

## Statement of Work

### External Independent Peer Review by the Center for Independent Experts

#### Evaluation of the study:

#### “Recommendations for Excessive Share Limits in the Northeast Multispecies Fishery”

**Scope of Work and CIE Process:** The National Marine Fisheries Service’s (NMFS) Office of Science and Technology coordinates and manages a contract providing external expertise through the Center for Independent Experts (CIE) to conduct independent peer reviews of NMFS scientific projects. The Statement of Work (SoW) described herein was established by the NMFS Project Contact and Contracting Officer’s Representative (COR), and reviewed by CIE for compliance with their policy for providing independent expertise that can provide impartial and independent peer review without conflicts of interest. CIE reviewers are selected by the CIE Steering Committee and CIE Coordination Team to conduct the independent peer review of NMFS science in compliance with the predetermined Terms of Reference (ToRs) of the peer review. Each CIE reviewer is contracted to deliver an independent peer review report to be approved by the CIE Steering Committee, and the report is to be formatted with content requirements as specified in **Annex 1**. This SoW describes the work tasks and deliverables of the CIE reviewer for conducting an independent peer review of the following NMFS project. Further information on the CIE process can be obtained from [www.ciereviews.org](http://www.ciereviews.org).

**Project Description:** The New England Fishery Management Council (NEFMC) has been developing Amendment 18 to the Northeast Multispecies Fishery Management Plan, and as part of the Amendment, has been attempting to define an "excessive share" threshold for the fishery. All federal fishery management plans must comply with National Standard 4 of the Magnuson Act (16 U.S.C. 1851(a)(4)), requiring that fishing privilege allocations be carried out so that "no particular individual, corporation, or other entity acquires an excessive share of such privileges." During the course of the Council’s deliberations, it was decided that additional expertise from an external contractor was needed to help determine if excessive shares exist in the fishery today and describe potential constraints that could prevent excessive shares from existing in the future. In order to provide this expertise, the economic consulting firm Compass Lexecon was contracted to give advice on an appropriate excessive share threshold for the Northeast Multispecies Fishery.

Compass Lexecon defined an “excessive share” as a share of access privileges and/or quota leasing that would allow an entity to influence the prices of fishery outputs to its advantage, or to have market power. The research involved receiving input from fishery stakeholders via surveys and interviews and analyzed NMFS fishery data. Compass Lexecon assessed available models for evaluating the presence of market power, and made recommendations with regard to their appropriateness for setting excessive catch share limits.

The work performed could be controversial. Examination of market power has never been formally investigated in this fishery. It recommended methods for determining excessive shares which might be applied in other fisheries. With the increased prevalence of catch share management systems, determining what constitutes an excessive share and whether limits need to be put in place is extremely important, because excessive shares may lead to market power. Market power can lead to the ability to influence price in either the final product market or in factors of production (i.e. the fish resource). Thus, the study by the Compass Lexecon was innovative and significant.

Compass Lexecon delivered its final report to the NEFMC on December 31, 2013, and a peer review (by the CIE) needs to take place to either endorse or reject their findings. Because Compass Lexecon was contracted by the NEFMC, the Northeast Fisheries Science Center (NEFSC) agreed to coordinate the review of the report on behalf of the NEFMC. The NEFSC has asked the CIE to formally conduct a review of the report.

The Terms of Reference (ToRs) of the peer review are attached in **Annex 2**. The tentative agenda of the panel review meeting is attached in **Annex 3**.

**Requirements for CIE Reviewers:** Three CIE reviewers shall conduct an impartial and independent peer review in accordance with the SoW and ToRs herein. CIE reviewers shall have working knowledge and recent experience in the application of economics, with specific expertise in industrial organization. The reviewers should have theoretical and empirical expertise in the economics of market structure/conduct/performance, particularly monopoly/oligopsony, antitrust, firm strategy, and government regulation. Experience conducting studies using econometric models and/or index-based assessments of market concentration and market power would be useful. Experience with markets operating under government permits such as production permit or marketing orders in agriculture, bandwidth for TV and radio, and tradable permit systems would be desirable. Empirical studies of market structure in renewable resource industries would be desirable as would an understanding of the statutory context for antitrust regulation. Each CIE reviewer's duties shall not exceed a maximum of 16 days to complete all work tasks of the peer review described herein.

Not covered by the CIE, the CIE chair's duties should not exceed a maximum of 16 days (i.e., several days prior to the meeting for document review; the CIE panel meeting; several days following the panel meeting for Summary Report preparation).

**Location of Peer Review:** Each CIE reviewer shall conduct an independent peer review during the panel review meeting. A meeting room has been reserved at the Hawthorne Hotel, 18 Washington Square West, Salem, Massachusetts 01970 on June 12 and 13, 2014.

**Statement of Tasks:** Each CIE reviewer shall complete the following tasks in accordance with the SoW and Schedule of Milestones and Deliverables herein.

## **1. Prior to the Peer Review Meeting:**

Upon completion of the CIE reviewer selection by the CIE Steering Committee, the CIE shall provide the CIE reviewer information (full name, title, affiliation, country, address, email, FAX) to the COTR, who forwards this information to the NMFS Project Contact no later the date specified in the Schedule of Milestones and Deliverables. The CIE is responsible for providing the SoW and ToRs to the CIE reviewers. The NMFS Project Contact is responsible for providing the CIE reviewers with the background documents, reports, foreign national security clearance, and other information concerning pertinent meeting arrangements. The NMFS Project Contact is also responsible for providing the Chair (see below) a copy of the SoW, background documents and final report in advance of the panel review meeting. Any changes to the SoW or ToRs must be made through the COTR prior to the commencement of the peer review.

Foreign National Security Clearance: When CIE reviewers participate during a panel review meeting at a government facility, the NMFS Project Contact is responsible for obtaining the Foreign National Security Clearance approval for CIE reviewers who are non-US citizens. For this reason, the CIE reviewers shall provide requested information (e.g., first and last name, contact information, gender, birth date, passport number, country of passport, travel dates, country of citizenship, country of current residence, home country, and FAX number) to the NMFS Project Contact for the purpose of their security clearance, and this information shall be submitted at least 30 days before the peer review in accordance with the NOAA Deemed Export Technology Control Program NAO 207-12 regulations available at the Deemed Exports NAO website: <http://deemedexports.noaa.gov/sponsor.html>.

Pre-review Background Documents: Approximately two weeks before the peer review, the NMFS Project Contact will send (by electronic mail or make available at an FTP site) to the CIE reviewers the necessary background information and reports for the peer review. In the case where the documents need to be mailed, the NMFS Project Contact will consult with the CIE Lead Coordinator on where to send documents. CIE reviewers are responsible only for the pre-review documents that are delivered to the reviewer in accordance to the SoW scheduled deadlines specified herein. The CIE reviewers shall read all documents in preparation for the peer review.

## **2. During the Panel Meeting**

Panel Review Meeting: Each CIE reviewer shall conduct the independent peer review in accordance with the SoW and ToRs, and shall not serve in any other role unless specified herein. **Modifications to the SoW and ToRs can not be made during the peer review, and any SoW or ToRs modifications prior to the peer review shall be approved by the COR and CIE Lead Coordinator.** Each CIE reviewer shall actively participate in a professional and respectful manner as a member of the meeting review panel, and their peer review tasks shall be focused on the ToRs as specified herein. The NMFS Project Contact is responsible for any facility arrangements (e.g., conference room for panel review meetings or teleconference arrangements).

The NMFS Project Contact is responsible for ensuring that the Chair understands the contractual role of the CIE reviewers as specified herein. The CIE Lead Coordinator can contact the Project Contact to confirm any peer review arrangements, including the meeting facility arrangements.

(Review Meeting Chair)

A member of the New England Fishery Management Council's Scientific and Statistical Committee will serve as Chairperson. The role of the Chair is to facilitate the meeting, which includes coordination of presentations and discussions, and making sure all Terms of Reference are reviewed. Additionally, the Chair shall prepare the summary report from the meeting. During the meeting, the Chair can ask questions or make statements to clarify discussions, and he can move the discussion along to ensure that the CIE reviewers address all of the TORs.

(CIE Reviewers)

Each CIE reviewer shall participate as a peer reviewer in a panel discussion centered on a report furnished to the NEFMC by Compass Lexecon regarding excessive shares in the Northeast Multispecies Fishery. Reviewers are to determine whether the findings of the Technical Group are valid given the Terms of Reference provided to the expert panel. If reviewers consider the recommendations of the expert panel to be inappropriate, the reviewers should recommend an alternative.

(Compass Lexecon)

A representative from Compass Lexecon shall provide a presentation of their final report. During the question and answer period, the Compass Lexecon representative will be available to answer questions about the report. The CIE members can provide feedback to Compass Lexecon at that time.

(Other Panel Members)

A staff representative from the NEFMC and from the NEFSC Social Sciences Branch will be available during the meeting to provide any additional information requested by the CIE reviewers. These other panel members may assist the Chair in preparing the summary report, if requested.

(Public)

Day 1 of the panel meeting will be open to the public to attend as observers. The agenda will allow for limited public comment.

### 3. After the Open Meeting

Contract Deliverables - Independent CIE Peer Review Reports: Each CIE reviewer shall complete an independent peer review report in accordance with the SoW. Each CIE reviewer shall complete the independent peer review according to required format and content as described in Annex 1. Each CIE reviewer shall complete the independent peer review addressing each ToR as described in Annex 2.

Other Tasks – Contribution to Summary Report: The Chair from the SSC and CIE reviewers will prepare the Peer Review Summary Report. Each CIE reviewer will discuss whether they hold similar views on each Term of Reference and whether their opinions can be summarized into a single conclusion for all or only for some of the Terms of Reference. For terms where a similar view can be reached, the Summary Report will contain a summary of such opinions. In cases where multiple and/or differing views exist on a given Term of Reference, the Report will note that there is no agreement and will specify - in a summary manner – what the different opinions are and the reason(s) for the difference in opinions.

The Chair’s objective during this Summary Report development process will be to identify or facilitate the finding of an agreement rather than forcing the panel to reach an agreement. The Chair will take the lead in editing and completing this report. The Report (please see Annex 1 for information on contents) should address whether each Term of Reference was completed successfully. For each Term of Reference, this report should state why that Term of Reference was or was not completed successfully.

**Specific Tasks for CIE Reviewers:** The following chronological list of tasks shall be completed by each CIE reviewer in a timely manner as specified in the **Schedule of Milestones and Deliverables**.

- 1) Conduct necessary pre-review preparations, including the review of background material and reports provided by the NMFS Project Contact in advance of the peer review.
- 2) Participate during the panel review meeting in Salem, Massachusetts during June 12-13, 2014 as specified herein, and conduct an independent peer review in accordance with the ToRs (**Annex 2**).
- 3) No later than 27 June, 2014, each CIE reviewer shall submit an independent peer review report addressed to the “Center for Independent Experts”, and the report should be sent to Mr. Manoj Shivilani, CIE Lead Coordinator, via email to shivlanim@bellsouth.net, and Dr. David Sampson, CIE Regional Coordinator, via email to david.sampson@oregonstate.edu. Each CIE report shall be written using the format and content requirements specified in **Annex 1**, and address each ToR in **Annex 2**.

**Schedule of Milestones and Deliverables:** CIE shall complete the tasks and deliverables described in this SoW in accordance with the following schedule.

5 May 2014	CIE sends reviewer contact information to the ST Coordinator, who then sends this to the NMFS Project Contact
26 May 2014	NMFS Project Contact sends the CIE Reviewers the pre-review documents
<b>12-13 June 2014</b>	Each reviewer participates and conducts an independent peer review during the two-day panel review meeting
27 June 2014	CIE reviewers submit draft CIE independent peer review reports to the CIE Lead Coordinator and CIE Regional Coordinator
7 July 2014	Draft of Summary Report, reviewed by all CIE reviewers, due to panel Chair *
14 July 2014	Panel Chair send final Summary Report, approved by CIE reviewers, to NEFSC contact
14 July 2014	CIE submits CIE reports to the ST Coordinator
21 July 2014	The ST Coordinator distributes the final CIE reports to the NMFS Project Contact and regional Center Director

\*The Summary report will not be submitted, reviewed, or approved by the CIE

**Modifications to the Statement of Work:** Requests to modify this SoW must be approved by the Contracting Officer at least 15 working days prior to making any permanent substitutions. The Contracting Officer will notify the COR within 10 working days after receipt of all required information of the decision on substitutions. The COR can approve changes to the milestone dates, list of pre-review documents, and ToRs within the SoW as long as the role and ability of the CIE reviewers to complete the deliverable in accordance with the SoW is not adversely impacted. The SoW and ToRs shall not be changed once the peer review has begun.

**Acceptance of Deliverables:** Upon review and acceptance of the CIE independent peer review reports by the CIE Lead Coordinator, Regional Coordinator, and Steering Committee, these reports shall be sent to the COR for final approval as contract deliverables based on compliance with the SoW and ToRs. As specified in the Schedule of Milestones and Deliverables, the CIE shall send via e-mail the contract deliverables (CIE independent peer review reports) to the COR (William Michaels, via William.Michaels@noaa.gov).

**Applicable Performance Standards:** The contract is successfully completed when the COTR provides final approval of the contract deliverables. The acceptance of the contract deliverables shall be based on three performance standards:

- (1) each CIE report shall be completed with the format and content in accordance with **Annex 1**,
- (2) each CIE report shall address each ToR as specified in **Annex 2**,
- (3) the CIE reports shall be delivered in a timely manner as specified in the schedule of milestones and deliverables.

**Distribution of Approved Deliverables:** Upon acceptance by the COR, the CIE Lead Coordinator shall send via e-mail the final CIE reports in \*.PDF format to the COR. The COR will distribute the CIE reports to the NMFS Project Contact and Center Director.

**Support Personnel:**

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**Key Personnel:**

NMFS Project Contact:

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NEFMC Staff Contact:

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## **Annex 1: Format and Contents of CIE Independent Peer Review Report**

1. The CIE independent report shall be prefaced with an Executive Summary providing a concise summary of the findings and recommendations in accordance with the ToRs.
2. The main body of the reviewer report shall consist of a Background, Description of the Individual Reviewer's Role in the Review Activities, Summary of Findings for each ToR in which the weaknesses and strengths are described, and Conclusions and Recommendations in accordance with the ToRs.
  - a. Reviewers should describe in their own words the review activities completed during the panel review meeting, including providing a brief summary of findings, of the science, conclusions, and recommendations.
  - b. Reviewers should discuss their independent views on each ToR even if these were consistent with those of other panelists, and especially where there were divergent views.
  - c. Reviewers should elaborate on any points raised in the Summary Report that they feel might require further clarification.
  - d. Reviewers shall provide a critique of the NMFS review process, including suggestions for improvements of both process and products.
  - e. The CIE independent report shall be a stand-alone document for others to understand the weaknesses and strengths of the science reviewed, regardless of whether or not they read the summary report. The CIE independent report shall be an independent peer review of each ToRs, and shall not simply repeat the contents of the summary report.
3. The reviewer report shall include the following appendices:
  - Appendix 1: Bibliography of materials provided for review
  - Appendix 2: A copy of the CIE Statement of Work
  - Appendix 3: Panel Membership or other pertinent information from the panel review meeting.

## **Annex 2: Terms of Reference for the Peer Review**

### **Evaluation of the study: “Recommendations for Excessive-Share Limits in the Northeast Multispecies Fishery”**

The peer review shall be conducted based on the following Terms of Reference (ToRs):

1. Describe the method or process used by Compass Lexecon for determining the maximum possible allowable percentage share of the market for fishery access privileges and/or quota leasing that would prevent an entity from obtaining an excessive share of access privileges allocated in the Northeast Multispecies Fishery.
2. Evaluate the strengths and weaknesses of the proposed method or process developed by Compass Lexecon (e.g., whether defining excessive shares in terms of market power is appropriate and adequate). Evaluate whether the approach outlined by Compass Lexecon is reasonable for setting excessive share limits in fisheries managed through catch shares in general. As part of this TOR, comment on any constraints that may hinder application of the proposed approach.
3. Evaluate application of the proposed methods or process to the Northeast Multispecies Fishery. Are Compass Lexecon’s conclusions regarding market power in both the final product (seafood) and production (quota) market valid and based on appropriate economic principles? If there is disagreement with what Compass Lexecon recommended, clearly state that and your reason why.
4. Review and comment on the data requirements necessary for applying the proposed methods or process.
5. Provide any recommendations for further improvement.

### **Annex 3: Tentative Agenda**

#### **Evaluation of the study: “Recommendations for Excessive-Share Limits in the Northeast Multispecies Fishery”**

Location: Hawthorne Hotel, 18 Washington Square West, Salem, MA 01970

Date: June 12-13, 2014 (two day)

#### **Day 1: Thursday June 12**

- 9:00 Opening, Panel Chair (SSC representative)
- Welcome
  - Introduction
  - Agenda overview
  - Conduct of meeting
- 9:15 Background and Need for Compass Lexecon Report, NEFMC Staff (Rachel Feeney)
- 9:25 Background of Compass Lexecon Report and Introduction of Compass Lexecon, NMFS Project Contact (Chad Demarest)
- 9:35 Report of Compass Lexecon (Steve Peterson and/or Glenn Mitchell)
- 10:10 Break
- 10:25 Review of Terms of Reference – CIE Panel
- 10:45 Public Comment
- 11:00 CIE Panel Discussion – ToR #1
- 12:00 Lunch
- 1:00 CIE Panel Discussion – ToR #2
- 1:45 CIE Panel Discussion - ToR #3
- 3:00 Break
- 3:15 CIE Panel Discussion - ToR #4
- 3:45 CIE Panel Discussion – ToR #5
- 4:15 Public Comment
- 4:30 CIE Panel Discussion – Outstanding Issues
- 5:00 Adjourn

#### **Day 2: Friday June 13**

- 8:00 – 2:30 CIE Report Writing – (Only Panel Members, NEFMC and NEFSC staff are admitted)