



Mekong River Commission

184 Fa Ngoum Road,
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

Date: 30 November 2017

Terms of Reference

1. Consultancy Summary

Title of Consultancy:	Regional Water Policy Consultant to Support the Coordination of Implementation of (1) the Joint Action Plan for the Pak Beng Hydropower Project of Lao PDR on the Mekong Mainstream, and (2) the MRC Procedures
Type of Consultancy:	Special Service Agreement (SSA)
Division:	MRC Planning Division
Duration:	February to December 2018
Duty station:	Homebased and travel to the MRC Secretariat, Vientiane, Lao PDR
Reporting to:	Director of Planning Division
Total number of days:	51 working days
Required Deliverables:	Please refer to deliverables in section 5 of this TOR
Daily timesheet requirement:	Yes, submitted with invoice
Daily stand up meeting requirement:	No
Finger print scanning requirement:	No
Monthly work plan requirement:	At inception of the work
Monthly timesheet requirement:	Yes, submitted with invoice

2. Background and justification

The 1995 Mekong Agreement rests largely on the implementation of the MRC's five Procedures, namely (1) Procedures for Data, Information Exchange and Sharing (PDIES); (2) Procedures for Water Use Monitoring (PWUM); (3) Procedures for Notification, Prior Consultation and Agreement (PNPCA); (4) Procedures for the Maintenance of Flows on the Mainstream (PMFM); and (5) Procedures for Water Quality (PWQ). All procedures have been approved by the Member Countries and are being implemented.

For the PNPCA, three Prior Consultation (PC) processes have been conducted for mainstream dams. These include Xayaburi, Don Sahong, and Pak Beng Hydropower Projects in Lao PDR. The

last PC process was for the Pak Beng Hydropower Project (PBHPP) which was recently completed in June 2017.

During the six-month PC process for the PBHPP the notified member countries discussed and evaluated the impact of the proposed use upon their uses of water and the Mekong River System. MRC Secretariat reviewed the developer's impact assessments and the likely effectiveness of the proposed mitigation measures and proposed additional recommendations with a view to further avoiding, minimizing and mitigating transboundary environmental and social impacts. These recommendations are included in a Technical Review Report on Prior Consultation for PBHPP (see mrcmekong.org), which the MRC Joint Committee used as a basis for arriving at an agreement.

At the end of the PC process for the PBHPP, the MRC Joint Committee (JC) agreed, at its Special Session on 19 June 2017, on a "Statement on the PC process for the PBHPP in Lao PDR" – pending confirmation from the Member Countries (MCs). In the same week, all the MCs officially endorsed "the Statement".

The Statement included a request to the MRCS to support, for the first time, the preparation of a Joint Action Plan (JAP) that outlines a process for implementing the Statement. A Final Draft JAP has been submitted to the JC for approval as a working version during its Preparatory Meeting prior to the 24th MRC Council Meeting in late November 2017. The JAP is a cooperative mechanism to jointly further explore viable and practical measures to avoid, minimise or mitigate potential impacts, and enhance any positive impacts.

The JAP will be undertaken in a phased manner, with reviews after each phase. The JAP will be carried out in four phases based on project development stages. These are as follows.

- **Phase 1: Initiation** - This phase starts immediately after approval of the JAP and the budget by the 47th Joint Committee Meeting in March/April 2018, and will focus on informing stakeholders of the content and intention of the JAP;
- **Phase 2: Final Design and development of Operating Rules** – This will start after informing stakeholders, and will aim at working with relevant Line Agencies in the GoL and the developer and the LNMC to explore measures that may further improve the design and operations of the PBHPP, and more completely address the concerns raised by stakeholders;
- **Phase 3: Construction** – This will start once construction on the PBHPP starts, and will aim at appraising the MRC of progress with construction, monitoring of impacts during construction and having input into any 'as built' design changes; and
- **Phase 4: Operations** – This will include agreement by the Joint Committee on a set of monitoring and reporting parameters for the operational phase of the PBHPP, and will be completed as operations commence. The GoL will be urged to implement any monitoring agreed by the JC.

The purpose of the consultancy is to provide technical and coordination service to support the implementation of JAP during phases 1 and 2 as they occur during 2018. Furthermore, the consultant is expected to provide technical assistance and advice on the overall implementation of the MRC Procedures.

3. Objectives

The objective of this consultancy is to support the MRCS PD in carrying out the implementation of JAP during phases 1 and 2 and assisting in the overall implementation of the MRC Procedures through working with concerned MRCS staffs and other international consultants.

4. Responsibilities and tasks

The consultant will undertake the following tasks:

Implementation of JAP

- Provide technical and coordination support to the PD for the implementation of the JAP;
- Assist in the development of a monitoring matrix for the JAP implementation to be maintained by the MRCS so that the JC can exercise effective oversight over the implementation of the JAP;
- Support the technical dialogues process with the notifying country and its line agencies and consultations with notified countries and relevant stakeholders;
- If submitted, coordinate the input of technical review of the progress report on design and operating rules to be prepared by experts in order to ensure that they are in line with the recommendations described in the Technical Review Report (TRR) of the PBHPP;
- Assist in preparing annual progress report on the implementation of the JAP;

Implementation of the MRC Procedures

- Assist the PD in organising and preparing the supporting documents for the MRC Joint Platform biannual meetings to be organised 2 times per year (May and October);
- Provide overall coordination support to the PNPCA Prior Consultation process of a submitted mainstream hydropower project if it is submitted;
- Assist in preparing the Annual Procedures Implementation Reports (2017 & 2018) including progress of all Procedures and elaboration of recommendations for improvement;
- Advise on monitoring of implementation results of the five procedures to ensure that monitoring work is well coordinated, practical, and aligned with the overall implementation of the Procedures;
- Review and provide inputs in finalization of document on “Understanding the 1995 Mekong Agreement;”
- Review and provide inputs in the preparation of a user-friendly document on how the Procedures can be linked to support the Principles and Objectives of the 1995 Mekong Agreement;
- Review and provide inputs in the update of Working Paper on Lessons Learnt from implementation of the PNPCA incorporated the recent lessons learnt from the PBHPP.

5. Deliverables and timelines

The consultant will produce the following outputs:

No.	Deliverables	Number days	Target date
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Implementation of JAP			
1	Facilitation and coordination support for the implementation of the JAP including technical aspects and overall implementation such as consultation and technical meeting supports, technical review coordination, and other tasks required by supervisor	20 days	Non-continuous from Feb. to Dec. 2018
2	Monitoring matrix for the JAP implementation	5 days	15 Mar. 2018
3	Annual Progress Report on the implementation of the JAP	5 days	30 Sep. 2018
Implementation of the MRC Procedures			
4	Assistance in organising and coordinating the 2 bi-annual meetings of the MRC Joint Platform, and another PNPCA PC process, if it comes	8 days	Non-continuous from Feb. to Dec. 2018
5	Inputs in the final document on “Understanding the 1995 Mekong Agreement”	2 days	15 Feb. 2018
6	Inputs in the final document on how the Procedures can be linked to support the Principles and Objectives of the 1995 Mekong Agreement	2 days	15 Mar. 2018
7	Advise on monitoring of implementation results of the five procedures to ensure they are coordinated and aligned	2 days	20 Apr. 2018
8	Inputs in the updated of Working Paper on Lessons Learnt from implementation of the PNPCA incorporated the recent lessons learnt from the PBHPP	2 days	20 Apr. 2018
9	Annual Procedure Implementation Report 2018	5 days	30 Sep. 2018
Total working days		51 days	

6. Working arrangement

Reporting line: Director of Planning Division

Communication line: The Consultant will work closely with the Chief River Basin Planner and under the direct strategic guidance and supervision of the Director of the Planning Division. Furthermore, the consultant will work in close collaboration with other technical expert teams.

Work station: Home office work and travel to the MRC Secretariat, Vientiane Lao PDR.

7. Qualifications and requirements

The regional water policy consultant will have the following qualifications:

- At least 10 years of experience in IWRM and natural resource management;
- Current knowledge of transboundary RBO management and associated procedures of the MRC;
- Experience in facilitating technical dialogue on sensitive water management issues;

- Demonstrated ability to write technical reports which can be readily understood by decision makers and the public;
- Excellent communication skills both verbal and in writing with a wide range of people;
- Excellent written and oral communication skills in English;
- Familiarity with the LMB and Mekong River Commission is beneficial.

8. Condition of payment

Payment will be made based on presentation of the deliverables outlined in section 5, including all reports, a short progress report and timesheet. All deliverables must be satisfactorily accepted by the MRCS Planning Division.

The Consultant will quarterly invoice for completed deliverables outlined in Section 5.

9. Intellectual property rights

Intellectual property rights - IPR: Information, data, database, knowledge resources in the forms of briefings, reports, proceedings, articles, essays, etc. issued by and for the MRCS will be the MRCS property. Any utility, announcement and disclosure that are without MRCS highest levels of authority' permission is considered illegal and will be charged by relevant local and international legal procedures.

10. Confidentiality

Due to the nature of the prior consultation process, the consultant shall not communicate or provide any documents/results to third parties before they are made officially available within the MRC framework through the MRCS and/or the MRC Member Countries.

11. Signature block

<p>MRC Secretariat</p> <p>Division: Planning Division</p> <p>Name of Director: Dr. An Pich Hatda</p> <p>Signature:</p>	<p>Date:</p>
<p>Consultant</p> <p>Name of consultant:</p> <p>Signature:</p>	<p>Date:</p>