



Mekong River Commission Secretariat

**REQUEST FOR PROPOSAL
No. RFP18-063**

**ANNUAL EXTERNAL INDEPENDENT AUDIT OF THE LOWER MEKONG
BASIN WETLAND MANAGEMENT AND CONSERVATION (LMB WMC)
PROJECT/ MRC ACCOUNTS FROM 2016 to 2020**

Vientiane, Lao PDR, June 2018

SECTION I

INVITATION FOR PROPOSALS

ANNUAL EXTERNAL INDEPENDENT AUDIT OF THE LOWER MEKONG BASIN WETLAND MANAGEMENT AND CONSERVATION (LMB WMC) PROJECT/ MRC ACCOUNTS FROM 2016 to 2020

The Mekong River Commission Secretariat (hereinafter “the Employer”) hereby invites sealed Proposals from eligible Consultants for the consultancy services called “[Annual External Independent Audit of the Lower Mekong Basin Wetland Management and Conservation \(LMB WMC\) Project/ MRC Accounts from 2016 To 2020](#)” in accordance with the terms and conditions mentioned in the Request for Proposal.

This Request for Proposal (RFP) has been addressed to the following shortlisted Consultants branches in the Lower Mekong Basin region (Cambodia, Lao PDR, Thailand and Vietnam):

- Deloitte Limited
- Ernst & Young Limited
- KPMG
- PricewaterhouseCooper

It is not permissible to send this invitation to any other firm.

A firm will be selected under the Quality and Costs Based Selection (QCBS) and procedures described in this RFP, following the Mekong River Commission (MRC) regulations, detailed in the MRC’s Procurement Manual which can be found at: <http://www.mrcmekong.org/working-with-mrc/tenders/>.

This Request for Proposal (RFP) includes the following documents:

Section I	Invitation for Proposals
Section II	Instructions to Bidders
Section III	Terms of Reference
Section IV	Evaluation Criteria
Section V	Technical Proposal Forms
Section VI	Financial Proposal Forms
Section VII	Draft Contract

The tender (1 original and 5 copies in case of submission in sealed envelopes) shall be submitted to MRC Procurement Unit not later than **6 July 2018, 3:00 PM local time** by courier or e-mail to:

Mekong River Commission Secretariat
Administration Division
Procurement Unit
P.O. Box 6101, Unit 18 Ban Sithane Neua,
Sikhottabong District, Vientiane 01000, Lao PDR.
Tel: (856) 21 263 263; Fax: (856) 21 263 264
Email: procurement@mrcmekong.org

And, please inform us by writing at the address stated above, upon receipt :

- a) That you received the Letter of Invitation, and
- b) Whether you will submit a proposal alone or in association.

Yours Faithfully,

Naruepon Sukumasavin
Director
Administration Division
Mekong River Commission Secretariat
Vientiane, Lao PDR

SECTION II

INSTRUCTION TO BIDDERS

1. Proposal to be considered

- a. **Eligibility:** Proposals which comply with the conditions and terms as stipulated in the Request for Proposal documents will be considered.

This Request for Proposal (RFP) has been addressed to the following shortlisted Consultants branches in the Lower Mekong Basin region (Cambodia, Lao PDR, Thailand and Vietnam)

- Deloitte Touche Tohmatsu Limited
- Ernst & Young Limited
- KPMG
- PricewaterhouseCooper

It is not permissible to send this invitation to any other firm.

- b. **Conflict of Interest:** MRC considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations.
- c. **Amendment of RFP:** At any time before the submission of Proposals, MRC may amend the RFP by issuing an addendum in writing or by standard electronic means. Consultants having informed MRC about their intention to submit a proposal will be informed directly. Any changes will be posted on MRC's website. MRC reserves the right to extend the submission deadline if the amendment is substantial.

2. Procurement package

The RFP consists of a single package.

3. Clarification

Request for clarifications should be made in writing and sent to the Procurement Unit at procurement@mrcmekong.org.

Deadline for requests for clarifications is 14 days before the deadline for submission of the tender bids.

All MRCS replies will be in writing and posted on the MRC's website: www.mrcmekong.org under the section "Tenders".

4. Language of the Proposal

The Proposals prepared by the bidders and all correspondence and documents relating to the Proposal exchanged by the bidders and the MRCS shall be written in the English language. Any printed literature furnished by the bidders may be written in another language so long as accompanied by an English

translation of its pertinent passages in which case, for purposes of interpretation of the Proposal, the English translation shall govern.

5. Proposal Currencies.

All prices shall be quoted in US dollars.

6. Period of Validity of Proposals

Proposals shall remain valid for 120 days after the date of Proposal submission prescribed by the MRC.

7. Submission of Proposals

7.1 Sealing and Marking of Proposals

The proposals shall be submitted in one outer sealed envelope containing two separate sealed envelopes, one envelope containing the Technical Proposal(s) and one envelope containing the Financial Proposal(s). The outer envelope shall be clearly marked “**Proposal: RFP No. 18-063 MRCS External Audit 2018 - Lower Mekong Basin Wetland Management and Conservation Project; - DO NOT OPEN BEFORE SUBMISSION DEADLINE**”. The two sealed inner envelopes shall be marked “Technical Proposal(s)” and “Financial Proposal(s)” respectively. The sealed envelope shall be addressed to the Mekong River Commission Secretariat at the following address:

Mekong River Commission Secretariat
Administration Division
Procurement Unit
P.O. Box 6101, Unit 18 Ban Sithane Neua,
Sikhottabong District, Vientiane 01000, Lao PDR.
Tel: (856) 21 263 263; Fax: (856) 21 263 264
Email: procurement@mrcmekong.org

Alternatively, bidders are allowed to submit their proposal by email. Bidders who intend to submit electronic proposals must follow the following submission instructions:

- Bidders can submit a proposal by email. The proposal shall be separated in two files: one for technical proposal and one for financial proposal.
- The file for the financial proposal shall be protected by a password which shall be kept with the bidders. If the company passed the technical requirement threshold MRC would then request the password to open the financial proposal file. However, if the company loses the password or in case the file could not be opened the MRC would not assume responsibility.
- The file shall be in the form of MS word or MS excel (MS Office 2003 at least) or PDF version 7.
- Please send the electronic proposal to procurement@mrcmekong.org
- Please be aware that bids or proposals emailed to the MRCS will be rejected if they are received after the deadline for bid submission. As an email may take some time to arrive after it is sent, especially if it contains a lot of information, we advise all bidders to send email submissions well before the deadline.

- Maximum size for electronic submission: The maximum size per email that MRC can receive is 10MB. Bidders may need to split proposals into parts to fit this limit.

Please note that the proposal must be arrive in the aforementioned mail box before the submission deadline

7.2 Deadline for Submission of Proposals

The deadline for submission of the bids is **2 July 2018 3:00 PM** local time (Vientiane's time).

Proposals should contain details of the criteria for the selection mentioned below. The bid shall be prepared in English and one (1) original and five (5) copies must be submitted. The sealed bid envelope must be received by the Mekong River Commission Secretariat on or before the hour and date fixed for receipt of bids, in accordance with the invitation for bids.

7.3 Confirmation of participation

The company who is willing to submit their proposal should confirm by fax/email to MRCS procurement unit at least 14 days before the deadline for submission of proposals.

8. Late Proposals

Any proposal received by MRCS's procurement unit after the deadline for submission of Proposals will be rejected.

9. Criteria for Selection.

The Method of Selection is QCBS (Quality and Costs Based Selection).

a) Evaluation of Technical Proposal:

The evaluation panel will fully evaluate the Technical Proposals. The panel will determine which of the Technical Proposals pass the minimum agreed technical score specified in the Section IV.

After the evaluation of Technical Proposals has been completed, the MRCS will notify those Consultants whose proposals did not pass the minimum technical score or were considered to be non-responsive to the TOR.

b) Evaluation of Financial Proposal:

Proposals that exceed the indicated budget shall be rejected before any further evaluation.

The financial evaluation shall be based on the lowest price of those bidding firms which submitted responsive Technical Proposals. The formula for determining the financial scores is the following:

$S_f = 100 \times F_m / F$, in which S_f is the financial score, F_m is the lowest price and F the price of the proposal under consideration.

c) Final evaluation and negotiations:

The final ranking of the proposals will be based on the quality of technical proposals and lowest cost.

The total score will be calculated as the weighted sum of the technical and financial scores, with the weights given to the technical and financial scores being:

70/30 where the technical proposal = 70 and the financial proposal = 30.
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With regard to contract negotiations the MRCS reserves the right to invite the next-ranked firm to negotiate, if negotiations with the first-ranked firm do not result in a contract.

Bidders who pass the minimum score, but are unsuccessful based on the calculation of the technical and financial scores, will be notified after the contract with the winner has become effective.

10. Association

Proposals submitted by an association of two or more firms as partners shall comply with the stipulations:

- (i) The Proposal shall be signed so as to be legally binding on all partners.
- (ii) One firm shall be nominated as the lead firm of the association.
- (iii) The lead firm shall be liable for the execution of the Contract in accordance with the Contract terms.
- (iv) The lead firm shall receive instructions for and on behalf of any and all partners.

11. Rejection of proposals

Should any Proposal fail to comply with the terms and conditions stipulated in this Request for Proposals, or be incomplete, conditional or obscure, or contain additions not called for or irregularities of any kind, or does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score indicated in Section II-9 (a) above, it may be rejected as non-responsive.

MRCS reserves the right to accept or reject any proposal, and to annul the bidding process and reject all proposals at any time prior to contract award, without thereby incurring any liability to the bidders.

SECTION III

TERMS OF REFERENCE

ANNUAL EXTERNAL INDEPENDENT AUDIT OF THE LOWER MEKONG BASIN WETLAND MANAGEMENT AND CONSERVATION (LMB WMC) PROJECT/ MRC ACCOUNTS FROM 2016 to 2020 SUPPORTED BY THE KREDITANSTALT FUR WIEDERAUFBAU (KfW) AND REVIEW THE INTERNAL CONTROL, RULES, REGULATIONS, AND PROCEDURES

I. BACKGROUND

The Mekong River Commission (MRC) was established by the 1995 *Agreement on Co-operation for the Sustainable Development of the Mekong River Basin*, between the governments of Cambodia, Laos, Thailand and Viet Nam. In accordance with this Agreement, the mission of the MRC is: “To promote and coordinate sustainable management and development of water and related resources for the countries’ mutual benefit and the people’s well-being by implementing strategic programmes and activities and providing scientific information and policy advice.”

Wetland inventory and ecosystem functions and services assessment are important steps in ensuring good planning for effective management of wetlands in the LMB countries for the benefit of enhancing resource protection and sustainable use of wetlands. The review of the past LMB wetland activities and ongoing discussions with the Member Countries shows that there are knowledge gaps and needs for methodology for assessment of wetlands ecosystem functions and services. Thus, in some Member Countries generating basic wetland inventory remains essential to provide comprehensive and up-to-date data on wetland resources, based on which effective management plans can be drawn. In other countries, where basic inventory data already exist, wetland ecosystem assessment methodology is needed to provide improved in-depth assessment of wetland functions such as providing aquatic and wildlife habitat and other ecosystem services, including climatic regulation, water purification as well as resource pools upon which local communities depend for livelihoods through sustainable harvest.

In an effort to improve and understand the use and value of wetland resources, the current Environmental Management Division of the MRCS is in the process of planning a series of activities aiming at directly quantifying **wetland values** in the LMB and assessing how these values may change in the future as a result of development and subsequent hydrological change. Although several wetland inventory programs in the LMB were implemented in the past by former MRCS EP and/or other international, regional and national organizations. they were implemented at some sporadically selected areas and/or for different purposes. Therefore, there is a need for more consistent and comprehensive inventories across the LMB.

The newest data and information of the Mekong River basin land cover classification (MRC, 2010), including wetland classification, have been available since 2007 whereas the wetland inventory at the national level was promoted by former MRCS EP since the 1995 Mekong Agreement. However, lack of a standardized classification system for the whole LMB has resulted in different methods and criteria of wetland classification being used among the four countries (MRC 2001). Similarly, the lack of a standardized methodology and framework for wetland inventory and ecosystem assessment results in difficulty to update wetland status in the LMB using an effective database where wetland status can be better monitored and thereby improving effectively management. Therefore, the former MRCS EP is

continuing the improvement of a wetland inventory framework and methodology for the LMB wetlands. The developed framework and methodology would be used as the guideline/manual or tool for updating and **assessing wetland values** and status to support basin-wide management and planning towards the goal of sustaining wetlands, people's livelihood and food security.

Previously, wetland quality monitoring and management was an important component of the former MRCS EP 2011-2015. Wetland activities were planned under the former MRCS EP Implementation Plan (PIP) Output 1.1, Activity 1.1.4 '*Monitor changes in wetland area and quality*', including an ongoing activity on development of a *Wetlands Inventory Framework and Methodology for the Lower Mekong Basin*. In the new MRC Strategic Plan 2016-2020, these activities are under output 3.9 (Methodology for sustainable use and management of wetland developed and implementation supported) of outcome 3 and under the responsibility of MRCS Environmental Management Division (MRCS ED).

The overall objective of the regional component of this Project is *to develop methodology for sustainable use and effective management of wetland resources in the LMB*. This overall objective is broken down into the following specific objectives:

- **Objective 1:** Review and update the MRC wetland database, information and maps, as well as updating of the wetland inventories and databases for the selected pilot sites;
- **Objective 2:** Develop and test methodology for inventory and assessment of wetland ecosystem functions and services as well as for prioritisation of sensitive wetland sites (environmental hotspots); and
- **Objective 3:** Capacity building through exchanges of experiences and lessons on wetland inventory, ecosystem functions assessment and management among the LMB countries.

The German Ministry for Economic Cooperation and Development through KfW funds the project part II (the "Part II Financial Contribution") of **EUR1,000,000.00** in equivalent to **US\$1,200,000.00** become available after the effectiveness of the financial agreement signed on 14 January 2016 between the Kreditanstalt Fur Wiederaufbau (KfW) and the Mekong River Commission (MRC).

The audit assignment will cover only the LMB WMC's accounts funded by the KfW from 1st January 2016 to 31st December 2017 including relevant internal control mechanisms. The accounts and records of the concerned Programme are located at the MRC Secretariat Office in Vientiane, 184 Fa Ngoum Road, Unit 18, Vientiane, Lao PDR (OSV).

The below table indicates the available project cost and financing plan:

Description	Amount of the Grant allocated in (US\$)	Amount of the Grant allocated in (EUR)
Implementing the Regional component	1,092,000	910,000
Contingency (9%)	108,000	90,000
Total Amount:	1,200,000	1,000,000

Detailed information about the MRC organizational structure and the Programmes can be found on our website: <http://www.mrcmekong.org/about-the-mrc/>

II. AUDIT PURPOSE

These TORs will be part of the contract to be signed with the auditing firm.

The objective of the audit of Fund(s), including the Special Account opened with the Public Bank Berhad (Vientiane Branch, Lao PDR) is to permit the auditor to express an opinion on the financial reports (i.e. status of accounts and cumulated statement as defined in Annex “Disbursement Procedure” of the Separate Agreement) and statements of expenditures based on **the Procedure of tranche payments**. Such expenditures have been made under the financial position of KfW- grant No. MK 2016 01, for financing of the Lower Mekong Basin Wetland Management and Conservation project.

Furthermore, this audit assignment is also to provide the governing body of the MRC’s LMB WMC and the KfW with an audit opinion on whether the LMC WMC’s financial statements give a “true and fair” view of the financial status of the said project. The external audit service is also expected to go beyond giving assurance on the accounts to express an opinion on the management’s assertions that they comply with laws, regulations and financing agreement and that resources are managed in accordance with:

- The MRC financial regulations, rules, practices and procedures;
- The terms and conditions of the KfW’s financing agreement;
- The MRC procedures and standards for accounting, financial management and reporting of MRC projects; and
- Internationally accepted accounting standards.

The annual audit will be conducted for each financial year (01 January to 31 December) from 2016 to 2020. The audit schedule will be as following:

Audit period to be covered

1 st Audit	1 st January 2016 to 31 st December 2017
2 nd Audit	1 st January 2018 to 31 st December 2018
3 rd Audit	1 st January 2019 to 31 st December 2019
4 th Audit	1 st January 2020 to 31 st December 2020

Note: During the First Audit Period, the total expenditure was USD86,708.28 (or EUR78,390.08 equivalent), which was only 7.8% of total budget.

III. AUDIT SCOPE

The audit will be conducted in accordance with International Standards on Auditing (ISA) as published by the International Auditing and Assurance Standards Board of the International Federation of Accountants, with special reference to ISA 800 (Auditor's Report on Special Purpose Audit Engagements) and will include such tests and controls as the auditor considers necessary. The auditor must bear in mind, that for the establishment of the audit opinion, he has to carry out a compliance audit and not a normal statutory audit.

The Auditor also includes the assessing the accounting principles used and significant estimates made by the management, as well as evaluating the overall financial statement presentation.

The preparation of the financial reports and the statements of expenditures on the cash receipts and disbursements basis of accounting is the responsibility of the Project-Executive Agency. The financial information has to be established in accordance with consistently applied Accounting Standards and the underlying financing agreement including the corresponding Separate Agreement.

The auditor's opinion, established in the audit opinion report, will explicitly state whether:

- (a) Payments of the Fund(s) have been made in accordance with the conditions of the relevant (loan/financing) agreement(s) and the corresponding Separate Agreement. Where ineligible expenditures are identified, these should be noted separately.
- (b) Tranche of the Fund (s) has been maintained in accordance with the provisions of the (financing) agreement and Separate Agreement (including the Supplementary Conditions of KfW for payments under the Procedure of tranche payment). This also comprises interest earned from the balances.
- (c) Expenditures are supported by relevant and reliable evidence. All supporting documents and records with respect to the statements of expenditure submitted as the basis for withdrawal applications have been made available.
- (d) The Audited statements of expenditures can be relied upon to support the related withdrawal requests. Clear linkage should be exit between the statements of expenditures, the withdrawal requests presented to KfW and accounting records.
- (e) Goods and services financed have been procured in accordance with the relevant (financing) agreement and Separate Agreement.

IV. AUDIT DUTIES AND RESPONSIBILITIES

The audit procedures should include the following points:

Project Financial Statements

The auditor should verify that the financial statements have been prepared in accordance with the International Public-Sector Accounting Standards ("Financial Reporting under the Cash Basis of

Accounting). In addition, the audit reports will include all aspects specified in the preceding paragraph (“Scope”). The financial statements should include:

- (a) A statement of cash receipts and payments for the entire project period ended 31st December of each year;
- (b) A schedule showing the balance of the special account(s) and all sub-accounts (if any) at the beginning and the end of the audit period;
- (c) In addition, the auditor shall appraise and quantify the consequences of specific deficiencies, if any.
- (d) Accounting policies and explanatory notes; and
- (e) When the entity makes publicly available its approved budget, a comparison of budget and actual amounts either as a separate additional financial statement or as a budget column in the statement of cash receipts and payments; and
- (f) If consider pertinent, the auditor will in addition prepare a “**Management Letter**”, in which the auditor will:
 - i. Give comments and observations on the accounting records, systems and controls examined during the course of the audit (as far as necessary for the understanding of the financial reports and the statement of expenditures;
 - ii. Identify specific deficiencies and areas of weakness in systems and controls of the Project-Executing Agency that have come to the auditor’s attention, especially with regards to withdrawal, procurement, storage and payment transactions, and make recommendations for their improvements;
 - iii. Report on actions taken by the management of the Project-Executing Agency to make improvements with respect to deficiencies and areas of weakness reported in the past; and
 - iv. Bring to the Project-Executing Agency’s attention any other matters that the auditor considers pertinent.

The explanatory notes should include reconciliation between the amounts shown as "received by the project from the KfW and that disbursed by the KfW and a summary of movements on the project’s Designated Account; and a comparison of the project budget to accumulated receipts and expenditure (by consecutive no. and description of individual measures) since the commencement of the project.

Review of Designated Accounts

During the audit of the project financial statements, the auditor is required to review the activities of the project’s designated account(s). Activities to be examined will include deposits received, payments made, interest earned and reconciliation of period-end balances.

Briefing with the MRC Management/Concerned Staff

- **The Management Staff** (Chief Executive Officer, Director of Administration, Director of Environment Division, Chief of Financial Officer, Chief of Strategic and Partnership and Chief of Human Resources Section) for project being audited under their portfolio: its scope, the experience with the project, strengths and weaknesses of implementation capacity and audit history, if any.
- **The Programme Staff** (where applicable) for familiarization with the system, procedures and monitoring, evaluation and reporting activities.
- **The Administration and Finance Staff** for familiarization with the financial accounting and reporting systems, the procurement systems, and internal controls, including the processing of payments.

V. OUTPUTS

Six audit reports for *paper-based and electronic* are required for:

1. The auditor will issue an audit opinion on the financial statements.
2. In addition to the audit opinion, the auditor will also report, either in the audit report or in the report to management:
 - (a) provide comments and observations on the accounting records, systems, and controls that were examined during the course of the audit;
 - (b) identify specific deficiencies and areas of weakness in systems and controls and make recommendation for their improvement;
 - (c) report on instances of non-compliance with the terms of the financing agreement, including ineligible expenditure;
 - (d) quantify and report expenditures that are considered to be ineligible and either paid out of the designated account or which have been claimed from the KfW;
 - (e) communicate matters that have come to attention during the audit which might have a significant impact on the implementation of the project; and
 - (f) bring to the project's attention any other matters that the auditor considers pertinent.

A written report on the auditors' work shall be provided by the auditing firm on completion of the audit together with the final invoice to MRC. This report will include an overview of the auditor's staff having worked on this assignment and overview of the auditor's activities.

VI. TIMETABLE

The auditors must undertake the following activities in the MRC Secretariat in Vientiane, Lao PDR as follows:

- The **1st audit** will tentatively commence by **15 July 2018**. The 2nd, 3rd, and 4th Audit shall be commenced no later than 1st February of the following year. The MRC Secretariat will provide access to all relevant documents and files on the projects in order to enable the auditors to conduct the audit in an efficient manner;
- Consult with relevant units as necessary;

- Obtain and analyze existing documentation;
- Review the procedures and systems currently in use;
- Perform detailed test-checks on accounts and documents;
- Write the audit report with the recommendation for action;
- Present and discuss the findings of the audit to the parties concerned (debriefing to senior management) and incorporate their comments in the report; and
- Submit **the final audit reports of the 1st Audit** in English no later than **31 August 2018** to the MRC Secretariat Office in Vientiane (OSV).
- Submit **the final audit reports of the 2nd, 3rd, and 4th Audits** in English no later than **15th March** of the audited year to the MRC Secretariat Office in Vientiane (OSV).

The Auditing firm is expected to submit a clear methodology and work plan for these audit assignments.

VII. QUALIFICATIONS AND EXPERIENCE

The selected auditing firm can mobilize the required number of qualified staff to fulfill the project's requirements. However, the assigned audit team shall consist of at least one Audit Partner or Director who will be responsible for overall management and quality assurance of the project, one Audit Manager and two Senior Auditors. These are key experts for this contract who have crucial role in implementing the contract. At least one qualified Chartered Accountant or Certified Public Accountant shall work full time on the project. The field audit team must be headed by a Chartered/Certified Public Accountant.

a) General requirements of the Auditing firm:

- Be a legal entity with business license granted by appropriate authority
- Be an entity acceptable to the KfW as technically competent, independent and able to comply with International Standards on Auditing and have adequate quality control to ensure compliance with ISA and other requirements.
- Experience in financial auditing in the public sector.
- Experience in auditing in the region and Lao PDR.
- Experience in financial auditing of KfW and/or donor funded projects.

b) General requirements of the audit team:

- Be currently employed in the Audit profession;
- Be independent and free from conflicts of interest in the responsibilities accorded to them. They should immediately declare if there is any possible conflict of interest with the entity audited (the MRC);
- Have sound understanding of the accounting, auditing, and regulatory principles and procedures applicable to the government projects financed by such multilateral funding institutions in developing countries;
- Be familiar with the MRC's accounting routines, rules and regulations and the MRC's or KfW's rules on administrative matters would be an advantage; and
- Be fluent in English and possess excellent writing skills in English.

c) *Specific requirements:*

Key expert 1: Audit Partner or Director

Qualifications and skills

- The expert possessing relevant university or equivalent qualifications and being authorized to certify the accounts by the law of the country in which the contractor has its registered place of business.
- The expert must be a member of a recognized accounting and audit professional institute. His/her membership will be proven by an attestation¹ from the relevant professional institute or by any other form of registration of the expert as member of that institute. A university degree in accounting/audit/finance is not sufficient.
- Knowledge of the community development aid in the four Riparian Countries (Cambodia, Lao PDR, Viet Nam and Thailand) would be an asset.

General experience

- The expert assuming or having assumed important responsibilities in the audit.

Specific experience

- The expert having at least 15 years of professional experience in financial and system's audit, including a minimum of 5 years of experience in external audit of the projects financed by the Development Partners.

Key expert 2: Audit Manager

Qualifications and skills

- The expert possessing relevant university or equivalent qualifications.
- If the expert is a Chartered/Certified Public Accountant, his/her membership will be proven by an attestation from the relevant professional institute. A university degree in accounting/audit/finance is not sufficient.

General experience

- The expert assuming or having assumed responsibilities in audit including experience of leading an audit team

Specific experience

- The expert having at least 5 years of professional experience in external financial and system's audit.

Key expert 3 and 4: Senior Auditors

Qualifications and skills

- The expert possessing relevant university or equivalent qualifications.
- If the experts are Chartered/Certified Public Accountants, their membership will be proven by an attestation² from the relevant professional institute. A university degree in accounting/audit/finance is not sufficient.

General experience

- The expert assuming responsibilities in audit, including experience of leading an audit team.

Specific experience

1 To be annexed to the CV of the expert concerned together with the offer.

2 To be annexed to the CV of the expert concerned together with the offer.

- At least 3 years of professional experience in external financial and system's audit.

Other experts

Assistant Auditors: Qualified experts possessing relevant university or equivalent qualifications and up to three years' professional experience in auditing or technical and administrative staff of at least three-year standing with the contractor.

Support staff and backstopping

Backstopping costs are considered to be included in the contract price.

VIII. OTHER INFORMATION

- Office accommodation of a reasonable standard is to be provided by the MRC Secretariat with access to the office equipment such as a photocopier, fax machine, printer and telephone line to the extent to which this is possible.
- Facilities to be provided by the Consultant
- The Consultant shall ensure that audit team is adequately supported and equipped. In particular, it shall ensure that there is sufficient administrative, secretarial and interpreting provision to enable the experts to concentrate on their primary responsibilities.
- No equipment is to be purchased on behalf of the Contracting Authority as part of this service contract.

SECTION IV

TECHNICAL EVALUATION CRITERIA

No	Criteria	Max. Score	Company			
			A	B	C	D
1	Organisation and methodology	27				
	+ <i>Understanding and analysis of the TOR</i>	7				
	+ <i>Methodology and approach</i>	10				
	+ <i>Workplan (timetable of activities & inputs by team members)</i>	10				
2	Quality of key personnel	55				
	a) Audit Partner or Director	17				
	+ <i>Qualifications and skills (at least postgraduate qualification in accounting or auditing and be a member of international recognized Professional Accounting or Auditing Bodies)</i>	5				
	+ <i>General professional experience (at least 15 years of professional experience in financial auditing with substantial experience in auditing public sector clients)</i>	5				
	+ <i>Specific professional experience (at least 5 years of experience in a leadership role)</i>	7				
	b) Audit Manager	17				
	+ <i>Qualifications and skills (at least postgraduate qualification in accounting or auditing and be a member of international recognized Professional Accounting or Auditing Bodies)</i>	5				
	+ <i>General professional experience (at least 10 years of professional experience in financial auditing with substantial experience in auditing public sector clients)</i>	5				
	+ <i>Specific professional experience (at least 5 years of experience in a leadership role)</i>	7				
	c) Senior Auditor	15				
	+ <i>Qualifications and skills (at least undergraduate qualification in accounting or business and finance related fields and be a member of international recognized Professional Accounting or Auditing Bodies)</i>	5				
	+ <i>General professional experience (at least 5 years of professional experience in financial auditing and auditing of financial statements with substantial experience in auditing public sector clients)</i>	5				
	+ <i>Specific professional experience (at least 3 years in a lead position in charge of audit teams)</i>	5				
	d) Auditor	6				
	+ <i>Qualifications and skills</i>	3				
	+ <i>General professional experience (At least 3 years of professional experience in auditing as a member of an audit team, preferably in auditing public sector clients)</i>	3				
3	Company's experience with regional development organisations and audit of organisations executing projects funded by multiple donors	10				
4	Knowledge on MRC's rules, regulations and management system (accounting, payroll) and UN's rule on administrative matters	5				
5	Overall quality of the proposal (presentation, language)	3				
	TOTAL TECHNICAL SCORE	100				

Note:

The acceptable threshold for technical proposals is set at a **minimum score of 70 points out of 100 points**. Technical proposals which do not reach this minimum score will not be considered for financial evaluation.

SECTION V

TECHNICAL PROPOSAL FORMS

FORM TECH-1 TECHNICAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: Mekong River Commission Secretariat P.O. Box 6101, 184 Fa Ngoum Road, Unit 18,
Ban Sithane Neua, Sikhottabong District, Vientiane 010000, Lao PDR.

Ladies and gentlemen,

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

If negotiations are held during the period of validity of the Proposal, i.e., before [Insert Date], we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from contract negotiations.

We understand you are not bound to accept any Proposal you receive.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

FORM TECH-2 STATEMENT OF AVAILABILITY

[Insert Supplier logo and paper heading]

STATEMENT OF AVAILABILITY

To: Mekong River Commission Secretariat
Procurement Office

Date: _____
Ref. No.: _____

Dear Mr Naruepon Sukumasavin, Administration Division Director

Subject: *[Insert title of assignment]* _____

I (We), the undersigned

State that the proposed named expert(s) listed below is/are available to carry out the services relating to the Request for Proposal mentioned above as from, for the period initially envisaged in the proposal submitted.

No	Expert's Name	Title/Position	Duration
1			
2			
3			
4			
5			
...			

I (We) understand that failure to make the named expert(s) listed above available for the performance of the services may lead to the cancellation of the Contract if the justification provided for the personnel change is not accepted by the Mekong River Commission Secretariat in advance

Signature and stamp: _____

Name on behalf of the Bidder: _____

Title: _____

Date: _____

SECTION VI

FINANCIAL PROPOSAL FORMS

FORM FIN-1 FINANCIAL PROPOSAL SUBMISSION FORM

[Location, Date]

To: Mekong River Commission Secretariat P.O. Box 6101, 184 Fa Ngoum Road, Unit 18,
Ban Sithane Neua, Sikhottabong District, Vientiane 010000, Lao PDR

Ladies and gentlemen,

We, the undersigned, offer to provide the consulting services for [Insert title of assignment] in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of [Insert amount(s) in words and figures¹].

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal.

No commissions or gratuities have been or are to be paid by us to agents relating to this Proposal and Contract execution.

We understand you are not bound to accept any Proposal you receive.
We remain,

Yours sincerely,
Authorized Signature [In full and initials]:
Name and Title of Signatory:
Name of Firm:
Address:

¹ Amounts must coincide with the ones indicated under Total Cost of Financial Proposal in Form FIN-2.

FORM FIN-2 BREAKDOWN OF COSTS

No.	MRC BL	Description	Unit Price	Quantity	Total in USD
I	Remuneration (*)				
		Engagement Partner or Director			
		Audit Manager			
		Senior Auditors			
		Audit Team			
Sub-Total (I)					
II	Other costs				
		Regional/International Airfares (Economy class)			
		DSA			
		Other expenses, including visa and land transportation			
Sub-Total (II)					
Grand Total (I+II)					

- (*) Fees must cover:

- The remuneration actually paid to the concerned expert(s) per working day;
- Administrative costs of employing the expert(s);
- Service provider's overheads, profit and backstopping facilities

SECTION VII

DRAFT CONTRACT

MEKONG RIVER COMMISSION CONTRACT

[Insert Contract Number/Current Year]

[Insert title of assignment]

The Mekong River Commission Secretariat (hereinafter referred to as “the Employer”), wishes to engage *[Insert company/organization/institution]*, duly incorporated under the Laws of ***[Insert the name of the country]*** (hereinafter referred to as the "Contractor") in order to perform services in respect of the *[Insert title of assignment]* (hereinafter referred to as the “Services”), in accordance with the following Contract:

1. Contract Documents

- 1.1 This Contract is subject to General Conditions of contract for Professional Services attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled “Special Conditions”.
- 1.2 The Consultant and the Employer also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
 - a) this letter including Annex I;
 - b) the Terms of Reference for the Service, attached hereto as Annex II.
 - c) the breakdown of costs as Annex III.
 - d) the proposal from the Consultant, attached hereto as Annex IV.
- 1.3 All the above shall form the Contract between the Consultant and the Employer, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

2. Obligations of the Consultant

- 2.1 The Consultant shall perform and complete the Services described in Annex II with due diligence and efficiency and in accordance with the Contract.
- 2.2 The Consultant shall provide the services of the following key personnel:

Name	Area of Expertise	Position Assigned

- 2.3 Any changes in the above key personnel shall require prior written approval of the Chief Executive Officer of the MRCS, and the Employer.
- 2.4 The Consultant shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.
- 2.5 The Consultant has to submit to the Employer the deliverables specified hereunder according to the following schedule:

List of Deliverables	Delivery Dates
[Insert e.g. Progress Report]	[Insert Date]
[Insert e.g. Final Report]	[Insert Date]

- 2.6 All reports shall be written in the English language, and shall follow the technical specifications provided in the Guideline for the preparation of Sub-area Profiles. All reports shall be transmitted by the Consultant by courier to the address of the Employer specified in 9.1 below.
- 2.7 The Consultant represents and warrants the accuracy of any information or data provided to the Employer for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

3. Price and Payment

- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, the Employer shall pay the Consultant a fixed contract price of **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Consultant in the performance of the Contract.
- 3.3 Payments effected by the Employer to the Consultant shall be deemed neither to relieve the Consultant of its obligations under this Contract nor as acceptance by the Employer of the Consultant's performance of the Services.

- 3.4 The Employer shall effect payments to the Consultant after acceptance by the Employer of the original invoices and receipt submitted by the Consultant to the address specified in 9.1 below, upon achievement of the corresponding milestones and for the following amounts:

MILESTONE ³	AMOUNT	TARGET DATE
[Insert milestone]	[Insert amount]	[Insert date]

4. Special Conditions

- 4.1 No special conditions shall apply.

5. Submission of Invoices

- 5.1 All original and signed invoices shall be submitted by the Consultant for the payment under the contract to MRC’s Procurement Unit, address as mentioned in clause 9.
- 5.2 Invoices submitted by fax or copies of invoice shall not be accepted by the Employer.

6. Time and Manner of Payment

- 6.1 Invoices shall be paid within thirty (30) days of the date of their acceptance by the Employer. The Employer shall make every effort to accept an invoice or so advise the Consultant of its non-acceptance within a reasonable time from receipt.
- 6.2 All payments shall be made by the Employer to the following bank account of the Consultant:

Bank name:
 Bank address:
 Account name:
 Account number:
 Swift code:

7. Entry into Force, Time Limits

- 7.1 The Contract shall enter into force upon its signature by both parties.
- 7.2 The Contractor shall commence the performance of the Services not later than **[INSERT DATE]** and shall complete the Services by **[INSERT DATE]**.

³ If an advance payment is granted, define the first milestone as "upon signature of the contract by both parties". Please note that advance payments should be granted only in exceptional cases, and that they must comply with the Employer policies and procedures.

7.3 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

8. Modifications

8.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Consultant and Chief Executive Officer, the Employer.

9. Notifications

9.1 For the purpose of notifications under the Contract, the addresses of the Employer and the Consultant are as follows:

For the Employer:

Mekong River Commission Secretariat

Finance and Administration Unit

Procurement Unit

P.O. Box 6101, 184 Fa Ngoum Road, Unit 18,

Ban Sithane Neua, Sikhottabong District, Vientiane 01000, Lao PDR

Telephone: +856 21 263 263, Facsimile: +856 21 263 264

Email: huong@mrcmekong.org

For the Consultant:

[INSERT COMPANY NAME, ADDRESS AND TELEX, FAX AND CABLE NUMBERS]

If the above terms and conditions meet with your agreement as they are typed in this Contract Documents, please initial every page of this contract and its attachments and return to this office one original of this Contract, duly signed and dated.

Mekong River Commission Secretariat

Consultant

Chief Executive Officer

Date:

Date:

Clearance by:

Finance Officer

Funds are available and obligated:

Chief, Finance and Administration Section
Project Code:

ANNEX I
GENERAL CONDITIONS OF CONTRACT
FOR PROFESSIONAL SERVICES

Article 1 - Independent Contractor

Nothing contained in this Contract shall be construed as establishing or creating between the Employer and the Contractor the relationship of master and servant, principal and agent or employer and employee; it being understood that the Contractor is an independent Contractor in relation to the Employer. No person engaged by the Contractor in connection with the performance of any obligation under this Contract shall be regarded as an agent, servant, employee of the Employer, and the Contractor shall be solely responsible for all claims by such persons arising out of or in connection with their engagement by the Contractor. The Contractor shall inform such persons of the foregoing.

Article 2 - Contractor's General Responsibilities

1. The Contractor shall perform its obligations under this Contract with due diligence and efficiency and in conformity with sound professional, administrative and financial practices.
2. The Contractor shall act at all times so as to protect, and not be in conflict with, the interests of the Employer, and shall take all reasonable steps to keep all costs and expenses at a reasonable level.
3. The Contractor shall be responsible for work or services performed by its agents, servants, employees, subcontractors and independent contractors in connection with this Contract. To this end, and without limiting the generality of the foregoing, the Contractor shall select reliable persons who will perform effectively, respect local customs and conform to the highest standards of professional, moral and ethical conduct.
4. The Contractor shall respect and abide by all applicable laws, regulations and ordinances of Cambodia and shall take all reasonable measures to ensure that its agents, servants, employees, subcontractors and independent contractors do.

Article 3 - Assignment of Personnel

Other than persons specifically named in this Contract, no person shall be assigned by the Contractor to work or perform services in connection with this Contract until after the Contractor has notified the Employer of the identity of such proposed persons and has provided the Employer with their curricula vitae, and the Employer has notified the Contractor that the Employer approves of such assignments.

Article 4 - Removal of Personnel

1. Upon notice by the Employer, the Contractor shall forthwith withdraw any person assigned to work or perform services in connection with this Contract and shall assign new persons in accordance with the provisions of Article 3. Such withdrawal or replacement shall not be a cause for suspension of the contract.
2. Any costs or expenses resulting from any withdrawal or replacement of persons pursuant to paragraph 1 of this Article 4 shall be borne by the Contractor.

Article 5 - Employee's Compensation and other Insurance

1. The Contractor shall take out and maintain:
 - (a) all applicable employee's compensation and liability insurance with respect to its agents, servants and employees performing work or services in connection with this Contract;
 - (b) liability insurance in an appropriate amount for death, bodily injury or damage to property arising from the operation of any vehicles, boats or airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees, subcontractors and independent contractors performing work or services in connection with this Contract;
 - (c) comprehensive general liability insurance in an appropriate amount for all claims for death, bodily injury or damage to property, including, but not limited to, products liability, arising from acts performed or omissions committed by the Contractor, its agents, servants, employees, subcontractors and independent contractors in connection with this Contract; and
 - (d) such other insurance as may be agreed upon between the Employer and the Contractor.
2. Upon request by the Employer, the Contractor shall provide evidence, to the reasonable satisfaction of the Employer, of the insurance referred to above and shall give the Employer reasonable advance notice of any proposed changes related to such insurance.
3. The Employer undertakes no responsibility to provide life, health, accident, travel or any other insurance coverage, which may be necessary or desirable in respect of any persons performing services in connection with this Contract.

Article 6 - Encumbrances

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any third party to be placed on file or to remain on file in any public office or on file with the Employer against any money due or to become due for any work done or services rendered in connection with this Contract, or by reason of any claim or demand against the Contractor.

Article 7 - Source of Instructions

The Contractor, its agents, servants, employees, subcontractors and independent contractors, shall neither seek nor accept instructions from any authority external to the Employer in connection with the performance of their obligations under this Contract, and shall refrain from any action which may adversely affect the Employer. The Contractor shall take all reasonable measures to ensure that its agents, servants, employees, subcontractors and independent contractors comply with the Provisions of this Article.

Article 8 - Prohibition of Conflicting Activities

The Contractor and its personnel shall not engage in any business or other activity that conflicts with performance of duties under this Contract.

Article 9 - Officials not to Benefit

The Contractor warrants that no Employer official has been or will be, directly or indirectly, offered or given any inducement or benefit in connection with this Contract or the award thereof.

Article 10 - Subcontracting

The Contractor shall engage no subcontractor to perform any work or services in connection with this Contract unless the Contractor shall have notified the Employer of the identity of the proposed subcontractor and the Employer shall have notified the Contractor of its approval of the engagement of the subcontractor. The approval by the Employer of the engagement of a subcontractor shall not relieve the Contractor of any of its obligations under this Contract or from its responsibility for the work or services performed by the subcontractor.

The terms of any subcontract shall be subject to and in conformity with the provisions of this Contract. The term “subcontractor” includes any independent contractor or other person or entity with which the Contractor enters into an association, affiliation or relationship of any form for the purposes of performing work or services in connection with this Contract, other than an agent, servant or employee of the Contractor.

Article 11 - Assignment

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof or of any of the Contractor’s rights, claims or obligations under this Contract except after obtaining the prior written approval of the Employer.

Article 12 - Records, Accounts, Information and Audit

1. The Contractor shall maintain accurate and systematic records and accounts in respect of the performance of its obligations under this Contract.
2. The Contractor shall furnish, compile and make available at all reasonable times to the Employer any records, accounts or other information, oral or written, which the Employer may reasonably request in respect of the performance by the Contractor of its obligations under this Contract.
3. The Contractor shall allow the Employer or its authorized agents to inspect and audit such records, accounts or other information upon reasonable notice.

Article 13 - Language, Weights and Measurers

Except as may otherwise be specified in this Contract, the English (UK) language shall be used by the Contractor in all written communications to the Employer with respect to the performance of the obligations under this Contract and with respect to all documents procured or prepared by the Contractor pertaining to such obligations. The metric system of weights and measures shall be used in respect of all work and services performed in connection with this Contract.

Article 14 - Title to Equipment or Property

1. Title to all equipment and property furnished by the Employer for the purpose of this Contract shall rest with the Employer. The Contractor shall be responsible and accountable to Employer for all equipment or property purchased with funds provided or to be reimbursed by the Employer. The Contractor shall take all reasonable measures, including maintaining appropriate insurance, necessary to preserve such equipment or property from loss or damage until returned to the duly authorized office of the Employer upon completion of the work or services or termination of this Contract, or when no longer needed by the Contractor for the purposes of this Contract. Such equipment or property

shall be returned to the Employer in the same condition as when made available to the Contractor, subject to normal wear and tear. The Contractor shall be liable to the Employer for the loss of or damage to such equipment or property, except to the extent that the Contractor proves that it took all reasonable measures to avoid the loss or damage.

2. The Contractor shall maintain an up-to-date and complete list of all equipment and property purchased by the Contractor in connection with this Contract.

Article 15 - Confidential Nature of Documents

1. All maps, drawings, photographs, plans, manuscripts, records, reports, recommendations estimates, documents and all other data (referred to hereinafter in this Article as “documents” compiled by or received by the Contractor or its agents, servants, employees, subcontractors or independent contractors in connection with this Contract shall be the property of the Employer shall be treated as confidential and shall be delivered only to duly authorized Employer officials on completion of work or services under this Contract or termination of the Contract, or as may otherwise be required by the Employer.
2. In no event shall the contents of such documents or any information known or made known to the Contractor by reason of its association with the Employer be made known by the Contractor or its agents, servants, employees, subcontractors or independent contractors to any unauthorized person without written approval of the Employer.
3. Subject to the provisions of this Article, the Contractor may retain a copy of documents produced by the Contractor.
4. The Contractor shall take all reasonable measures to ensure that its agents, servants, employees, subcontractors and independent contractors comply with the provisions of this Article.
5. The obligations in this Article do not lapse upon termination of this Contract.

Article 16 - Use of Name, Emblem or Official Seal of the Employer

The Contractor, its agents, servants, employees, subcontractors and independent contractors shall not advertise the fact that it is performing, or has performed, work or services for the Employer or, or use the name, emblem or official seal of the Employer or any abbreviation of the name of the Employer in connection with its business for advertising purposes or for any other purposes. The Contractor shall take all reasonable measures to ensure compliance with this provision by its agents, servants, employees, subcontractors, and independent contractors. This obligation does not lapse upon termination of the Contract.

Article 17 - Copyright, Patents and Other Proprietary Rights

1. All intellectual property and other proprietary rights, including but not limited to patents, copyrights and trademarks, in all countries, with regard to maps, drawings, photographs, plans, manuscripts, records, reports, recommendations, estimates, documents and other materials, (referred to hereinafter in this Article as “materials”) except pre-existing materials, publicly or privately owned, collected or prepared in consequence of or in the

course of the performance of this Contract, shall become the sole property of the Employer, which shall have the sole right to publish the same in whole or in part and to adapt and use them as may seem desirable, and to authorize all translations and extensive quotations therefrom. If the Contractor incorporates in its materials any previously published or unpublished materials, it shall obtain permission for the publication, use and adaptation in any language free of cost to the Employer from the persons in whom any existing copyrights therein may be vested and produce evidence to the Employer of such permission.

2. The Contractor agrees that it will forthwith disclose and assign to the Employer all discoveries, processes, or inventions, made or conceived in whole or in part by it alone or in conjunction with others relating to or arising out of this Contract, and the said discoveries, processes, or inventions, shall become and remain the property of the Employer, whether or not patent applications are filed thereon
3. Upon request of the Employer and at its expense, the Contractor shall take all necessary steps, execute all necessary documents and generally assist the Employer in securing such proprietary rights and transferring them to the Employer in compliance with the requirements of the applicable law.
4. The obligations in this Article do not lapse upon termination of the Contract.

Article 18 - Amendments

No modification of or change in this Contract, waiver of any of its provisions or additional contractual provisions shall be valid or enforceable unless previously approved in writing by the parties to this Contract or their duly authorized representatives in the form of an amendment to this Contract duly signed by the parties hereto.

Article 19 - Force Majeure

1. “Force majeure” as used herein means acts of God, natural disasters, invasion or war (whether declared or not) and other hostilities, revolution, rebellion, industrial disturbance, except where solely restricted to employees of the Contractor, insurrection or riot, commotion or other disorder, ionising radiation or contamination by regular activity from any nuclear fuel or waste, radio-active toxic explosives or other hazardous properties of any explosives, nuclear assembly or nuclear components thereof, or other act, event or circumstance of a similar nature or force arising from circumstances beyond the control of the parties or which the parties could not reasonably be expected to have taken into account at the time of the conclusion of this Contract and which or the consequences of which the parties could not reasonably be expected to have avoided or overcome.
2. In the event of and as soon as possible after the occurrence of any cause constituting force majeure, which renders the Contractor unable, wholly or in part, to perform his obligations and meet his responsibilities under this Contract, the Contractor shall give notice and full particulars of such force majeure to the Employer. The notice shall include steps proposed by the Contractor to be taken, subject to the written approval of the Employer, including any reasonable alternative means for performance that is not prevented by force majeure.

Subject to acceptance by the Employer of the existence of such force majeure, which acceptance shall not be unreasonably withheld, the following provisions shall apply:

- (a) The obligations and responsibilities of the Contractor under this Contract shall be suspended to the extent of its inability to perform them and, subject to the provisions of Para. (e) hereof, for as long as such inability continues. During such suspension and in respect of work suspended, the Contractor shall be reimbursed by the Employer for the Contractor's substantiated reasonable costs of maintenance of any of the Contractor's equipment and for reasonable per diem for the Contractor's permanent personnel rendered idle by such suspension, subject to Para. (d) hereof;
- (b) The Contractor shall within fifteen (15) days after the notice to the Employer the occurrence of the force majeure submit to the Employer a statement of estimated costs referred to under sub-paragraph (a) above during the period of suspension. Within thirty (30) days after the end of the suspension, the Contractor shall submit to the Employer a complete statement of the Contractor's actual costs;
- (c) The term of this Contract shall be extended for a period equal to the period of suspension taking, however, into account any special condition, which may reasonably justify the period of extension to be different from the period of suspension;
- (d) Where the Contractor's equipment or permanent personnel referred to in sub-paragraph (a) are idle on site as a result of the suspension for a period exceeding thirty (30) days, the Contractor shall confer with the Employer in good faith with a view towards agreeing upon a reasonable reduction of the costs incurred with respect to such equipment and personnel and a reasonable apportionment between the parties of such costs. If the parties fail to agree upon such reduction or apportionment within seven (7) days after the initial thirty (30) days of suspension, the matter will be resolved in accordance with Article 29 hereof;
- (e) If the Contractor is rendered permanently unable, wholly or in part, by reason of force majeure, to perform its obligations and meet its responsibilities under this Contract, the Employer shall have the right to terminate this Contract on the same terms and conditions as are provided for in Article 22, Termination by the Employer, except that the period of notice shall be seven (7) instead of fourteen (14) days; and
- (f) The Employer may consider the Contractor permanently unable to perform in case of any suspension period of more than ninety (90) days.

Article 20 - Suspension by the Employer

1. The Employer may suspend, for a specified period of time not exceeding thirty (30) days, in whole or in part, payments to the Contractor and/or any of the Contractor's obligations under this Contract, if, in the Employer's sole determination:
 - (a) any condition arises which interferes, or threatens to interfere, with the successful carrying out of the work or services under this Contract, the Employer Project or the

accomplishment of the purpose thereof, or with the performance by either party of its obligations under this Contract: or

- (b) the Contractor shall have failed, in whole or in part, to perform any of its obligations under this Contract.
2. Notice of such suspension shall be given by the Employer to the Contractor, specifying the duration of the suspension. The suspension shall take effect seven (7) days after such notice.
3. If, by the expiry of the period of suspension, the Employer has not notified the Contractor to resume the performance of a suspended obligation, the Contractor may request permission of the Employer to resume such performance. If the Employer does not within 7 days after its receipt of the request, notify the Contractor to resume the performance, either party may terminate the portions of this Contract relating to the suspended obligation by giving the other party seven (7) days prior notice of such termination. If it is not possible or reasonably practicable for only those portions of the Contract to be terminated, the entire Contract may be terminated upon seven (7) days prior notice. The provisions of paragraph 2 of Article 22 shall apply in the event of any such termination.
4. (a) The Contractor shall be reimbursed by the Employer for the Contractor's substantiated reasonable extra costs, occasioned by the suspension, of necessary measures to maintain any of the Contractor's equipment and personnel assigned to the performance of this Contract, while such equipment and personnel are idle as a result of the suspension. However, such reimbursement shall not be paid if the Contractor could reasonably re-assign such equipment or personnel to other tasks or to other contracts of the Contractor;
- (b) As a condition for reimbursement under this paragraph 4, the Contractor shall:
- (i) within fifteen (15) days after a suspension takes effect, notify the Employer of the Contractor's good faith estimate of the anticipated extra costs; and
 - (ii) within thirty (30) days after the end of the suspension, notify the Employer of the Contractor's actual extra costs.
- (c) The Contractor shall not be entitled to the reimbursement provided for in this paragraph 4 where the Employer has suspended an obligation of the Contractor for reasons attributable to the fault or neglect of the Contractor, its agents, servants, employees, subcontractors or independent contractors, or to a failure by the Contractor to perform an obligation under this contract

Article 21 - Additional Rules relating to Suspension

1. Except as otherwise provided in this Contract, the rules set forth in this Article apply in the event of any suspension under Article 19 or Article 20.
2. During the period of suspension, the Contractor shall provide such information as may reasonably be requested by the Employer concerning the preservation and protection of the work and services performed by the Contractor and the results thereof, and of all property of the Employer, and shall take all reasonable measures to provide for such preservation and protection. Except as provided in paragraph 4 of this Article, the Contractor shall be

reimbursed by the Employer for substantiated reasonable costs incurred by the Contractor in providing such information and taking such measures, provided that an estimate of such costs shall have previously been notified to and approved by the Employer.

3. The Contractor shall produce such reports as may reasonably be requested by the Employer covering the work executed or services performed up to the time of suspension. The reports shall conform to any reasonable requirements by the Employer as to nature, structure and content. Except as provided in paragraph 4 of this Article, the Contractor shall be reimbursed for its reasonable and substantiated costs in preparing the reports, provided that an estimate of such costs shall have been previously notified to and approved by the Employer.
4. The Contractor shall not be entitled to the reimbursement provided for in paragraphs 2 and 3 of this Article where the Employer has suspended an obligation of the Contractor pursuant to Article 20 for reasons attributable to the fault or neglect of the Contractor, its agents, servants, employees, subcontractors or independent contractors, or to a failure by the Contractor to perform an obligation under this Contract.

Article 22 - Termination by the Employer

1. Notwithstanding the provisions of Articles 19 and 20, the Employer may terminate this Contract for any reason upon not less than fourteen (14) days (in the case of Contracts initially for a period of sixty (60) days or more) or seven (7) days (in the case of Contracts initially for a period of less than sixty (60) days) notice to the Contractor.
2. Upon termination of this Contract:
 - (a) the Contractor shall take immediate steps to terminate the work and services in a prompt and orderly manner and, to that end, shall provide such information as may reasonably be requested by the Employer concerning the preservation and protection of the work or services performed by the Contractor and the results thereof and all property of the Employer, and to minimize losses and further expenditures; the Contractor shall also take all reasonable measures to provide for such prevention and protection and for minimization of losses and expenditures;
 - (b) the Contractor shall be entitled, against appropriate vouchers, to be compensated in accordance with this Contract for work or services performed satisfactorily and in accordance with this Contract prior to its receipt of the notice of termination;
 - (c) unless the termination has been occasioned by any fault or neglect on the part of the Contractor, its agents, servants, employees, subcontractors or independent contractors, or by any failure of the Contractor to perform an obligation under this Contract, the Contractor shall also be entitled, against appropriate vouchers, to be reimbursed for such reasonable costs and expenses as shall have been duly and properly incurred in accordance with this Contract prior to the date of such notice of termination, including such forward commitments as could not with diligent effort be cancelled or reduced, and for reasonable costs incident to the orderly termination of the services, the return travel of Contractor's personnel and the return shipment of their personal effects and of the equipment of the Contractor, to the extent that the same are not otherwise covered by any fees, reimbursements or other compensation paid or payable to the Contractor;

- (d) the Contractor shall produce such reports as may reasonably be requested by the Employer covering the work and services performed up to the time of termination. The reports shall conform to any reasonable requirements by the Employer as to nature, structure and contents. The Contractor shall be reimbursed for its reasonable and substantiated costs in preparing the reports, provided that an estimate of such costs shall have previously been notified to and approved by the Employer; and
- (e) the Contractor shall not be entitled to receive any payments other than those provided for in this paragraph 2.

Article 23 - Termination by the Contractor

The Contractor may terminate this Contract in accordance with Articles 19.2(e) and 20.3 above.

Article 24 - Other Rights and Remedies of the Employer

1. Nothing in or relating to this Contract shall be deemed to prejudice or constitute other rights or remedies of the Employer.
2. The Employer shall not be liable for any consequence of, or claim based upon, any act or omission the part of the Employer.

Article 25 - Bankruptcy

Should the Contractor be adjudged bankrupt, or become insolvent or should control of the Contractor change by virtue of insolvency, the Employer may, without prejudice to any other right or remedy, terminate this Contract immediately by giving the Contractor notice of such termination.

Article 26 - Facilities, Exemptions, Privileges and Immunities of Contractor and Contractor's Personnel

1. The compensation, reimbursement, remuneration and payment provided for in this Contract do not include any taxes, duties, fees or levies which may be imposed in the recipient country on salaries or wages earned by the Contractor's personnel (except the Employer nationals employed locally) in the performance of the Contract or on any equipment, materials or supplies which the Contractor may bring into that country in connection with the contract or which after having been brought into that country may be subsequently withdrawn there from. If any authority of the Employer refuses to recognize exemption from or reimbursement for such taxes duties, fees or levies, the Employer shall in no event be liable beyond the amount of said taxes, duties, fees and levies or for any failure or delay in obtaining such exemption or reimbursement.
2. The Employer will use its best efforts to obtain for the Contractor and its personnel (except the Employer nationals employed locally) such additional facilities, exemptions, privileges and immunities as the Employer has generally agreed to grant to the Contractors performing services for the Employer within the country and to their personnel. An information copy of the provisions relating to such facilities, exemptions, privileges and immunities that are contained in the Operational Agreement, may be obtained from the Employer. However, the Employer shall in no event be liable for any consequences of, or

any claim based upon, any failure on the part of the Employer to carry out such undertakings.

3. Any Provisions whether in an Agreement, Project Document, or any other instrument to which the recipient Employer is a party, by which the recipient Employer confers benefits upon the Contractor and its personnel in the form of facilities, exemptions, privileges and immunities by reason of the performance of services for the Employer on this Project, may be waived by the Employer where, in its opinion, such immunity would impede the course of justice and can be waived without prejudice to the successful completion of the project or to the interests of the Employer.

Article 27 - Indemnification

The Contractor shall indemnify, hold and save harmless and defend at its own expense the Employer and its officials, agents, servants and employees from and against all suits, claims, demands and liability of any nature or kind, including costs and expenses associated therewith, arising out of acts or omissions of the Contractor or its officers, agents, servants, employees subcontractors or independent contractors in the performance of any work or services in connection with this Contract. Without limiting the generality of the foregoing, this Article shall extend to suits, claims, demands and liability in the nature of workmen's compensation, products liability, and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its officers, agents, servants, employees, subcontractors or independent contractors and or others responsible to the Contractor, as well as by the Employer. The obligations in this Article do not lapse upon termination of the Contract.

Article 28 - Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

Article 29 - Arbitration

Any dispute, controversy or claim arising out of or relating to this Contract, or the breach, termination or invalidity thereof, shall, unless it is settled amicably by direct negotiation, be settled by arbitration in Vientiane accordance with the arbitration rules of the United Nations Commission on International Trade Law (UNCITRAL) as at present in force. The appointing authority shall be the Chairman or Deputy Chairman of the Singapore International arbitration Centre ("SIAC"). The number of arbitrators shall be one. The language to be used in the arbitral proceedings shall be English. The Parties agree to be bound by the arbitration award rendered in accordance with such arbitration, as the final adjudication of any such disputes controversy or claim.

Article 30 - Privileges and Immunities

Nothing in or relating to this Contract shall be deemed a waiver of any of the privileges and immunities of the Employer.

Article 31 - Tax Exemption

The Operational Agreement provides, *inter alia*, that the Employer including its subsidiary organs, is exempt from all direct taxes and from customs duties in respect of articles imported or exported

for its official use. Accordingly, the Contractor authorizes the Employer to deduct from the Contractor's invoice any amount representing such taxes or duties. Payment of such corrected invoiced amount shall constitute full payment by the Employer. In the event any taxing authority refuses to recognize the Employer exemption from such taxes, the Contractor shall immediately consult with the Employer to determine a mutually acceptable procedure.

Article 32 - Form of Notice, Request, Statement or Approval

Any notice request, statement or approval provided for in these General Conditions shall be effective if it is given in writing either by letter, facsimile or email.

Article 33 – Observance of the Law

The Consultant shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract. The Governing Law of this contract is the law of Lao PDR.

ANNEX II
TERMS OF REFERENCE (TOR)

ANNEX [*INSERT ANNEX NUMBER*]

CONSULTANT PROPOSAL