800
Tea Ladies	\$50	2	\$100
Media	\$100	4	\$400
Meals and Refreshments	\$1500	n/a	\$1,500
Total AUD			\$15,550
<b>Total USD</b>			<b>\$12,400</b>

