# **Land Commission**

# Memo

To: Paul de Wit

From: Caleb Stevens

CC: Dr. Jeanette Carter

Date: 11/23/11

Re: Summary of Processes for Obtaining Concessions in the Forestry, Agricultural,

Mining, and Petroleum Sectors of Liberia

This memorandum summarizes, in table form, the processes for obtaining concessions in the forestry, agricultural, mining, and petroleum sectors. The most complex process is for forestry concessions, which involves 58 separate steps plus additional sub-steps as well as approximately 20 different institutions. The processes in the other sectors are also quite lengthy.

#### I. Process for Obtaining a Concession in the Forestry Sector

	Process for Obtaining a Concession in the Forestry Sector				
	Steps in the Process	Responsible	Applicable Law		
		Institution			
<b>1.</b> Na	tional Forest Management Strategy prepared	FDA	Sections 4.4 of		
			National Forestry		
			Reform Law		
1.1.	For Forest Management Contracts, the National Forest Management	FDA	Section 5.3(b) of		
	Strategy must identify the land to potentially be concessioned at the		National Forestry		
	time the concession is offered		Reform Law		
1.2.	For Timber Sales Contracts, the contract must be consistent with the	FDA	Section 5.4(b)(i) of		
	National Forest Management Strategy at the time the concession is		National Forestry		
	awarded		Reform Law		
2. "V	alidate suitability of the area" for concession	FDA	Section 4.5 of		
			National Forestry		
NB: (	Conflicts with Step 9 which only requires feasibility study if ordered by		Reform Law		
the In	ter-Ministerial Concession Commission				
2.1.	Local forestry collected and analyzed	FDA	Section 4.5(c) of		
			National Forestry		
			Reform Law		
2.2.	Ecological data collected and analyzed	FDA	Section 4.5(c) of		

		1	17			
			National Forestry			
			Reform Law			
2.3.	Socio-economic data collected and analyzed	FDA	Section 4.5(c) of			
			National Forestry			
			Reform Law			
2.4.	Report on suitability of concession area prepared	FDA	Section 4.5(c) of			
			National Forestry			
			Reform Law			
2.5.	Comments on report received	Public; Forestry	Section 4.5(d) of			
		Management	National Forestry			
		Advisory Committee	Reform Law			
2.6.	Report reviewed and approved	FDA Board of	Section 4.5(e) of			
		Directors	National Forestry			
			Reform Law			
2.7.	Report implemented	FDA Managing	Section 4.5(f) of			
	• •	Director	National Forestry			
			Reform Law			
<b>3.</b> FD	A Concession Committee created (can be one Concession Committee	FDA	Section 77(1), (2)			
	forestry concessions or one Concession Committee for each		of the Public			
	ssion)		Procurement and			
	,		Concessions Law			
			(PPC Law)			
3.1.	One of the 3-7 members designated	Minister of Finance	Section 77(3) of			
			the PCC Law			
3.2.	Other members designated	FDA	Section 77(3) of			
			the PCC Law			
<b>4.</b> Pre	liminary consultations with affected communities in the form of	FDA	Section 22(a) of			
	nunity Forestry Development Committees conducted		FDA Regulation			
			104-07			
4.1.	Affected communities for proposed concession identified	FDA	Section 22(c) of			
	1 1		FDA Regulation			
			104-07			
4.2.	Appeal of FDA's decision not to include a community may be made	FDA Board of	Section 22(e) of			
	and decision on appeal made	Directors	FDA Regulation			
			104-07			
4.3.	Notice of intent to conduct consultations given to affected	FDA	Section 22(b) of			
	communities		FDA Regulation			
			104-07			
5. Prio	or, free, informed consent for good faith negotiation of social	FDA	Section 22(j) of			
	ment with potential concessionaire obtained from affected		FDA Regulation			
	nunities		104-07			
	ncession Certificate requested from Ministry for Planning and	FDA Concession	Section 77(1)(a) of			
	omic Affairs	Committee	PPC Law; Section			
			31 of FDA			
			Regulation 104-07			
<b>7.</b> Co.	ncession certificate issued to FDA after consultation with FDA and	Ministry for Planning	Sections 76(1), 89			
	s of other ministries/agencies "most directly affected" by the	and Economic	of the PPC Law			
conce	•	Affairs				
	Section 80 of the					
	er-Ministerial Concessions Committee established by written request to esident, and must consist of the following members:	Head of FDA	PCC Law			
	Chairperson of National Investment Commission, Minister of Justice,					
	ter of Finance, Minister of Labor, Minister of Planning and Economic					
	s, Minister of Internal Affairs, 2 other Ministers appointed by the					
	lent, Head of FDA					
	liminary determination of concession "feasibility" may be made if	FDA Concession	Sections 77(1)(b)			
	, accessing the solution of the solution is a single solution of the solut					

require	d by Inter-Ministerial Concessions Committee	Committee	and 103 of PCC
_	·		Law
	onflicts with Step 2 which requires viability study by FDA		
or finar	ermination made whether the concession involves special technical acial demands beyond those normally required and thus whether a velope bidding process is required	FDA	Section 32 of FDA Regulation 103-07
10.1.	If two-envelope system required then concession bid documents	FDA	Sections 51(a) and
	(invitation and instructions) must disclose standards and procedure for opening two envelopes		(e) of FDA Regulation 103-07; Section 33 of FDA Regulation 104-07
<b>11.</b> Cor	ncession Procurement Plan prepared	FDA Concession Committee	Sections 77(1)(c) and 79 of PCC Law; Section 32 of FDA Regulation 104-07
	ncession Procurement Plan submitted to the Public Procurement and	FDA Concession	Section 79(2) of
	sions Commission and Inter-Ministerial Concessions Committee	Committee	PCC Law
consiste	ncession Procurement Plan reviewed for compliance with law and ency with annual concessions plan prepared by the Ministry of and Economic Affairs, and approved	Inter-Ministerial Concessions Committee	Section 82(1)(a) of PCC Law
stakeho	olic stakeholder consultations undertaken in the form of a concession older forum	FDA	Section 90 of PCC Law
Ministe only a s	qualification instructions for bidders prepared (unless Inter- prial Concessions Committee decides that it is "highly likely" that small number of bidders will be interested)  onflicts with FDA Regulation No. 103-07, Section 31, which requires	FDA Concession Committee	Section 77(1)(d) of PCC Law; Section 33 of FDA Regulation 104-07
NAME OF TAXABLE PARTY.	ers to prequalify	ED + C :	G : 50() 1
15.1.	For Forestry Management Contracts of between 50,000 and 99,999 hectares and Timber Sales Contracts bidders must have at least 51% Liberian citizen ownership	FDA Concession Committee	Sections 5.3(g) and 5.4(g) of National Forestry Reform Law
15.2.	Forest Management Contracts of 100,000 to 400,000 hectares open to all Liberian and international investors	FDA Concession Committee	Section 5.3(h) of National Forestry Reform Law
<b>16.</b> Doc	cuments for bid invitations prepared	FDA Concession Committee	Section 77(1)(e) of PCC Law
invitation approve		Inter-Ministerial Concessions Committee	Section 82(1)(d) of PCC Law
<b>18.</b> Pred	qualification invitations sent to bidders, if applicable	FDA Concession Committee	Section 77(1)(f) of PCC Law
<b>19.</b> Pred	qualification of bidders occurs, if applicable		Section 102 and 32(4), (5) of PCC Law
19.1.	Prequalification instructions provided to bidders that responded to the prequalification invitation	FDA Concession Committee	Section 32(5)(a) of PCC Law
19.2.	Prequalification submissions received, including business plan	FDA Concession	Section 102(3) of
	demonstrating technical and financial capacity to hold a concession	Committee	PCC Law; FDA Regulation 103-07, Section 41(b)
19.3.	Prequalification submissions evaluated	Concession Bid Evaluation Panel	Section 102(9) of PCC Law
	NB: Conflicts with FDA Regulation 103-07, Sections 41(d) and		

		ch requires a Prequalification Review Panel to review the		
19.4.	Concess	ification submissions ion Bid Evaluation Panel evaluates results submitted to inisterial Concessions Committee and approved	Inter-Ministerial Concessions Committee	Section 102(9) of PCC Law
19.5.	NB: Cor	fication Certificate Issued  Inflicts with Steps 19.3 and 19.4 above because Bid on Panel should issue the certificate	Prequalification Review Panel	Sections 31(a), 44, 46 of FDA Regulation 103-07
	ncession b	id invitation and other concession bid documents reviewed rs" and approved	Ministry of Justice	Section 104(3) of PCC Law
<b>21.</b> Ge	neral notic	e of investment opportunity is published and provided to nagement stakeholders	FDA	Section 106 of PCC Law; Section 36 of FDA Regulation 104-07; FDA Regulation 101-07
publish	ned, as wel	xpressions of interest delivered to potential bidders and l as provided to certain forest management stakeholders	FDA Concession Committee; FDA	Sections 104(2) and 106 of PCC Law; FDA Regulation 101-07; Section 36 of FDA Regulation 104-07
		documents delivered to bidders and bid invitation is l as provided to certain forest management stakeholders	FDA Concession Committee; FDA	Sections 77(1)(f) and 106 of PCC Law; FDA Regulation 101-07; Section 36 of FDA Regulation 104-07
23.1.		tation documents may state reasonable inspection ns for potential concession area	FDA	Section 41(b) of FDA Regulation 104-07
<b>24.</b> Ind	lependent t	hird party calculates and holds in confidence a reserve bid	FDA	Section 45 of FDA Regulation 104-07
<b>25.</b> Bio	lding occu	rs	FDA Concession Committee	Sections 77, 110, 59, 61, 62, and 63 of PCC Law
25.1.	Determi not be re	nation made as to whether open competitive bidding will equired	Public Procurement and Concession Commission	Section 95(2) of PCC Law
25.2.		nation made as to whether national or international tive bidding will be used	Inter-Ministerial Concessions Committee	Section 96(1) of PCC Law
	25.2.1.	For Forest Management Contracts of less than 100,000 hectares, national competitive bidding may be allowed	FDA	Section 42(a)(2) of FDA Regulation 104-07
	25.2.2.	For Forest Management Contracts of more than 100,000 hectares international competitive bidding must be allowed	FDA	Section 42(b) of FDA Regulation 104-07
	25.2.3.	For Large Scale Commercial Use Contracts national or international competitive bidding must be followed	FDA; Community Forest Management Body	Section 6.3 of Community Rights Law
25.3	Determi will be u	nation made as to whether restricted competitive bidding used	Public Procurement and Concessions Commission	Section 100 of PCC Law

25.4	Determina source ba	ation made whether concessions	on is to be granted on a sole	Cabinet in consultation with the Public Procurement and Concessions Commission	Section 101(1) of PCC Law
	25.4.1.	must be published on the P Concessions Commission v before any negotiations occ	website at least 2 weeks cur	Public Procurement and Concessions Commission	Section 101(2) of PCC Law
25.5.	Determina considere	ation made as to whether an u	unsolicited bid will be	FDA Concession Committee	Section 101(3) of PCC Law
	25.5.1.	If FDA decides to consider request formation of an Intel Committee		FDA Concession Committee	Section 101(3)(c) of PCC Law
	25.5.2.	Concession Bid Evaluation	Panel formed	Inter-Ministerial Concessions Committee	Section 101(3)(c) of PCC Law
	25.5.3.	Independent assessment of qualifications and reputatio and approval granted	on of the bidder" conducted	Concession Bid Evaluation Panel	Section 101(3)(c)(d) of PCC Law
25.6.	Pre-bid conference held for bidders to seek clarification if either FDA Concession Committee or Inter-Ministerial Concessions Committee chose		FDA Concession Committee; Inter- Ministerial Concessions Committee	Section 108 of PCC Law	
25.7.	mail, cour		etronic mail; documents with ed by each member of the	FDA Concession Committee	Sections 77(1)(g), 59(1)(2)(3), 61(2) of PCC Law
		If two-er 25.7.1.	Business plan and supporting documents disclosed by bidder in first envelope	FDA	Section 51(c)(1) of FDA Regulation 103-07
		25.7.2.	For Large Forest Management Concessions, evidence of management capacity disclosed by bidder in first envelope	FDA	Section 51(c)(2) of FDA Regulation 103-07
		25.7.3.	Notarized valid prequalification certificate disclosed by bidder in first envelope	FDA	Section 51(c)(3) of FDA Regulation 103-07
		25.7.4.	Attestation of truth of documents disclosed in first envelope	FDA	Section 51(c)(4) of FDA Regulation 103-07
		25.7.5.	Amount bidder proposes to pay disclosed in second envelope	FDA	Section 51(d) of FDA Regulation 103-07
25.8.	Bidders post bonds for Forest Management Contracts and Timber Sale Contracts		FDA	Section 43(a) of FDA Regulation 104-07	
25.9.		ng done at time and place sta dlso the same time of the dead		FDA Concession Committee	Sections 77(1)(h), 110(1), 61(1) of PCC Law

25.10	N C 1.1.1.1	EDA Com	0
25.10.	Name of each bidder, amount of each bid, discounts or alternatives offered, presence or absence of bid security and "essential supporting documents" are read out loud and recorded, a copy of which is available to each bidder upon request; no decision on the bid can be made at this time	FDA Concession Committee	Section 61(2)(3) of PCC Law
25.11.	Bidders are barred from making "unsolicited" communications with the FDA or from trying in any way to influence the FDA's decision	FDA; FDA Concession Committee	Section 61(4) of PCC Law
	ncession Bid Panel is appointed (National Bureau of Concessions e represented on each Concession Bid Panel)	Inter-Ministerial Concessions Committee (ad hoc for each concession at issue)	Section 111(1) of PCC Law
	Is are evaluated based on criteria set out in bid documents and in ance with bid evaluation criteria in the PCC Law.	Concession Bid Evaluation Panel (ad hoc for each concession at issue)	Sections 111, 112, 113, 114 of PCC Law
27.1.	Bid evaluation report submitted to Inter-Ministerial Concessions Committee, which must include at a minimum: responsiveness of bids to requirements in bid invitation, results of technical and financial evaluation, ranking of bidders, recommendation that highest ranked bidder be asked to negotiate, summary of results of due diligence with due diligence reports	Concession Bid Evaluation Panel	Section 115 of PCC Law
and age	commendations solicited from FDA and "other interested ministries encies" for organization to conduct due diligence of bidders	Concessions Bid Evaluation Panel	Section 116(3) of PCC Law
29. Due are ope	e diligence conducted, and begins "as promptly as possible" after bids ened	Independent organization with "no involvement in preparing any bid relating to the proposed Concession"	Section 116 of PCC Law
29.1.	Minimum requirements of due diligence: authenticity of claimed technical and financial capability, verification that bidder is not disqualified from bidding, verification of legal ability of bidder to carry out bid obligations		Section 116(2) of PCC Law
	nfirm continuing accuracy of information provided by bidder in ance with "customary and international practice"	All entities undertaking obligations to the GOL regarding the concession	Section 116(7) of PCC Law
(1) appr	I Evaluation Report reviewed and one of the following actions taken: prove report, (2) disqualify a bidder, (3) with Cabinet approval, cancel sion bid process (rebidding may be allowed)	Inter-Ministerial Concessions Committee	Section 118 of PCC Law
32. Not Inter-M	tify Public Procurement and Concessions Committee and President of Ministerial Concessions Committee's actions taken on the Bid tion Report	Inter-Ministerial Concessions Committee	Section 118(4)(c) of PCC Law
	nds returned to the unsuccessful bidders	FDA	Section 43(e) of FDA Regulation 104-07
Bank or	nning bidder deposits bond amount in cash in the Liberian Central or other officially designated bank and proof of deposit submitted	FDA	Section 43(f) of FDA Regulation 104-07
<b>35.</b> Orig	ginal bond returned to winning bidder	FDA	Section 43(g) of FDA Regulation

			104-07
	ncession agreement developed	FDA	Section 117(1) of PCC Law
36.1.	Standard contract for Timber-based Forestry Management Contracts and Timber Sale Contracts developed	FDA in consultation with Ministry of Justice	Section 34 of FDA Regulation 104-07
<b>37.</b> Con	ncession agreement submitted by FDA and approved	Inter-Ministerial Concessions Committee	Section 117(1) of PCC Law; Section 34(c) of FDA Regulation 104-07
<b>38.</b> Co	ncession agreement checked as to "legal form"	Minister of Justice	Section 117(1) of PCC Law
Nation	gotiation Team created (must consist of Head of FDA, chairperson of al Investment Commission, Minister of Justice, Minister of Finance, other persons 2 of which must be Cabinet members)	President (with recommendation from the Inter-Ministerial Concessions Committee	Section 118(5) of PCC Law
<b>40.</b> Ne	gotiation Technical Team organized	Negotiation Team	Section 118(6) of PCC Law
Report Law ar bond to	gotiations with highest ranked bidder in Concession Bid Evaluation occur, addressing certain minimum issues required under the PCC and National Forestry Reform Law (e.g. concessionaire must post a pensure performance of work)	Negotiation Team	Section 118(7), 119 of PCC Law; Sections 5.1(e), 5.3, 5.4(b) of National Forestry Reform Law
Sale Co	ial performance bond for Forest Management Contracts and Timber ontracts posted	FDA	Section 61(b) of FDA Regulation 104-07
and lov	djustments in bidder's tax and fiscal obligations are proposed, high vestimates of the impact on government revenues over 25 years and delivered to the President	Negotiation Team (with assistance from Minister of Finance)	Section 119(3) of PCC Law
	vironmental impact assessment and social agreement with affected unities executed	Prospective Holder of Forest Management Contract and Timber Sale Contract; FDA	Sections 1(g), 31 of FDA Regulation 105-07; Section 62 of FDA Regulation 104-07
<b>45.</b> Co	ncession agreement executed	Bidder and "Government"	
45.1.	No execution of Forest Management Contract and Timber Sale Contract until all taxes, fees, bonds, and other financial obligations to the Government are met	"Government"	Section 62 of FDA Regulation 104-07
applica	ncession agreement checked for compliance with PCC Law and other ble laws	Minister of Justice	Section 117(2) of PCC Law
<b>47.</b> Concession agreement given final signature by President and ratification by Legislature		President, Cabinet, and Legislature	Section 117(2) of PCC Law; Section 5.3(f) of National Forestry Reform Law
Use Pe Timber 250,00 more),	e of the following licenses granted to the concessionaire: Major Forest rmit (for use of more than US\$10,000 worth of Forest Resources), Sale Contract, Ordinary Forest Management Contract (less than 0 hectares), large Forest Management Contracts (250,000 hectares or and Large-Scale Commercial Use Contract (as defined in unity Rights Law)	FDA	Sections 5.3(a), 5.4(a), 5.5(d)(i) of National Forestry Reform Law and Sections 1(g) and 2 of FDA Regulation

			1	N 102.07
				No. 103-07; Section 6.3 of
				Community Rights
				Law
<b>49</b> . The	e following docume	ents delivered to the National Bureau of	FDA Concession	Section 92(1) of
		of object of concession, if prequalification of	Committee, Inter-	PCC Law
		who sought prequalification, list of bidders that	Ministerial	
		copies of the bid submissions, requests for bid	Concessions	
		onses, bid evaluation criteria, summary of	Committee	
		qualification submissions, etc.		
		cessions Committee dissolves		Section 83(4) of
				PCC Law
		essionaire monitored to ensure use, harvest and		Section 121 of
		es is sustainable, public complaints handled, and		PCC Law; Section
		d in accordance with concession agreement; copes		8.2 of the National
of all re	eports go to Nation	al Bureau of Concessions		Forestry Reform
F1 1	Eon Franci M.	acomont Contropts		Law
51.1.	51.1.1.	gement Contracts Annual Operations Plan approved	FDA	Section 5.3(e)(i) of
	31.1.1.	Annual Operations Fian approved	IDA	National Forestry
				Reform Law
	51.1.2.	Forest Management Plan approved	FDA	Section 5.3(e)(ii) of
	J1.1.2.	Torest Management Fran approved		National Forestry
				Reform Law
	51.1.3.	Previous logging season annual audit	FDA	Section 5.3(e)(iii)
		requirements met		of National
				Forestry Reform
				Law
	51.1.4.	Annual Harvesting Certificate issued	FDA	Section 5.3(e) of
				National Forestry
				Reform Law
51.2.	For Timber Sale		TTD 4	G .: 5460 C
	51.2.1.	Annual Operations Plan approved	FDA	Section 5.4(f) of
				National Forestry Reform Law
	51.2.2.	Annual Harvesting Certificate issued	FDA	Section 5.4(f) of
	31,2,2,	Aimuai Hai vesting Certificate Issued	TDA	National Forestry
				Reform Law
<b>52.</b> For	est Management C	Contract or Timber Sale Contract holder's name,	Forest Management	Section 5.8 of the
		ea, payments provided by the holder, and date of	Contract or Timber	National Forestry
		n a newspaper of general circulation	Sale Contract Holder	Reform Law
	mmunity Assembly		Affected Community	Section 6.4(a) of
				Community Rights
				Law
		of Community Assembly organized (consisting of	Community	Section 4.1(c) of
		ounty where community is located and four officials	Assembly	Community Rights
elected from community)				Law
<b>55.</b> Co	mmunity Forest M	anagement Body appointed	Community	Section 6.4(b) of
			Assembly	Community Rights
FC 0		Management Diagram	Community E	Law
<b>56.</b> Coi	mmunity Forestry	Management Plan developed	Community Forestry	Section 6.4(c) of
			Management Body	Community Rights
57 Car	mmunity Eassater.	Managament Plan approved	Executive Committee	Law Section 6.4(d) of
37. C01	innumity Forestry	Management Plan approved	of Community	Community Rights
<u> </u>			of Community	Community Rights

	Assembly;	Law
	Community	
	Assembly; FDA	
<b>58.</b> Community Forest Management Plan implemented	Community Forest	Sections 6.4(e),
	Management Body;	4.2(c) and ch. 5 of
	FDA	Community Rights
		Law

### II. Process for Obtaining a Concession in the Agricultural Sector

	Process for Obtaining a Concession in the Agricultural Sector				
	Steps in the Process	Responsible Institution	Applicable Law		
create	nistry of Agriculture (MOA) Concession Committee d (can be one Concession Committee for all agricultural ssions or one Concession Committee for each concession)	MOA	Section 77(1), (2) of the Public Procurement and Concessions Law (PPC Law)		
1.1.	One of the 3-7 members designated	Minister of Finance	Section 77(3) of the PCC Law		
1.2.	Other members designated	MOA	Section 77(3) of the PCC Law		
	ncession Certificate requested from Ministry for Planning conomic Affairs	MOA Concession Committee	Section 77(1)(a) of PPC Law		
MOA	ncession certificate issued to MOA after consultation with and Heads of other ministries/agencies "most directly ed" by the concession	Ministry for Planning and Economic Affairs	Sections 76(1), 89 of the PPC Law		
writte follow Chairy Justice Plann other	er-Ministerial Concessions Committee established by in request to the President, and must consist of the ving members: person of National Investment Commission, Minister of e, Minister of Finance, Minister of Labor, Minister of ing and Economic Affairs, Minister of Internal Affairs, 2 Ministers appointed by the President, Head of MOA	Head of MOA	Section 80 of the PCC Law		
	liminary determination of concession "feasibility" may be if required by Inter-Ministerial Concessions Committee	MOA Concession Committee	Sections 77(1)(b) and 103 of PCC Law		
<b>6.</b> Co	ncession Procurement Plan prepared	MOA Concession Committee	Sections 77(1)(c) and 79 of PCC Law		
7. Concession Procurement Plan submitted to the Public Procurement and Concessions Commission and Inter-Ministerial Concessions Committee		MOA Concession Committee	Section 79(2) of PCC Law		
law ar	ncession Procurement Plan reviewed for compliance with and consistency with annual concessions plan prepared by inistry of Planning and Economic Affairs, and approved	Inter-Ministerial Concessions Committee	Section 82(1)(a) of PCC Law		
<b>9.</b> Pub	olic stakeholder consultations undertaken in the form of a ssion stakeholder forum	MOA	Section 90 of PCC Law		
Inter-	equalification instructions for bidders prepared (unless Ministerial Concessions Committee decides that it is y likely" that only a small number of bidders will be	MOA Concession Committee	Section 77(1)(d) of PCC Law		

interes	ted)		
<b>11.</b> Do	cuments for bid invitations prepared	MOA Concession Committee	Section 77(1)(e) of PCC Law
<b>12.</b> Pre	qualification instructions for bidders and documents for	Inter-Ministerial	Section 82(1)(d) of PCC
	itations submitted to Inter-Ministerial Concessions	Concessions Committee	Law
Comm	ittee and approved		
<b>13.</b> Pre	qualification invitations sent to bidders, if applicable	MOA Concession	Section 77(1)(f) of PCC
		Committee	Law
<b>14.</b> Pre	qualification of bidders occurs, if applicable		Section 102 and 32(4), (5) of PCC Law
14.1.	Prequalification instructions provided to bidders that	MOA Concession	Section 32(5)(a) of PCC
	responded to the prequalification invitation	Committee	Law
14.2.	Prequalification submissions received, including	MOA Concession	Section 102(3) of PCC
	business plan demonstrating technical and financial	Committee	Law
	capacity to hold a concession		
14.3.	Prequalification submissions evaluated	Concession Bid Evaluation	Section 102(9) of PCC
		Panel	Law
14.4.	Concession Bid Evaluation Panel evaluation results	Inter-Ministerial	Section 102(9) of PCC
	submitted to Inter-Ministerial Concessions Committee	Concessions Committee	Law
	and approved		
<b>15.</b> Co	ncession bid invitation and other concession bid	Ministry of Justice	Section 104(3) of PCC
	ents reviewed "as to legal matters" and approved		Law
	neral notice of investment opportunity is published and	MOA	Section 106 of PCC
	ed to certain forest management stakeholders		Law
	quest for expressions of interest delivered to potential	MOA Concession	Sections 104(2) and 106
bidders	s and published, as well as provided to certain forest	Committee; MOA	of PCC Law
manag	ement stakeholders		
<b>18.</b> Bio	l invitation documents delivered to bidders and bid	MOA Concession	Sections 77(1)(f) and
invitati	on is published, as well as provided to certain forest	Committee; MOA	106 of PCC Law
	ement stakeholders		
<b>19.</b> Bio	lding occurs	MOA Concession	Sections, 77, 110, 59,
		Committee	61, 62, and 63 of PCC
			Law
19.1.	Determination made as to whether open competitive	Public Procurement and	Section 95(2) of PCC
	bidding will not be required	Concession Commission	Law
19.2.	Determination made as to whether national or	Inter-Ministerial	Section 96(1) of PCC
	international competitive bidding will be used	Concessions Committee	Law
19.3	Determination made as to whether restricted	Public Procurement and	Section 100 of PCC
46.5	competitive bidding will be used	Concessions Commission	Law
19.4	Determination made whether concession is to be	Cabinet in consultation with	Section 101(1) of PCC
	granted on a sole source basis	the Public Procurement and	Law
	40.44	Concessions Commission	G .: 101(2) 25(2)
	<b>19.4.1.</b> If sole source is followed then copy of the	Public Procurement and	Section 101(2) of PCC
	determination must be published on the	Concessions Commission	Law
	Public Procurement and Concessions		
	Commission website at least 2 weeks before		
10.5	any negotiations occur	MOAG	G
19.5.	Determination made as to whether an unsolicited bid	MOA Concession	Section 101(3) of PCC
	will be considered	Committee	Law
	<b>19.5.1.</b> If MOA decides to consider an unsolicited	MOA Concession	Section 101(3)(c) of
	bid, then request formation of an Inter-	Committee	PCC Law
	Ministerial Concessions Committee		

	19.5.2.	Concession Bid Evaluation Panel formed	Inter-Ministerial	Section 101(3)(c) of
			Concessions Committee	PCC Law
	19.5.3.	Independent assessment of unsolicited bid	Concession Bid Evaluation	Section 101(3)(c)(d) of
		and "the qualifications and reputation of the	Panel	PCC Law
		bidder" conducted and approval granted		
19.6.		conference held for bidders to seek clarification	MOA Concession	Section 108 of PCC
		MOA Concession Committee or Inter-	Committee; Inter-	Law
	Minister	ial Concessions Committee chose	Ministerial Concessions Committee	
19.7.	Bids rec	eived in writing, signed, and sealed envelope by	MOA Concession	Sections 77(1)(g),
17.77		ail, courier, or if MOA approves, electronic	Committee	59(1)(2)(3), 61(2) of
		cuments with details of financial offers must be		PCC Law
		y each member of the bidding team		
19.8.		ning done at time and place stated in the bid	MOA Concession	Sections 77(1)(h),
		ns, which is also the same time of the deadline	Committee	110(1), 61(1) of PCC
10.0		nitting bids	1.50 1.50	Law
19.9.		each bidder, amount of each bid, discounts or	MOA Concession Committee	Section 61(2)(3) of PCC
		wes offered, presence or absence of bid security ential supporting documents" are read out loud	Committee	Law
		rded, a copy of which is available to each		
		pon request; no decision on the bid can be made		
	at this ti			
19.10.		are barred from making "unsolicited"	MOA; MOA Concession	Section 61(4) of PCC
		nications with the MOA or from trying in any	Committee	Law
		nfluence the MOA's decision		
		id Panel is appointed (National Bureau of	Inter-Ministerial	Section 111(1) of PCC
Conces	sions mus	t be represented on each Concession Bid Panel)	Concessions Committee (ad	Law
			hoc for each concession at issue)	
21. Bid	s are evalu	nated based on criteria set out in bid documents	Concession Bid Evaluation	Sections 111, 112, 113,
		e with bid evaluation criteria in the PCC Law.	Panel (ad hoc for each	114 of PCC Law
			concession at issue)	
21.1.	Bid eval	uation report submitted to Inter-Ministerial	Concession Bid Evaluation	Section 115 of PCC
		ions Committee, which must include at a	Panel	Law
		m: responsiveness of bids to requirements in bid		
		n, results of technical and financial evaluation,		
		of bidders, recommendation that highest ranked e asked to negotiate, summary of results of due		
		e with due diligence reports		
22. Rec		tions solicited from MOA and "other interested	Concessions Bid	Section 116(3) of PCC
		encies" for organization to conduct due	Evaluation Panel	Law
diligeno	ce of bidde	ers		
		conducted, and begins "as promptly as	Independent organization	Section 116 of PCC
possible	e" after bio	ds are opened	with "no involvement in	Law
			preparing any bid relating	
			to the proposed	
23.1.	Minim	m requirements of due diligences authenticity of	Concession"	Section 116(2) of DCC
43.1.		m requirements of due diligence: authenticity of technical and financial capability, verification		Section 116(2) of PCC Law
		ler is not disqualified from bidding, verification		Luw
		ability of bidder to carry out bid obligations		
<b>24.</b> Cor		nuing accuracy of information provided by	All entities undertaking	Section 116(7) of PCC
		nce with "customary and international practice"	obligations to the GOL	Law
			regarding the concession	
<b>25.</b> Bid	Evaluatio	n Report reviewed and one of the following	Inter-Ministerial	Section 118 of PCC

actions taken: (1) approve report, (2) disqualify a bidder, (3) with Cabinet approval, cancel concession bid process (rebidding may be allowed)	Concessions Committee	Law
,	T. M. L. L.	G : 110(4)( ) C
<b>26.</b> Notify Public Procurement and Concessions Committee and	Inter-Ministerial	Section 118(4)(c) of
President of Inter-Ministerial Concessions Committee's actions	Concessions Committee	PCC Law
taken on the Bid Evaluation Report		
27. Concession agreement developed	MOA	Section 117(1) of PCC Law
28. Concession agreement submitted by MOA and approved	Inter-Ministerial	Section 117(1) of PCC
	Concessions Committee	Law
29. Concession agreement checked as to "legal form"	Minister of Justice	Section 117(1) of PCC
23. Concession agreement encered as to legar form	TVIIIISTEL OF Sustree	Law
<b>30.</b> Negotiation Team created (must consist of Head of MOA,	President (with	Section 118(5) of PCC
chairperson of National Investment Commission, Minister of	recommendation from the	Law
		Law
Justice, Minister of Finance, and 3 other persons 2 of which must	Inter-Ministerial	
be Cabinet members)	Concessions Committee	
31. Negotiation Technical Team organized	Negotiation Team	Section 118(6) of PCC
		Law
<b>32.</b> Negotiations with highest ranked bidder in Concession Bid	Negotiation Team	Section 118(7), 119 of
Evaluation Report occur, addressing certain minimum issues		PCC Law
required under the PCC Law		
33. If adjustments in bidder's tax and fiscal obligations are	Negotiation Team (with	Section 119(3) of PCC
proposed, high and low estimates of the impact on government	assistance from Minister of	Law
revenues over 25 years prepared and delivered to the President	Finance)	
34. Concession agreement executed	Bidder and "Government"	
35. Concession agreement checked for compliance with PCC	Minister of Justice	Section 117(2) of PCC
Law and other applicable laws		Law
36. Concession agreement given final signature by President and	President; Cabinet; and	Section 117(2) of PCC
ratification by Legislature	Legislature	Law
37. The following documents delivered to the National Bureau of	MOA Concession	Section 92(1) of PCC
Concessions: description of object of concession, if	Committee; Inter-	Law
	Ministerial Concessions	Law
prequalification of bidders the list of bidders who sought		
prequalification, list of bidders that submitted bids, electronic	Committee	
copies of the bid submissions, requests for bid clarification and		
the responses, bid evaluation criteria, summary of evaluation		
results for prequalification submissions, etc.		
<b>38.</b> Inter-Ministerial Concessions Committee dissolves		Section 83(4) of PCC Law
<b>39.</b> Performance of concessionaire monitored to ensure use,		Section 121 of PCC
harvest and transport of forest resources is sustainable, public		Law
complaints handled, and periodic reports submitted in		
accordance with concession agreement; copes of all reports go to		
National Bureau of Concessions		

# III. Process for Obtaining a Concession in the Mining Sector

Process for Obtaining a Concession in the Mining Sector			
Steps in the Process Responsible Institution Applicable Law			
1. For Reconnaissance Licenses, confirm that potential	MLME	Section 5.1(a) of Minerals	
concession area is not already subject to a valid mineral right,		and Mining Law	

other	than a quarry license		
1.1.	For Prospecting, Exploration, Class B, Class C, and	MLME	Sections 5.2(a), 5.3(a), 6.3,
	Quarry Licenses confirm that potential concession area		6.4, 7.3 of Minerals and
	is not already subject to a mineral right		Mining Law
<b>2.</b> Mi	nistry of Lands, Mines, and Energy Concession	MLME	Section 77(1), (2) of the
	mittee created (can be one Concession Committee for all		Public Procurement and
	g concessions or one Concession Committee for each		Concessions Law (PPC
	ssion)		Law)
2.1.	One of the 3-7 members designated	Minister of Finance	Section 77(3) of the PCC
	5		Law
2.2.	Other members designated	MLME	Section 77(3) of the PCC
			Law
<b>3.</b> Co	ncession Certificate requested from Ministry for Planning	MLME Concession	Section 77(1)(a) of PPC
	conomic Affairs	Committee	Law
<b>4.</b> Co	ncession certificate issued to MLME after consultation	Ministry for Planning and	Sections 76(1), 89 of the
with I	MLME and Heads of other ministries/agencies "most	Economic Affairs	PPC Law
	ly affected" by the concession		
	er-Ministerial Concessions Committee established by	Head of MLME	Section 80 of the PCC
	n request to the President, and must consist of the		Law
follov	ving members:		
Chair	person of National Investment Commission, Minister of		
Justic	e, Minister of Finance, Minister of Labor, Minister of		
Plann	ing and Economic Affairs, Minister of Internal Affairs, 2		
other	Ministers appointed by the President, Head of MLME		
<b>6.</b> Pre	liminary determination of concession "feasibility" may	MLME Concession	Sections 77(1)(b) and 103
	de if required by Inter-Ministerial Concessions	Committee	of PCC Law
Comr	nittee		
7 Co	ncession Procurement Plan prepared	MLME Concession	Sections 77(1)(c) and 79 of
7. CO	ncession r tocurement r ian prepared	Committee	PCC Law
& Co	ncession Procurement Plan submitted to the Public	MLME Concession	Section 79(2) of PCC Law
	rement and Concessions Commission and Inter-	Committee	Section 19(2) of 1 ee Law
	terial Concessions Committee	Committee	
	ncession Procurement Plan reviewed for compliance with	Inter-Ministerial	Section 82(1)(a) of PCC
	nd consistency with annual concessions plan prepared by	Concessions Committee	Law
	inistry of Planning and Economic Affairs, and approved	Concessions Committee	Law
	iblic stakeholder consultations undertaken in the form of	MLME	Section 90 of PCC Law
	cession stakeholder forum	THE THE	Section 70 of 1 CC Eat.
	requalification instructions for bidders prepared (unless	MLME Concession	Section 77(1)(d) of PCC
	Ministerial Concessions Committee decides that it is	Committee	Law
	ly likely" that only a small number of bidders will be		
intere			
	,		
<b>12.</b> D	ocuments for bid invitations prepared	MLME Concession	Section 77(1)(e) of PCC
		Committee	Law
	requalification instructions for bidders and documents for	Inter-Ministerial	Section 82(1)(d) of PCC
	vitations submitted to Inter-Ministerial Concessions	Concessions Committee	Law
	mittee and approved		
<b>14.</b> Pr	requalification invitations sent to bidders, if applicable	MLME Concession	Section 77(1)(f) of PCC
		Committee	Law
<b>15.</b> Pr	requalification of bidders occurs, if applicable		Section 102 and 32(4), (5)
15.1.	Tp. 1/2	) m ) m c	of PCC Law
	Prequalification instructions provided to bidders that	MLME Concession	Section 32(5)(a) of PCC

	responded	to the prequalification invitation	Committee	Law
15.2.	Prequalific	ation submissions received, including	MLME Concession	Section 102(3) of PCC
	business pl	an demonstrating technical and financial	Committee	Law
		hold a concession		
15.3.	Prequalific	ation submissions evaluated	Concession Bid Evaluation Panel	Section 102(9) of PCC Law
15.4.	Concession	n Bid Evaluation Panel evaluation results	Inter-Ministerial	Section 102(9) of PCC
	submitted	to Inter-Ministerial Concessions	Concessions Committee	Law
	Committee	and approved		
		invitation and other concession bid	Ministry of Justice	Section 104(3) of PCC
docume	nts reviewed	d "as to legal matters" and approved		Law
		of investment opportunity is published and corest management stakeholders	MLME	Section 106 of PCC Law
<b>18.</b> Req	uest for exp	ressions of interest delivered to potential	MLME Concession	Sections 104(2) and 106 of
		ed, as well as provided to certain forest	Committee; MLME	PCC Law
	ment stakeh			
<b>19.</b> Bid	invitation do	ocuments delivered to bidders and bid	MLME Concession	Sections 77(1)(f) and 106
		ed, as well as provided to certain forest	Committee; MLME	of PCC Law
	ment stakeh	olders		
<b>20.</b> Bidd	ding occurs		MLME Concession	Sections 77, 110, 59, 61,
	T		Committee	62, 63 of PCC Law
20.1.		s A and B Mining Licenses, owner or	MLME	Section 11.4 of Minerals
		occupant" of land where minerals are found		and Mining Law
20.2		nt of first refusal	D.I.I. D.	g : 05(2) SDCCI
20.2.		nation made as to whether open	Public Procurement and	Section 95(2) of PCC Law
20.2		ive bidding will not be required	Concession Commission Inter-Ministerial	Section O(1) of DCC Loss
20.3.		nation made as to whether national or	Concessions Committee	Section 96(1) of PCC Law
20.4.		onal competitive bidding will be used nation made as to whether restricted	Public Procurement and	Section 100 of PCC Law
20.4.		ive bidding will be used	Concessions Commission	Section 100 of FCC Law
20.5.		nation made whether concession is to be	Cabinet in consultation	Section 101(1) of PCC
20.5.		on a sole source basis	with the Public	Law
	granica	ar a bore boarse cubis	Procurement and	2
			Concessions Commission	
	20.5.1.	If sole source is followed then copy of	Public Procurement and	Section 101(2) of PCC
		the determination must be published on	Concessions Commission	Law
		the Public Procurement and		
		Concessions Commission website at		
		least 2 weeks before any negotiations		
		occur		
20.6.		nation made as to whether an unsolicited	MLME Concession	Section 101(3) of PCC
	_	pe considered	Committee	Law
	20.6.1.	If MLME decides to consider an	MLME Concession	Section 101(3)(c) of PCC
		unsolicited bid, then request formation of an Inter-Ministerial Concessions	Committee	Law
		Committee		
	20.6.2.	Concession Bid Evaluation Panel formed	Inter-Ministerial	Section 101(3)(c) of PCC
	40.U.4.	Concession Did Evaluation Fanci formed	Concessions Committee	Law
	20.6.3.	Independent assessment of unsolicited	Concession Bid Evaluation	Sections 101(3)(c), (d) of
	20.0.0	bid and "the qualifications and reputation	Panel	PCC Law
		of the bidder" conducted and approval		- +
		granted		
			1	
20.7.	Pre-bid c	onference held for bidders to seek	MLME Concession	Section 108 of PCC Law

		e or Inter-Ministerial Concessions	Ministerial Concessions	
	Committee		Committee	
20.8.	envelope by approves,	wed in writing, signed, and sealed by hand, mail, courier, or if MLME electronic mail; documents with details of offers must be signed by each member of g team	MLME Concession Committee	Sections 77(1)(g), 59(1)(2)(3), 61(2) of PCC Law; Section 6.7(b) of Minerals and Mining Law
	20.8.1.	For Prospecting License, a proposed work plan must be submitted  NB: Not clear from Minerals & Mining Law when this work plan needs to be	MLME	Section 5.2(d) of Minerals and Mining Law
		submitted, just that it must be done before the Prospecting License is issued		
	20.8.2.	For Class A Mining License, holder of a mineral right completes survey and description of proposed concession area, and "feasibility report" of proposed mining submitted and approved	MLME	Sections 6.5(b), (c), (d) of Minerals and Mining Law
		NB: Not clear when this should be done (e.g. prequalification process?)		
	20.8.3.	For Class A and B Mining Licenses, Environmental Impact Assessment Study submitted	MLME	Section 8.4 of Minerals and Mining Law
20.9.	invitations	ng done at time and place stated in the bid, which is also the same time of the or submitting bids	MLME Concession Committee	Sections 77(1)(h), 110(1), 61(1) of PCC Law
20.10.	or alternation security are read out lo available to	ach bidder, amount of each bid, discounts ives offered, presence or absence of bid ad "essential supporting documents" are oud and recorded, a copy of which is o each bidder upon request; no decision can be made at this time	MLME Concession Committee	Sections 61(2), (3) of PCC Law
20.11.	Bidders ar communic	e barred from making "unsolicited" ations with the MLME or from trying in o influence the MLME's decision	MLME; MLME Concession Committee	Section 61(4) of PCC Law
	21. Concession Bid Panel is appointed (National Bureau of Concessions must be represented on each Concession Bid		Inter-Ministerial Concessions Committee (ad hoc for each concession at issue)	Section 111(1) of PCC Law
	22. Bids are evaluated based on criteria set out in bid documents and in accordance with bid evaluation criteria in the		Concession Bid Evaluation Panel (ad hoc for each concession at issue)	Sections 111, 112, 113, 114 of PCC Law
22.1.	Bid evaluation Concessions minimum: rebid invitation evaluation, rhighest rank	on report submitted to Inter-Ministerial s Committee, which must include at a esponsiveness of bids to requirements in n, results of technical and financial ranking of bidders, recommendation that ed bidder be asked to negotiate, summary due diligence with due diligence reports	Concession Bid Evaluation Panel	Section 115 of PCC Law
23. Reco	23. Recommendations solicited from MLME and "other interested ministries and agencies" for organization to conduct due diligence of bidders		Concessions Bid Evaluation Panel	Section 116(3) of PCC Law

	e diligence conducted, and begins "as promptly as e" after bids are opened	Independent organization with "no involvement in preparing any bid relating to the proposed Concession"	Section 116 of PCC Law
24.1.	Minimum requirements of due diligence: authenticity of claimed technical and financial capability, verification that bidder is not disqualified from bidding, verification of legal ability of bidder to carry out bid obligations	Concession	Section 116(2) of PCC Law
	in accordance with "customary and international	All entities undertaking obligations to the GOL regarding the concession	Section 116(7) of PCC Law
actions with Ca	Evaluation Report reviewed and one of the following taken: (1) approve report, (2) disqualify a bidder, (3) abinet approval, cancel concession bid process ing may be allowed)	Inter-Ministerial Concessions Committee	Section 118 of PCC Law
27. Not	tify Public Procurement and Concessions Committee esident of Inter-Ministerial Concessions Committee's taken on the Bid Evaluation Report	Inter-Ministerial Concessions Committee	Section 118(4)(c) of PCC Law
	ncession agreement developed	MLME	Section 117(1) of PCC Law
	ncession agreement submitted by MLME and approved	Inter-Ministerial Concessions Committee	Section 117(1) of PCC Law
<b>30.</b> Concession agreement checked as to "legal form"		Minister of Justice	Section 117(1) of PCC Law
MLME Ministe	gotiation Team created (must consist of Head of E, chairperson of National Investment Commission, er of Justice, Minister of Finance, and 3 other persons 2 th must be Cabinet members)	President (with recommendation from the Inter-Ministerial Concessions Committee	Section 118(5) of PCC Law
	gotiation Technical Team organized	Negotiation Team	Section 118(6) of PCC Law
Evaluat	gotiations with highest ranked bidder in Concession Bid tion Report occur, addressing certain minimum issues d under the PCC Law	Negotiation Team	Sections 118(7), 119 of PCC Law
34. If a propose revenue	djustments in bidder's tax and fiscal obligations are ed, high and low estimates of the impact on government es over 25 years prepared and delivered to the President	Negotiation Team (with assistance from Minister of Finance)	Section 119(3) of PCC Law
<b>36.</b> Cor	ncession agreement executed ncession agreement checked for compliance with PCC dother applicable laws	Bidder and "Government"  Minister of Justice	Section 117(2) of PCC Law
and rati	ncession agreement given final signature by President ification by Legislature	President, Cabinet, and Legislature	Section 117(2) of PCC Law
37.1.	For Class A Mining Licenses and Exploration Licenses, the "Government" and holder of a mineral right concludes with relevant government agencies a Mineral Development Agreement permitting mining in the proposed concession area, and applicant must be in compliance	MLME; Ministry of Finance; National Investment Commission; Ministry of Justice; President	Sections 5.3, 6.5(a), 6.6(a) of Minerals and Mining Law
	ning License granted to concessionaire except the ng (which are not covered by the PCC Law):		
38.1.	Class A Mining License if issued before PCC Law went into effect, if issued to a holder of a Exploration License granted prior to effective date of Interim		Sections 75(2)(a), (c), (i) of PCC Law

	Durantum for Invited Francisco I improve of the	
	Procedures for Issuing Exploration Licenses of the	
	Commission or prior to PCC Law first being	
	submitted to Legislature, or if issued to an Exploration	
	License holder for land in a Non-Bidding Area and	
	the Exploration License was issued on a first-to-file	
	basis	
38.2.	Class B Mining License if issued before PCC Law	Sections 75(2)(a), (c), (g)
	went into effect, if issued to holder of Prospecting or	of PCC Law
	Exploration License, which itself was issued before	
	PCC Law went into effect, if issued to holder of	
	Prospecting, Exploration, or Class C License which	
	covers a Non-Bidding Area and such license was	
	granted on a first-to-file basis, or if issued to a holder	
	of a Exploration License granted prior to effective	
	date of Interim Procedures for Issuing Exploration	
	Licenses of the Commission or prior to PCC Law first	
	being submitted to Legislature	
38.3.	Class B Mining License if issued before PCC Law	Sections 75(2)(a), (c), (g)
	went into effect, if issued to holder of Prospecting or	of PCC Law
	Exploration License, which itself was issued before	
	PCC Law went into effect, if issued to holder of	
	Prospecting, Exploration, or Class C License which	
	covers a Non-Bidding Area and such license was	
	granted on a first-to-file basis, or if issued to a holder	
	of a Exploration License granted prior to effective	
	date of Interim Procedures for Issuing Exploration	
	Licenses of the Commission or prior to PCC Law first	
	being submitted to Legislature	
38.4.	Class C Mining License if issued before PCC Law	Sections 75(2)(a), (c), (f),
	went into effect or if issued to holder of Prospecting or	(h) of PCC Law
	Exploration License, which itself was issued before	
	PCC Law went into effect, if Class C Mining License	
	is issued to holder of a Prospecting or Exploration	
	License covering a Non-Bidding Area, or if issued to	
	holder of a Class B license which was granted on a	
	first-to-file basis for land covered by a Non-Bidding	
	Area and the rights under the Class B license	
	terminate concurrently with the Class C License	
38.5.	Quarry License if issued before PCC Law went into	Sections 75(2)(a), (c), (f)
	effect or if issued to holder of a Prospecting or	of PCC Law
	Exploration License covering a Non-Bidding Area	333 33
38.6.	Prospecting License if issued before PCC Law went	Section 75(2)(a)(e) of PCC
20.0.	into effect or if for a Non-Bidding Area and granted	Law
	on a first-to-file basis	24
38.7.	Exploration License granted under interim regulation	Section 75(2)(b)(e) of PCC
33.7.	or before PCC Law went into effect, or if for a Non-	Law
	Bidding Area and granted on a first-to-file basis	
38.8.	Mineral Development Agreement entered into before	Section 75(2)(d) of PCC
30.0.	the PCC went into effect with a holder of a	Law
	Exploration License, which itself was issued before	Law
	the PCC Law went into effect (if entered into after	
	PCC Law enters into effect then must comply with	
	Negotiation requirements in Part VI of PCC Law and	
	entered into by entity that has necessary technical and	
	financial capacity, or issued to Exploration License	

holder for non-Bidding Area and the Exploration License was granted on a first-to-file basis (but the Mineral Development Agreement must be negotiated in accordance with Part VI of the PCC Law)		
39. Within 90 days of being issued an Exploration License, concessionaire submits a proposed exploration program to the MLME	MLME	Section 5.3(d) of Minerals and Mining Law
40. The following documents delivered to the National Bureau of Concessions: description of object of concession, if prequalification of bidders the list of bidders who sought prequalification, list of bidders that submitted bids, electronic copies of the bid submissions, requests for bid clarification and the responses, bid evaluation criteria, summary of evaluation results for prequalification submissions, etc.	MLME Concession Committee; Inter- Ministerial Concessions Committee	Section 92(1) of PCC Law
41. Inter-Ministerial Concessions Committee dissolves  42. Performance of concessionaire monitored to ensure use, harvest and transport of forest resources is sustainable, public complaints handled, and periodic reports submitted in accordance with concession agreement; copes of all reports go to National Bureau of Concessions		Section 83(4) of PCC Law Section 121 of PCC Law

## IV. Process for Obtaining a Concession in the Petroleum Sector

Process for Obtaining a Concession in the Petroleum Sector				
	<b>Steps in the Process</b>	Responsible Institution	Applicable Law	
Commi	onal Oil Company of Liberia (NOCAL) Concession ttee created (can be one Concession Committee for all am concessions or one Concession Committee for each action)	NOCAL	Section 77(1), (2) of the Public Procurement and Concessions Law (PPC Law)	
1.1.	One of the 3-7 members designated	Minister of Finance	Section 77(3) of the PCC Law	
1.2.	Other members designated	NOCAL	Section 77(3) of the PCC Law	
	ression Certificate requested from Ministry for Planning onomic Affairs	NOCAL Concession Committee	Section 77(1)(a) of PPC Law	
with NO	ression certificate issued to NOCAL after consultation OCAL and Heads of other ministries/agencies "most affected" by the concession	Ministry for Planning and Economic Affairs	Sections 76(1), 89 of the PPC Law	
4. Interwritten member Chairpe Justice, Plannin	Ministerial Concessions Committee established by request to the President, and must consist of the following	Head of NOCAL	Section 80 of the PCC Law	
	minary determination of concession "feasibility" may be required by Inter-Ministerial Concessions Committee	NOCAL Concession Committee	Sections 77(1)(b) and 103 of PCC Law	

6. Conce	ession Procurement Plan prepared	NOCAL Concession	Sections 77(1)(c) and 79
		Committee	of PCC Law
7. Conce	ession Procurement Plan submitted to the Public	NOCAL Concession	Section 79(2) of PCC Law
	ment and Concessions Commission and Inter-Ministerial ions Committee	Committee	
8. Conce	ession Procurement Plan reviewed for compliance with	Inter-Ministerial	Section 82(1)(a) of PCC
law and	consistency with annual concessions plan prepared by	Concessions Committee	Law
the Mini	stry of Planning and Economic Affairs, and approved		
9. Public	stakeholder consultations undertaken in the form of a	NOCAL	Section 90 of PCC Law
concessi	on stakeholder forum		
<b>10.</b> Preq	ualification instructions for bidders prepared (unless	NOCAL Concession	Section 77(1)(d) of PCC
Inter-Mi	nisterial Concessions Committee decides that it is	Committee	Law
"highly lintereste	likely" that only a small number of bidders will be d)		
<b>11.</b> Doci	uments for bid invitations prepared	NOCAL Concession	Section 77(1)(e) of PCC
	• •	Committee	Law
<b>12.</b> Preq	ualification instructions for bidders and documents for	Inter-Ministerial	Section 82(1)(d) of PCC
bid invit	ations submitted to Inter-Ministerial Concessions	Concessions Committee	Law
Commit	tee and approved		
<b>13.</b> Preq	ualification invitations sent to bidders, if applicable	NOCAL Concession	Section 77(1)(f) of PCC
		Committee	Law
<b>14.</b> Preq	ualification of bidders occurs, if applicable		Section 102 and 32(4), (5)
			of PCC Law
14.1.	Prequalification instructions provided to bidders that	NOCAL Concession	Section 32(5)(a) of PCC
	responded to the prequalification invitation	Committee	Law
14.2.	Prequalification submissions received, including	NOCAL Concession	Section 102(3) of PCC
	business plan demonstrating technical and financial	Committee	Law; Sections 2.4.7(ii),
	capacity to hold a concession		(iii), 6.12.4 of New
			Petroleum Law
14.3.	Prequalification submissions evaluated	Concession Bid	Section 102(9) of PCC
		Evaluation Panel	Law
14.4.	Concession Bid Evaluation Panel evaluation results	Inter-Ministerial	Section 102(9) of PCC
	submitted to Inter-Ministerial Concessions Committee	Concessions Committee	Law
	and approved		
<b>15.</b> Cond	cession bid invitation and other concession bid	Ministry of Justice	Section 104(3) of PCC
documer	nts reviewed "as to legal matters" and approved		Law
	eral notice of investment opportunity is published and	NOCAL	Section 106 of PCC Law
	l to certain forest management stakeholders		
	lest for expressions of interest delivered to potential	NOCAL Concession	Sections 104(2) and 106 of
	and published, as well as provided to certain forest	Committee; NOCAL	PCC Law
	ment stakeholders		
	nvitation documents delivered to bidders and bid	NOCAL Concession	Sections 77(1)(f) and 106
	n is published, as well as provided to certain forest	Committee; NOCAL	of PCC Law;
	ment stakeholders	270.017	<u> </u>
<b>19.</b> Bidd	ing occurs	NOCAL Concession	Sections, 77, 110, 59, 61,
10.5		Committee	62, and 63 of PCC Law
19.1.	Determination made as to whether open competitive	Public Procurement and	Section 95(2) of PCC Law
	bidding will not be required	Concession Commission	
19.2.	Determination made as to whether national or	Inter-Ministerial	Section 96(1) of PCC Law
	international competitive bidding will be used	Concessions Committee	
19.3	Determination made as to whether restricted	Public Procurement and	Section 100 of PCC Law
	competitive bidding will be used	Concessions	
		Commission	

19.4	Determination made whether concession is to be granted on a sole source basis		Cabinet in consultation with the Public Procurement and Concessions Commission	Section 101(1) of PCC Law
	19.4.1.	If sole source is followed then copy of the determination must be published on the Public Procurement and Concessions Commission website at least 2 weeks before any negotiations occur	Public Procurement and Concessions Commission	Section 101(2) of PCC Law
	19.4.2.	Other procedures (evaluation of bid, due diligence, negotiations, etc.) are the same		
19.5.	will be cons	•	NOCAL Concession Committee	Section 101(3) of PCC Law
	19.5.1.	If NOCAL decides to consider an unsolicited bid, then request formation of an Inter-Ministerial Concessions  Committee	NOCAL Concession Committee	Section 101(3)(c) of PCC Law
	19.5.2.	Concession Bid Evaluation Panel formed	Inter-Ministerial Concessions Committee	Section 101(3)(c) of PCC Law
	19.5.3.	Independent assessment of unsolicited bid and "the qualifications and reputation of the bidder" conducted and approval granted	Concession Bid Evaluation Panel	Section 101(3)(c)(d) of PCC Law
	19.5.4.	Procedures for negotiating the concession agreement are the same		
19.6.	clarification	ference held for bidders to seek a if either NOCAL Concession Committee histerial Concessions Committee chose	NOCAL Concession Committee; Inter- Ministerial Concessions Committee	Section 108 of PCC Law
19.7.	by hand, ma electronic n	ed in writing, signed, and sealed envelope ail, courier, or if NOCAL approves, nail; documents with details of financial be signed by each member of the bidding	NOCAL Concession Committee	Sections 77(1)(g), 59(1)(2)(3), 61(2) of PCC Law
	19.7.1.	For Development Licenses, a projected development and production plan, Environmental Impact Study, and commercial feasibility study must be submitted	NOCAL	Sections 6.12.1, 6.12.3 of New Petroleum Law
19.8.	invitations,	g done at time and place stated in the bid which is also the same time of the submitting bids	NOCAL Concession Committee	Sections 77(1)(h), 110(1), 61(1) of PCC Law
19.9.	Name of ea or alternativ security and read out low available to	ch bidder, amount of each bid, discounts ves offered, presence or absence of bid 1 "essential supporting documents" are id and recorded, a copy of which is each bidder upon request; no decision on be made at this time	NOCAL Concession Committee	Section 61(2)(3) of PCC Law
19.10.	Bidders are communica	barred from making "unsolicited" tions with the NOCAL or from trying in influence the NOCAL's decision	NOCAL; NOCAL Concession Committee	Section 61(4) of PCC Law
	ession Bid Pa	nel is appointed (National Bureau of epresented on each Concession Bid Panel)	Inter-Ministerial Concessions Committee	Section 111(1) of PCC Law

		(ad baa far aaab	<u> </u>
		(ad hoc for each concession at issue)	
21 Dida	are evaluated based on criteria set out in bid documents	Concession Bid	Sections 111, 112, 113,
	cordance with bid evaluation criteria in the PCC Law.	Evaluation Panel (ad hoc	114 of PCC Law
and m ac	cordance with old evaluation effectia in the FCC Law.	for each concession at	114 OF FCC Law
		issue)	
21.1.	Bid evaluation report submitted to Inter-Ministerial	Concession Bid	Section 115 of PCC Law
	Concessions Committee, which must include at a	Evaluation Panel	
	minimum: responsiveness of bids to requirements in		
	bid invitation, results of technical and financial		
	evaluation, ranking of bidders, recommendation that		
	highest ranked bidder be asked to negotiate, summary		
	of results of due diligence with due diligence reports		
	mmendations solicited from NOCAL and "other	Concessions Bid	Section 116(3) of PCC
	I ministries and agencies" for organization to conduct	Evaluation Panel	Law
	ence of bidders		
	diligence conducted, and begins "as promptly as	Independent organization	Section 116 of PCC Law
possible"	after bids are opened	with "no involvement in	
		preparing any bid	
		relating to the proposed	
22.1	Minimum magningments of Ju- diliners and and it	Concession"	Section 116(2) of DCC
23.1.	Minimum requirements of due diligence: authenticity of claimed technical and financial capability,		Section 116(2) of PCC Law
	verification that bidder is not disqualified from		Law
	bidding, verification of legal ability of bidder to carry		
	out bid obligations		
<b>24.</b> Confi	rm continuing accuracy of information provided by	All entities undertaking	Section 116(7) of PCC
bidder in accordance with "customary and international practice"		obligations to the GOL	Law
	,	regarding the concession	
<b>25.</b> Bid E	valuation Report reviewed and one of the following	Inter-Ministerial	Section 118 of PCC Law
actions ta	ken: (1) approve report, (2) disqualify a bidder, (3) with	Concessions Committee	
	pproval, cancel concession bid process (rebidding may		
be allowed			
	y Public Procurement and Concessions Committee and	Inter-Ministerial	Section 118(4)(c) of PCC
	of Inter-Ministerial Concessions Committee's actions	Concessions Committee	Law
	the Bid Evaluation Report	NOCAL	G .: 117(1) CDCC
27. Conc	ession agreement developed	NOCAL	Section 117(1) of PCC
28 Com-	ossion correspond submitted by NOCAL and answer-1	Inter-Ministerial	Law Section 117(1) of DCC
<b>40.</b> CONC	ession agreement submitted by NOCAL and approved	Concessions Committee	Section 117(1) of PCC Law
20 Conc	ession agreement checked as to "legal form"	Minister of Justice	Section 117(1) of PCC
₽, COIIC	ession agreement encered as to legal form	William of Justice	Law
<b>30.</b> Nego	tiation Team created (must consist of Head of NOCAL,	President (with	Section 118(5) of PCC
	on of National Investment Commission, Minister of	recommendation from	Law
	Minister of Finance, and 3 other persons 2 of which must	the Inter-Ministerial	
	et members)	Concessions Committee	
	tiation Technical Team organized	Negotiation Team	Section 118(6) of PCC
	-		Law
	tiations with highest ranked bidder in Concession Bid	Negotiation Team;	Section 118(7), 119 of
	on Report occur, addressing certain minimum issues	Hydrocarbon Technical	PCC Law; Section 2.1 of
	under the PCC Law in collaboration with Hydrocarbon	Committee	New Petroleum Law
	l Committee		
	ustments in bidder's tax and fiscal obligations are	Negotiation Team (with	Section 119(3) of PCC
	, high and low estimates of the impact on government	assistance from Minister	Law
revenues	over 25 years prepared and delivered to the President	of Finance)	

oncession agreement checked for compliance with PCC and other applicable laws such as the New Petroleum Law	"Government"  Minister of Justice	
••	Willister of Justice	Section 117(2) of PCC Law; Sections 2.2 of New Petroleum Law
oncession agreement given final approval and signature	President; Cabinet; Legislature; NOCAL; Ministry of Finance; Ministry of Lands, Mines and Energy; National Investment Commission; and attested to by the Ministry of Justice	Section 117(2) of PCC Law; Section 4.5 of New Petroleum Law
	NOCAL	Sections 1.3.8, 1.3.13, 1.3.15 of New Petroleum Law
Reconnaissance exploration and seismic data license are part of all petroleum agreements and must done prior to any other phase of the concession operation		Section 5.1 of New Petroleum Law
A Reconnaissance exploration and seismic data license does not give the holder a right to conclude a petroleum contract for development and exploitation  NB: Seems to conflict with Section 6.12 of New Petroleum Law which gives the holder of an exploration license who has discovered a commercially exploitable		Sections 5.1.7, 5.1.8, 6.7 of New Petroleum Law
hydrocarbon field "the right to obtain a Development Permit"  Concession procedures seem to also apply to permits for	NOCAL	Section 8.4 of New
constructing pipelines to transport hydrocarbons, but law	NOCAL	Petroleum Law
	NOCAL	Section 2.4.23 of New Petroleum Law
essions: description of object of concession, if alification of bidders the list of bidders who sought alification, list of bidders that submitted bids, electronic of the bid submissions, requests for bid clarification and sponses, bid evaluation criteria, summary of evaluation	NOCAL Concession Committee; Inter- Ministerial Concessions Committee	Section 92(1) of PCC Law
		Section 83(4) of PCC Law
rformance of concessionaire monitored to ensure use, st and transport of forest resources is sustainable, public aints handled, and periodic reports submitted in accordance oncession agreement; copes of all reports go to National		Section 121 of PCC Law
	part of all petroleum agreements and must done prior to any other phase of the concession operation  A Reconnaissance exploration and seismic data license does not give the holder a right to conclude a petroleum contract for development and exploitation  NB: Seems to conflict with Section 6.12 of New Petroleum Law which gives the holder of an exploration license who has discovered a commercially exploitable hydrocarbon field "the right to obtain a Development Permit"  Concession procedures seem to also apply to permits for	Ministry of Finance; Ministry of Lands, Mines and Energy; National Investment Commission; and attested to by the Ministry of Justice NOCAL  Reconnaissance exploration and seismic data license are part of all petroleum agreements and must done prior to any other phase of the concession operation A Reconnaissance exploration and seismic data license does not give the holder a right to conclude a petroleum contract for development and exploitation Ilicense who has discovered a commercially exploitable hydrocarbon field "the right to obtain a Development Permit"  Concession procedures seem to also apply to permits for constructing pipelines to transport hydrocarbons, but law is not clear on this point  of ormance bond posted  Refollowing documents delivered to the National Bureau of essions: description of object of concession, if alification, list of bidders that submitted bids, electronic of the bid submissions, requests for bid clarification and sponses, bid evaluation criteria, summary of evaluation of or prequalification submissions, etc.  ter-Ministerial Concessionaire monitored to ensure use, at and transport of forest resources is sustainable, public aints handled, and periodic reports submitted in accordance oncession agreement; copes of all reports go to National