



Mekong River Commission

For Sustainable Development

PROCUREMENT MANUAL

**Approved by the MRC Joint Committee in the 53rd Meeting
26 April 2022, Siem Reap, Cambodia**

Foreword

In 2016 the MRC transformed into a leaner organization with a new organizational structure, and a smaller number of personnel with revised roles and responsibilities at the MRC Secretariat.

This necessitated modified procurement rules and regulations to ensure its applicability in the new structure, making the organization leaner and more efficient and effective. At the 48th Meeting of the MRC Joint Committee in April 2019, the revised Procurement Manual was officially approved by the Joint Committee Members.

The MRC has since 2019 kept its momentum to actively respond to emerging developments including requirements of EU Pillar assessments, the need to fulfil existing gaps in MRC's operational procedures identified through practical lessons the MRC has taken during its implementation, and recommendations from auditors to improve the MRC's internally operational system.

In this endeavour, the MRC Procurement Manual has been updated. Procurement policies are no doubt key to ensuring transparent procurement management practices and effective internal controls for organizations and corporates across the globe, and MRC is no exception. To be on par with other international river basin organizations, relevant international best practices have been incorporated in the manual and necessary gaps filled. It provides step-by-step guidelines applicable to both staff of the MRC Secretariat and those at the National Mekong Committee Secretariats (NMCs) concerning financial procedures, reporting, auditing and accountability requirements by the MRC Member Countries and Development Partners alike. The MRC's intention is to be transparent and accountable, thus taking its responsibility seriously in utilising and managing the MRC fund from both the Member Countries and its Development Partners by demonstrating its good faith and sincerity all along.

On behalf of the MRC Joint Committee, I am pleased to introduce the newly revised MRC Procurement Manual which was officially approved by the Joint Committee in its 53rd Meeting on 26 April 2022, with the effective date of 1 May 2022.

To bring about conformity and consistency in the MRC's operational activities, the MRC Secretariat has also revised several other MRC operational manuals including the Finance Manual, Administration Manual and Human Resources Manual.



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Secretary General
Cambodia National Mekong Committee
Member of the MRC Joint Committee for Cambodia
Chairperson of the MRC Joint Committee for 2022

Revision History

DATE	VERSION	DESCRIPTION
2006	Original	The original MRC Procurement Manual
2016	First	The original MRC Procurement Manual was revised to align with the new structure of the MRCS.
24 April 2019	Second	The revised MRC Procurement Manual was approved by the MRC Joint Committee in its 48th Meeting in April 2019, with the effective date from 1 May 2019 to 30 April 2022.
26 April 2022	Third	The revised MRC Procurement Manual has been updated and approved by the Joint Committee in its 53rd Meeting, on 26 April 2022, in Siem Reap, Cambodia. This MRC Procurement Manual comes into effect from 1 May 2022 and entirely replaces all previously approved versions.



List of Abbreviations

BOM	Bid Opening Minutes
CAN	Contract Award Notice
CDS	Contract Data Sheets
CIP	Carriage and Insurance Paid
CEO	Chief Executive Officer
COI	Conflict of Interest
CQS	Consultant Qualification Selection
CV	Curriculum Vitae
DgMarket	Development Gateway Market
DP	Direct Procurement
DSA	Daily Subsistence Allowance
EOI	Expression of Interest
AD	Administration Division
FBS	Fixed Budget Selection
GCC	General Conditions of Contract
GPN	General Procurement Notice
HR	Human Resources
IAPSO	Inter-Agency Procurement Service Office
IC	Individual Consultants
ICT	Information and Communication Technology
IOT	International Open Tender
ITC	Instructions to Consultants
JC	Joint Committee
LCS	Least-Cost Selection
LOI	Letter of Invitation
MOU	Memorandum of Understanding
MRC	Mekong River Commission
MRCS	Mekong River Commission Secretariat
MTS	Minimum Technical Score
NMC	National Mekong Committee
NMCS	National Mekong Committee Secretariat
OIC	Officer in Charge
OSV	Office of the Secretariat in Vientiane, Lao PDR

PA	Procurement Agent
PR	Purchase Requisition
PSI	Pre-Shipment Inspection
PT	Procurement Threshold
PV	Payment Voucher
QBS	Quality-Based Selection
QCBS	Quantity and Cost Based Selection
RFP	Request for Proposal
RFQ	Request for Quotation
SBD	Standard Bidding Document
SC	Service Contract
SCC	Special Conditions of Contract
SPN	Specific Procurement Notice
SSA	Special Services Agreement
SSS	Single-Source Selection
TOR	Terms of Reference
WA	Work Agreement
UNDB	United Nations Development Business
UNDP	United Nations Development Programme
US\$	US Dollar
RFMMC	Regional Flood Management and Mitigation Centre

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1 INTRODUCTION

1.1 Definition of Terms

In this Procurement Manual, the following definitions shall apply:

Procurement means any purchase or acquisition of goods, works, services, or consulting services using the methods specified in this manual.

Goods means the liquid, solid, or gaseous substance with value or economic benefit, such as machinery, tools, materials, equipment, consumption goods, medicines, and other products.

Works means any activity associated with construction, alteration, repair, renovation, improvement, and related activities.

Non-consultancy service means any activity associated with the use of human physical labour and equipment that is usually non-intellectual in nature.

Consultancy service means advisory and technical services provided by consulting firms or individual consultants that are usually of an intellectual nature.

Bidder means any individual, firm, or consultant that intends to participate in a particular procurement and who has submitted a bid.

Supplier means a person, firm, company, or organization that provides works, goods, or non-consultant services against a contract.

Contractor means an individual, firm, company, or organization that performs a works contract.

Consultant means a firm, company, organization, or individual that provides expert advice in a particular domain or area of expertise, the services of which are usually of an intellectual nature.

Service provider means any firm, company, organization, or individual that provides non-consultant services to other organizations including MRCS.

1.2 Purpose of the Manual

The overall objective of the procurement system is to assist MRCS attain value for money. The Procurement Manual is issued under the authority of the Joint Committee. The manual:

- Details the standards, policies and procedures for the procurement of goods, works, non-consultancy services, and consultancy services;
- Provides detailed guidance on the procurement processes;
- Provides uniform procedures for procurement;
- Ensures transparency and accountability in procurement operations,
- Aims to improve efficiency and effectiveness of procurement operations; and
- Promotes consistent application of best procurement practices and international standards.

1.3 Scope and Application of the Manual

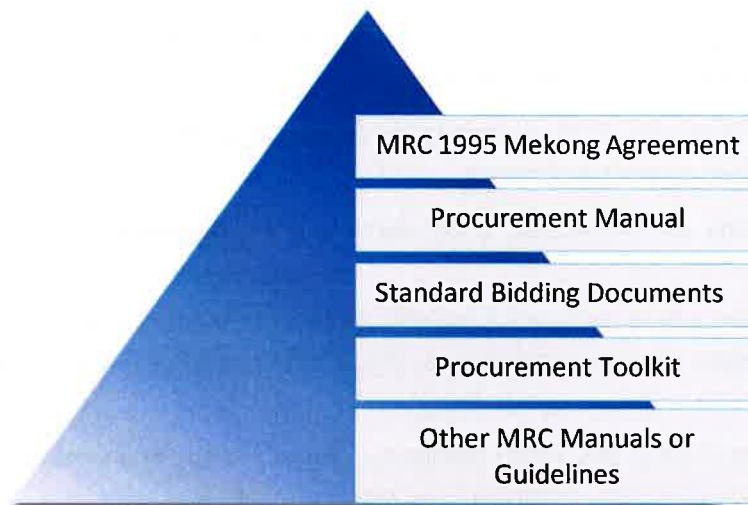
MRCS operates a centralized procurement function. All MRCS staff members and requesting divisions shall adhere to this manual. The procurement manual will be used for:

- Procurement by the MRC Secretariat (MRCS) or the National Mekong Committee Secretariats (NMCS) using resources appropriated through budgetary processes;
- Procurement by the MRCS or the NMCS using resources from a cooperating partner or funding agency whose regulations allow use of the MRCS Procurement Rules.

1.4 Order of Precedence

The various rules, procedures, and governing documents shall take the order of precedence as shown in Figure 1.

Figure 1: Order of precedence in interpreting procurement decisions



In the event of conflict in interpretation of a procedure between any other MRCS rules and manuals, the Procurement Manual shall prevail in all matters relating to procurement of works, goods, consultancy services, and non-consultancy services.

1.5 Revisions to the Procurement Manual

The manual is subject to revisions whenever needs arise to timely reflect changes in the procurement rules, policies, changing needs, commercial environment, and adoption of new improved procedures and practices. Such revisions will be initiated by the MRCS and approved by the Joint Committee.

1.6 MRCS Principles of Procurement

This manual incorporates policy provisions and procedures to promote the basic procurement principles illustrated in **Table 1**. All MRCS staff shall consistently apply these policies and procedures, together with professional judgment and good management.

Table 1: Principles of procurement

Transparency	The Secretariat shall, to the greatest extent possible, make the procurement proceedings transparent through public procurement notices, clarifications, results of bidding processes, and award of contracts. There should be clear disclosure of information, rules, plans, processes and actions.
Accountability	MRCS staff members are held responsible for executing their powers properly in relation to all procurement activities.
Competition	Procurement should be carried out by competition unless there are convincing reasons to the contrary. The procedures encourage wide and open competition and provide equal opportunities to all bidders. The widest appropriate source of suppliers, service providers, consultants, and contractors will be tested, both in the local market and from abroad to ensure competitive and realistic bids are received. The Secretariat may undertake procurement utilizing funds provided by the riparian Member States, by donor governments and from other legitimate income received by the Secretariat in the performance of its mandated functions. Irrespective of the source of funds, and unless otherwise agreed by the CEO or bound by any restriction by any funding agency, procurement activities by the Secretariat will not be tied to any individual country.
Value for money	MRCS shall obtain maximum benefit from the goods, works, consultancy services and non-consultancy services it procures and/ or provides, within the resources available to it. It is not only the cost of goods and services, but also the mix of quality, cost, resource-use, fitness for purpose, timeliness and convenience that should be taken into consideration when judging whether or not, when taken together, they constitute good value. Achieving value for money at MRCS may be described in terms of the 'three Es' – Economy, Efficiency, and Effectiveness.
Economy and efficiency	Procurement processes should be carried out as cost effectively as possible.
Effectiveness	Procurement should meet commercial, regulatory and socio-economic goals in a balanced manner appropriate to the procurement requirement.

2 ETHICS IN PROCUREMENT

In order to get broader understanding of the seriousness of ethical principles, this chapter should be read along with the MRCS Fraud Prevention and Anti-Corruption Mechanism and MRCS Code of Conduct. Attention must also be paid to points listed in **Table 3** under section 2.6.

2.1 The Ethical Principles

MRCS staff shall not use their authority or office for personal gain. They shall not accept or request anything of material value from any prospective or current provider of works, goods, consultancy services, or non-consultancy services for themselves, their spouses, parents, children or other close relatives, or for other persons from whom the staff member might gain direct or indirect benefit or gift.

2.2 Business Gifts and Hospitality

MRCS staff shall not accept business gifts from current or potential providers of works, goods, consultancy services, and non-consultancy services unless such gifts are of very small intrinsic value, such as a calendar or business diary. MRCS staff shall refrain from accepting any business hospitality that might be viewed by others as having an influence in making procurement decisions as a result of accepting that hospitality. Refer to the Administration Manual for more detail (Section 5.5.).

2.3 Conflict of Interest

MRCS staff shall declare any personal interest that may affect or might reasonably hinder their impartiality in any matter relevant to their procurement duties. Conflict of interest (COI) is mostly evident in consultancy assignments. Moreover, a consultant conflict of interest is a situation in which consultants provide, could provide, or could be perceived as providing biased professional advice to the MRCS to obtain from MRCS or from others an undue benefit for themselves or their affiliates. Conflicts of interest must be avoided because they affect the consultants' impartiality and spoil the quality of their advice.

2.4 Guidance

MRCS requires consultants to provide professional, objective, and impartial advice at all times. Consultants are also required to hold MRCS interests paramount, without any consideration for future work, and in that, should not provide advice to avoid conflicts with other assignments and their own corporate interests. Consultants shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interests of MRCS.

Consultants or their affiliates competing for a specific assignment should not derive a competitive advantage from having provided consulting services related to the assignment in question. To that end, the Secretariat shall provide all the shortlisted consultants with all information that would in that respect give a consultant a competitive advantage over competing consultants together with the request for proposals. **Table 2** shows some categories of conflicts of interest.

Table 2. Brief notes on conflicts of interest in consulting assignments

COI	Description
Conflicting Activities	Consultant activities and those of affiliates conflict with their assignment: ▪ Downstream provision of goods, works, and non-consultancy services, related to the provider's assignment. ▪ Downstream provision of consulting services related to works executed or equipment supplied by either the consultants or their affiliates.
Conflicting Assignments	Consulting assignments that, by their nature, are or may be in conflict with each other: ▪ Conflicting assignments by nature, in which the consultants could bias their advice to be consistent with findings of another of their assignments or those of their affiliates; ▪ Conflicting downstream assignments where the incumbent consultants create conditions under which they attain or are perceived to attain an undue advantage over other consultants who may apply for consideration in a downstream related assignment, thus depriving the client of the benefits of full competition. For example, a consultant engaged to formulate a project and/or develop terms of reference should not be allowed to bid and implement the project. A consultant hired to design a dam should not then be involved in construction of the dam.
Conflicting Relationships	Relationships between the consultants and Secretariat staff, for example: ▪ The consultant competing for an assignment has a family or a business relation with a member of the Secretariat staff involved in the preparation of the TOR of the contract, in the selection process or in the supervision of that assignment; ▪ If a consultant nominates an MRCS employee as key staff in its technical proposal.
Conflicting Clients	Consultants serving different clients with conflicting interests on closely related assignments. For example, a consultant working simultaneously for two or more clients whose interests are in conflict.

2.5 Prevention of Conflicts of Interest

Independence is the condition that allows consultants to perform their assignment in an objective manner. COI must be analyzed for source, nature, and potential impact of the conflict and the circumstances under which it arises. COI can happen at any stage of the procurement process as explained in the paragraphs below.

2.5.1. Request for Expressions of Interest

In cases where MRCS intends to appoint consultants for two or more related assignments, the invitation to submit expressions of interest should alert potential candidates of the *impossibility* of being appointed for both assignments. Consultants could be asked to indicate their preference for one of the assignments.

2.5.2. Terms of Reference

When preparing the Terms of Reference (TOR), MRCS will consider whether the assignment could create a COI and address or correct the situation. To prevent COI from affecting the independence of the consultant's work and the quality of the downstream competition, the consultant under assignment should not be asked to prepare the TOR for the downstream assignment if the consultant will be included in the short list.

2.5.3. Short Listing

When preparing the consultant short list, MRCS will review the qualifications of each of the consultants, determine any conflict of interest that may afflict the consultant, and make an informed decision about eligibility for the short list. If a qualified consultant is found conflicted; before deciding for its exclusion, thoroughly analyze the conflict, its nature, and the possible extent of damage. At the same time, the qualified consultant, if he/she believes that he/she is or may be in a COI situation, has a duty to disclose the conflict and explain in a straightforward manner how he/she plans to deal with the COI. The final decision on whether to exclude or admit the consultant to the short list remains with MRCS.

2.5.4. Single-Source Selection

This procedure was previously referred to as "waiver of competitive bidding". MRCS may retain consultants or suppliers on a single source basis when the conditions for using the method are met. To prevent a COI, the TOR of the continuation assignment shall not be prepared by the incumbent.

2.5.5. Evaluation of Technical Proposals

During the evaluation of technical proposals, MRCS will ascertain that no new COI situations have arisen since the consultant was shortlisted. If the COI is identified at this stage, MRCS should determine whether the specific conflict is substantive and take action. This can be accomplished by reducing the scope of work of the assignment, asking the consultant to remove the conflict, or if the COI cannot be mitigated by declaring the consultant not eligible for the assignment. If a consultant has misled MRCS by neglecting to provide information or by denying the existence of a major COI situation, the consultant's proposal shall be rejected, and the opportunity for further sanctioning may be considered.

2.5.6. Contract Negotiations

Before completing the contract negotiation, review the draft contract to identify COI situations that may not have been disclosed or may have arisen after the proposal was submitted.

2.5.7. Implementation of the Assignment

During implementation of the assignment, while monitoring or reviewing a consultant's work, check for any new circumstances that could create downstream COI. The most common COI during this phase of a project stems from affiliates of the consultant showing an interest in offering goods, works, or services (other than consulting services) related to the services provided by the consultant. When a substantive COI situation emerges (or is discovered) during execution of an assignment, corrective action should be taken.

2.6 Fraud and Corruption

Corruption is a barrier to socio-economic development; therefore, all procurement should be free of fraud and corruption. Corrupt and fraudulent practices can affect the actions of officials charged with the short listing and selection of suppliers, contractors, service providers, and consultants and with the negotiation, award, and management of contracts. Such practices may also affect the fulfillment of the parties' contractual obligations, as well as their respect for the relevant laws. Corruption may originate with the client or the supplier, contractor, service provider, or consultant. Allegations of fraud and corruption may be based on, or originate from (a) a losing opponent; (b) consultant's disgruntled employee; (c) government employee, the press, or the public; (d) an inquiry by MRCS; or, (e) procurement audits. To mitigate fraud and corruption, MRCS has several responsibilities as illustrated in **Table 3**.

Table 3. Factors for mitigating fraud and corruption

▪ Allow sufficient time for the submission of applications and bids;
▪ Check the credibility of the qualifications of a consultant whenever serious doubts arise;
▪ Shortlist only those consultants who are qualified for the assignment;
▪ Consider only consultants with a reputation of professional integrity;
▪ Reject and denounce attempts at corruption by consultants or their intermediaries;
▪ Ensure that all documents forming the bidding documents are clear and unambiguous;
▪ Clearly describe in the Data Sheet the selection criteria and relevant points;
▪ Adopt the most suitable selection method for the consultant assignment;
▪ Appoint an Evaluation Panel of impartial and competent officials;
▪ Ensure that the Evaluation Panel agrees on the definition of grades to be used to assess the level of responsiveness of technical proposals to the criteria set forth in the Data Sheet;
▪ Ensure that each evaluator first evaluates the proposals independently from other evaluators and that evaluators discuss their scores before reaching final decisions;
▪ Shield the evaluators from all illicit contacts and pressures;
▪ Appoint an independent adviser to the Evaluation Panel whenever it appears that the evaluation process is at risk;
▪ Appoint a negotiation committee with technical or legal experience relevant to consulting assignments;
▪ Provide each negotiation committee member with clear procedures and objectives;
▪ Instruct negotiators to aim for a fair and balanced contract;
▪ Report, investigate, and sanction cases of attempted or actual corruption;
▪ Disclose the results of the selection process to those interested after the contract award;
▪ Provide a debriefing to those consultants who request it after contract award.

2.7 The Ethical Standard of Conduct

The guiding principles of ethical standards are impartiality, independence, and integrity. Ethical behavior must be promoted and supported by appropriate systems and procedures, but systems and strict adherence to procedures alone cannot create an ethical and accountable procurement function. It is essential that all procurement activities be carried out in a manner above reproach, with complete impartiality and with no preferential treatment.

The procurement process must allow bidders to compete for business on a fair basis. MRCS staff members associated with the function of procurement are responsible for protecting the integrity of the procurement process and maintaining fairness in the treatment of all bidders.

2.8 Reporting of Unethical Conduct

Every MRCS staff has a duty to report any unethical conduct by a colleague, a current or prospective bidder, supplier, contractor, service provider, or consultant to his superiors, the Chief Executive Officer, or to both internal and external auditors. Reporting of unethical conduct can be done in the form of a duly signed letter to the designated officer or an anonymous email to the following address mrcs@mrcmekong.org providing sufficient proof. Furthermore, this can also insert into the suggestion box provided.

2.9 Sanctions of MRCS Staff for Non-compliance with Ethical Standards

Due to the special and additional trust placed on those involved in the procurement processes as custodians of MRCS funds, adherence to the ethical standards is obligatory. Any unethical conduct by MRCS and NMCs staff will be considered an offence subject to disciplinary action as stipulated in the MRCS Personnel Manual.

2.10 Debarment

Suppressed – please refer to Section 3.4 below on the Do-Not-Engage list and Remedial Measures.

2.11 Declaration of Objectivity and Confidentiality

All staff members engaged in procurement activities shall sign the ***Declaration of Objectivity and Confidentiality*** (Annex 10) before involvement in any procurement process.

2.12 Nepotism

Cases may arise in which prospective bidders seek to be engaged in MRCS where their relatives, associates, or friends are employed in positions of influence. These cases may cause perceived, potential, and real conflict-of-interest situations for the employee, as well as for the bidders, while discouraging deserving candidates with no inside connections. Such practices shall not be allowed under any circumstances.

2.13 Confidentiality

In all cases, information relating to evaluation of bids and recommendations concerning awards shall not be disclosed to the bidders who submitted the proposals or to other persons not officially concerned with the process, until the publication of the award of contract. All official correspondence shall be channeled through the Procurement Team of the MRC Secretariat.

3 DUE DILIGENCE AND EXCLUSION FRAMEWORK

Performing due diligence on prospective partners and suppliers is one of the important factors for efficient fraud and corruption prevention (on fraud and corruption see also Chapter 2 above and the FPAC Mechanism). Due Diligence is a detailed examination of a third party, conducted by the MRC Secretariat before signing a contract with the third party or becoming in another formal way involved with it. Undertaking a Due Diligence process contributes to informed decision making in relation to stakeholders that may provide services to MRCS. It is part of the appraisal process resulting in a decision as to whether a consultant, bidder, contractor, or a grant proposal from a third party should be engaged or not by MRCS.

This Chapter sets out an Exclusion Framework and the high-level principles to be followed in the MRCS due diligence process. Further details on that process are set out in the MRCS Due Diligence Guidelines to be adopted by the MRCS CEO .

3.1 Exclusion Criteria

The MRC exclusion criteria set out below facilitate the detection of persons and entities that pose a risk to the Mekong River Commission's financial interests. They aim at excluding certain entities or persons from receiving MRC funds or participating in procurement/recruitment procedures. Any person or entity will be excluded from participation in MRC procurement processes or receiving MRC funds and, subject to the process set out in the relevant section below, placed on the Do-Not-Engage list if they:

- a) have been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
- b) are in a situation of bankruptcy, liquidation, termination or suspension of business activities, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
- c) have received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct, including but not limited to: misrepresenting information required for the verification of the absence of grounds for exclusion or in the performance of a contract; entering into agreement with other persons or entities with the aim of distorting competition; violating intellectual property rights; attempting to influence the decision-making process of a contracting authority; or attempting to obtain confidential information;
- d) do not comply with their obligations as regards payment of taxes, social security contributions and dues, according to the applicable statutory provisions;
- e) are an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
- f) have been involved in mismanagement or other irregularities related to the use of MRC funds or public funds of another source;
- g) are or appear to be in a situation of conflict of interest in relation to the procurement process.

3.2 Proportionality

In assessing the risks posed by a supplier and identifying possible mitigation steps, the MRCS, as relevant, shall be guided by the principle of proportionality. The principle of proportionality in this context means that the MRCS shall only **take the action it needs** to in order to **achieve its aims and no more**.

Any decision on exclusion from funding or placing a supplier on the Do-Not-Engage List shall be made in compliance with following principles of proportionality. For example, the measures to be taken when assessing the seriousness of risks identified should include:

- a) The seriousness of the situation, including the impact on the financial interests of MRCS, as well as the impact on the relation between MRCS and concerned stakeholder/s;
- b) The possible impact on the reputation of MRCS;
- c) The time which has elapsed since the relevant conduct;
- d) The duration of the conduct and its recurrence;
- e) Whether the conduct was intentional or/and the degree of negligence shown;
- f) Amounts at stake relating to payments of taxes or social security contributions, in the case of a breach of obligations;
- g) Any other damages that need mitigating circumstances.

3.3 Derogations

There may be certain situations in which certain concerns with a supplier have been identified and the available risk mitigation measures would not address the concerns, but MRCS still considers it in its best interest to proceed with that supplier.

In those situations, a derogation from the due diligence process may be considered. Such a derogation shall be recorded explaining all the reasons why it would be in MRCS' best interest to proceed with this supplier in spite of the concerns identified.

3.4 Do-Not-Engage list and Remedial Measures

If it is established that a supplier, consultant or other service provider does not meet the Exclusion Criteria set out above, they shall be placed on the MRCS "Do-Not-Engage" list, which means that that they are no longer eligible to be considered for future business opportunities with the MRCS (previously referred to as "Debarment"). Placement on the "Do-Not-Engage" list of a consultant or service provider may be for a period of up to five years. MRCS shall publish the "Do-Not-Engage" list on its public website.

Prior to being placed on the Do-Not-Engage list, the Procurement or HR Team, as relevant, shall provide the consultant or other service provider about whom a concern has arisen that they do not meet the Exclusion Criteria with an opportunity to explain the situation and defend their position. The consultant or other supplier shall be provided with an opportunity to take remedial measures before a final decision is taken.

The response and any remedial measures proposed shall be carefully assessed by the Procurement or HR Team, as relevant, and the decision to place a consultant or other service provider on the Do-Not-Engage List shall be taken by the Director of Administration. Such

decision shall be documented, including by providing the grounds and justifications for placing the supplier on the Do-Not-Engage list, and provided to the supplier. The decision shall also address the remedial measures that have been considered and, if relevant, the reasons as to why they were deemed not to fully mitigate the identified concern. In certain circumstances, the supplier, consultant or service provider shall be afforded an opportunity to take remedial measures that would allow it to be removed from the Do-Not-Engage list.

The reasoned decision shall be communicated to the relevant supplier, consultant or service provider. A supplier, consultant or service provider that is the subject of a decision to be placed on the MRC Do-Not-Engage list can submit an appeal to the MRC Procurement Complaints Committee. The process in front of the Committee shall be guided by the provisions set out in Article 3.5 of the MRC Procurement Committee.

In addition to the above, in managing the Do-Not-Engage list, MRCS shall take the following into account:

- a) decisions to place an entity or person on the Do-Not-Engage list shall be based on evidence and findings from the due diligence process, not on conjecture or a personal antipathy of a MRCS employee against a supplier;
- b) The MRCS shall be responsible for updating the MRC Do-Not-Engage list. Any entity or person who is taken off the list upon the MRCS's decision shall not be made publicly available. This does however not prevent the MRCS from providing an honest response to a request for a referee's report about the performance of that entity or person on the list;
- c) entities or persons on the Do-Not-Engage list will be afforded an opportunity to be re-engaged or taken off the list if they demonstrate that the necessary remedial measures have been taken.

MRCS shall put adequate measures in place to ensure that relevant staff cannot engage a supplier, consultant or service provider that is placed on the MRC Do-Not-Engage list.

3.5 Right of Defense

Before MRCS takes decisive and affirmative measures against third parties (contractor, supplier, consultant, or service provider), MRCS shall provide them the opportunity to present their case and defend themselves. Five steps can be applied and followed if adversary parties do not reach a satisfactory solution for both parties:

Step 1: Submit cases to the Procurement Complaint Committee (Section 4.5 of the Procurement Manual).

Step 2: Submit to MRCS Management

Step 3: Consulting with a law firm

Step 4: Submit to MRC Joint Committee (if the case cannot be resolved by the MRCS Management)

Step 5: Submit to the court: International law or local law if both parties agree.

Further details on these processes are provided in the Due Diligence Guidelines.

4 ORGANIZATION FOR PROCUREMENT

4.1 The Mekong River Commission consists of three permanent bodies

4.1.1. The Council

The Council is composed of one member from each participating riparian state at the Ministerial and Cabinet level, (no less than Vice-Minister level) who would be empowered to make policy decisions on behalf of his/her government. The Council makes policy decisions and provides other necessary guidance concerning the promotion, support, co-operation and co-ordination of joint activities and projects in order to implement the 1995 Mekong Agreement. The Council has overall governance of the Mekong River Commission.

4.1.2. The Joint Committee (JC)

The Joint Committee is composed of one member from each of the four participating riparian states at no less than Head of Department level bringing the number to four members. The Joint Committee is responsible for the implementation of the policies and decisions of the Council and supervises the activities of the Mekong River Commission Secretariat. This body functions as a board of management.

4.1.3. The Secretariat

Renders technical and administrative services to the Council and Joint Committee, and is under the supervision of the Joint Committee. The MRC Secretariat (MRCS) is the operational arm of the MRC. It provides technical and administrative services to the Joint Committee and the Council, and is under the direction of a Chief Executive Officer (CEO) who is appointed by the Council. Under the supervision of the Joint Committee, the CEO is responsible for the day-to-day operations of professional and general support staff. The main counterparts for MRC activities in the four Member Countries are the National Mekong Committees (NMCs).

4.2 Delegation of Procurement Authority

The Procurement Team works under the Administration Division at the MRC Secretariat. Reporting to the Chief Financial Officer (CFO) and Director of Administration (AD), the Procurement Team is responsible for all procurements, except those for procurement of individual consultant services, which is handled by the Human Resources Team under the Administration Division.

All contracts will be handled by the Procurement Team in the Vientiane Office, checked by the Chief Financial Officer (CFO), and approved by the Administration Director / CEO depending approval thresholds able in sections 3.6 and 3.7. Due to centralization of the procurement function in MRC, procurement in Member Countries will be facilitated by the National Coordinator in the bidding process, including soliciting quotations where necessary; however, all documents must be sent to MRCS for approval. The approval thresholds in sections 3.6 and 3.7 must be strictly followed.

4.3 Evaluation Panel

The panel consists of a Chairperson and up to four other official members approved by the CEO on the proposal forwarded by the CFO in consultation with the Division Director. The number of members of an Evaluation Panel should be an **odd** number. The CEO appoints members of an Evaluation Panel as individuals based on their technical expertise. Hence, evaluation of bids is at the individual level and delegation can only be on approval of the CEO. The CFO and the Procurement Officer act as *ex-officio* (or non-voting) members of the Panel; the latter as the Secretary to the Evaluation Panel. The presence of the *ex-officio* members is to ensure the evaluation process is conducted in accordance with MRCS Procurement guidelines and international practice.

An invitation for a Member Country representative to attend evaluation and negotiation proceedings is optional and depends on the nature of the project and the bid. Under normal circumstances and for most bids the presence of a Member Country representative during evaluation of bids is not required. However, if due to the size or complicated nature of a bid and/or for training purposes, the Member Country wishes to be represented, the CEO may agree to invite a representative as an observer at the evaluation stage, at the negotiations stage or both, subject to availability of project funds if travel support is necessary.

This panel is given the mandate of preparing bid evaluation grids and submitting the grids for approval by the CEO through the Administration Director and CFO. The Panel evaluates the bids received according to the instructions of the Request for Proposals and MRC Procurement Manual. The Panel reports in writing on its meetings and deliberations. All contacts with bidders go through the Procurement Team in the Administration Division; the Panel members shall not have direct contact with the bidders and are not authorized to conduct negotiations without prior approval by the CEO.

To facilitate the evaluation of bids, the CEO may appoint alternate members who could act in place of the member of the Evaluation Panel in cases where the originally appointed evaluator is unavailable. In such a case, the alternate evaluator does the work independently and does not necessarily need to consult the originally appointed evaluator in the scoring system or otherwise responsibilities of the requesting parties.

4.4 Divisions

- Develop annual work plans and budgets based on the appropriate guidelines;
- Initiate procurement requirements. This includes preparing a Purchase Requisition Form or a request memo providing the required technical specifications and forwarding them to the Procurement Team in the Administration Division;
- Participate in the evaluation of tenders, proposals, and quotations;
- Report any departure from the terms and conditions of the contract to the Procurement Team;
- In conjunction with Procurement Team, prepare any procurement related reports required for submission to the CEO;
- Undertake conformity assessments of supplied goods, works and services with the specifications of the contract documents;
- Certify the issuance of goods, works and services received notes;

- With guidance from the Procurement Team, prepare annual procurement plans;
- Prepare clarifications on tenders and submit to the Procurement Team; and
- Maintain and archive records of contract management within their Division.

4.5 Procurement Complaints Committee

At the start of each financial year, the CEO shall appoint members of the Procurement Complaints Committee. The Committee shall consist of a Chairperson who is at least at the level of the Chief Officer or Division Director and four other members who are MRC Secretariat staff members with different nationalities. The CEO may appoint an alternate member from time to time to replace another to avoid conflicts of interest where the originally appointed member belongs to the division whose procurement process is under dispute.

Any bidder who claims to have suffered or risks suffering loss or damage due to the breach of a duty imposed on MRCS by the Procurement Manual and bidding documents, may lodge a complaint to the MRCS through the CEO. **All the costs of the bidder-initiated review shall be borne by the bidder.** The bidder may withdraw the complaint in writing any time before completion of the review. Immediately upon receipt of such a complaint, the CEO shall forward the document to the Procurement Complaints Committee for a review and recommendation for a decision.

The bidder's request for review shall:

- State the reasons for the complaint, including any alleged breach of MRCS procurement rules;
- Be made within 5 working days of notification of contract award. Requests for review submitted after this period will not be considered.

The following shall not be the subject of a complaint by the bidder:

- The choice of procurement method;
- A decision by MRCS to reject all bids, proposals, or quotations as stated under section 7.1.8 or 8.20 of this manual; and
- Where the complaint is frivolous.

Those involved in the review shall be:

- The person who requested the review;
- The MRCS Procurement Team;
- The MRCS Division requesting the procurement package;
- Bidders who submitted bids under the procurement in review; and
- Any other persons the Committee may deem fit.

Once the Chairperson of the Procurement Complaints Committee receives the formal complaint, he/she shall communicate with the Director of Administration, CFO and Procurement Team that the procurement proceeding stands suspended until either the bidder withdraws its complaint or the complaint is finally resolved in accordance with this section, or until the suspension is otherwise lifted in accordance with this section.

The Committee shall complete its review within 15 working days of receipt of the complaint. On completion of the review, the Procurement Complaints Committee shall recommend in writing (the "**PCC Recommendation**") one or more of the following to the CEO:

- Annul anything that has been done including the entire procurement proceedings;
- Give directions to the Procurement Team with regard to anything to be done or redone in the procurement proceedings; and
- Substitute the decision of the Procurement Complaints Committee for any decision of the Evaluation Committee in the procurement proceedings.

Any such decision must satisfactorily be justified by the Procurement Complaints Committee to the CEO in line with the applicable rules of procedures and guidelines. In the event the CEO modifies the recommendation of the Committee, this should also be justified and recorded in writing. A copy of the PCC Recommendation and the written decision made by the CEO based on the PCC Recommendation ("**MRCS Decision**"), together with the reasons for that decision, must be made available to the bidder. The MRCS Decision shall be final and binding and shall not be subject to further review, by any person, court or authority, subject only to the decision objection procedures set out below.

Decision Objection Procedures

In the event that a bidder forms the view that the MRCS Decision either:

- (a) was made in breach of the procurement complaints procedures or the MRCS procurement rules; or
- (b) was wrong or unjust;

The bidder may submit a written notice of objection ("**Notice of Objection**") to the MRCS within 5 working days of the date of the MRCS Decision. Notices of Objection received after this period will not be considered. The Notice of Objection must clearly state the reasons for the objection and must be supported by all available facts and evidence. No Notice of Objection may be lodged for any other reason other than the reasons set out at (a) and (b) above and, for the avoidance of doubt, no Notice of Objection shall be lodged simply because the MRCS Decision is inconsistent with the bidder's wishes or preferences.

If a Notice of Objection is lodged within the aforementioned 5 working day period, the CEO shall refer the matter to the Joint Committee (or properly appointed representatives thereof) for determination for a period not exceeding 15 days from the date of the Notice of Objection. Decisions of the Joint Committee in respect of the Notice of Objection must be reached on a consensus basis and the Joint Committee may, in its sole and absolute discretion, do any one of the following:

1. Reject the Notice of Objection by written notice to the bidder (including the reasons for such objection), in which case the MRCS Decision shall be final and binding on the bidder and shall not be subject to further review by any person, court or authority; or
2. Accept the Notice of Objection and direct the MRCS to do one or more of the following:
 - Annul anything that has been done including the entire procurement proceedings;
 - Give directions to the MRCS with regard to anything to be done or redone in the procurement proceedings; and
 - Substitute the decision of the Procurement Complaints Committee or the CEO, as the case maybe, for any decision of the Evaluation Committee in the procurement proceedings;

in which case the Joint Committee's direction in this regard shall be final and binding on the bidder and shall not be subject to further review by any person, court or authority; or

3. Refer the complaint to be resolved by mediation between the parties in the city where the MRCS office is located and where the procurement under review was initiated, in accordance with the mediation rules of the Singapore Mediation Centre for the time being in force, which rules are deemed to be incorporated by reference in this clause, excluding article 12, which shall be amended to provide that all fees, costs, expenses and disbursements (including all fees payable to the selected Mediation Centre) will be borne by the bidder. If this option is selected, the Joint Committee may direct that the procurement proceedings may recommence, notwithstanding such mediation. In the absence of such a direction, however, the procurement proceedings shall remain suspended pending finalization of the mediation proceedings.

If no consensus decision of the MRC Joint Committee in respect of the Notice of Objection is reached within 15 days of the date of the Notice of Objection, or the complaint is not successfully resolved by mediation within 30 days of the commencement of such mediation (or such longer period as agreed by the bidder and the MRCS in writing), the matter shall be deemed to have been rejected by the Joint Committee and the MRCS Decision shall be final and binding on the bidder and shall not be subject to further review by any person, court or authority.

4.6 Procurement Thresholds Matrix and Approvals

In this threshold matrix, reference to a foreign supplier, contractor, service provider or consultant means those from outside the MRC Member Countries.

There are **four (4)** main procurement procedures: (1) petty cash, (2) shopping, (3) Open tender. and (4) **Direct Purchasing**. These procedures are used in the procurement of works, goods, non-consultancy services, or consultancy services depending on the procurement thresholds set out below. All of the open tender need to follow the Due Diligence Guideline.

Procurement of Consultancy Good, Works, Non-Consultancy, Services from Firms, MOU, TOR and WA						
Procurement Method/ Selection Method	Procurement Threshold (US\$)	Approach to Supply Market	Responsibility	Contracting Format	Approval signatures on contractual internal documents	
Petty Cash	1-500	- At least one Verbal Quotation - One Pro-forma Invoice	Procurement/ Divisions	Cash Receipt	Administration Director	
Shopping	501 – 10,000	Min 3 quotations from suppliers by email or phone	Procurement team	Purchase Order	Administration Director	
Open tender - Request for Quotation (RFQ) - Request for Proposal (RFP)	10,001 or above	Min 3 formal quotations from suppliers/firms	Procurement Team/Evaluation Panel (service firm)	Purchase Order or Contract	a) Chief Executive Officer (≥20,000\$) b) Administration Director (≤20,000\$)	
Direct Purchasing (Waiver, Direct Contracting, and Single Source Selection)	N/A	- All Direct Purchasing is required the memo must approve from CEO. - Direct Purchasing (Waiver, Direct Contracting, and Single Source Selection), based on Justifications, emergency, and specialized equipment).	Divisions/ Procurement team.	Purchase Order or Contract	a) Chief Executive Officer (≥20,000\$) b) Administration Director (≤20,000\$)	

Notice: Open tenders are all eligible for local, regional, and international

4.7 Procurement Responsibility Chart at all \$ Value

Procurement process	Action by	Verified by	Approval by (as applicable)
Develop terms of reference/specifications	Concerned Division	Procurement Team	Concerned Division Director
Raise purchase requisition	Concerned Division	Procurement Team	Division Director
Certify funds available	Budget Manager/ Concerned Division	Concerned Budget Manager	Division Director
Draft bidding documents	Procurement Officer	Concerned Division	CFO and Administration Director
Develop detailed evaluation grid	Concerned Division	Procurement Officer and CFO	Administration Director or CEO
Draft and place bid advertisement	Procurement Officer	CFO	Administration Director
Issue bidding documents to bidders	Procurement Officer	Administration Director and CFO	Administration Director
Issue clarifications to bidders	Procurement Officer	Concerned Division	Administration Director or CFO.
Issue bid extension	Procurement Officer	Concerned Division	Administration Director or CFO.
Appoint Bid Evaluation Panel	Procurement Officer in consultation with Concerned Division	Administration Director and CFO	CEO
Receive bids	Procurement Officer		
Open bids	Bid Evaluation Panel		
Preliminary evaluation of bids	Procurement Officer	Administration Director and CFO	Bid Evaluation Panel
Technical evaluation of bids	Bid Evaluation Panel		
Write technical evaluation report	Procurement Officer	Director of Administration and Bid Evaluation Panel	CEO
Obtain password to open financial bids submitted by email	Procurement Officer		

Open financial bids	Bid Evaluation Panel		
Write technical and financial evaluation report	Procurement Officer in consultation with the CFO.	Administration Director and CFO and Bid Evaluation Panel	CEO
Write to successful and unsuccessful bidders	Procurement Officer		Administration Director
Draft the contract	Procurement Officer	Concerned Division	Administration Director
Develop negotiation items	Procurement Officer or Negotiation Committee where applicable	Concerned Division	Administration Director
Invite successful firm for negotiation	Procurement Officer		Administration Director
Negotiate & finalize draft contract	Bid Evaluation Panel or Negotiation Committee and Procurement Officer	Administration Director and CFO	CEO
Commit funds for the contract	CFO	Administration Director	CEO
Sign contract		Administration Director	CEO
Issue contract to successful firm	Procurement Officer	Administration Director and CFO	CEO
Manage contract including contractor performance assessment if applicable	Concerned Division	Administration Director	CEO
Contract administration	Concerned Division	Procurement Officer	Director of Administration
Pay contractor invoice (including preparing request for payment)	Concerned Division	Procurement Officer	Director of Administration
Contract closure formalities	Procurement Officer		Director of Administration

4.8 Consultancy Cost Estimation – consultancy work from firms

MRCS procures consultancy services to perform various activities that require specific expertise. Consultancy services can be sourced locally or internationally. Divisions must prepare Terms of Reference as well as the budget for any foreseeable consultancy service.

The table below provides guidance on how cost estimates can be arrived at:

Management consultancy cost – i.e. Provision of management training to MRCS or facilitating a workshop of a technical nature.

Cost item	Description
Consultancy firms staff costs / fee rates	Key cost factors to consider are (a) how many consultant firm's staff will be involved; (b) what level of expertise will be required to deliver the service; and (c) for how many days / months.
Daily Subsistence Allowance	For budgetary purposes, MRCS rates should apply i.e. 75% of the UN rate.
International travel costs	Depending where the firm is located, air ticket cost estimates should be obtained from the MRC travel agent. Visas and taxis to and from airports must be included.
Office stationery	Depending on the nature of work, stationery should be budgeted for.
Office space / workshop venue	If the service will be delivered at a venue other than the office, then the venue cost should be budgeted by getting a quote from the venue.
Contingency	10% of the total budget is recommended.

4.9 Cost Estimation – Construction Works

For construction works, depending on complexity, i.e. dam construction, the engineer or quantity surveyor as deemed appropriate will be hired to provide cost estimates or bills of quantity. A fee for such consultants will be included in that specific consultancy cost.

As cost estimates are required at the time of preparation of the Terms of Reference, the information below may be used as guide.

Cost item	Description
Equipment and construction materials	List down all materials and equipment needed. The cost should be at a market value obtained from possible suppliers locally or internationally as the case may be.
Transportation of materials to the construction site	Where applicable, transportation or shipping costs should be budgeted based on information available from shipping companies.
Fuel for running the equipment	Quantity and cost of fuel needed must be budgeted. The Engineer will advise on quantities needed.
Staff costs / fee rates of the construction company	The construction company may have its own fee rates; however, information in Appendix 25 of this manual may be useful where international experts are involved.

Daily substance allowance (if applicable)	If DSA is applicable, the maximum budget should be MRCS rates, which is 75% of the UN rate.
International travel costs (if applicable)	Depending on where the firm is located, air ticket cost estimates will be obtained from the MRCS travel agent. Visas and taxis to and from airports must be included.
Stationery	Depending on the nature of work, stationery should be budgeted for.
Temporary office costs	Some construction companies operate from a container as a temporary office. Where applicable, the cost of this container should be budgeted.
Report writing	Depending on the skill required for the report writer, costs should be included in the staff costs above.
Translation	This would be another staff cost and its rate should be commensurate with the expertise required. Refer to Appendix 25 for guidance.
Secretarial expenses	This may be local staff costs and should be budgeted as such.
Contingency	10% of the total budget is recommended.

4.10 Functions of the Procurement Staff and Team

The Procurement staff are responsible for the proper procurement function in a professional manner for all MRC procurements. The functions of the Procurement staff are to:

- Perform supply market surveys;
- Develop Annual Procurement Plans for the entire Secretariat;
- Prepare, publish and distribute procurement opportunities;
- Coordinate the receiving and opening of tender documents;
- Issue procurement documents to candidates;
- Propose the membership of the Evaluation Panel to the CEO for approval in consultation with requesting division;
- Coordinate the evaluation of tenders, quotations, and proposals;
- Compile evaluation reports;
- Conduct due diligence processes in accordance with the Due Diligence and Exclusion Framework in Section 3 and the Due Diligence Guidelines;
- Recommend a negotiating team for appointment by the CEO;
- Prepare and publish notices of award and notices of tender acceptance;
- Prepare contract documents in line with the award decision;
- Prepare and issue rejection and debriefing letters;
- Prepare contract variations or contract amendments;
- Implement the decisions of the Procurement Complaints Committee;

- Coordinate and act as a Secretary to the Evaluation Committee.
- Monitor contract management by user divisions/sections to ensure implementation of contracts in accordance with the terms and conditions of the contracts;
- Co-ordinate internal monitoring and evaluation of the procurement functions;
- Assist in periodical and annual stock taking if any;
- Approve extension of the tender validity period;
- Maintain and safeguard procurement documents and records;
- Certify that invoices/payment requests are in accordance with contract provisions;
- Support Chief Financial Officer and Director of Administration in dealing with procurement management and related transactions.

5 PROCUREMENT PLANNING AND BUDGETING

5.1 Short and Long-term Plans

MRC work is guided by the work plans developed by Divisions. In line with these work plans, MRC prepares Annual Procurement Plans that are also linked to the Annual Budget.

5.2 Definition of Requirements

Planning the procurement requirements helps forecasting when a tender may be launched, and proceedings are likely to result in a contract. Procurement affects budget execution unless it has been planned adequately, with realistic times taken into account for the preparation of procurement requirements and allotment of budget. Each procurement requirement should be planned as part of the budget preparation process. Initiation of the procurement process requires that the procurement plan be in place. Each requesting division shall develop their annual requirements and forward the requirements to the Procurement Team. The Procurement Team will consolidate all the requirements into an Annual Procurement Plan.

Once the requirements from divisions are received, the Procurement Team will consider the following factors while *aggregating procurement requirements*:

- Items of similar nature and are likely to attract similar potential bidders;
- Whether the aggregation should be done for the whole year;
- Whether seasonal price fluctuations require aggregation within certain seasons;
- If there are constraints in storage and distribution capacity;
- The optimum size and type of contract to attract the greatest competition;
- The need and mechanism to apply regional preferences;
- If the items will be subject to the same bidding requirements and contract conditions; and
- The potential to realize savings in time or transaction costs.

In some cases, there may be a need to divide procurement requirements into lots, which otherwise could be procured as a single contract. Lots should be considered:

- If the anticipated award of separate contracts could enhance competition;
- If some bidders could only be able to bid for part and not all the requirements;
- If the requirements are meant to attract small businesses; and
- If in so doing, regional suppliers are able to participate.

However, division into lots should **not** be used:

- For the purpose of avoiding procurement thresholds as stated in section 3.6 of this manual;
- If the separate contracts could create compatibility problems between items bought in lots; and
- Where several lots could increase the costs of servicing, maintenance or similar requirements.

Tenders/contracts may not be split with a view to avoiding the application of the procurement methods. This includes amongst others a split in order to reduce monetary thresholds or contract duration thresholds.

5.3 Market Survey and Cost Estimation

The Procurement Team, working closely with the requesting Division as appropriate, regularly conducts market surveys to ascertain current prices for items included in the procurement plan. Guidelines are provided in the toolkit for estimating costs of consultancy assignments. For works procurements, engineer's estimates should be used to indicate the likely total cost of engineering related projects. In such an event, procurement of a consultant to produce the engineer's estimate may be necessary and such costs should be included in the procurement plan.

5.4 Procurement Timelines

The duration it would take to accomplish each task in the procurement process depends on the nature, complexity, value, and risk associated with the procurement package. The table below shows the estimated durations for each procurement activity; some of the durations serve as a guide only.

The procurement toolkit for this manual has a flowchart demonstrating the procurement process and their respective timelines. The timelines are indicative and may vary depending on the complexity of each procurement.

Procurement Activity	Minimum Duration (Calendar Days)
1. Contract forecast notice	15
2. Preparation of specifications/terms of reference	15
3. Preparation of bidding documents	7
4. Prequalification/expression of interest	15
5. Invitation to bid-International competitive tender	28
6. Request for quotation period	5-15
7. Evaluation of bids	10
8. Contract negotiations	10
9. Decision period for complaints of award	15
10. Contract signing	10
11. Contract award and non-award notice after signing	10

Deadlines for submission of tenders, quotations, and proposals can only be shortened under derogation, provided satisfactory justification is submitted.

5.5 Annual Procurement Plan

Procurement work requires a lengthy process in order to comply with the rules and regulations. Therefore, each division / section must ensure that the planning of procurements is undertaken as an integral part of the annual work plan. Each division should aim to submit their annual Procurement Plan to the Procurement Unit no later than the 31 January each year. The Procurement Team shall then prepare a consolidated Annual Procurement Plan for the whole Secretariat. The Procurement Plan includes:

- A breakdown of procurement packages for goods, works, services, and consultancies;
- Estimate of the value of each procurement package;
- Indication of the anticipated procurement method;
- Estimated timelines for each activity in the procurement process;
- Schedule of timelines for planned delivery and completion dates; and
- Any other relevant information.

5.6 Approval of the Procurement Plan

The CEO shall approve the Annual Procurement Plan of the entire MRC Secretariat on or before the 15 February each year.

5.7 Publication of Annual Procurement Plans

Upon approval of the Annual Procurement Plan by the CEO, the Procurement Team will prepare a General Procurement Notice (GPN) to inform potential bidders of what the Secretariat is planning to procure during the year. Such a GPN will be posted on the MRCS and DgMarket websites.

6 PROCUREMENT METHODS

The procurement methods that may be used are: (a) open tender; (b) shopping; (c) petty cash; and (d) direct purchasing.

In principle, tenders / contracts may not be split with a view to avoid application of the procurement methods. This includes amongst others a split in order to reduce monetary thresholds or contract duration thresholds.

6.1 Open Tender

Open tendering is a public opening bid widely for local, regional, and international tenders. Where the goods, works, or services required will exceed US\$10,000 in estimated value, open tender procedures must be followed.

- The invitation to bid and the tender documents shall be in the English language;
- The invitation to bid shall be published widely in MRCS, DgMarket websites, other selected international organization websites, and/or a regional newspaper using the same foreign language as the invitation and being of sufficient circulation to attract competition;
- The time for submission of tenders shall be sufficient for the invitation to reach candidates and for them to prepare and submit tenders as per the Procurement Threshold. Bidders will be given between four to six weeks, or longer periods, if necessary, to prepare and submit sealed bids depending upon the nature of the products to be quoted;
- Technical specifications shall, to the extent compatible with requirements, be based on international standard or standards widely used in international trade; and
- General and special conditions of contract shall be of a kind generally used in international trade.

The invitation to bid will indicate brief particulars of the product, with the quantity, eligibility for participation by bidders, destination where the goods are to be delivered, the name and address of the office where bid documents can be obtained (if applicable), closing date for receipt of tenders and specified place for submission of tenders.

The bid document containing detailed specifications, bid conditions, instructions to bidders, proposal and contract forms, bid and performance security formats will be made available to prospective bidders either on payment of a nominal fee or free of charge, as the case may be, to enable as many suppliers, contractors, service providers, or consultants as are interested to participate in submitting bids.

6.1.1. Request for Quotation (RFQ)

Request for Quotations using a standard approved format is particularly suitable for procuring readily available off-the-shelf goods or standard specification items when no special conditions of a contract are required. This method compares price quotations obtained from at least three (3) suppliers /contractors to ensure effective competition. Where special contract conditions are required, bidding documents and contract format are necessary.

Where the goods and services are estimated to exceed US\$10,000, the Procurement Officer will obtain a minimum of three quotations from suppliers who are qualified to supply such goods or services, either locally or from abroad.

For procurements in the MRC Member Countries under this method, the National Mekong Committee Secretariats may obtain the required number of quotations as specified in this manual and send them to the MRCS for review. Where applicable, all other related documents, i.e. bid advert, related Memos etc., should accompany the bids. The concerned budget manager will review and confirm budget availability and then hand over to the Procurement Officer to review quantity, price reasonableness, and perform price comparisons and advise the concerned Division Director and Director of Administration accordingly. Through the Director of Administration, the Procurement Officer advises NMC to solicit additional quotations in situations where the bids presented are not complete and do not provide value for money. Once the quotations are acceptable, the Procurement Officer will prepare an evaluation report and issue a purchase order to the lowest and highest quality evaluated bidder.

To the extent possible, quotations should be sought from enterprises in MRC Member Countries.

The official request for quotations must indicate a common closing date for the receipt of all bids. Requests made via electronic mail are encouraged.

RFQ is appropriate where:

- There is need to purchase readily available goods, works or services;
- Where there is an established market;
- The estimated contract value is not more than the amount in the respective Procurement Threshold.

The following procedure shall be applied when request for quotation method is used:

- Receive Purchase Requisition Form or request memo duly approved;
- Prepare a request for quotation using the appropriate form;
- Simultaneously issue the RFQ to at least three prospective suppliers/contractors;
- Give sufficient time for preparation of the quotations as per the Procurement Thresholds (5 to 15 days);
- All quotations are placed in the Quotation Box;
- The quotations are opened in the presence of at least two officers and at least one of them is Chief level in the MRCS office;
- The Procurement Officer shall analyse the quotations received and recommend awarding a purchase order to the supplier with the lowest evaluated quotation;
- Seek and obtain approval of the purchase order;
- Send the purchase order to the supplier;
- The supplier acknowledges in writing the receipt of the purchase order;

- Items are delivered within the duration stipulated in the order.

6.1.2. Request for Proposal (RFP)

Request for proposal process under the open tender process may be used when:

- Seeking to obtain consulting services; or
- A combination of goods and services for which open or restricted tendering is not suitable because of the difficulty in precisely defining the scope of work for services.

However, RFP shall **not** be used to purely procure goods or works.

6.1.3. Restricted Tender

Restricted tendering is one open tender method that processes through an invitation to bid from a shortlist of prequalified or known suppliers/contractors/service providers. A restricted tender may be used when:

- Competition for the contract, because of the complex or specialized nature of the goods, works or services, is limited to pre-qualified candidates; or
- The time and cost required to examine and evaluate a large number of tenders would be disproportionate to the value of the goods, works or services to be procured.

Restricted tendering procedures are **except that**:

- The invitation to bid is addressed to a limited number of qualified candidates that have declared an interest in submitting tenders. The selection shall be made in a non-discriminatory manner, and the number of candidates invited shall be, if possible, sufficient to ensure effective competition and shall not in any event be less than three;
- The Procurement Team shall maintain a list of pre-qualified candidates and shall update such a list every year by advertisement, giving candidates adequate time in which to submit expressions of interest;
- Any candidate who qualifies at the time of a tender shall be at liberty to apply for consideration, and the tender for such a candidate shall be considered notwithstanding that his name does not appear first on the list of pre-qualified candidates;
- MRCS may select candidates to be invited to bid from among those listed and any selection shall ensure equal opportunities are given to suppliers / contractors on the list; and
- The time allowed for preparation of tenders shall not be less than a minimum number of days stated in section 5.4 Procurement Timeline of this manual.

6.2 Shopping

The shopping method is referred to comparing price quotations obtained from at least three (3) suppliers/contractors to ensure effective competition, the lowest priced, and technically acceptable offer. Shopping does not require formal bidding documents and is carried out by

requesting phone, email, or internet quotations from several local or foreign suppliers or contractors – usually at least three – to ensure competitive prices.

Where the goods and services are estimated to cost between US\$ 501 and US\$ 10,000, the Procurement Officer will obtain a minimum of three quotations from suppliers who are qualified to supply such goods or services, either locally or from abroad.

For procurements in the MRC Member Countries under this method, the National Mekong Committee Secretariats may obtain the required number of quotations as specified in this manual and send them to the MRCS for review. Where applicable, all other related documents, i.e. bid advert, related Memos etc., should accompany the bids. The concerned budget manager will review and confirm budget availability and then hand over to the Procurement Officer to review quantity, price reasonableness, and perform price comparisons and advise the concerned Division Director and Director of Administration accordingly. Through the Director of Administration, the Procurement Officer advises NMC to solicit additional quotations in situations where the bids presented are not complete and do not provide value for money. Once the quotations are acceptable, the Procurement Officer will prepare an evaluation report and issue a purchase order to the lowest and highest quality evaluated bidder.

6.3 Direct Purchasing

As a procurement method, direct purchasing is referred to as waiver of competitive bidding, single-source selection, or direct contracting; any direct purchasing should be prepared through a memo approval by CEO, before procuring. In the form of memo to AD Director if exceed less than or equal to USD 10,000 and to CEO through AD Director if over USD 10,000.

Direct purchasing is based on justification, emergency, and specialized equipment. The authority direct purchasing is as follows:

- When standardization is important and equipment to be procured is for expanding the existing equipment, which must be purchased from the original supplier;
- Spare parts to repair existing equipment from an authorized dealer of such equipment and spare parts;
- When the equipment or services is proprietary in nature and is obtainable only from one source;
- When critical items are to be procured from specialist suppliers;
- When the civil works/construction to be undertaken are a natural extension of an earlier or ongoing job and if it can be proven that the engagement of the same contractor/consultant will be more economical and will ensure compatibility of results in terms of the quality of work; and

For reasons of extreme urgency brought about by events unforeseen by the Secretariat, the property or services could not be obtained in time under open tendering procedures.

In exceptional cases, where it is clearly shown that advance contracting of goods, works or services for items of a repetitive nature would be a crucial and important factor to avoid

delays, advance action for procurement may be taken by the Procurement Team upon request from the division or section concerned.

6.4 Petty Cash

Petty Cash is referred to as low-value procurements. Low-value procurement may be used in the following circumstances:

- The estimated cost of the goods, works or services per item is less than or equal to the prescribed maximum value as set out in the Procurement Threshold (less than US\$501);
- The procedure is not being used for the purpose of avoiding competition;
- The Procurement Officer shall procure items from a reputable supplier through direct shopping;
- An original invoice or receipt showing the item and the price paid shall be obtained and signed by the person undertaking the procurement.

7 PREQUALIFICATION AND EXPRESSION OF INTEREST

In the context of this Procurement Manual, the term pre-qualification applies to short-listing of suppliers, contractors, and service providers for goods, works, non-consultancy services, or combination thereof. Request for expression of interest is used to describe the process of short-listing candidates for provision of consulting services.

7.1 Pre-qualification of Bidders

Prequalification of bidders is required mainly for technically complex items to ensure that only technically and financially capable firms will participate in the bidding process.

Prequalification should be based entirely upon the ability of the interested firm to perform the particular work satisfactorily, taking into account: (i) experience and past performance on similar contracts; (ii) capabilities with respect to personnel, equipment, and plant; and (iii) financial position.

Invitations to pre-qualify should be advertised in at least two widely circulated newspapers and on the MRC website. The scope of work, abbreviated specifications, and a clear statement of the requirements for prequalification should be provided in the advertisement, as well as to all those who have indicated their desire to be considered for prequalification.

Generally, a minimum period of 15 calendar days should be allowed for the submission of prequalification applications. There should be no limits on the number of firms to be pre-qualified, and all firms found capable of performing the work satisfactorily in accordance with the approved prequalification criteria should be pre-qualified in consultation with the technical division, and invited to submit bids. The prequalification criteria for publication should be prepared by the concerned division and forwarded to the Procurement Officer for action.

Where bidders have been pre-qualified pursuant to the previously mentioned provisions, the invitations to bid and the tender documents should be transmitted directly to the pre-qualified bidders by the Procurement and Contract Officer.

7.1.1. Conditions

Prequalification is usually necessary for big or complex work, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition, such as custom-designed equipment, industrial plant, specialized services, some complex information and technology and contracts to be let under turnkey, design and build, or management contracting. It ensures that invitations to bid are extended only to those who have adequate capabilities and resources. Prequalification also helps to eliminate disputes that may arise from rejection of lowest evaluated bids because the bidders are not considered qualified.

7.1.2. Eligibility Criteria

Procurement should be carried out with bidders who are legal entities and who are not on the MRCS Do-Not-Engage list. To determine bidders' eligibility to take part in MRCS procurement exercises and enter into enforceable contracts with MRCS a due diligence process will be conducted based on the Due Diligence and Exclusion Framework set out in section 3 above and in accordance with the MRCS Due Diligence Guidelines.

In accordance with the Due Diligence and Exclusion Framework as well as the Due diligence guidelines, details on the eligibility and qualification of bidders are worked out to ensure that all bidders are entitled to bid and that the competition is fair amongst comparable entities and that these entities are legally established and can enter into enforceable contracts with MRCS.

The eligibility criteria should be clearly stated in the bidding documents for each procurement package. To ensure that these criteria are met, signed statements or documentary evidence may be requested to certify eligibility. Consideration should be given to time and costs constraints when requesting documentary evidence as obtaining up-to-date certificates from several administrations may take time.

As part of the Due Diligence process, documentary evidence for eligibility may also include:

- Certified or notarized copies of the bidder's certificate of business registration, certificate of incorporation, business license or similar document;
- Certified or notarized copies of the bidder's tax registration, tax clearance certificates or similar document;
- A list of all of the directors of the bidding Company;
- The principal shareholders of the bidding Company, or list of partners of the proprietor as may be appropriate;
- A document showing number of shares and nationality of the shareholders;
- A signed statement that the bidder does not have a conflict of interest in relation to the procurement;
- A signed statement that the bidder, or any of its directors or officers, have not been convicted of any criminal offence relating to professional conduct or the making of false statements or misrepresentations as to its qualifications to enter into a procurement contract within a period of three years preceding the commencement of procurement proceedings;
- A signed statement that the bidder is not debarred from participating in procurement; and
- Any other relevant criteria.

Consulting firms who wish to register with the MRC Secretariat may do so after completing the Consultants Registration Form (Annex 22) attached together with a formal letter enclosing the company brochures.

7.1.3. Prequalification Criteria

Prequalification shall be based entirely upon the capability and resources of prospective bidders to perform the particular contract satisfactorily, taking into account their (a) experience and past performance on similar contracts; (b) capabilities with respect to personnel, equipment, and construction or manufacturing facilities; and (c) financial position. The bidding documents shall be made available to the qualified prospective bidders as soon as prequalification is completed.

7.1.4. Advertisement

The invitation to pre-qualify for bidding on specific contracts or groups of similar contracts should be advertised in at least one newspaper of regional circulation (subject to request by concerned division, on the MRCS website, and on either the DgMarket or UNDB Online. The scope of the procurement package and a statement of the requirements for qualification must be provided in the advertisement.

7.1.5. Prequalification Evaluation

The prequalification applications are formally opened. Then, the Bid Evaluation Panel performs the technical evaluation according to the set criteria contained in the prequalification document. The following guidelines are useful in evaluating prequalification:

- Where a large number of suppliers/contractors pass the stated qualification criteria, it may not be realistic to invite more than a maximum of eight to participate in the specific tender;
- If so, only the best qualified suppliers/contractors should be selected and invited to bid;
- Inform all applicants of the results of pre-qualification;
- Applicants who fail to meet the pre-qualification criteria should be briefly advised of the reasons; no further correspondence shall be entered into regarding applications.
- When pre-qualification is completed, issue the bidding documents to those shortlisted.
- Later after submission of formal bids, verification of the information provided in the submission for prequalification shall be confirmed before the contract is awarded and award may be denied to a bidder that is judged to no longer have the capability or resources to successfully perform the contract.

7.2 Request for Expressions of Interest

7.2.1. Purpose

Expressions of interest normally have the aim of short-listing consultants, whether individuals or firms. The MRCS, or individuals or firms specialized in the area of the assignment hired by the Secretariat, shall prepare the terms of reference setting out the purpose of the assignment and the tasks to be performed.

7.2.2. Scope of Work

The scope of the services described in the TOR should be compatible with the available budget. See cost estimation guidelines for procurement of consultancy services from firms and construction work in sections 4.8 and 4.9 for more detail. The TOR shall define clearly the objectives, goals, and scope of the assignment and provide background information including a list of existing relevant studies and basic data to facilitate the consultants' preparation of their proposals. If transfer of knowledge or training is an objective, it should be specifically outlined along with details of the number of staff to be trained and so forth, to enable consultants to estimate the required resources. The TOR shall list the services and surveys necessary to carry out the assignment and the expected outputs; for example, reports, data, maps, or surveys. However, the TOR should not be too detailed and inflexible, so that competing consultants may propose their own methodology and staffing. Firms are

encouraged to comment on the TOR in their proposals; MRCS and consultants' responsibilities should be clearly defined in the TOR.

7.2.3. Advertising

To alert prospective applicants, the MRCS will prepare a **General Procurement Notice** well before the actual procurement starts. Thereafter, MRCS shall prepare, advertise, and issue a **Specific Procurement Notice** in order to obtain expressions of interest. The information requested should be the minimum required to make a judgment on the firm's suitability and not be so complex as to discourage consultants from expressing interest.

7.2.4. Shortlist of Consultants

The **Evaluation Panel** shall evaluate the applications. The Panel shall consider those firms expressing interest that possess the relevant qualifications. Short lists shall comprise **4-8 firms**; at all times not less than three. If there are more than 8 qualified firms, additional criteria may be applied as stated in the bidding documents to reduce the number of shortlisted firms to 8. The consultant shortlist **shall not have a mix of individuals and firms**. The MRCS may short list a smaller number of firms in special circumstances; for example, when only a few qualified firms have expressed interest for the specific assignment or when the size of the contract does not justify wider competition. Request for proposals are issued only to the shortlisted firms.

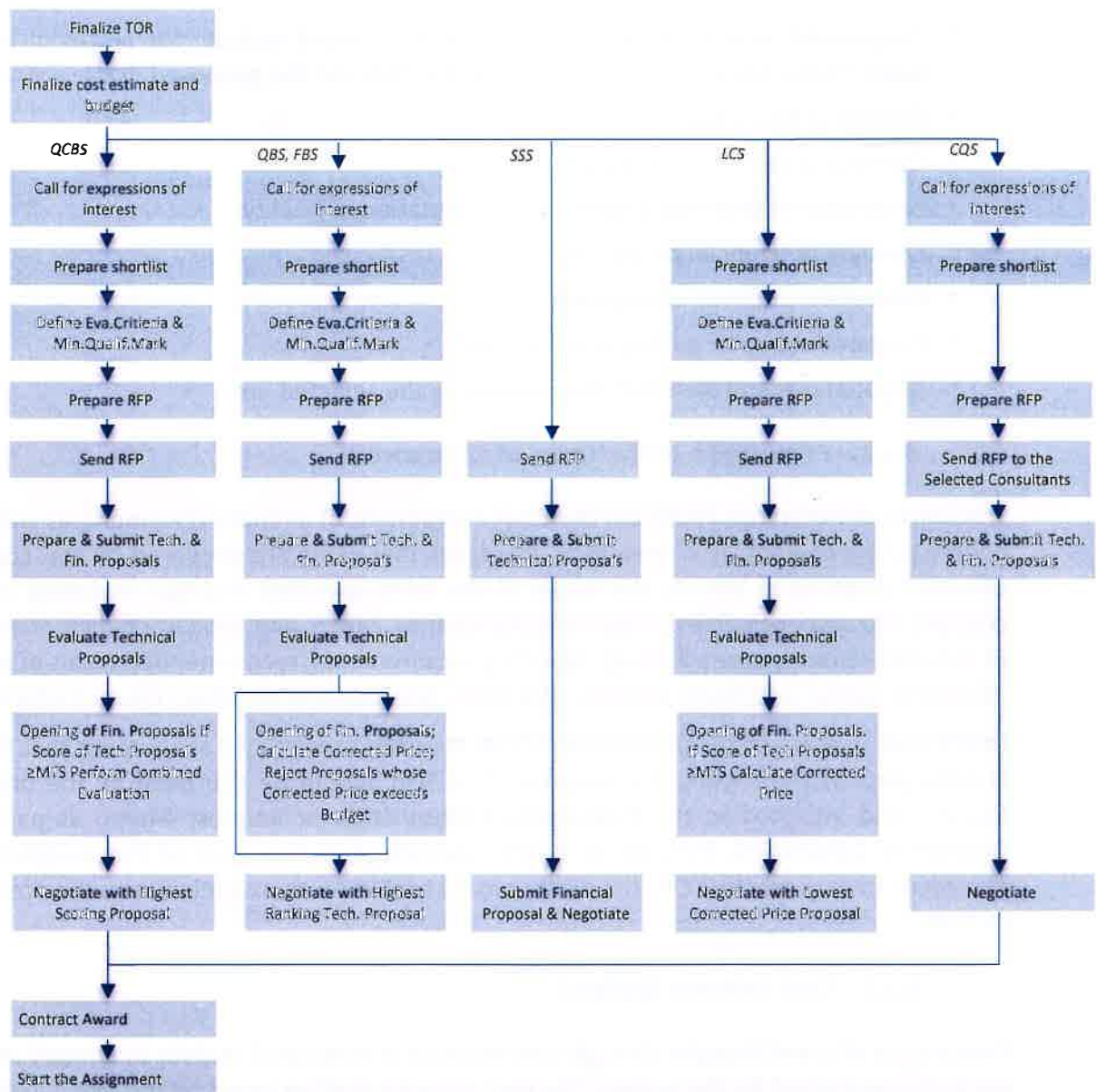
7.3 Approval of Short list

In both the prequalification and the request for expressions of interest, the **CEO** will consider the short-listing report prepared by the **Evaluation Panel** and make a final decision on the names included in the shortlist before inviting the firms to present their bids. Any decision that varies from the recommendation of the evaluation panel must be explained as a note to file.

8 PROCUREMENT OF CONSULTANCY SERVICES FROM FIRMS

Six selection methods are used for the procurement of consultancy services:

1. Quality and costs-based selection
2. Quality-based selection
3. Fixed-budget selection
4. Least-cost selection
5. Consultants' qualifications selection
6. Single-source selection



QCBS = Quality and Cost-based Selection; QBS = Quality-based Selection; FBS = Fixed Budget Selection; SSS = Single- Source Selection; LCS = Least Cost Selection; CQS = Consultants' Qualifications Selection; RFP = Request for Proposal; MTS = Minimum Technical Score

Figure 2: Graphical illustration of consultant selection methods and process

8.1 Quality and Cost-Based Selection (QCBS)

QCBS uses a competitive process among short-listed firms that takes into account the quality of the proposal and the cost of the services in the selection of the successful firm. Cost as a factor of selection shall be used judiciously. The relative weight to be given to the quality and cost shall be determined for each case depending on the nature of the assignment.

The selection process shall include the following steps:

- Preparation of the TOR;
- Preparation of cost estimate and the budget;
- Advertising;
- Preparation of the short list of consultants;
- Preparation and issuance of the RFP [which should include: the Letter of Invitation (LOI); Instructions to Consultants (ITC); the TOR and the proposed draft contract];
- Receipt of proposals;
- Opening of technical proposals;
- Evaluation of technical proposals: consideration of quality;
- Opening of financial proposals;
- Evaluation of financial proposal;
- Final evaluation of quality and cost; and
- Negotiations and award of the contract to the selected firm.

8.1.1. Preparation of the Terms of Reference

The Terms of Reference (TOR) are the basic component of a tender document, as well as of a contract / agreement. It is therefore important that TORs are prepared by the concerned divisions carefully to include the scope of the work specified in detail, including expected outputs; the responsibilities of the consultancy firm, MRCS, and concerned division use; date of commencement; time schedule; reporting requirements; recommended terms of payment related to output whenever possible; site visits; briefings and all other relevant information.

MRCS shall prepare terms of reference (TOR) for each consultancy assignment that forms an integral part of the request for proposal. The TOR should be approved by the originating Division and attached to the **Procurement Requisition or Request Memo** as part of the supporting documents. Persons or a firm specialized in the area of the assignment are permitted to prepare the TOR. The procurement toolkit contains guidance on the preparation of TORs.

8.1.2. Cost Estimate (Budget)

Preparation of a well thought through cost estimate is essential if realistic budgetary resources are to be earmarked for the project. The cost estimate shall be based on the MRCS assessment of the resources needed to carry out the assignment: staff time, logistical support, and physical inputs (for example, vehicles, laboratory equipment). Costs shall be divided into two broad categories: (a) fee or remuneration (according to the type of contract used); and (b) reimbursables, and further divided into foreign and local costs. The cost of staff time shall be estimated on a realistic basis for foreign and national personnel.

8.1.3. Advertising

The procedure for advertising for the short-listing of candidates is described under **Section 6.2.3** in **Section 6**.

8.1.4. Shortlist of Consultants

The procedure for short-listing and approving of candidates is described in **Section 6.2.4** in **Section 6**.

8.1.5. Preparation and Issuance of the Request for Proposals (RFP)

The RFP includes: (a) a Letter of Invitation; (b) Information to consultants; (c) the TOR; and (d) the proposed contract template. The Procurement Team shall use the applicable standard RFP with minimal changes as necessary to address project-specific conditions. Any such changes shall be introduced only through the **RFP Data Sheet**. The Procurement Team shall list all the documents included in the RFP. The Secretariat may use an electronic system to distribute the RFP if it is satisfied with the adequacy of such a system. If the RFP is distributed electronically, the electronic system shall be secure to avoid modifications to the RFP and shall not restrict the access of short-listed consultants to the RFP.

Letter of Invitation (LOI)

The LOI shall state the intention of MRCS to enter into a contract for the provision of consulting services, the source of funds, the details of the client as well as the date, time, and address for submission of proposals.

Instructions to Consultants (ITC)

The ITC contains all the necessary information to help consultants prepare responsive proposals, and should bring as much transparency as possible to the selection procedure by providing information on the evaluation process and by indicating the evaluation criteria and factors, their respective weights, and the minimum passing quality score. The ITC shall indicate an estimate of the level of key staff inputs (in staff time) required of the consultants or the total budget, but not both. Consultants, however, shall be free to prepare their own estimates of staff time to carry out the assignment and to offer the corresponding cost in their proposals. The ITC shall specify the proposal validity period, which should be adequate for the evaluation of proposals, decision on award, and finalization of contract negotiations.

Contract

Section 10 of this manual briefly discusses the most common types of contracts. MRCS shall use the appropriate **Standard Form of Contract** with minimum changes as necessary to address specific country and project issues. Any such changes shall be introduced only through **Contract Data Sheets** or through **Special Conditions of Contract** and not by introducing changes in the wording of the General Conditions of Contract included in the **Standard Form**. These forms of contract cover the majority of consulting services.

8.1.6. Receipt of Proposals

MRCS shall allow enough time for the consultants to prepare their proposals. The time allowed shall depend on the assignment and as per the Procurement Timelines table in section 4.4. During this interval, the firms may request clarifications about the information provided in the RFP. MRCS shall provide these clarifications in writing and copy them to all firms on the short list (who intend to submit proposals). If necessary, MRCS shall extend the deadline for submission of proposals. The technical and financial proposals shall be submitted at the same time. No amendments to the technical or financial proposal shall be accepted after the deadline. To safeguard the integrity of the process, the technical and financial proposals shall be submitted in separate sealed envelopes. The Evaluation Panel shall open the technical envelopes immediately after the closing time for submission of proposals. The financial proposals shall remain sealed until they are opened publicly.

Any proposal received after the closing time for submission of proposals shall be returned unopened.

MRCS may use electronic systems permitting consultants to submit proposals by electronic means, provided MRCS is satisfied with the adequacy of the system, including, *inter alia*, that the system is secure and maintains the confidentiality and authenticity of proposals submitted. Moreover, the system could use an electronic signature system or equivalent to keep consultants bound to their proposals, and only allows proposals to be opened with due simultaneous electronic authorization of the consultant and the Evaluation Panel. In this case, consultants shall continue to have the option to submit their proposals in hard copy.

8.1.7. Evaluation of Proposals

General Considerations

The Evaluation Panel is a committee of experts appointed by the CEO to carry out the evaluation of technical and financial proposals as well as the responsibilities accorded to it in the section on the Due Diligence and Exclusion Framework and the MRCS Due Diligence Guidelines. The appointment of the Evaluation Panel is addressed under section 3.3 of this manual. The panel uses the evaluation criteria and sub-criteria set out in the Data Sheet attached to the RFP. The panel is not authorized to change, amend, or modify the TOR or the evaluation criteria.

Consultants prepare their proposals based on the TOR included in the RFP; proposal responsiveness must be assessed against these TOR. The TOR should not be modified after submission of the proposals because such changes could affect the fairness and transparency of the selection process. The task of the Evaluation Panel is to evaluate the proposals and submit the Evaluation Report and recommendations for award to the CEO through the Director of Administration.

The evaluation of the proposals shall be carried out in two stages: first the quality, and then the cost. Evaluators of technical proposals shall not have access to the financial proposals until the technical evaluation is concluded. Financial proposals shall be opened only thereafter. The evaluation shall be carried out in full conformity with the provisions of the RFP. Figure 3 illustrates the process for submission to award of contract.

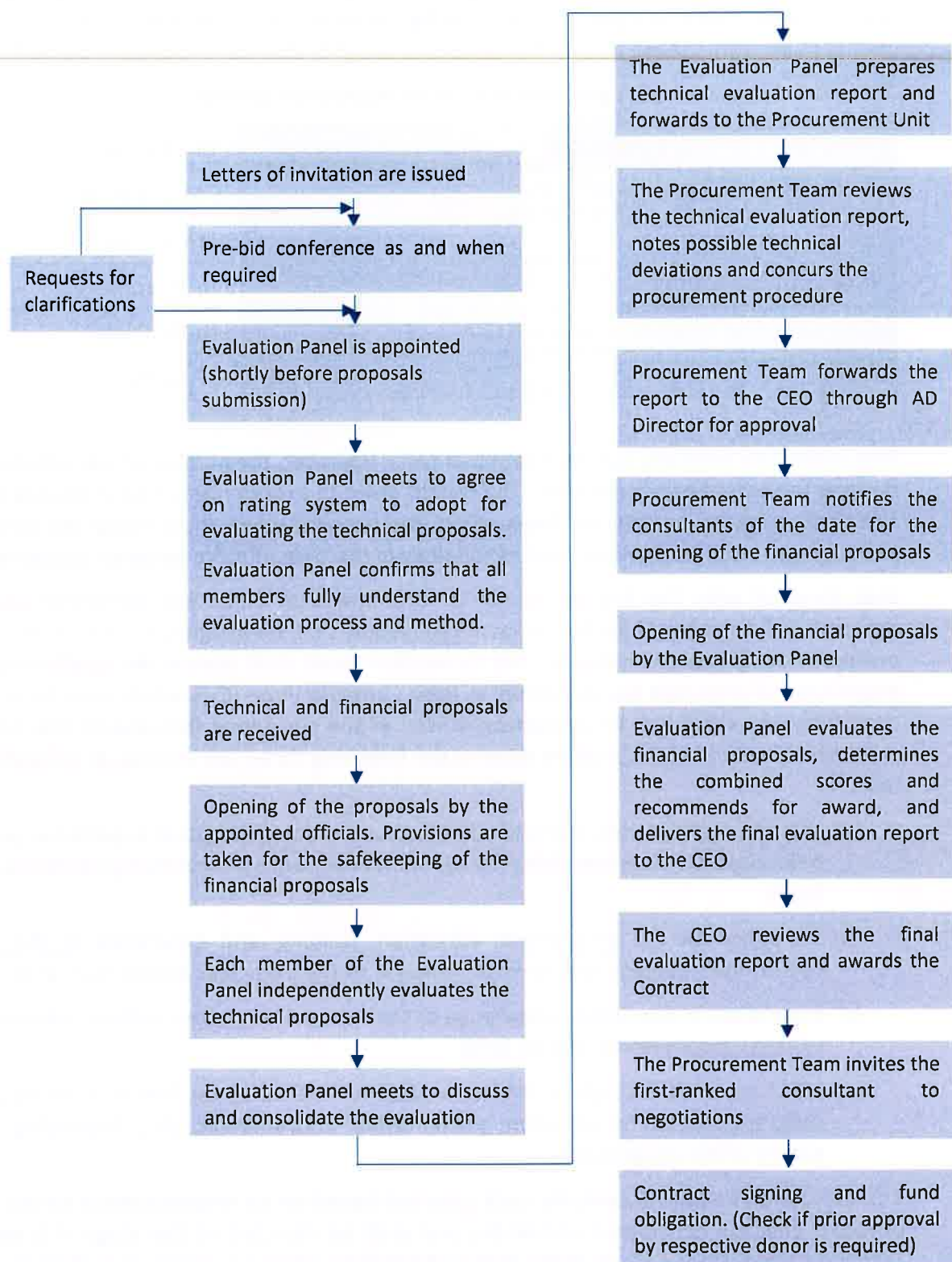


Figure 3. Preparation, submission, and evaluation of proposals (QCBS)

Evaluation of Quality

The Evaluation Panel shall evaluate each technical proposal, taking into account the following criteria: (a) the consultant's relevant experience for the assignment; (b) the quality of the methodology proposed; (c) the qualifications of the key staff proposed; (d) transfer of

knowledge, if required in the TOR; and (e) the extent of participation by regional staff among key personnel in the performance of the assignment. Each criterion shall be marked on a scale of 1 to 100. Then the marks shall be weighted to become overall scores. The following weights are indicative. The actual percentage of the figures to be used shall fit the specific assignment and shall be within these ranges. The proposed weights shall be disclosed in the RFP.

Table 4. Proposed weights given for consultant evaluation criteria

Consultant's specific experience	5 to 10 points
Methodology and approach	25 to 50 points
Key personnel	30 to 50 points
Transfer of knowledge	5 to 10 points
Participation by regional personnel	5 to 10 points
<i>Total:</i>	<i>100 points</i>

The criteria are normally divided into sub-criteria. However, the number of sub-criteria should be kept to those that are essential. The weight given to experience can be relatively modest, since this criterion has already been taken into account when short-listing the consultant. More weight shall be given to the methodology in the case of more complex assignments.

Evaluation of only the key personnel is recommended. Since key personnel ultimately determine the quality of performance, more weight shall be assigned to this criterion if the proposed assignment is complex. The Evaluation Panel shall review the qualifications and experience of proposed key personnel in their *Curricula Vitae (CV)*, which must be accurate, complete, and signed by an authorized official of the consulting firm and/or the individual proposed. The individuals shall be rated in the following three sub-criteria, as relevant to the task:

- (a) General qualifications: general education and training, length of experience, positions held, time with the consulting firm as staff, experience in developing countries, and so forth;
- (b) Adequacy for the assignment: education, training, and experience in the specific sector, field, subject, and so forth, relevant to the particular assignment; and
- (c) Experience in the region: knowledge of the regional languages, culture, administrative system, governments, and so forth.
- (d) MRCS reserves the right to interview staff nominated by the firm in order to confirm skills such as communication, presentation, coordination, etc., depending on the nature of the assignment.

The Evaluation Panel will evaluate each proposal based on its responsiveness to the TOR. A proposal shall be considered unsuitable and shall be rejected at this stage if it does not respond to important aspects of the TOR or if it fails to achieve a minimum technical score as specified in the RFP.

In instances where scores from Evaluation Panel members vary greatly, the Procurement Officer will come in as an *ex officio* member and point out the apparent contradiction with a view for panelists to review their scores. In such cases, the acceptable variation threshold shall be 20%.

At the end of the process, the Evaluation Panel shall prepare a **Technical Evaluation Report** of the “quality” of the proposals. The report shall substantiate the results of the evaluation and describe the relative strengths and weaknesses of the proposals. All records relating to the evaluation, such as individual mark sheets, shall be retained until the project and its audit are complete.

Evaluation of Cost

After the evaluation of quality is completed, the Procurement Officer shall inform the consultants of the technical points assigned to each consultant. For those who pass the technical evaluation round, the Procurement Officer will obtain the password to their financial proposal in case of electronic submission of bids. They shall also notify those consultants whose proposals did not meet the minimum qualifying mark or were considered nonresponsive to the RFP and TOR that their financial proposals will be returned unopened after the signing of the contract. The Procurement Officer shall simultaneously notify the consultants that have secured the minimum qualifying mark of the date, time, and place set for opening the financial proposals when applicable. The opening date shall be defined allowing sufficient time (but not more than 2 weeks) for consultants to arrange to attend the public opening of the financial proposals if they wish to.

For big contracts, mainly procurement of works, the financial proposals shall be opened publicly in the presence of representatives of the consultants who choose to attend (in person or online). The name of the consultant, the technical points, and the proposed prices shall be read aloud (and posted online when electronic submission of proposals is used) and recorded when the financial proposals are opened. The Evaluation Panel shall also prepare the minutes of the public opening and a copy of this record shall be promptly sent to all consultants who submitted proposals.

The Evaluation Panel shall then review the financial proposals. If there are any arithmetical errors, they shall be corrected. For comparing proposals, the costs shall be converted to a single currency selected by MRC as stated in the RFP. The RFP shall specify the source of the exchange rate to be used and the date of that exchange rate, provided that the date shall not be earlier than **four weeks** prior to the deadline for submission of proposals, nor later than the original date of expiration of the period of validity of the proposal.

For the purpose of evaluation, “cost” shall exclude local identifiable indirect taxes on the contract and income tax payable on the remuneration of services rendered by non-resident staff of the consultant. The cost shall include all consultant’s remuneration and other expenses such as travel, translation, report printing, or secretarial expenses. The proposal with the lowest cost may be given a financial score of 100 and other proposals given financial scores that are inversely proportional to their prices. Alternatively, a directly proportional or other methodology may be used in allocating the marks for the cost. The methodology to be used shall be described in the RFP.

Combined Quality and Cost Evaluation

The Evaluation Panel shall obtain the total score by weighting the quality and cost scores and adding them. The weight for the “cost” shall be chosen, taking into account the complexity of the assignment and the relative importance of quality. The weight for cost should normally be between **15-30 points** maximum but should normally be approximately 20 points out of a total score of **100**. The proposed weightings for quality and cost shall be specified in the RFP. The firm obtaining the highest total score shall be invited for negotiations.

8.1.8. Rejection of All Proposals

If all proposals are found to be nonresponsive, MRCS may be justified to reject all of them. The grounds for rejecting all proposals are as follows:

- The proposals present major deficiencies in complying with the RFP and specifically the TOR; or
- All proposals fail to achieve the minimum qualifying mark (technical score) indicated in the RFP; or
- The proposal prices are substantially higher than the estimated budget.

Before all proposals are rejected and a new request for proposals is issued, the new process may include revising the RFP (including the short list) and the budget. Calling for new proposals creates obvious delays and should remain the last resort.

Before the contract is signed, the panel can recommend to the CEO to cancel the procurement process without any candidates or bidders being entitled to claim any compensation. If the bid package is divided into lots, a single lot can be cancelled. Cancellation may occur when:

- The tendering process has been unsuccessful (no qualitatively or financially worthwhile proposal has been received or no proposal at all);
- The economic or technical data of the related project has been fundamentally altered;
- All technically compliant tenders exceed the financial resources available;
- There have been irregularities during the bidding process which could have prevented fair competition;
- Exceptional circumstances or force majeure which make normal contract execution impossible.

If a procurement process is cancelled, MRCS shall notify all bidders in writing as soon as possible quoting the reasons for the cancellation. A cancellation notice should also be published on MRCS website and other related publication means which were used when launching the related tender.

After cancelling a tender, the Evaluation Panel may recommend the CEO to decide to:

- Launch a new tender process;
- Open negotiations with one or more bidders who participated in the first tendering process if the original terms of contract have not been substantially altered. (This option is, however, not available if the reason for the cancellation is that there have been irregularities during the first tendering process which may have prevented fair competition)
- Not to award the contract

8.1.9. Negotiations and Award of Contract

Negotiations shall include discussions of the TOR, the methodology, staffing, MRCS inputs, and special conditions of the contract. These discussions should not substantially alter the original TOR or the terms of the contract; this prevents the quality of the final product, its cost, and the relevance of the initial evaluation from being affected. Major reductions in work inputs should not be made solely to meet the budget. The final TOR and the agreed

methodology shall be incorporated in the “Description of Services,” which forms part of the contract.

The selected firm should not be allowed to substitute key staff unless both parties agree that undue delay in the selection process makes such substitution unavoidable or that such changes are critical to meet the objectives of the assignment. If this is not the case and if it is established that key staff were included in the proposal without confirming their availability, the firm may be disqualified, and the process continued with the next ranked firm. The key staff proposed for substitution shall have qualifications equal to or better than the key staff initially proposed.

Financial negotiations shall include clarification of the consultants’ tax liability (if any) and how this tax liability has been or would be reflected in the contract. As Lump-Sum Contract payments are based on delivery of outputs (or products), the offered price shall include all costs (staff time, overhead, travel, hotel, etc.).

In the case of time-based Contracts, payment is based on inputs (staff time and reimbursable) and the offered price shall include staff rates and an estimation of the amount reimbursable. When the selection method includes price as a component, negotiations of staff rates should not take place, except in special circumstances; for example, staff rates offered are much higher than typically charged rates by consultants for similar contracts. Consequently, the prohibition of negotiations does not preclude the right of the MRCS to ask for clarifications, and, if fees are very high, to ask for a change of fees.

If MRCS wants to define ceilings for unit prices of certain reimbursable (like travel or hotel rates), they should indicate the maximum levels of those rates or define a per diem in the RFP or in the contract. If MRCS does not define the ceilings applicable, the consultant’s proposed rates might be applied.

If the negotiations fail to result in an acceptable contract, MRCS shall terminate the negotiations and invite the next ranked firm for negotiations. The consultant shall be informed of the reasons for termination of the negotiations. Such reasons shall not be based on items that were not negotiable in the first instance. Once negotiations are commenced with the next ranked firm, the Secretariat shall not reopen the earlier negotiations. After negotiations are successfully completed and the CEO has awarded the negotiated contract, the Procurement Team shall promptly notify other firms on the short list that they were unsuccessful.

8.1.10. Publication of the Award of Contract

Within **two weeks** after contract signing, the Procurement Team shall publish on the *MRCS Website* the **Contract Award Notice** with the following information: (a) the names of all consultants who submitted proposals; (b) the total scores assigned to each consultant; and (c) the evaluated prices of the winning consultant. Other information shall include: (d) the final point ranking of the consultants; (e) the name of the winning consultant and the price, duration, and summary scope of the contract, and (f) all contracts with a value that equal or exceeds USD 20,000 (exclude technical MOU, WA and TOR for NMCs). The same information shall be sent to all consultants who have submitted proposals.

8.2 Other Selection Methods

This section describes the selection methods other than QCBS, and the circumstances under which they are acceptable. All the other relevant provisions under QCBS shall apply whenever competition is used.

8.2.1. Quality-Based Selection (QBS)

QBS is appropriate for the following types of assignments:

- (a) Complex or highly specialized assignments for which it is difficult to define precise TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sectoral feasibility studies, or of an urban master plan, financial sector reforms, etc.);
- (b) Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and
- (c) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).

In QBS, the RFP may request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP shall provide either the estimated budget or the estimated number of key staff time, specifying that this information is given as an indication only and that consultants shall be free to propose their own estimates. MRCS will negotiate the contract based on the rates proposed by the consultant. The **Evaluation Panel** and the consultant shall then negotiate the financial proposal and the contract.

All other aspects of the selection process shall be identical to those of QCBS, including the publication of the Award of Contract except that only the price of the winning firm is published. There should be safeguards built in to ensure that the *price proposal of only the selected firm is opened and the rest returned unopened* after the negotiations are successfully concluded.

8.2.2. Selection under a Fixed Budget (FBS)

This method is appropriate only when the assignment is simple, can be precisely defined, and when the budget is fixed. The RFP shall indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. TOR should be particularly well prepared to make sure that the budget is sufficient for the consultants to perform the expected tasks.

Evaluation of all technical proposals shall be carried out first as in the QCBS method. Then the financial proposals shall be opened. Proposals that exceed the indicated budget shall be rejected. The Consultant who has submitted the highest ranked technical proposal among the rest shall be selected and invited to negotiate a contract. Notably, the technical and financial scores are not combined, as opposed to QCBS method. The publication of the Award of Contract shall be as in QCBS.

8.2.3. Least-Cost Selection (LCS)

This method is only appropriate for selecting consultants for assignments of a standard or routine nature where well established practices and standards exist. This method shall not be used as a substitute for QCBS and shall be used only for the specific cases of a very standard and routine technical nature where the intellectual component is minor. A “minimum” qualifying “quality” mark is established, normally 70 points or higher. The minimum qualifying

mark shall be stated in the RFP. Proposals should be submitted in two envelopes, containing a technical proposal and a financial proposal respectively.

Technical proposals are opened first and evaluated. Those bids securing less than the minimum qualifying mark are rejected, and the financial proposals of the rest are opened. The firm with the lowest price among those that met the minimum qualifying mark shall then be selected. The publication of the Award of Contract shall be as in QCBS procedure.

8.2.4. Selection Based on the Consultants' Qualifications (CQS)

This method may be used for small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the Secretariat shall prepare the TOR, request expressions of interest and information on the consultants' experience and competence relevant to the assignment, establish a short list, and select the firm with the most appropriate qualifications and references. The selected firm shall be asked to submit a combined technical-financial proposal and then be invited to negotiate the contract.

The Secretariat shall publish the name of the consultant to which the contract was awarded, the price, the duration, and the scope of the contract on *the MRCS Website*.

8.2.5. Single-Source Selection (SSS)

Previously referred to as waiver of competitive bidding, a single-source selection (SSS) of consultants does not provide the benefits of competition on quality and cost, lacks transparency in selection, and could encourage unethical practices. Therefore, single-source selection shall be used only in exceptional cases. The justification for single-source selection shall be examined in the context of the overall interests of MRCS and the project, and the responsibility to ensure economy and efficiency and provide equal opportunity to all qualified consultants.

SSS may be appropriate only if it presents a clear advantage over competition. It is allowed in the following cases:

- The desired technical qualifications are such that it would be difficult to identify the required number of qualified firms;
- The work to be undertaken is a natural continuation of an earlier or ongoing job, if it can be proven that the engagement of the same consultant will be more economical and will ensure compatibility of results in terms of quality of work;
- For reasons of extreme urgency brought about by events unforeseen by the Secretariat, the consulting services could not be obtained in time under open tendering procedures.

This process shall be used only when approved by the CEO through the Director of Administration (based on their delegated approval authority) who is satisfied that the justification given is accurate and the price quoted is reasonable.

8.3 Debriefing

In the publication of contract award, MRCS shall specify that any consultant who wishes to ascertain the grounds on which its proposal was not selected should request an explanation from the Procurement Team. The Procurement Team shall promptly provide the explanation as to why said proposal was not selected, either in writing and/or in a debriefing meeting, at the option of the consultant. The requesting consultant shall bear all the costs of attending such a debriefing.

9 PROCUREMENT OF GOODS, WORKS, AND NON-CONSULTANCY SERVICES

9.1 Identification of Requirements

A procurement request for goods, works, and non-consultancy services may originate from any division. The Requesting division should estimate the cost based on past procurement (if applicable) and current market prices, confirm the source of funds, and check whether the request could be consolidated with similar known requests to make a more attractive package for potential bidders.

A procurement request needs to be fully identified with detailed technical specifications, drawings, plans (if applicable), and scope of work. Specifications should be generic and should not include brand names, model numbers or trademarks except where these are essential for compatibility with existing machinery, equipment, or instruments. **Table 5** summarizes the basic requirements for setting specifications, scope of work, and terms of reference.

Table 5. Basic guidance for setting specifications and scope of work.

Type of procurement	Guidance
Goods	Define the requirement in terms of description, quantity, quality, urgency, packing, and marking requirements, and provide a detailed specification.
Works	Prepare plans, drawings, specifications, and a bill of quantities under the supervision of a qualified engineer. In most cases there would be the need to procure an engineering consultancy firm to develop acceptable specifications, drawings, plans, that would then be used in the procurement process.
Non-consultancy services	Prepare a description of services required, and a detailed scope of work including the period of the contract, quality standards expected, service levels, and criteria for payment.

Requesting division will issue a **Purchase Requisition (PR)** Form and submit to the Procurement Officer. The following information should be included in such a PR:

- Title of the procurement
- Location and indicative time of delivery
- Item numbers and description, specifications (without specifying a particular brand name), any spare parts required
- Quantity required
- Measurement Unit where applicable
- Estimated unit and total cost
- Source of funding (project code/budget line)
- Supporting documents to be attached can include detailed specifications, plans, drawings (where applicable), bill of quantities
- Suggested list of potential suppliers to be invited (if it can be provided by the requesting section or programme)

Purchase requisition instructions

The original, duly signed Purchase Requisition Form should be submitted directly to the Procurement Team. Upon receipt of the PR, the Procurement Team will:

- Check supporting documents for completeness;
- Review the price estimate and discuss with the requesting division in case of any revisions;
- Verify if the request is in the Annual Procurement Plan of the concerned section/programme;
- Review the specifications with the requesting section/programme;
- Classify the requirements into lots to maximize competition;
- Determine the procurement method to be used;

Prepare a detailed justification in case of use of Single Source Selection or Direct Procurement method choice of Procurement Procedure

9.1.1. Procurement Procedures

The Procurement Team will undertake all procurements for the Secretariat in accordance with the procedures set out in this manual.

Although procurement processes may be initiated before funding has been fully secured or sufficient funds have been transferred, procurement action leading to a legal obligation (contract) on the part of the MRC Secretariat shall not proceed unless: (i) the funds specifically designated or needed to cover the costs involved have been committed by Development Partners (DPs); or (ii) other sources of funds to meet initial instalments have been received and credited to the MRCS's accounts.

The approved procurement procedures are:

- International open tendering
- Regional open tendering
- Restricted tendering
- Direct procurement
- Request for quotation
- Low value procurements

Each of these procurement methods is described in **Chapter 5** (including Request for Proposal). The Procurement Team will apply the most appropriate procurement method for each procurement package. The activities for the rest of the procurement process depends on which procurement method is to be applied. In the following section, the Open International Tendering procedure is used to illustrate the procurement process.

9.1.2. Initiation of Procurement

The Procurement Officer and Procurement Assistant at MRCS will initiate procurement upon:

- Receipt of a duly signed Purchase Requisition Form, which includes full details and technical specification of the goods. In the case of works or services, a detailed and comprehensive scope of works or services should be forwarded to the Procurement Team to initiate prompt action.
- Clear information on funding source and budget limitations.

The requesting divisions are responsible for the preparation of project documents, specifications and scope of work for services. The Procurement Team can assist the requesting division to review specifications for a wide range of office equipment if required. The purchase requisition shall be approved by the Division Director or his/her officer-in-charge, having been previously agreed by the relevant budget Manager.

On receipt of the completed, signed and authorised Purchase Requisition Form or Terms of Reference (for services), the Procurement Team will follow the appropriate procedures set out below, depending upon the value of the goods, works or services to be procured.

9.2 Choice of Bidding Document

The objective of open tendering is to provide all eligible prospective bidders with timely and adequate notification of the requirements and an equal opportunity to bid for the required goods, works and non-consultancy services. For this purpose, the standard bidding documents are available for use in all procurements. The Procurement Team should apply the relevant document to be used for the specific procurement package.

- Standard bidding document for works
- Standard bidding document for goods and non-consultancy services
- Request for quotation form

9.3 Choice of the Type and Size of Contract

It is important that the correct type of contract is used taking into account the size of the resultant contract and other factors. The bidding documents shall clearly state the type of contract to be entered into and contain the proposed contract provisions appropriate for the procurement package.

The most common types of contracts provide for payments based on a lump sum, unit prices, reimbursable cost plus fees, or a combination thereof. Reimbursable cost contracts are acceptable only in exceptional circumstances such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts shall include appropriate incentives to limit costs.

- The types of contract included in the standard bidding document are:
- Goods contract
- Works contract
- Purchase order

Chapter 10 of this manual describes each of these contract types in detail.

9.4 Two-Stage Bidding

In the case of complex contracts or works of a special nature or complex information and communication technology, it may be undesirable or impractical to prepare complete technical specifications in advance. In such a case, a two-stage bidding procedure may be used. First, un-priced technical proposals based on a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments. In the second stage, the amended bidding documents, final technical proposals,

and priced bids are submitted. The Procurement Team, working closely with the requesting division, will determine whether a two-stage bidding process is required.

9.5 Notification and Advertising

Timely notification of bidding opportunities is essential in competitive bidding. For projects that require competitive bidding, the Procurement Team shall prepare a **General Procurement Notice** and publish it on the MRC website/portal, and on either the *UN Development Business online (UNDB online)* or the *Development Gateway's Market (DgMarket)*. The notice shall contain information concerning MRC, scope of procurement, and the name, telephone number, address, email, and the address of the Website where **Specific Procurement Notices** will be posted. If known, the scheduled date for availability of prequalification or bidding documents should be indicated.

Invitations to prequalify or to bid, as the case may be, shall be advertised as **Specific Procurement Notices** at least on the MRCS website, and in either the DgMarket or UNDB Online. Such invitations can also be placed on one regional leading newspaper upon request of the concerned division. Notification shall be given in sufficient time to enable prospective bidders to obtain prequalification or bidding documents, prepare, and submit their responses.

9.6 Prequalification of Bidders

Prequalification is usually necessary for big or complex works, or in any other circumstances in which the high costs of preparing detailed bids could discourage competition. Prequalification also ensures that invitations to bid are extended only to those who have adequate capabilities and resources. A Standard Bidding Document for Prequalification should be used for this purpose. The bidding documents shall be made available to the qualified prospective bidders as soon as prequalification is completed. **Chapter 6** describes in detail the process for prequalification for goods, works and non-consultancy services.

9.7 Developing Bidding Documents

Bidding documents shall furnish all information necessary for a prospective bidder to prepare a bid for the goods, works or non-consultancy services to be provided. While the detail and complexity of these documents may vary with the size and nature of the proposed bid package and contract, for goods and works they generally include:

- Invitation to bid;
- Instructions to bidders;
- Form of bid;
- Form of contract;
- Conditions of contract, both general and special;
- Specifications and drawings if any;
- Relevant technical data;
- List of goods or bill of quantities;
- Delivery time or schedule of completion;
- Necessary appendices, such as formats for various securities.

The basis for bid evaluation and selection of the lowest evaluated bid shall be clearly outlined in the instructions to bidders and/or the specifications. If a fee is charged for the bidding documents, it shall be reasonable and reflect only the cost of their printing and delivery to prospective bidders, and shall not be so high as to discourage qualified bidders. The Procurement Team may use an electronic system to distribute bidding documents, provided it is satisfied with the adequacy of such a system. If bidding documents are distributed electronically, the electronic system shall be secure to avoid modifications to the bidding documents.

The Secretariat shall use the appropriate *Standard Bidding Documents (SBDs)* with minimum changes, as necessary to address project-specific conditions. Any such changes shall be introduced only through bid or contract data sheets, or through special conditions of contract, and not by introducing changes in the standard wording of the SBD. Where no relevant standard bidding documents has been issued, the Procurement Team may use other internationally recognized standard conditions of contract and contract forms acceptable to MRCS.

Guidance on critical components of the bidding documents for goods and works is shown in **Table 6.**

Table 6. Guidance on critical components of the bidding documents for goods and works

Bid validity	Bidders shall be required to submit bids valid for a period specified in the bidding documents, which shall be sufficient to enable MRC to complete the comparison and evaluation of bids, review the recommendation of award, and obtain all the necessary approvals so that the contract can be awarded within that period.
Bid Security	MRC has the option of requiring a bid security. When used, the bid security shall be in the amount and form specified in the bidding documents. It shall be issued by a reputable bank or financial institution selected by the bidder. If the institution issuing the security is located outside any of the MRC countries, it shall have a correspondent financial institution located in a country where the MRC Secretariat is located to make it enforceable. The bid security shall remain valid for a period of four weeks beyond the validity period for the bids in order to provide reasonable time to act if the security is to be called. Bid security shall be released to unsuccessful bidders once the contract has been signed with the winning bidder. MRCS may require bidders to sign a declaration accepting that if they withdraw or modify their bids during the period of validity or they are awarded the contract and fail to sign the contract or to submit a performance security before the deadline defined in the bidding documents, the bidder will be suspended for a period of time from being eligible for bidding in any contract with MRC. Procurement of consultancy services does not require a bid security.
Language	Prequalification, bidding documents and the respective contracts shall be prepared and signed in English.
Clarity of Bidding Documents	Bidding documents shall be worded so as to permit and encourage competition and shall clearly and precisely set forth the work to be carried out, the location of the work, the goods to be supplied, the place of delivery or installation, the schedule for delivery or completion, minimum performance requirements, and the warranty and maintenance requirements, as well as any other pertinent terms and conditions. In addition, the bidding documents, where appropriate, shall define the tests, standards, and methods that will be used to judge the conformity of

	equipment as delivered, or works as performed, with the required specifications. Drawings shall be consistent with the text of the specifications, and an order of precedence between the two shall be specified. Bidding documents shall specify any factors, in addition to price, which will be taken into account in evaluating bids, and how such factors will be quantified or otherwise evaluated. If bids based on alternative designs, materials, completion schedules, payment terms, etc., are permitted, conditions for their acceptability and the method of their evaluation shall be stated. All prospective bidders shall be provided the same information, and shall be assured of equal opportunities to obtain additional information on a timely basis. MRC shall provide reasonable access to project sites for visits by prospective bidders during a pre-bid conference. Minutes of the conference shall be provided to all prospective bidders. Any additional information, clarification, correction of errors, or modifications of bidding documents shall be sent to each recipient of the original bidding documents in sufficient time before the deadline for receipt of bids to enable bidders to take appropriate actions. If necessary, the deadline shall be extended.
Standards	Standards, technical specifications, and scope of work quoted in bidding documents shall promote the broadest possible competition, while assuring the critical performance or other requirements for the procurement. As far as possible, MRC shall specify regional or internationally accepted standards such as those issued by the International Standards Organization with which the equipment, materials, or workmanship shall comply. Where such regional or international standards are unavailable or are inappropriate, national standards may be specified. In all cases, the bidding documents shall state that equipment, material, or workmanship meeting other standards, which promise at least substantial equivalence, will also be accepted.
Use of brand names	Specifications shall be based on relevant characteristics and/or performance requirements. References to brand names, catalog numbers, or similar classifications shall be avoided. If it is necessary to quote a brand name or catalog number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" shall be added after such reference. The specification shall permit the acceptance of offers for goods which have similar characteristics and which provide performance at least substantially equivalent to those specified.
Pricing	Bids for goods shall be invited based on Carriage and Insurance Paid (CIP) (place of destination). Bidders shall be allowed to arrange for ocean and other transportation and related insurance from any eligible source. Where installation, commissioning, or other similar services are required to be performed by the bidder, as in the case of "supply and installation" contracts, the bidder shall also be required to quote for these services. In the case of turnkey contracts, the bidder shall be required to quote the price of the installed plant at site, including all costs for supply of

	equipment, marine and local transportation and insurance, installation, and commissioning, as well as associated works and all other services included in the scope of contract such as design, maintenance, operation, etc. Bidders for works contracts shall be required to quote unit prices or lump sum prices for the works. Bidders shall be allowed to obtain all inputs from any eligible source so that they may offer their most competitive bids.
Price adjustment	For goods and works contracts, bidding documents shall state either that: (a) bid prices will be fixed; or (b) that price adjustments will be made to reflect any changes (upwards or downwards) in major cost components of the contract, such as labor, equipment, materials, and fuel. Price adjustment provisions are usually not necessary in simple contracts involving delivery of goods or completion of works within eighteen months, but shall be included in contracts which extend beyond 18 months. However, it is normal commercial practice to obtain firm prices for some types of equipment regardless of the delivery time and in such cases price adjustment provisions are not needed. Prices may be adjusted by the use of a prescribed formula (or formulae), which breaks down the total price into components that are adjusted by price indices specified for each component, or, alternatively, based on documentary evidence (including actual invoices) provided by the supplier or contractor. The use of the formula method of price adjustment is preferable to that of documentary evidence. The method to be used, the formula (if applicable), and the base date for application shall be clearly defined in the bidding documents.
Transportation and insurance	Bidding documents shall permit suppliers or contractors to arrange transportation and insurance from any eligible source. Bidding documents shall state the types and terms of insurance to be provided by the bidder. The indemnity payable under transportation insurance shall be at least 110 percent of the contract amount in the currency of the contract or in a freely convertible currency to enable prompt replacement of lost or damaged goods. For works, a contractor's All Risk form of policy usually shall be specified.
Currency	Bidding documents shall state the currency in which bidders are to state their prices, the procedure for conversion of prices expressed in different currencies into a single currency for the purpose of comparing bids, and the currencies in which the contract price will be paid.
Terms and methods of payment	Payment terms shall be in accordance with international commercial practices applicable to the specific goods and works. Contracts for supply of goods shall provide for full payment on the delivery and inspection, if so required, of the contracted goods except for contracts involving installation and commissioning, in which case a portion of the payment may be made after the supplier has complied with all its obligations under the contract. The use of letters of credit is encouraged to assure prompt payment to the supplier. In major contracts for equipment and plant, provision shall be made for suitable advances

	and, in contracts of long duration, for progress payments during the period of manufacture or assembly. Contracts for works shall provide in appropriate cases for mobilization advances, advances on contractor's equipment and materials, regular progress payments, and reasonable retention amounts to be released upon compliance with the contractor's obligations under contract. Any advance payment for mobilization and similar expenses made upon signing of a contract for goods or works shall be related to the estimated amount of these expenses and be specified in the bidding documents. Amounts and timing of other advances to be made, such as for materials delivered to the site for incorporation in the works, shall also be specified. The bidding documents shall specify the arrangements for any security required for advance payments. Bidding documents shall specify the payment method and terms offered, whether alternative payment methods and terms will be allowed and, if so, how the terms will affect the bid evaluation.
Alternative bids	The bidding documents shall clearly indicate when bidders are allowed to submit alternative bids, how alternative bids should be submitted, how bid prices should be offered, and the basis on which alternative bids shall be evaluated.
Conditions of contract	The contract documents shall clearly define the scope of work to be performed, the goods to be supplied, the rights and obligations of MRCS and of the supplier or contractor, and the functions and authority of the engineer, architect, or construction manager, if one is employed by MRCS, in the supervision and administration of the contract. In addition to the general conditions of contract, any special conditions particular to the specific goods or works to be procured and the location of the project shall be included. The conditions of contract shall provide a balanced allocation of risks and liabilities.

Performance Security	Bidding documents for works shall require security in an amount sufficient to protect MRCS in case of breach of contract by the contractor. This security shall be provided in an appropriate form and amount, as specified by MRCS in the bidding document. If the institution issuing the security is located outside the MRC region, it shall have a correspondent financial institution located in a country where the MRC Secretariat is located to make it enforceable. The amount of the security may vary, depending on the type of security furnished and on the nature and magnitude of the works. A portion of this security shall extend sufficiently beyond the date of completion of the works to cover the defects liability or maintenance period up to final acceptance. Alternatively, contracts may provide for a percentage of each periodic payment to be held as retention money until final acceptance. Contractors may be allowed to replace retention money with an equivalent security after provisional acceptance. In contracts for the supply of goods, the need for performance security depends on the market conditions and commercial practice for the particular kind of goods. Suppliers or manufacturers may be required to provide a guarantee to protect against non-performance of the contract. Such security in an appropriate amount may also cover warranty obligations or, alternatively, a percentage of payments (not exceeding 10% of the payments) may be held as retention money to cover warranty obligations, and any installation or commissioning requirements. The security or retention money shall be reasonable in amount.
Liquidated Damages	Provisions for liquidated damages or similar provisions in an appropriate amount shall be included in the conditions of contract when delays in the delivery of goods, completion of works or failure of the goods or works to meet performance requirements would result in extra cost or loss of revenue or loss of other benefits to MRCS. MRCS may take action to recover the cost where appropriated
Force Majeure	The conditions of contract shall stipulate that failure on the part of the parties to perform their obligations under the contract will not be considered a default if such failure is the result of an event of <i>force majeure</i> as defined in the conditions of contract.
Applicable Law and Settlement of Disputes	The conditions of contract shall include provisions dealing with the applicable law and the forum for the settlement of disputes.

9.8 Time for Preparation of Bids

Time allowed for the preparation and submission of bids shall be determined with due consideration of the particular circumstances of the procurement and the magnitude and complexity of the contract. Bidders shall be permitted to submit bids by mail, courier, or by hand. MRCS may also use electronic systems permitting bidders to submit bids by electronic means, provided MRCS is satisfied with the adequacy of the system, including, *inter alia*, that the system is secure, maintains the confidentiality and authenticity of bids submitted, uses an electronic signature system or equivalent to keep bidders bound to their bids, and only allows bids to be opened with due simultaneous electronic authorization of the bidder and MRC. In this case, bidders shall continue to have the option to submit their bids in hard copy. The deadline and place for receipt of bids shall be specified in the invitation to bid.

9.9 Bid Opening

The time for the bid opening shall be the same as for the deadline for receipt of bids or promptly thereafter, and shall be announced, together with the place for bid opening, in the invitation to bid. MRCS shall open all bids at the stipulated time and place. If stated in the tender documents and to enhance transparency in big contracts, bids shall be opened in public; bidders or their representatives shall be allowed to be present in person or online when electronic bidding is used. The name of the bidder and total amount of each bid, and of any alternative bids if they have been requested or permitted, shall be read aloud and posted online when electronic bidding is used and recorded when opened and a copy of this record shall be promptly sent to any bidder on request. Bids received after the time stipulated, as well as those not opened and read out at bid opening, shall not be considered. The Procurement Team will write **Bid Opening Minutes** and ensure all those who attend the bid opening sign the **Bid Opening Register**.

9.10 Clarifications or Alterations of Bids

Except as otherwise provided for, bidders shall not be requested or permitted to alter their bids after the deadline for receipt of bids. MRCS shall ask bidders for clarification needed to evaluate their bids but shall not ask or permit bidders to change the substance or price of their bids after the bid opening. Requests for clarification and the bidders' responses shall be made in writing, in hard copy or by electronic mail.

9.11 Mandatory Notice

Where, during the course of a procurement, MRCS modifies the evaluation criteria or specifications set out in an approach to the market or in request documentation, or amends or reissues an approach to the market or request documentation, it must transmit all modifications or amended or reissued documents:

- To all the potential bidders that are participating at the time the information is amended, if known, and in all other cases, in the same manner as the original information; and
- In adequate time to allow potential bidders to modify and re-lodge their initial submissions.

9.12 Confidentiality

After the opening of bids, information relating to the examination, clarification, and evaluation of bids and recommendations concerning awards shall not be disclosed to bidders or other persons not officially concerned with this process until the publication of contract award. MRCS will in the case of a tender for goods, works or services for firms treat the potential bidders' submissions as confidential prior to the award of a contract and keep unsuccessful submissions confidential after the award of the contract to a bidder. Once a contract has been awarded, the terms of the contract and successful bidder's submission are not confidential unless the release of the information is not covered under MRCS's Communication and Disclosure Policy.

9.13 Disclosure of Information in Respect of Sub-contractors

MRC will include in its contracts with firms provisions requiring contractors to make available details of all sub-contractors engaged in respect of the procurement contract. The contractors will be required to inform relevant sub-contractors that the sub-contractor's participation in fulfilling the contract for procurement may be publicly disclosed.

9.14 Preliminary Examination of Bids

The Procurement Team at MRCS shall ascertain whether the bids (a) meet the eligibility requirements; (b) have been properly signed; (c) are accompanied by the required securities or required declaration; (d) are substantially responsive to the bidding documents; and (e) are otherwise generally in order. If a bid is not substantially responsive, that is, it contains material deviations from or reservations to the terms, conditions, and specifications in the bidding documents, it shall not be considered further. Bidders shall not be permitted to correct or withdraw material deviations or reservations once bids have been opened. Preliminary evaluation bids shall *always* be done *before* the formal evaluation commences.

9.15 Evaluation and Comparison of Bids

The purpose of bid evaluation is to determine the cost of each bid in a manner that permits a comparison based on their evaluated cost. The bid with the lowest evaluated cost, but not necessarily the lowest submitted price, shall be selected for award.

The bid price read out at the bid opening shall be adjusted to correct any arithmetical errors. In addition, for the purpose of evaluation, adjustments shall be made for any quantifiable nonmaterial deviations or reservations. Price adjustment provisions applying to the period of implementation of the contract shall not be taken into account in the evaluation.

Bids will be examined in terms of conformity to the set evaluation criteria contained in the bidding documents. Bidding documents shall specify the relevant factors in addition to price to be considered in bid evaluation and the manner in which they will be applied for the purpose of determining the lowest evaluated bid. For goods and equipment, other factors may be taken into consideration including, among others, payment schedule, delivery time, operating costs, efficiency and compatibility of the equipment, availability of after-sales services and spare parts, and related training, safety, and environmental benefits. The factors other than price to be used for determining the lowest evaluated bid shall, to the extent practicable, be expressed in monetary terms, or given a relative weight in the evaluation provisions in the bidding documents

Discussions can be held amongst the members at the discretion of the Chairperson of the panel during the evaluation process. The evaluation report should indicate whether each bid meets the minimum evaluation criteria. After examination of the bids in relation to the tender document, a list of responsive bids that conform to the minimum technical requirements and to the terms and conditions, will be prepared. Those that do not conform to the evaluation criteria will be eliminated as non-responsive. Respective financial proposals shall then be evaluated for completeness. The firm that is substantially responsive, meets all evaluation criteria, and whose price is the lowest is invited for contract negotiations.

The **Evaluation Panel** shall prepare and submit to the **CEO** through CFO and the **Director of Administration** a detailed report on the evaluation and comparison of bids setting forth the specific reasons on which the recommendation is based for the award of the contract.

9.16 Extension of Validity of Bids

MRCS through the CFO and Administration Director shall complete evaluation of bids and award of contract within the initial period of bid validity so that extensions are not necessary. An extension of bid validity, if justified by exceptional circumstances, shall be requested in writing from **all bidders** before the expiration date. The extension shall be for the minimum period required to complete the evaluation, obtain the necessary approvals, and award the contract. Whenever an extension of bid validity period is requested, bidders shall not be requested or be permitted to change the quoted (base) price or other conditions of their bid. Bidders shall have the right to refuse to grant such an extension. If the bidding documents require a bid security, bidders may exercise their right to refuse to grant such an extension without forfeiting their bid security, but those who are willing to extend the validity of their bid shall be required to provide a suitable extension of bid security.

9.17 Post-qualification of Bidders

If bidders have not been pre-qualified, the Administration Director at MRCS shall determine whether the bidder, whose bid has been determined as the lowest evaluated offer, has the capability and resources to effectively carry out the contract as offered in the bid. The criteria to be met shall be set out in the bidding documents, and if the bidder does not meet them, their bid shall be rejected. In such an event, the **Evaluation Panel** shall make a similar determination for the next-lowest evaluated bidder.

9.18 Award of Contract

The **CEO** shall award the contract, within the period of the validity of bids, to the bidder who meets the appropriate, required standards of capability and resources and whose bid has been determined: (i) to be substantially responsive to the bidding documents (lowest evaluated bidder); and (ii) to offer the lowest evaluated cost (lowest evaluated bid).

A bidder shall not be required, as a condition of award, to undertake responsibilities for work not stipulated in the bidding documents or otherwise to modify the bid as originally submitted. The winning bidder and the losing bidders shall be notified of the award decision at the same time. The resulting contract will be signed within a minimum period of **7 calendar days**.

9.19 Publication of the Award of Contract

Within **two (2) weeks** after contract signing, the **Procurement Team** shall publish in the MRC Website the **Contract Award Notice**. The notice shall identify the bid and lot numbers and the following information: (a) name of each bidder who submitted a bid; (b) bid prices as read out at bid opening; (c) name and evaluated prices of each bid that was evaluated. Other information includes: (d) name of bidders whose bids were rejected and the reasons for their rejection; (e) name of the winning bidder, and the price it offered as well as the duration and summary scope of the contract awarded; and (f) all contracts with a value that equal or exceeds USD20,000 (exclude technical MOU, WA and TOR for NMCs).

9.20 Rejection of All Bids

Bidding documents usually specify that MRCS may reject all bids. Rejection of all bids is justified in one of the following cases:

- There have been irregularities during the bidding process which could have prevented fair competition;
- Bids are not substantially responsive;
- When bid prices are substantially higher than existing budget; or
- There have been exceptional circumstances or force majeure which could make normal contract execution impossible.

Lack of competition shall not be determined solely based on the number of bidders. *Even when only one bid is submitted, the bidding process may be considered valid, if the bid was satisfactorily advertised and prices are reasonable in comparison to market values.* The CEO may reject all bids. As a result, the related tender procedure will be cancelled. After the decision to reject all bids is made and within 10 working days of such a decision, all bidders will be notified in writing that the procurement proceeding for the tender has been cancelled. In such a case, the Procurement Officer, working together with the requesting division shall review the causes justifying the rejection and consider revising the conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids.

If the rejection of all bids is due to lack of competition, wider advertising shall be considered. If the rejection is due to most or all of the bids being nonresponsive, new bids may be invited from the initially prequalified firms. *All bids shall not be rejected and new bids invited on the same bidding and contract documents solely for obtaining lower prices.* If the lowest evaluated responsive bid exceeds the pre-bid cost estimates by a substantial margin, the Administration Director with support from the CFO shall investigate causes for the excessive cost and consider requesting new bids as described in the previous paragraphs. Alternatively, the Administration Director and CFO may negotiate with the lowest evaluated bidder to try to obtain a satisfactory contract through a reduction in the scope and/or a reallocation of risk and responsibility, which can be reflected in a reduction of the contract price. However, substantial reduction in the scope or modification to the contract documents shall require a rebid.

9.21 Debriefing

In the publication of the **Contract Award Notice**, MRCS specifies that any bidder who wishes to ascertain the grounds on which its bid was not selected should request an explanation from MRCS. The Procurement Team shall promptly provide an explanation of why the bid was not selected, either in writing and/or in a debriefing meeting, at the option of MRCS. The requesting bidder shall bear all the costs of attending such a debriefing.

However, following the award of a contract in the case of procurement of works, goods and non-consultancy services, MRCS will promptly inform all bidders of the tender decision and on request provide any unsuccessful bidder with the reasons its submission was not successful. On request, debriefings will also be provided to the successful bidder. To this extent, the Evaluation Panel shall include in its evaluation report for each bidder a written debriefing clause and shall assign a panel member to debrief - when required - the bidder on technical issues. The Administration Division will provide debriefing on financial and legal matters.

10 TYPES OF CONTRACTS

Introduction

It is important at the outset that the correct type of contract is used taking into account the size of the resultant contract and other factors. The bidding documents shall clearly state the type of contract to be entered into and contain the proposed contract provisions appropriate for the procurement package.

The following standard forms of contracts have been designed for various procurements:

- Consultant-Big, lump-sum contract (more than US\$80,000)
- Consultant-Big, time-based contract (more than US\$80,000)
- Consultant-Small, lump-sum contract (less than US\$40,000)
- Consultant-Small, time-based contract (less than US\$40,000)
- Goods contract
- Works contract
- Purchase order

The most common types of contracts provide for payments based on a **lump sum, unit prices, reimbursable cost plus fees, or combinations thereof**. Reimbursable cost contracts are acceptable only in exceptional circumstances, such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts shall include appropriate incentives to limit costs.

The size and scope of individual contracts will depend on the magnitude, nature, and location of the project. For projects requiring a variety of goods and works, separate contracts are generally awarded for the supply and/or installation of different items of equipment and plant, and for the works.

For a project requiring similar but separate items of equipment or works, bids may be invited under alternative contract options that would attract the interest of both small and big firms, which could be allowed, at their option, to bid for individual contracts (slices) or for a group of similar contracts (package). All bids and combinations of bids shall be received by the same deadline and opened and evaluated simultaneously to determine the bid or combination of bids offering the lowest evaluated cost.

MRCS may require a turnkey contract under which the design and engineering, the supply and installation of equipment, and the construction of a complete facility or works are provided under one contract. Alternatively, possibly with the use of an independent consultant, MRCS may remain responsible for the design and engineering, and invite bids for a single responsibility contract for the supply and installation of all goods and works required for the project component. Contracts for design, construction and management services are also acceptable where appropriate.

In certain cases, the MRCS may require the contracts such as MOU/WAs/TOR with NMCs for additional research, monitoring, or data collection in specific areas. Special Agreement or Single Source Selection shall be applied based on the approval Multi Year Work Plan.

10.1 Consultant Contracts

Three main considerations determine what type of contract to adopt: (a) the nature of the assignment; (b) the distribution of risks and rewards between MRCS and the consultant; and (c) the circumstances of MRCS and of the consultant. The level of capacity in contract management and consulting services supervision that MRCS will be able to provide may also be a factor in choice. The following types of consultant contracts could be used: Lump-sum, time-based, retainer or contingency (success) fee, percentage, and indefinite-delivery. Each type of contract is described briefly in the following paragraphs, as well as the criteria that are suggested for their adoption and correct application.

10.1.1. Lump-Sum Contracts

Lump-sum contracts are used mainly for assignments in which the content and duration of the services and the expected output of the consultant are clearly defined. Under a lump-sum contract, MRC agrees to pay the consultant a fixed sum of money for services given with up-front specified technical characteristics, such as a study report, project design, and tender document (the quality of which can usually be readily assessed) to be delivered within a specified deadline. Lump-sum contracts leave the risk of assignment cost overruns with the consultant.

Lump-sum contracts are often used in relatively simple and clearly defined assignments such as planning and feasibility studies, environmental studies, detailed design of infrastructures, preparation of databases, and surveys. Lump-sum contracts are also adopted in cases of sophisticated and clear-cut assignments of short duration in which external factors generally are not expected to influence, delay or substantially change, the outcome of the advice or study being provided.

Remuneration is fixed for the duration of the contract, and no physical or price contingencies are normally provided. Payments are made in accordance with a contractually agreed schedule at the delivery of an agreed output. If payments are made against a schedule of percentage of work completed, then, as a minimum, a progress report and supporting evidence that the planned work has been completed satisfactorily should be submitted.

The lump-sum contract is easy to administer and requires little technical supervision, because no matching of inputs to payments is required. This type of contract is also indicated for clients with relatively small or weak administrative and managerial structures, but with capacity for appreciating the quality of the consultants' advice or services.

A lump-sum contract transfers cost risk to the consultants and gives MRCS certainty about the costs involved in procuring consulting services. However, it can increase the risks for MRCS with regards to the quality of the advice. Because fees are fixed, after the contract is awarded consultants may internalize efficiency gains. Their incentives are to reduce outputs compared with those they had originally planned to increase profit margins.

These incentives can be offset by MRCS' ability to assess and enforce quality standards. The Secretariat can engage peer reviewers to monitor the quality of advice and ensure that important issues are completely covered. This activity requires relatively little time or expense. If quality is not easy to assess, the timely delivery of the agreed output may be one proxy.

Before committing to a lump-sum contract, consultants should evaluate the main technical, institutional, and (where necessary) political risks that may affect their capacity to manage these parameters, and they should make sufficient provision for them in the contract.

10.1.2. Time-Based Contracts

Under this type of contract, the consultant provides its services on a timed basis according to quality specifications, and the consultant's remuneration is based on: (a) agreed unit rates for consultant staff multiplied by the actual time spent by the staff in executing the assignment; and (b) reimbursable expenses using actual expenses or agreed unit prices.

Time-based contracts transfer cost risk to MRCS. They require a system to monitor and control assignment progress and costs because the incentives of consulting firms are to assign more resources on the job, including more senior resources and recover fees faster.

Time-based contracts are recommended in the following cases:

- The nature and scope of the services are such that the TOR cannot be established with sufficient precision, as may be the case for complex or unusual assignments that are difficult to define;
- The duration and quantity of services, that is the amount of staff-months, depend on variables that are beyond the control of the consultants, or the services are related to activities undertaken by third parties, for instance supervision of implementation assignments;
- The output required from the consultants is difficult to assess in advance; for instance, for technical assistance, institutional development, or emergency situations in which MRCS requirements for assistance may evolve during the execution of the assignment;
- A capacity building programme, transfer of knowledge, forms part of the assignment.

Time-based contracts normally include a ceiling on the payments to consultants; consultants will suspend work until a change in the scope of work is authorized or the deadline for the completion of the services is extended. This ceiling should include contingencies for unforeseen work and its duration, as well as a provision for price adjustments, where appropriate. Price adjustment should normally be included if the contract lasts for more than **18 months**, or if foreign and local inflation is estimated to exceed a certain rate; for example, 5 percent per year.

This type of contract requires MRCS to supervise consultants closely and to be more involved in the execution of the assignment. MRCS is usually aware of who is working on the job and the nature of each expert's task. Key staff are usually named in the contract, and their tasks outlined. Administration of this type of contract may require significant administrative effort and contract management capacity on the part of MRCS.

Time-based contracts are particularly suitable for long-term assignments, one or more years, wherein the project can be subject to variations and delays that may change the duration and modify the scope of the consultant's services.

10.1.3. Retainer Fee Contracts

In this type of contract, the QCBS method, in which consultants are asked to quote a retainer fee or a success fee (or both), is generally recommended for the selection of consultants. The

proportion of retainer and success fees is often fixed in advance and is not subject to negotiation. The retainer fee proportion tends to be set higher if the consultant's role contributes more to the planning and design of consultancy activities rather than to the effort of successfully carrying out the assignment. The retainer fee is paid as a lump sum if the scope of work of the assignment and its duration can be clearly defined; otherwise, a time-based remuneration should be adopted.

Success fees are appropriate when success is related to the efforts of the firms involved and is relatively easy to quantify. Common estimates for the size of success fees are in the range of **0.2 to 3 percent** of the project value, depending on the country, size of the transaction, and market conditions.

10.1.4. Percentage Contracts

In a percentage contract, consultants receive an agreed on percentage of the actual project cost or of the transaction sale price. However, this type of contract offers no incentive to lower the cost of the services. On the contrary, it may induce consultants to adopt more expensive design solutions to increase the absolute value of their remuneration. The percentage contract is mainly used for procurement or inspection agents for services that are directly related to the quantity and cost of the goods or works procured or inspected.

10.1.5. Price Agreement or Standing Offers

Commonly referred to as **framework contracts**, indefinite delivery contracts refer to contracts in which an individual firm or an association of firms is contracted for a specified period to undertake tasks as and when the need arises. Framework (or "call-off") Contracts shall be used, wherever practical to provide an efficient, cost effective and flexible means to procure goods, works or services that are required continuously or repeatedly over a set period.

Framework contracts are particularly useful for items that are readily available in the regional or local market, or are for items of relatively short shelf life. Examples include vehicle maintenance, cleaning services, on-call routine maintenance and minor repair works, travel services, etc.

The objective of framework contracts is to minimize the cost and effort wasted in preparation of multiple similar small procurement processes by agreeing fixed item prices with a supplier for a set period. The aggregation of requirements will result in greater price competition among providers to win the right to supply all requirements for the subject of the framework contract. The availability of common supplies from such a supplier will also minimize the requirement for stockholding within the stores. The specific workload is **unknown** at the outset; all that is known is that items or services are likely to be needed in a particular area.

Indefinite-delivery contracts are usually agreed on because it is anticipated that the services will have two particular characteristics:

- MRCS will need access to immediately available or on-call services for urgent assignments, and a lengthy competitive bidding process is impossible because of external circumstances. Sometimes these services could include routinely required services or those where experts are required for urgent remedial actions in emergency situations caused by natural calamities, wars, or epidemic outbreaks;

- Each individual consultancy will be quite small, making an expensive competitive selection process inefficient, although, when added together, the amount of advice or services is substantial.

These combined factors make it worthwhile to appoint suitable consultants or service providers who can be on standby and are called upon when needed. However, locking in one set of advisers over a considerable period raises a number of issues related to the selection of the consultants; therefore, the quality and price of the services proposed must be addressed. Because it is not known how often or for what specific tasks the consultants will be called upon, they may not be able to submit a plan of work or a fixed total price. At the same time, the long contract period and the unknown activation dates mean that consultants may always credibly claim that the requested expert is not available.

Evaluation of bids is typically based on the capabilities of companies in the area under consideration, including their depth and breadth of experience, area of expertise, and available staff.

Open tendering procedures shall be used for the establishment of framework contracts and use a standard bidding document and contract format provided for the purchase. The Procurement Officer in consultation with the requesting division will:

- Identify specific procurements that would benefit from framework contracts by examining annual values and numbers of orders for related procurements;
- Prepare detailed specifications of requirements, a bidding document and draft advertisement;
- Issue an open tender for each annual requirement, subdivided into lots as appropriate and subject to an indefinite quantities clause; and
- Follow standard procedures for the opening, evaluation, and award of contracts.

Following completion of the award, call-off or delivery orders will be issued as a simple Purchase Order for specific requirements as and when needed during the period of the framework contract. For the procurement of items subject to framework contracts, no requesting division shall be permitted to purchase items by any other process except in the case of unforeseen emergencies for which the amount involved does not exceed those indicated in the **Procurement Thresholds**.

The awarded consultant is required within a **Framework Contract** to provide its services based on separate delivery orders issued by MRCS during the contract period. The consultant is expected to carry out any such delivery order with the agreed specifications and within the required period and within the agreed prices.

Remuneration is based on agreed unit rates for staff fees plus reimbursable expenses; payments can be made based either on the time actually spent or on a lump-sum basis. Administering an indefinite delivery contract requires considerable capacity in the Procurement Team, who must negotiate and administer each delivery order.

10.2 Selection of the Appropriate Contract Form

The type of contract to be chosen usually correlates with both the scope of work of the assignment and the method adopted for the selection of the consultants (See *Table 7*). When the assignment is simple, the scope of work of the services is clearly defined, and the estimates of both time input and cost of the assignment are considered accurate, the selection of

consultants is usually based on QCBS. In these cases, the lump-sum contract may be adopted. When these conditions are not met, QBS and time-based contracts are more appropriate.

When the nature of the assignment requires the use of Fixed-Budget Selection (FBS) or the Least-Cost Selection (LCS), the lump-sum contract should normally be used. The type of contract may also depend on the interest of MRCS in directly supervising consultant activities and on the desire that capacity building take place through a close interaction between MRCS and consultant staff. For control and learning purposes, a time-based contract is more appropriate if a particular MRCS division has sufficiently strong staff and a good institutional setup that allow efficient supervision of the assignment. If this is not the case, a lump-sum contract may be preferable.

Table 7. Correlation between type of assignment, selection method, and type of contract

Type of assignment/ scope of work	Selection Method	Type of contract
Critical studies in the field of policy, strategy, and management of the MRC	QBS	Time-based
Country economic, sector, or investment studies		
Master plans		
Pre-feasibility studies		
Complex feasibility studies		
Studies or design of complex projects	QCBS	Lump-sum
Studies in new technology or human and social sciences		
Simple planning studies		
Simple feasibility studies		
Environmental studies		
Contract and detailed design of infrastructures		
Preparation of bidding documents		
Data processing		
Clearly defined strategy and management studies		
Technical assistance for institutional development	QBS or QCBS	Time-based or indefinite delivery
Technical assistance for privatization		
Programmes		
Technical assistance in investment projects	QCBS	Time-based
Construction supervision		Time-based
Privatization operations	QCBS	Retainer and/or success fee
Financial sector reforms		Retainer and/or success fee
Procurement/inspection	QCBS	Percentage
Simple, precisely defined assignment with fixed budget	QCBS	Lump-sum
Standard or routine assignments	QBS	
	QCBS	
	FBS	Lump-sum
	LCS	Lump-sum

10.3 Preparation of the Contract

Following the award of contract by the CEO, the Procurement Team with the assistance of the requesting division as required will prepare a Purchase Order or draft contract document. For all contracts other than simple Purchase Orders without special conditions, the following action will be taken:

- Prepare a draft contract with the assistance of relevant technical services; and
- Submit the draft contract to the supplier or consultant for comment.

10.4 Contract Signing and Issuance

The Procurement Team will:

- Send a formal notice of award of contract to the winning bidder; request for submission of any required performance or advance payment securities and invite the bidder to sign the contract;
- If the bidder fails to provide the specified securities or refuses without good reason to sign the contract as requested, refer to the CEO for approval of the confiscation of the bidder's bid security and award to the next ranked bidder;
- Finalize the contract;
- Following the signing of both parties and submission of any performance or advance payment securities specified in the notice of award, distribute a copy of the contract to the concerned internal section or division.

11 CONTRACT ADMINISTRATION

A procurement contract is a written agreement between MRCS and a supplier, contractor or consultant that is enforceable in law. In a procurement contract, the contractor has the responsibility to perform the contractual obligations as per the terms and conditions of the contract. MRCS has the responsibility of meeting its obligations of paying the contractor as per the terms and conditions of the contract. For the purpose of ensuring that both parties perform and meet their obligations, procurement contracts must be managed with an aim of obtaining goods, works, services, and consultancies as per the contract and achieve good value for money.

11.1 Contract Effectiveness

Even if both parties may have signed the contract, the legal effectiveness of the contract may be dependent on one or more of the following conditions:

- Receipt of the performance security;
- Receipt of the advance payment security; and/or
- Receipt of an acceptable letter of credit.

Procurement File

For each procurement contract, the procurement file should contain:

- Purchase Requisition Form or Request Memo
- Bidding document
- Bids received
- Memo on nomination of evaluation members
- Memo on approval of evaluation grid
- Evaluation reports
- Minutes of contract award
- All correspondence (clarifications) during the tendering process
- All correspondence during the negotiation process
- Signed original procurement contract
- Any signed modifications to the contract
- Information on performance including evaluation form
- All correspondence from the contract signing, contract implementation to the conclusion phase
- Management progress reports
- Minutes of meetings of project teams
- Payment records and close-out documents
- Copy of performance security, if required
- Record on discharge of performance security where applicable
- Any other relevant information

11.2 Responsibilities

The responsibility for contract administration and project management should be clearly specified in the contract document. For each contract, there must be a staff member or a team of staff acting as the Contract Administrator or Division Director. The Contract Administrator should ensure that the contractor performs the work as per the terms and conditions of the contract, which includes:

- Monitoring the performance of the contractor to ensure that all delivery or obligations are met or appropriate action taken by MRCS in the event obligations are not met;
- Ensuring that the contractor submits all required documentation as specified in the bidding documents, the contract, and as required by law;
- Ensuring MRCS makes all payments and meets other obligations on time and in accordance with the contract;
- Ensuring there is adequate cost, quality and time control, as required;
- Preparing required contract variations or amendments and obtain all required approvals before issuing them;
- Managing handover or acceptance procedures;
- Making recommendations for contract termination; where appropriate, obtain all required approvals and manage the termination process;
- Ensuring that the contract is complete prior to closing the contract file including all handover procedures, transfers of title if applicable, and that the final retention payment has been made;
- Ensuring that all contract administration records are complete, up to date, filed and archived as required; and
- Discharging of performance guarantee where required.

11.3 Receiving and Inspection

Inspection and acceptance of goods, works, and services is the final stage in the procurement cycle. At this stage, the Secretariat should ensure that the contract or procurement order has been duly enforced and that the deliveries correspond to the contract terms in respect of:

- Timing
- Standards and specifications
- Quantities
- Place
- Price, value and costs

It is the responsibility of the Procurement Team and the requesting division to ensure that each of these dimensions have been duly verified before accepting the final delivery of any procured item. The acceptance and certification of delivery is the evidence that it will serve to effect payments to the contractor.

11.4 Bid Security

Bid securities are used to protect MRCS against a bidder withdrawing from the procurement process before the award of contract. Bid security is normally in the form of a bank guarantee issued by a recognized commercial bank specifying the detailed conditionality for defaults under which MRCS may call for payment. Due to the costs incurred by a bidder in obtaining a bank guarantee, bid securities are normally only used in higher value open tendering procedures. MRCS considers bid securities of USD 150,000 to be of higher value. When used, the bid security shall be in the amount and form specified in the bidding documents and shall remain valid for a period of four weeks beyond the validity period for the bids in order to provide reasonable time for MRCS to act if the security is to be called. Bid securities shall be released to unsuccessful bidders once the contract has been signed with the winning bidder. In place of a bid security, MRCS may require bidders to sign a declaration accepting that if they withdraw or modify their bids during the period of validity or they are awarded the contract and they fail to sign the contract or to submit a performance security before the deadline defined in the bidding documents, the bidder will be suspended for a period of time from being eligible for bidding in any contract with MRCS.

Bid and performance securities for consultants' services are not recommended for the following reasons:

- Bid securities are not an accepted standard for tenders for consultancy services and are likely to discourage participation by consultancy firms;
- Enforcement of bid securities may be subject to dispute; for example, when final negotiations fail to reach a satisfactory conclusion;
- Performance securities can be easily abused due to personality clashes or other factors beyond the direct control of the consultant which may affect achievement under the contract;
- There is often a strong element of subjectivity rather than objectivity in determining the success or failure of an assignment;
- Securities increase the costs to the consulting industry without evident benefits, and the costs are inevitably passed on to the client through higher prices.

11.5 Performance Security

Performance securities from a supplier or contractor are used to protect MRCS by guaranteeing performance under the terms of the contract. Such securities are normally required in the form of a bank guarantee specifying the specific conditionality for defaults under which MRCS may call for payment.

Any requirement for a performance security shall be indicated in the bidding documents as a set percentage of the total contract value. The value shall normally be set at between 5% to 15% of the contract sum, based on consideration of the risks and costs that MRCS may suffer in the event of any default by the supplier or contractor. Performance securities are not advisable for consultancy services for the same reasons as those of bid security.

11.6 Advance Payment Security

An advance payment security may be required from the supplier or contractor to cover the full amount of the advance payment. Advance payment securities shall normally be in the

form of a bank guarantee specifying the specific conditions under which MRCS may call for payment.

11.7 Retention

Retention is a percentage sum that may be deducted from each payment certificate under a contract for works to guarantee performance. Retentions are normally only applicable to works projects or occasionally to the supply of machinery and equipment. The rate of retention to be withheld from all certificates or stage payments for works contracts shall be specified in the contract. This rate is normally set at 10% of each installment. The retention rate of 10% can be imposed as securities through the deposit of bank checks, bank guarantees, or as a deduction in the contract. Following interim takeover of the works, a further payment may be made to the contractor under the terms of the contract to reduce the retention to a lower percentage of the contract price. The balance of any retention monies will only be released to the supplier or contractor on satisfactory completion of the guarantee or warranty period stated in the contract.

11.8 Liquidated Damages

Provisions for liquidated damages or similar provisions in an appropriate amount shall be included in the contract conditions when delays in the delivery of goods, completion of works or failure of the goods or works to meet performance requirements result in extra costs, loss of revenue or loss of other benefits to MRCS.

11.9 Managing Securities

Securities, whether for the purpose of Bid Security, Advance Payment Guarantee or Performance Security must not be annotated in any way and must, after the details have been recorded, be immediately stored in a safe or secure place.

The Procurement Team shall record the following details of the security in the register:

- Procurement or tender reference number;
- Contract title and number (as applicable);
- Bidder or supplier name;
- Value of the security;
- Form of guarantee (e.g. Certified cheque or bank guarantee);
- Name of issuing bank; and
- Expiry date of the security.

All securities must be returned to the respective bidder, supplier, or contractor as soon as they are no longer required. Bid securities in particular must be returned immediately to all bidders once the relevant contract is signed and all conditions for contract effectiveness have been met. Performance and advance payment securities must be returned once the supplier/contractor has discharged their obligations.

The Procurement Team shall issue reminders not less than two (2) weeks before any security is due to expire for the following reasons:

- If the reason for the security is no longer applicable, then the security must be immediately returned to the bidder or supplier/contractor;
- When the contract has been awarded to another bidder;
- Work which is covered by a performance security has been performed or the warranty period has expired;
- The value of the advance payment has been deducted from other payments to the supplier or contractor;
- If the award of a tender is delayed, invite bidders in writing to extend their Bid Securities for an appropriate period;
- If it is foreseen that a supplier or contractor cannot complete / perform the task which is related to a security certificate within the remaining period, request the supplier or contractor to extend the guarantee by an appropriate period;
- If the supplier or contractor has defaulted on their contractual obligations, or refuses to extend an advance payment or performance security, seek advice of the Evaluation Panel to consider calling bank guarantees immediately by issuing a demand in writing to the issuing bank, not less than one week before the expiry date.

A **called Security** shall be paid to MRCS to compensate for costs or losses due to the non-performance of the supplier or contractor.

11.10 Pre-Shipment Inspection

Pre-shipment inspection (PSI) of goods may be required by MRCS for expensive imported goods and items prone to suffering damage or deterioration during transit if not packed in accordance with the specifications in the contract. When pre-shipment inspection of goods is specified in the contract, a nominated international third-party agent will normally undertake this or a technical team mandated by MRCS. The inspector, who must be experienced and appropriately skilled, will carry out tests on a random sampling basis where appropriate to ensure that the goods and packing are in strict conformity with the requirements.

Inspection agents conduct an inspection of goods before shipment or upon arrival in the country. They also certify that goods fulfill the required specifications of quality and quantity and are appropriately priced. Inspection agents receive a percentage of the value of the goods inspected and certified or a predetermined amount for each inspection. Inspection agents shall be procured through quality and cost-based selection methods in an open or restricted tendering procedure.

11.11 Contract Amendments

Contract amendments may become necessary as a result of the application of price variations specified in the contract, the resolution of disputes, additional or reduced requirements by MRCS, agreements to extend the time schedule, or from specified increases or decreases in commodity prices permitted in the contract.

In accordance with the terms and conditions of a contract / agreement, amendments to its original value can be initiated by the Procurement Team upon receipt of a request from the responsible officer of the relevant division, provided that the amended contract value is within 15 per cent of the original contract value and funds are available. If the proposed amendment value exceeds 15 per cent of the original contract/agreement value, a new tendering process

will be necessary unless the CEO agrees with the justification submitted for the amendment. All amendments to costs, quantities, time periods and other terms and conditions of the contract must be approved by the CEO and confirmed in a formal contract amendment or variation. The Procurement Team will:

- Identify and agree with the requesting division and the supplier or contractor the specific clauses in the contract which need to be changed, and the new values or terms and conditions which are to apply;
- A draft contract amendment document will be prepared for approval;
- Record any change in the value of the contract in the Contracts Register;
- Record any other contractual changes in the Contracts Register;
- Obtain from the supplier/contractor any necessary addition to the performance security;
- Arrange for signing of the contract amendment; and
- Distribute them to the relevant offices

11.12 Contract Performance

11.12.1. Goods

The Procurement Team will undertake contract supervision and administration for goods. Monitoring delivery schedules, processing of documents and the inspection of goods are essential to ensure that the correct goods are delivered on time. The key activities are:

- Monitor the delivery schedules of all purchases to ensure that they are dispatched, delivered or collected on time including partial shipment;
- Receive reports on any pre-shipment inspection of goods and contact the supplier in writing requesting rectification of any discrepancies or deficiencies;
- Contact the supplier or shipper to identify the causes of any delay in delivery;
- Initiate and supervise any process for claims against insurance or the supplier;
- Reporting to the CFO and Administration Director where appropriate any failure by the supplier in their contractual obligations;
- Undertake customs clearance and payment of handling fees at the port of entry for imported goods;
- Co-ordinate the receipt and inspection of goods; and
- Issue a Goods Received Note for satisfactory delivery.

11.12.2. Works

The use of Supervising Engineers or Project Managers for big contracts can mean that daily control and supervision of the contract is not undertaken by MRCS. The Procurement Team shall work with the engineers to ensure necessary reports are submitted in time for management decisions.

The Supervising Engineer or Division Director or Chief who acts on behalf of MRCS to supervise and administer the contract carries out day-to-day supervision of big works contracts.

- The Supervising Engineer/ Division Director or Chief usually acts at the first level in settlement of disputes and must ensure that MRCS is informed of any disputes and their resolution. Any serious disputes, which may require an amendment or variation to the original contract must be reported immediately to the Procurement Team.
- Additional work or costs which are not covered under the terms of the existing contract and total contract value must be referred to the CEO for approval before commencement.
- Requests for extensions of time, with or without additional costs, or for additional payment to the contractor must be resolved quickly, subject to the approval of the CEO.

11.12.3. Services

Contract supervision and administration for simple routine services such as office cleaning, provision of transport or maintenance services, will be undertaken by the requesting division. For consultancy services, MRCS will usually nominate a Division Director or Chief to coordinate supervision and administration. The contract may specify payments on the basis of inputs (time), deliverables, retainers, unit rates or commission fees, and administrative and supervision activities must therefore be based on the specific terms of each contract. The Officer in charge of the activity will:

- Monitor the activity and performance in accordance with the contract to ensure levels of service are maintained and that deliverables are submitted or completed on time.
- For consultancy services, the contract may specify key reports to be submitted, or timesheets and routine reports to be submitted on a monthly or quarterly basis.
- Ensure that all contractual obligations with MRCS are performed promptly and efficiently.
- Ensure that all deliverables (and especially reports) are reviewed immediately and responded to in writing where necessary;
- Contact the service provider to identify the causes of any failings in performance or failure to meet targets;
- Issue a formal letter to the service provider detailing any complaint if the explanation given is unsatisfactory or if performance is not improved within a reasonable period;
- Report to the CFO and Administration Director any continued breach by the service provider of their contractual obligations.

11.13 Payments for Goods, Works, Services and Consultancies

11.13.1. Goods

For simple payments against invoices, the Procurement Officer will forward a request for payment through the concerned division to the Finance Team with the following attachments:

- Original invoice from the supplier;
- The shipping documents or airway bill, or delivery note;
- Original of the Inspection Report;
- Original Goods Receipt Note;
- Results of any laboratory analysis;

- Calculation of any penalties for rejected goods not removed by the supplier and any liquidated damages if allowable under the contract;
- Copies of the contract document, records of approval, and financial authorizations.

The Procurement Team should keep a record of all the requests for payment sent to the Finance team.

11.13.2. Works

Payment for works contracts involving tender will normally be made against Payment Certificates issued by the contractor, reviewed by the Supervising Engineer and Division Director or Chief. MRCS must ensure that:

- More scrutiny must be undertaken for all completion reports for contracts of USD 20,000 and above and that quality verification is done by two (2) MRCS officials at the Chief Officer level or above and one (1) officer that directly in charge of the work;
- Any required retention specified under the contract is deducted from the value of the Certificate before payment;
- Agreed deductions in respect of the repayment schedule for any advance payment are deducted from the value of the Certificate before payment;
- On issue of an interim takeover certificate, part of any retention monies held may be paid to the contractor if specified in the contract; and
- On issue of a final takeover certificate, the balance of any retention monies is paid to the contractor.

The Requesting division submits a request for payment to the Procurement Officer with the following attachments: (a) the Payment Certificate, showing calculations of advance payments, interim payments, any retentions, liquidated damages or other penalties applicable under the contract; and (b) copies of relevant information from the contract document, records of approval, and financial authorizations.

The Procurement Team should: (a) record the requests for payment in the Contracts Register; and (b) forward the supporting documents to the Finance Team for payment processing.

11.13.3. Services

Payment for service contracts shall be made in accordance with the specific terms of the contract; they will be against invoice claims from the service provider. The relevant Division Director will ensure that:

- The invoice claim is justified by the evidence of timesheets, submission and acceptance of deliverables, or other criteria as specified in the contract;
- Agreed deductions in respect of the repayment schedule for any advance payment are made from the value of the invoice before payment; and
- Any retention sum specified in the contract is deducted from the value of the invoice before payment.

The concerned division will need to prepare a request for payment to the Finance Team which should be supported by:

- The original invoice;

- Payment Certificate showing calculations of advance payments, interim payments, any retentions, liquidated damages or other penalties applicable under the contract;
- Copies of relevant information from the contract document, records of approval and financial authorizations; and
- Copy of evaluation report (for final payment only) the report needs approval by two (2) MRCS officials at the Chief Officer level or above and one (1) officer that directly in charge of the work.

The Procurement Team will:

- Check the invoice against relevant payment milestone in the signed contract;
- Record the request for payment in the Contracts Register; and
- Forward the supporting documents to the CFO and Director of Administration for payment approval.

MRCS has a responsibility to make payments promptly in accordance with the contract. Payment delays not only create a bad impression of MRCS, but also result in higher prices to MRCS as suppliers normally include cost of payment delays in their prices. The periods in which payments have to be made, and any penalties for delayed payment will be specified in the signed contract.

Conversely, as stated in “Liquidated damaged” at the table 6 of section 8.7 when delays in the delivery of goods, completion of works or failure of the goods or works to meet performance requirements would result in extra cost or loss of revenue or loss of other benefits to MRCS, MRCS may take action to recover the cost where appropriate.

11.14 Contract Closure

The performance of the supplier or contractor must be monitored on a routine basis.

The Procurement Team will:

- Agree the deliverables upon signing of the contract;
- Notify the supplier or contractor immediately in writing of any performance concerns;
- Update the contract file and Contracts Register regularly to reflect the progress; and
- Ensure that the CFO and Administration Director are informed of any concerns on contract performance.

The Contract may impose certain conditions on MRCS, which if not complied with, may affect the supplier or contractor’s performance, including:

- Payment within the contracted time limits;
- Assistance with licenses etc.;
- Approval of drawings or reports within the set time periods;
- Provision of storage or working facilities and access permits;
- Conditions relating to the provision of support services by MRCS (e.g. letters of invitation for visas, provision of office space, etc.).

It is the responsibility of MRCS to ensure adherence to agreed contract terms.

The Procurement Team must ensure that: (i) all obligations of MRCS are planned and

performed without undue delay; and (ii) delivery of goods, construction of works and the performance of services be completed by the supplier or contractor in accordance with the time schedule prescribed in the Schedule of Requirements. Where this is not the case:

- In accordance with the contract conditions, the supplier or contractor must notify MRCS in writing of the conditions delaying performance, including full details of the delay, and the likely duration and cause(s).
- The Procurement Team and relevant officers in charge of the activity where appropriate, will immediately assess the situation, and may at their discretion recommend to the CEO an extension of the supplier or contractor's time for performance, with or without liquidated damages as specified in the contract.
- If time for performance is extended, both parties shall ratify such extension by a formal amendment to the contract subject to approval by the CEO,
- A delay by the supplier or contractor in the performance of obligations may render them liable to liquidated damages if specified in the contract document, except where:
(a) the delay is a result of a force majeure; (b) there is no provision for liquidated damages in the contract; (c) an extension of time is agreed between the two parties without the application of liquidated damages.

The Procurement Officer should notify the requesting division immediately of such delays, refer to the relevant clauses in the Conditions of Contract for the applicable procedure, calculate and claim liquidated damages in collaboration with the requesting division, and update the Contracts Register to reflect any delays in the supplier's performance.

11.15 Resolution of Disputes

Most minor disputes may be resolved by sensible discussion and agreement between MRCS and the supplier or contractor to rectify the cause of complaint. Any formal written complaints received from a supplier or contractor should be fully investigated and referred to the CEO to seek ways and means of addressing the complaints.

- The Procurement Team shall examine the contract carefully to be aware of all contract conditions relating to the resolution of disputes;
- MRCS may seek legal advice on interpretation of specific contractual clauses when necessary;
- The Legal Counsel shall determine if MRCS is at fault or partly at fault, and if so, take appropriate action to rectify the problem;
- The Procurement Team shall invite the supplier or contractor to a formal meeting within 10 calendar days of the complaint to discuss the issues and try to agree on a compromise acceptable to both parties;
- Ensure that accurate written minutes of any such meeting are kept;
- If an agreement is reached which changes any of the conditions of the contract, approval of the CEO is required before the agreement can be implemented;
- If no initial agreement is reached and negotiations conducted fail, the Legal Counsel shall advise on the use of conciliation or arbitration services as specified in the contract; and

- The Procurement Team shall prepare any necessary amendment to the contract for review and approval by the CEO.

11.16 Termination of Contract

All parties of a contract normally have the right to terminate the contract. Contracts shall only be terminated as per the terms and conditions spelt out in the contract. The Procurement Team shall examine the contract carefully to be aware of all contract conditions and penalties relating to termination of contract and prepare the necessary correspondences in relation to termination of contract and settlement of any contractual penalties. The CFO, Director of AD and CEO must be informed.

12 PROCUREMENT RECORDS MANAGEMENT

12.1 Register of Suppliers, Consultants, Contractors, and Service Providers

Effective procurement depends greatly on the quality and delivery performance of suppliers, contractors, consultants and service providers, and their products and services. The Procurement Officer is responsible for maintenance and supervision of registers of suppliers, contractors, and service providers who are assessed as meeting the requirements of MRCS.

The Procurement Officer will maintain the Register of Suppliers, Contractors, Consultants and Service Providers used at MRCS based on the following principles:

- Periodic open advertisement to invite applications;
- Establishment and publication of clear evaluation criteria for acceptance into categories;
- Monitoring and evaluation of the performance of suppliers/contractors/consultants/service providers on contracts awarded;
- Removal from the register of suppliers/contractors/consultants/service providers who fail to perform satisfactorily;
- Sharing of database information with MRC Member Countries;
- Registration to be subject to periodic formal renewal, or cancellation if a supplier or contractor or consultant or service provider has not undertaken any contracts or re-registered within a three-year period;
- To ensure that any new suppliers, contractors, or service providers are given the opportunity to join the register, open advertisement for applications shall be published at least every two years;
- Where invitations are issued for expressions of interest or pre-qualification, suppliers, contractors and service providers who respond and found to be suitably qualified but not already on the Register, shall be added to the database automatically;
- In open tendering, where MRCS specifies the criteria and supporting information and documentation required by which the capability of bidders to execute a contract will be assessed, bidders who successfully pass this examination shall also be placed on the Register of Suppliers, Contractors, Consultants and Service Providers;
- Unsolicited application for registration should be promptly accepted after assessment based on the published criteria.

The Procurement Officer shall maintain a fair and transparent system for monitoring the performance against the specifications or contractual obligations based on the evidence recorded in the Procurement Dossier. Mitigating factors must be taken into consideration when assessing supplier/contractor/consultant/service provider's performance, and especially factors outside their control, and any contributory acts or omissions on the part of MRCS, such as failure to make a payment or to provide required information on time.

Suppliers, contractors, service providers or consultants who fail to fulfill their contractual obligations in a satisfactory manner in terms of quality, delivery, performance, or customer service, and who fail to improve their performance on being notified of the deficiency, shall be removed from the register.

Suppliers, contractors, service providers or consultants failing to perform satisfactorily shall be notified in writing specifying the deficiencies to be addressed and may be given an opportunity to improve their performance. Those who consistently and seriously fail in contract performance shall be reported with full details to the CEO for approval to be placed on the Do-Not-Engage list for a specified period in accordance with the applicable processes.

12.2 Records Management and Procurement Reporting

Correspondence and communications are essential to the management of relationships with suppliers, contractors, consultants, service providers and other bodies, but communications issued by MRCS may commit or bind it to a course of action with legal, contractual or financial implications. Therefore, all procurement correspondence and other communications issued by MRCS shall emanate from the Procurement Team.

Documentary records, both in print or electronic format, are essential for efficient and effective management of activities. They provide evidence in support of decisions and actions taken, and provide an audit trail for verification of transparency, accountability and effectiveness. Efficient records management is essential to ensure effective storage, retrieval and use with due regard to security, integrity and confidentiality. The documentary records should be kept for a period of not less than seven years.

All MRCS staff shall ensure they obtain, retain and maintain appropriate documentation supporting the activities for which they are responsible. Senior officers involved in approval or authorization shall ensure that any transactions they approve or authorize are backed by appropriate supporting documentation.

The Procurement Officer has a general responsibility for maintaining procurement dossiers and contracts registers. Responsibility for the official maintenance of record files, authority to access files, and co-ordination of management and follow-up actions must be clearly defined in each Contract Administration Unit to provide an audit trail and to avoid: (a) partial and incomplete records being held by several different sections and individuals; (b) unauthorized access to records; or (c) failure to take any necessary action at the right time.

All documents regarding a particular procurement case shall be kept for future reference and monitoring and control purposes. The recommended filing structure for a procurement dossier is divided into four main categories to include the following documentation:

Correspondence

- Original request from the originating officer
- Correspondence with the originating officer

- Correspondence with suppliers/contractors/consultants/service providers
- Internal correspondence within the Procurement Unit

Bidding Process

- Request for Expressions of Interest/Prequalification
- Advertisement for Short list
- Bidding documents and Specifications/Terms of Reference
- Correspondence with bidders
- Tenders, quotations or pro-forma invoices received
- Bid opening records
- Record of bid securities
- Evaluation Report
- Evidence of submission to the CEO

Order & Delivery

- Notice of Contract Award and publication
- Contract/Purchase Order & Acknowledgement of receipt
- Delivery Documentation
- Inspection and Acceptance Reports
- After-sales warranty and performance claims

Finance

- Copy invoices or certificates
- Copy Payment Vouchers (PV)
- Record of retentions and release, where appropriate
- Performance security and release

12.3 Data Protection

In the course of its procurement processes, the MRC Secretariat may receive personal data from individuals. MRCS is committed to respecting the dignity and privacy of the individuals, while balancing such rights with the MRC Secretariat's ability to carry out its mission. Personal Data Protection Guidelines (the Guidelines) approved by the MRCS CEO set out appropriate requirements and outline the processes and procedures to be followed by the MRC Secretariat to ensure that it can carry out its mandate while abiding by internationally recognised standards for protecting personal data.

The basic concept of personal data protection at MRCS is to protect certain rights of individuals to control what information about them is available to third parties and how such data is then used or shared. Personal data protection laws and policies are intended to help protect an individual's rights to privacy while seeking to ensure that legitimate business and governance activities can be conducted within certain parameters.

12.4 Procurement Monitoring and Evaluation

The Procurement Team lead by the Procurement Officer shall co-ordinate the monitoring and evaluation process, a process that must be routinely conducted to:

- Ensure that procurements are within a defined annual procurement plan;
- Identify weaknesses and delays in the procurement process;
- Compare prices against market standards;
- Identify the scale and values of commonly used items that MRCS may benefit from;
- The introduction of framework contracts;
- Identify regular procurements of identical items which may indicate that requirements have been split to avoid an approval threshold or a procurement procedure;
- Assess performance of the Procurement Team and procurement related committees;
- Assess performance of suppliers, contractors, consultants and service providers;
- Identify any necessary remedial action; and
- Maintain a table of contract management that includes list of contracts, contract value, date of processing, signing and expiry date of each contract and any amendment.

The Procurement Team should aim to prepare an Annual Procurement Report for each financial year analyzing all procurement activities by category, volumes and values, and reporting on specific issues, failures and successes in performance.

ANNEXES

The following documents included in the Procurement Toolkit are part of this Procurement Manual. They should be used to implement provisions in the manual.

1. Division Procurement Plan Form
2. MRCS Consolidated Annual Procurement Plan Form
3. General Procurement Notice
4. Purchase Requisition Form
5. Request for Expression of Interest
6. Invitation for Prequalification
7. Prequalification Questionnaire
8. Response to Bid Clarification
9. Notification of Bid Cancellation
10. Declaration of Objectivity and Confidentiality
11. Record of Bid Opening
12. Standard Terms of Reference for Bid Evaluation Panel
13. Evaluation Report- Goods, Works, and Services
14. Combined Evaluation Report-Consultant Services
15. Notification of Contract Award
16. Notification of Unsuccessful Bid
17. Contract Award Notice
18. Purchase Order
19. Service Contract Firm
20. Performance Assessment Form for Consultancy Services by Firms
21. Request for Payment Form
22. Consultants Registration Form
23. Note to File
24. Request for Quotation (RFQ)
25. Request for Proposal (RFP)



ANNUAL PROCUREMENT PLAN (Year)

DIVISION'S NAME

No.	Description	Procurement Type (SI, SF, G, W & MOU)	Expected Submission Date Purchase Regulation	Unit	Quantity	Expected Starting Date (for Services & Works only)	Expected Delivery/Ending Date	Estimated Budget (USD)	Activity Code	Funding Source (BF/EF)	Remarks	Status
1	I. Goods	2		5	6	7	8	9	10	11	12	13
	II. Works											
	III. Consultancy Service from Firms											
	IV. Individual Consultancy Service											
	V. Countries MOUs/TOR (LNNMC, CNMC, TNMC & VNMC)											
	Total Amount (USD)											

ABREVIATION

SI	Individual Consultancy Service
SF	Consultancy Service from a Firm
G	Goods, including IT and technical equipment
W	Works, including maintenance works
MOU/TOR	Memo- 4 Countries (LNNMC, CNMC, TNMC & VNMC)

Prepared by: (Full Name)

Title:

Approved by: (Director's Full Name)

Title: Director of Division

Dated:

Dated:

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MRC SECRETARIAL CONSOLIDATED ANNUAL PROCUREMENT PLAN (YEAR)

[illegible]

ABBREVIATION

SI	Individual Consultancy Service
SF	Consultancy Service from a Firm
G	Goods, including IT and technical equipment
W	Works, including maintenance works
MOU-UMCS	MOU, WA, TOR

Prepared by: (Full Name)

Title: Procurement Officer

Checked by: (Chief's Full Name)

Title: Chief Finance Officer

Reviewed by: (Director's Full Name)

Title: Director of AD

Approved by: (CEO's Full Name)

Title: Chief Executive Officer

Dated:

Dated:

Dated:

Dated:





Mekong River Commission

For Sustainable Development

GENERAL PROCUREMENT NOTICE

The role of the MRC is to co-ordinate and promote co-operation in all fields of sustainable development, utilization, management and conservation of the water and related resources of the Mekong Basin. MRC receives its funding from the MRC Member States and from a wide variety of development partners.

MRC intends to apply part of its funding for goods, works, related services and consulting services to be procured in [year], including amongst others:

Procurement of works	
Procurement of goods	
Procurement of consultancy services	
Procurement of non-consultant services	

The procurements will be conducted by using MRC's procedures and are open to all bidders. Specific procurement notices will be announced as they become available on the MRC's website, on DgMarket and/or other media.

Interested bidders who wish to be included on the mailing list to receive an invitation to bid or those requiring additional information, should contact the Procurement Unit of the MRC Secretariat.

Procurement Unit
Administration Division
Mekong River Commission Secretariat
P.O. Box 6101, 184 Fa Ngoum Road
Vientiane 01000, Lao PDR
Email: [\[insert email of a responsible staff in the Procurement Unit\]](#)



Mekong River Commission

For Sustainable Development

PURCHASE REQUISITION FORM

PR No.						Date:				
Procurement Plan Code: <i>DV/G-W-S/No-YYYY</i>										
Source of Funds:										
No	GL	Outcome	C. Function	Task	Activity	Fund	Division	Office	Remarks	
1.										
2.										
Procurement of:										
Ship to: Mekong River Commission (MRC) P.O box 6101, Unit 18 Ban Sithan Neua, Sikhottabong District, Vientiane 01000, Lao PDR, Tel: +856-21-263263 , Fax: +856-21-263264						By (date):				
Special instructions:										
Justifications:										
Suggested sources of supply:										
Requested by:			Concurred by:				Approved by:			
Name Position			Name Chief Finance Officer				Name Director of AD/CEO			

List of required goods/works						
Ref	Item	Description/Specifications	Qty	Unit Price(US\$)	Total(US\$)	Recipient
1						
2						
TOTAL ESTIMATE COSTS						



Mekong River Commission
For Sustainable Development

REQUEST FOR EXPRESSIONS OF INTEREST (CONSULTANCY SERVICES)

Procurement Ref. No. [Title of Assignment]
CONSULTANCY SERVICES

The Mekong River Commission (MRC) has set aside funds in its budget toward the cost of the [insert name of project] and intends to apply part of the proceeds for consultancy services. The services include [insert brief description, implementation period, etc.].

MRC now invites eligible consultants to indicate their interest in providing the services. Interested consultants must provide information indicating that they are qualified to perform the services (brochures, description of similar assignments, experience in similar conditions, availability of appropriate skills among staff, etc.). Consultants may associate to enhance their qualifications.

A consultant will be selected in accordance with the procedures set out in the MRC Procurement Manual available at www.mrcmekong.org

Interested consultants may obtain further information at the address below during office hours [insert office hours if applicable, i.e. 09:00 to 17:00 hours].

Expressions of interest must be delivered to the address below by [insert date].

Mekong River Commission Secretariat

Attn: [insert name of officer & title]

[insert postal address and/or street address]

[insert postal code, city and country]

Tel: [include the country and city code]

Fax: [include the country and city code]

E-mail: [insert email of receiving officer]

Web site: www.mrcmekong.org



Mekong River Commission

For Sustainable Development

INVITATION FOR PREQUALIFICATION

Procurement Ref. No. [Title of Assignment]
[Brief description of goods/works]

The Mekong River Commission (MRC) has set aside funds in its budget toward the cost of the [insert name of project], and it intends to apply part of the proceeds toward payments under the contract for [insert brief description of contract]. MRC intends to prequalify contractors and/or firms for [insert contract number and/or name, a brief description of the type(s) of goods or works to be provided, including quantities, location and other information necessary to enable potential bidders to decide whether or not to respond to the invitation]. It is expected that invitations to bid will be made in [insert month and year].

Prequalification will be conducted through the procedures as specified in the MRC Procurement Manual available from www.mrcmekong.org.

Interested eligible bidders may obtain further information, and inspect the prequalification documents at the address below during office hours [insert office hours if applicable, i.e. 09:00 to 17:00 hours]. A complete set of prequalification documents in [English] may be purchased by interested bidders on the submission of a written application to the address below and upon payment of a nonrefundable fee of [insert amount in US\$]. The method of payment will be [insert method of payment]. The document will be sent by [insert delivery procedure].

Applications for prequalification should be submitted in clearly marked envelopes and delivered to the address below by [insert time] on [insert date]. Late applications will be rejected.

Mekong River Commission Secretariat

Attn: [insert OSP or OSV as appropriate]

[insert name of officer & title]

[insert postal address and/or street address]

[insert postal code, city and country]

Tel: [include the country and city code]

Fax: [include the country and city code]

E-mail: [insert email address of receiving officer]

Web site: www.mrcmekong.org



Mekong River Commission

For Sustainable Development

PRE-QUALIFICATION QUESTIONNAIRE

GENERAL INFORMATION

1. The attached questionnaire must be filled in all respects by all bidders. **FAILURE TO COMPLETE ANY PART OR OMISSION OF ANY REQUESTED DOCUMENT WILL LEAD TO AUTOMATIC DISQUALIFICATION OF THE APPLICANT.**
2. Every information given by the applicant shall be treated in strict confidence.
3. Companies whose Directors and/or Officers are employees of the Company and/or the parent Ministry of their relationships or associates or affiliated firms must disclose their relationship in their application.
4. The company reserves the right to visit and inspect the business premises of the applicant to verify the information given.
5. No supplier would be allowed to seek for pre-qualification in more than one category of items UNLESS the categories are inter-related. The relevant categories are attached to this questionnaire.
6. The Mekong River Commission reserves the right to register or reject any applicant without giving any reasons to the applicant and the decision to accept or refuse any firm shall be at sole discretion of the company.
7. Applicants must attach a copy of the revenue receipt for **USDXXX.00** paid when returning this questionnaire.

NOTE: Applicants should note that any information given in this questionnaire and later is found to be incorrect shall also render the applicants to be disqualified.

Serial No. _____

Receipt No. _____

CONFIDENTIAL BUSINESS PRE-QUALIFICATION QUESTIONNAIRE

1. Name of Company in Full: _____

2. Category Applied for: _____

3. Mandatory Documents Required

a) P.I.N No. _____ (Attach a copy).

b) Current Trading License No. _____ (Attach a copy).

c) Certificate of incorporation Registration No. _____ (Attach a copy).

4. Business Structure

a) Company

No.	Name of Directors	Nationality	Shareholding

b) Partnership

No.	Name of Directors	Nationality	Shareholding

Details of partners (indicate if sole proprietor): _____

5. Do you have any interest and shareholding in other companies which have also applied for pre-qualification consideration with the company?

☐ Yes

☐ No

If yes state their particulars:

No.	Name of Company	Address	Shareholding	Other

6. Maximum value of Business which you can handle at any one time: USD _____

7. Name the Directors and Officers of the company or associated Companies who are employees of the Mekong River Commission

No.	Name of Directors/Officers	Position	Department

8. Location of Business Premises

Name of Building: _____

Plot Number: _____

Name of Street: _____

Floor Number: _____

Room Number: _____

Contact Person: _____

Position held: _____

9. Other Business Particulars

Postal Address: _____

Telephone Number: _____ Fax Number: _____ Mobile Numbers: _____

E-mail Address: _____

Name of your Bankers: _____ Branch: _____

Type of Business Accommodation

Indicate which of the following is relevant to your business accommodation:

☐ Office Only

☐ Shop

☐ Showroom

☐ Store

10. Nature of Business Conducted

State the nature of business being conducted by your company:

☐ Consultancy

☐ Insurance

☐ Training

☐ Supplies

☐ Services (state)

☐ Works

11. How long have you been in the above stated business?

- ☐ 1-2 years ☐ 3-4 years ☐ 5-7 years
☐ 8-10 years ☐ 11 and above years

12. Statutory Certificate

- V.A.T. No. _____ (Attach a copy).

- If none state reasons: _____

10. State the number of organizations/companies your company has conducted business with for the last (2) years attaching copies of documentary proof preferable L.P.O's in support of your answer

- ☐ With the Mekong River Commission only
☐ One/Two other organizations
☐ Three/five other organizations
☐ Six/Ten other organizations
☐ Eleven/Fifteen other organizations

11. Based on your above answer please state the value of business your company has conducted for the last two (2) years

a. Within the Mekong River Commission Only

- ☐ Lower than US\$100,000
☐ From US\$100,000 to US\$300,000
☐ From US\$300,000 to US\$500,000
☐ From US\$500,000 to US\$ 1 million
☐ From Higher than US\$ 1cmillion

b. With Other Organizations

- ☐ Lower than US\$100,000
☐ From US\$100,000 to US\$300,000
☐ From US\$300,000 to US\$500,000
☐ From US\$500,000 to US\$ 1 million
☐ From Higher than US\$ 1cmillion

12. For Repairs and Maintenance Services Only

- a. Name other organizations that your Company has dealt with for two (2) years attaching documentary proof of orders

No.	Company's Name	Business Field	Address

- b. State the type of Equipment owned by your company relevant to your field

Types of equipment: _____

- c. State the qualifications of the key staff employed by your company

No.	Content	Number of Staff
1	Experience Only	
2	Artisans	
3	Diploma Holders	
4	Graduated	

DECLARATION

I/We _____ on behalf of _____ declare that the above
Information is correct to the best of my knowledge.

Signature

Title

Date

(Official Stamp)



Mekong River Commission

For Sustainable Development

RESPONSE TO BID CLARIFICATION

No. ...

Ref	Question	Response
1		
2		
3		
4		
5		



No. L-MRCS (AD) .../(year)

25 May 2022

NOTIFICATION OF BID CANCELLATION

Dear Sir/Madam,

It is with regret that we must inform you of the cancellation of the following bidding process:

Bid Number:	
Subject of Procurement:	
Bid Submission Date:	

The reason for cancellation is that: *[select one from the following, delete those not applicable]*

- a) insufficient bids were received;
- b) bids received contained unacceptable reservations and conditions;
- c) bids exceeded the budgetary provision;
- d) no suitable bid was identified.

In line with Mekong River Commission policy governing this circumstance we shall: *[delete those not applicable]*

- a) arrange a refund of any fees paid for the purchase of bidding documents;
- b) return any unopened bids that have already been received;
- c) return any Bid Securities

We apologies for any inconvenience caused by the cancellation of this process.

Yours sincerely,

Name:
Address:
Tel:
Fax:

Name
Chief Executive Officer
Mekong River Commission Secretariat



DECLARATION OF OBJECTIVITY AND CONFIDENTIALITY

TENDER NO: RFP.....

PROJECT TITLE.....

As members of the Evaluation Panel for the tender RFP_____, we, the undersigned, hereby declare that we am fully aware of our obligations under the MRC Code of Conduct and our employment contract to avoid all conflicts of interest in carrying out our duties. We hereby declare that we currently have no such conflicts

By making this declaration, we undertake to perform our duties honestly and fairly. Our contribution to this tendering process will be objective and will fully respect the principles of fair competition and impartiality, in particular by avoiding terms or conditions favouring any one product, manufacturer or service provider.

We undertake to hold in trust and confidence any information or documents ("confidential information") disclosed to us or discovered by us or drafted by us in the course of the selection process in relation to this tender. We are fully aware that any failure to comply would lead to our/my exclusion from this tender and to the rejection of our/my candidature in the Evaluation Panel.

Lastly, we undertake not to disclose confidential information to anyone who is involved in the formal selection process in relation to this tender, unless:

1. We are compelled to do so by law; or
2. The information has already been made legally available to the public.

POSITION IN THE EVALUATION PANEL		
NAME	FUNCTION	SIGNATURE
CHAIR		
	Director	
EX-OFFICIO		
	Procurement Officer	
MEMBERS		
OBSERVERS		
Done in: Vientiane, dd/mm/yyyy		



BID OPENING RECORD

No. RFQ: _____

Request for Quotation/Invitation to Bid/Request for Proposal for:

" _____ "

Project Number and Title: _____

Date of Launching the Tender:		Opening Date & Time:	
Closing Date:		Place: MRCS	Room:
No. of Bidders Invited:		No. of Bids Received:	

No	Bidder's Name	Country of Origin	Date Time	Total Amount	By Email/ Sealed Envelop	Complete/ Incomplete Document (Yes/No)
1						
2						
3						
4						
5						

The original bids with attachments were opened in our presence by the Panel Member.

Name	Title	Signature	Initial	Date

Note:

Check List: Tender ref: RFQ/RFP _____

Open Date: _____

Tender Envelope Number	Tenderer's Name	Number of Packages	Received in Time? (Yes/No)	Tender Package(s) Duly Sealed? (Yes/No)	Financial Offer in Separate Envelope? (Yes/No)	Tender Submission Form Included? (Yes/No)	Overall Decision (Accept/Reject)
1							
2							
3							
4							
5							
6							
7							
8							



MEMORANDUM

Date: dd/mm/yyyy

To: (Name) _____
(Position) _____

CC: (Name) _____
(Position) _____

From: (Name) _____
(Position) _____

Subject: Evaluation Panel Tender for procurement and installation of _____

I am pleased to inform you that I have appointed the evaluation panel for the above captioned subject as follows:

- | | |
|-------------------|----------|
| 1. Name, Position | Chairman |
| 2. Name, Position | Member |
| 3. Name, Position | Member |
| 4. Name, Position | Member |
| 5. Name, Position | Member |

Mr. _____, Chief Finance Officer and Mr. _____, Procurement Officer will act as ex-officio members of the Panel.

In this connection, I would like to invite the panel to prepare a bid evaluation grid and submit for approval by Chief Finance Officer and CEO prior to dd/mm/yyyy, (the deadline for submitting proposals is dd/mm/yyyy at [insert time]). The recommendation of the panel should reach the CEO through the Chief Finance Officer no later than dd/mm/yyyy. The work schedule and TOR of the Evaluation Panel is attached.

Terms of Reference, Evaluation Panel

1. Tender:

Tender No:

Tender Title:

Tender System:

2. Role of the Evaluation Panel:

The Panel will evaluate the bids received according to the instructions of the Request for Proposals and MRC's Procurement Manual. The Panel will report in writing on its meetings and deliberations. All contacts with bidders will go through the Procurement Officer, the Panel Members will refrain from any direct contact with the bidders. The evaluation panel is not authorized to conduct negotiations.

a) Technical Evaluation

The Panel will submit prior to the opening of the bids the evaluation grid to Chief Finance Officer and CEO for approval. The evaluation grid will contain the criteria and the weighting. The Panel will ensure that the evaluation grid is in agreement with the Request for Proposal.

As soon as possible after the CEO has approved the evaluation grid and after the deadline for submission of bids, the Procurement Officer will open the technical proposals in presence of the Panel. The opening is limited to evaluation panel and Finance team. Minutes of the opening shall be made and signed by all present Panel Members.

A copy of the technical proposals shall be distributed to all evaluation Panel Members for their individual review. Each Panel Member will send its review to the Chairperson of the Panel with copy to the ex-officio. The review will be based on the approved evaluation grid.

The Panel will have the right to request through the Ex-officio additional clarifications from the bidders when, in the opinion of the Panel, such explanation would assist it in performing its functions. All correspondences in this regard with the candidates will be in writing.

After individual review the Panel will meet and evaluate the proposals and agree on a technical evaluation report to submit through Chief Finance Officer to the CEO. The evaluation will be based on the approved evaluation grid.

b) Financial Evaluation

All financial proposals shall be unopened and kept with the Procurement Unit until the CEO has approved the scoring evaluation of the technical proposals. The financial proposals of the proposals with technical score equal or higher than the minimum score will be opened in presence of the Panel Members and distributed to all members for review. The financial proposal(s) of disqualified proposal(s) will not be opened and kept with Procurement Unit to be returned to Bidders after the contract with the successful bidder has been signed.

c) Final Evaluation

The Evaluation panel will provide a written recommendation report based on the technical and financial evaluation through the Chief Finance Officer to the CEO. The recommendation will include the details of the evaluation and provide the minutes of the Panel Meetings and any relevant correspondence as background documents.

Work schedule Evaluation Panel

Activities	Deadline
Preparation Evaluation Grid	
Approval Evaluation Grid	
Opening Technical Proposals	
Individual Review Technical Proposals	
Technical Evaluation by Panel	
Approval Technical Evaluation	
Opening Financial Proposals	
Financial Evaluation by Panel	
Approval Financial Evaluation	
Approval Final Evaluation (includes technical and financial evaluation)	





EVALUATION REPORT FOR GOODS, WORKS AND SERVICES

Tender Dossier No: RFQ20-.....

1. GENERAL INFORMATION

No.	CONTENT	DETAIL
1	Description:	
2	Project Title:	
3	Activity Code:	
4	Budget Line:	
5	PR No.:	
6	Requested by:	
7	Concurred by:	
8	Approved by:	
9	Proc. Method:	
10	PR Submission:	
11	Advertising:	
12	Date of Launching:	
13	Deadline for Submission of Quotations: a) Original Date b) Extensions if any	
14	Clarifications or corrections during tendering process (Addenda):	
15	Place for Submission of Tenders:	
16	Quotations Received by the Deadline:	
17	Companies that withdrew from Tendering:	
18	Date of the Opening Session:	
19	Place of Opening Session:	
20	Minutes of the Tender Opening:	

2. REMARKS ON GENERAL ACTIVITIES FOR THE TENDERING PROCESS

(General information about number of Bidder submitted quotation).

PRE-QUALIFICATION CRITERIA

Ref	Evaluation criteria	Bidder's Name #1	Bidder's Name #2	Bidder's Name #3
		Yes/No	Yes/No	Yes/No
1	Submission form duly signed by authorized person			
2	Quotation validity: at least 45 days			
3	Copy of Business Registration			
	Prequalification			

Summary of Technical Compliance/Non-Compliance

No.	Item	QTY	Bidder's Name #1		Bidder's Name #2		Bidder's Name #3	
			Y/N		Y/N		Y/N	
1								
2								
3								

Note: (N) stand for non-compliance

(Y) stand for technical compliance/acceptable.

The following items from each company are not technical compliance and will not be considered to the next step of financial evaluation.

3.2. Financial Evaluation

No.	Item	QTY	Bidder's Name #1		Bidder's Name #2		Bidder's Name #3	
			UP	Total US\$	UP	Total US\$	UP	Total US\$
1	(Name of equipment)							
	Total in LAK							
	Equivalent to US\$							
	Ranking							
2	(Name of equipment)							
	Total in LAK							
	Equivalent to US\$							
	Ranking							
								
								

*MRC exchange rate if offer in different currency

Summary of the first rank or the lowest offer for each item

No.	Item	QTY	Bidder's Name #1 Total Price (US\$)	Bidder's Name #2 Total Price (US\$)	Bidder's Name #3 Total Price (US\$)
1					
2					
3					
....					
....					
Total Amount in US\$					

4. Award recommendation

In conclusion, we recommended awarding the Purchase order to the suppliers as following:

1. To company name _____ for item No. _____ as its offer was the most competitive and technical compliance for these items with the total amount of **US\$**(in word US dollars).
2. To Company name _____ for item No. _____ as its offer was the most competitive and technical compliance for these items with the total amount of **US\$** (in word US dollars).

Reported by:

Concurred by:

Concurred by:

Name
Procurement Assistant
Date:

Name
Procurement Officer
Date:

Name
Position
Date:

Concurred by:

Concurred by:

Concurred by:

Name
Chief Finance Officer
Date:

Name
Division/OCEO
Date:

Name
Division/OCEO
Date:

Concurred by:

Concurred by:

Approved by:

Name

Name

Name



Director of Division
Date:



Director of AD
Date:

CEO
Date: **Annex 14**

Mekong River Commission

For Sustainable Development

dd/mm/yyyy

EVALUATION REPORT

Tender Dossier No: RFP _____

1. Information Regarding the Tender Procedure

No.	Content	Detail
1	Description:	
2	Project Code:	
3	Budget Line:	
4	PR No.:	
5	Requested by:	
6	Concurred by:	
7	Approved by:	
8	Proc. Method:	
9	PR submission:	
10	Advertising:	
11	Date of launching:	
12	Deadline for submission of quotations:	
13	Clarifications or corrections during tendering process (Addenda):	
14	Place for submission of tenders:	By e-mail to procurement@mrcmekong.org
15	Quotations received by the deadline for submission:	
16	Companies that withdrew from tendering:	
17	Date of the Opening session:	
18	Place of Opening session:	
19	Minutes of the Tender Opening:	

2. Opening Session

The average technical scores awarded are shown below:

Name/Co.	Company's Name #1	Company's Name #2	Company's Name #3
----------	-------------------	-------------------	-------------------

Technical Scores			
Ranking			

The Overall Technical Evaluation Report was approved by the CEO, MRCS on....
(Annex III).

3. Financial Evaluation

Summary Financial

Name/Co.	Company's Name #1	Company's Name #2	Company's Name #3
Total adjusted offer amount (USD)			
Financial scores			
Weighted (30%)			

4. General Evaluation

Name/Co.	Company's Name #1	Company's Name #2	Company's Name #3
Weighted Technical Scores			
Weighted Financial Scores			
Total Scores			
Ranking			

5. Award recommendation:

List of Annexes:

- Annex I: Technical Proposals Opening Minutes
- Annex II: Summary Evaluation Sheet for Technical Proposals
- Annex III: Memo approval of the Overall Technical Evaluation
- Annex IV: Financial Proposal Opening minutes
- Annex V: Summary Technical and Financial Evaluation Table

Prepared by:

Procurement Officer/Assistant
Ex-Officio

Checked and confirmed by the Evaluation Panel:

Signature	Date
------------------	-------------



Chairperson's Name	(Position)		
Member's Name	(Position)/Division		
Member's Name	(Position)		
Member's Name	(Position)		
Member's Name	(Position)		

Annex 15



Mekong River Commission
For Sustainable Development

No. L-MRCS (AD) .../(year)

25 May 2022

NOTIFICATION OF CONTRACT AWARD

Dear _____,

I am pleased to inform you that your Bid, detailed below, has been accepted.

We	Bid Reference	RFP-.....	will
	Subject of Procurement:		
	Date of Bid:		
	Contract Award amount:		
	Identification of Bid items excluded from contract award:		
	Correspondence included in this Award:		
	Special notes:		

prepare the contract and send for signatures by both sides.

Please confirm the receipt of this letter in writing to our Procurement Officer, Mr. _____, at [insert mail], at your earliest convenience, preferably on or before dd/mm/yyyy.

Thank you for your interest in providing services to the MRC Secretariat, and I look forward to your excellent services.

Yours sincerely,

pg. 105

Name
Chief Executive Officer
Mekong River Commission Secretariat

Name:
Address:
Tel:
Fax:

P.O. Box 6101, 184 Fa Ngoum Road, Unit 18, Ban Sithane Neua, Sikhottabong District, Vientiane 01000, Lao PDR
t: (856-21) 263 263 | f: (856-21) 263 264 | w: www.mrcmekong.org

MEETING THE NEEDS, KEEPING THE BALANCE





Mekong River Commission
For Sustainable Development

No. L-MRCS (AD)/(year)

25 May 2022

Dear _____,

Subject: Bidding Result for _____

On behalf of the Mekong River Commission, I would like to thank for your participation in bidding of _____, through your company proposal RFP _____ on dd/mm/yyyy.

The Secretariat has completed the evaluation of all the proposals based on our technical compliance and evaluation criteria, but we regret to inform you that your combined technical score is not the highest among those bids which were evaluated.

We highly appreciate your time and interest in this procurement exercise and hope that you will consider submitting your proposal for bidding with MRC in the future.

Sincerely yours,

Name
Chief Executive Officer
Mekong River Commission Secretariat

Name:
Address:
Mail:
Tel:
Fax:



P.O. Box 6101, 184 Ngum Road, Vientiane, Lao PDR | T: (856-21) 263 263 | F: (856-21) 263 264 | W: www.mrcmekong.org

Mekong River Commission

For Sustainable Development
KEEPING THE NEEDS, KEEPING THE BALANCE

Annex 17

CONTRACT AWARD

Cont

No.	CONTENTS	DETAILS
1	Procurement reference	
2	Publication date of the procurement notice	
3	Description	
4	Contract value	
5	Date of award of the contract	
6	Number of tenders received	
7	Overall score of chosen tender	
8	Name, address and successful tenderer	
9	Duration of Contract	

ccb



Annex 18

Mekong River Commission

For Sustainable Development

PURCHASE ORDER

Purchase Order No.	
Date:	
Vendor ID:	

TO:	SHIP TO:
Name:	Mekong River Commission Secretariat (MRC)
Address:	P.O box 6101, Unit 18 Ban Sithan Neua, Sikhottabong District, Vientiane 01000, Lao PDR.
Tel:	Tel: +856-21-263263 , Fax: +856-21-263264
Fax:	

F.O.B.POINT		SHIP VIA	REQUESTOR
QUOTATION	QUOTE DATE	DATE REQUIRED	TERMS

LINE	DESCRIPTION	PR NUMBER	GL ACCOUNT	UNITS	QUANTITY	UNIT PRICE (USD)	TOTAL (USD)
TOTAL							

Prepared by:	Checked by:	Certified- Funds Available by:	Approved by:
Name Procurement Assistant	Name Procurement Officer	Name Chief Finance Officer	Name AD Director/CEO (<\$20,000.00/≥20,000.00)

IMPORTANT: Procurement Unit's prior approval should be obtained for any changes in the articles or quantities described in the Purchase Order of the articles and non-payment of the invoice. Failure to deliver the goods or complete the services by the date specified in the Purchase Order may Purchase Order without notice, in addition to levy of liquidated damages at the rate of 3% of the value of non-delivered goods per month, unless an exupon in advance.





[Insert Current date]

MEKONG RIVER COMMISSION CONTRACT

No. XXX – current year

[Insert the contract title]

The Mekong River Commission Secretariat (hereinafter referred to as “the Employer”), wishes to engage *[inset the company name]* (hereinafter referred to as the “Consultant”), duly incorporated under the Laws of *[insert country where the company located]* in order to perform services in respect of *[insert contract title]* (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) Annex 1- General;
 - b) Annex 2-Terms of Reference for the Service
 - c) Annex 3- Technical and Financial proposal;
 - d) Annex 4- Schedule to complete the task
 - e) Annex 5- Negotiation

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	Specialization	Nationality	Period of Service

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

Tasks and 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 price not to exceed **[insert the total amount and in word]**
- 3.2 The amount contained in 3.1 above is the maximum total amount of fees and reimbursable costs under this Contract. The Breakdown of Costs contains the maximum amounts per cost category that are reimbursable under this contract is provided in Annex III. The Consultant shall reflect in his invoice the amount of the actual fees and reimbursable costs incurred in the performance of the Services during the period.
- 3.3 The Consultant shall not do any work, provide any equipment, materials and supplies, or perform any other services which may result in any costs in excess of the amount in 3.1 or of any of the amounts specified in the Breakdown of Costs for each cost category in 3.2 without the prior written agreement of **Mr/s. _____, Chief Executive Officer**, the Employer.
- 3.4 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.
- 3.5 The Consultant shall submit invoices for the work done according to the following schedule:

Milestone	Amount	Target date
[insert milestone]	[insert amount]	[insert date]
[insert milestone]	[insert amount]	[insert date]
[insert milestone]	[insert amount]	[insert date]

- 3.6 The payment shall be effected by the Employer to the Consultant after acceptance of the invoices submitted by the Consultant to the address specified in 9.1 below, together with whatever supporting documentation of the actual costs incurred is required in the Breakdown of Costs or may be required by the Employer.

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: [insert bank details]

Bank code :

Account name:

Account number:

BIC:

IBAN:

7. Entry into Force, Time Limits

- 7.1 The Contract shall enter into force upon its signature by both parties.
- 7.2 The Consultant shall commence the performance of the Services not later than [insert date] and shall complete the Services by [insert number of day or month] of such commencement.
- 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 Jeremy Bird, 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 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: mrcs@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 letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Mekong River Commission Secretariat

[insert company name]

[insert CEO name]

[insert name]

[insert title]

[insert title]

Date:

Date:

Clearance by:

[insert full name]

[insert title of programme coordinator]

Date:

[insert full name]

[insert title of programme director]

Date:

Funds are available and obligated:



Full Name

Chief Finance Officer

Project Code: *[insert project code; budget line to be charged]*



ANNEX I
GENERAL CONDITIONS OF CONTRACT

FOR PROFESSIONAL SERVICES

Article 1 - Independent Consultant

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

Article 2 - Consultant's General Responsibilities

1. The Consultant shall perform its obligations under this Contract with due diligence and efficiency and in conformity with sound professional, administrative and financial practices.
2. The Consultant 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 Consultant shall be responsible for work or services performed by its agents, servants, employees, sub-Consultants and independent Consultants in connection with this Contract. To this end, and without limiting the generality of the foregoing, the Consultant 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 Consultant shall respect and abide by all applicable laws, regulations and ordinances of **Lao PDR** and shall take all reasonable measures to ensure that its agents, servants, employees, sub-Consultants and independent Consultants do.

Article 3 - Assignment of Personnel

Other than persons specifically named in this Contract, no person shall be assigned by the Consultant to work or perform services in connection with this Contract until after the Consultant 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 Consultant that the Employer approves of such assignments.

Article 4 - Removal of Personnel

1. Upon notice by the Employer, the Consultant 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 Consultant.



Article 5 - Employee's Compensation and other Insurance

1. The Consultant 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 Consultant or its agents, servants, employees, sub-Consultants and independent Consultants 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 Consultant, its agents, servants, employees, sub-Consultants and independent Consultants in connection with this Contract; and
 - (d) such other insurance as may be agreed upon between the Employer and the Consultant.
2. Upon request by the Employer, the Consultant 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 Consultant 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 Consultant.

Article 7 - Source of Instructions

The Consultant, its agents, servants, employees, sub-Consultants and independent Consultants, 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 Consultant shall take all reasonable measures to ensure that its agents, servants, employees, sub-Consultants and independent Consultants comply with the Provisions of this Article.

Article 8 - Prohibition of Conflicting Activities

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

The terms of any subcontract shall be subject to and in conformity with the provisions of this Contract. The term "sub-Consultant" includes any independent Consultant or other person or entity with which the Consultant 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 Consultant.

Article 11 - Assignment

The Consultant shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof or of any of the Consultant'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 Consultant shall maintain accurate and systematic records and accounts in respect of the performance of its obligations under this Contract.
2. The Consultant 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 Consultant of its obligations under this Contract.
3. The Consultant 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 Consultant 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 Consultant 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 Consultant shall be responsible and accountable to Employer for all equipment or property purchased with funds provided or to be reimbursed by the Employer. The Consultant 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 Consultant 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 Consultant, subject to normal wear and tear. The Consultant shall be liable to the Employer for the loss of or damage to such equipment or property, except to the extent that the Consultant proves that it took all reasonable measures to avoid the loss or damage.

2. The Consultant shall maintain an up-to-date and complete list of all equipment and property purchased by the Consultant 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 Consultant or its agents, servants, employees, sub-Consultants or independent Consultants 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 Consultant by reason of its association with the Employer be made known by the Consultant or its agents, servants, employees, sub-Consultants or independent Consultants to any unauthorized person without written approval of the Employer.
3. Subject to the provisions of this Article, the Consultant may retain a copy of documents produced by the Consultant.
4. The Consultant shall take all reasonable measures to ensure that its agents, servants, employees, sub-Consultants and independent Consultants 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 Consultant, its agents, servants, employees, sub-Consultants and independent Consultants 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 Consultant shall take all reasonable measures to ensure compliance with this provision by its agents, servants, employees, sub-Consultants, and independent Consultants. 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 there from. If the Consultant 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 Consultant 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 Consultant 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 Consultant, 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 Consultant unable, wholly or in part, to perform his obligations and meet his responsibilities under this Contract, the Consultant shall give notice and full particulars of such force majeure to the Employer. The notice shall include steps proposed by the Consultant 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 Consultant 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 Consultant shall be reimbursed by the Employer for the Consultant's substantiated reasonable costs of maintenance of any of the Consultant's equipment and for reasonable per diem for the Consultant's permanent personnel rendered idle by such suspension, subject to Para. (d) hereof;

- (b) The Consultant 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 Consultant shall submit to the Employer a complete statement of the Consultant'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 Consultant'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 Consultant 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 Consultant 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 Consultant 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 Consultant and/or any of the Consultant'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 Consultant 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 Consultant, 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 Consultant to resume the performance of a suspended obligation, the Consultant 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 Consultant 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 Consultant shall be reimbursed by the Employer for the Consultant's substantiated reasonable extra costs, occasioned by the suspension, of necessary measures to maintain any of the Consultant'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 Consultant could reasonably re-assign such equipment or personnel to other tasks or to other contracts of the Consultant;
(b) As a condition for reimbursement under this paragraph 4, the Consultant shall:
 - (i) within fifteen (15) days after a suspension takes effect, notify the Employer of the Consultant'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 Consultant's actual extra costs.
(c) The Consultant shall not be entitled to the reimbursement provided for in this paragraph 4 where the Employer has suspended an obligation of the Consultant for reasons attributable to the fault or neglect of the Consultant, its agents, servants, employees, sub-Consultants or independent Consultants, or to a failure by the Consultant 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 Consultant 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 Consultant 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 Consultant shall be reimbursed by the Employer for substantiated reasonable costs incurred by the Consultant 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 Consultant 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 Consultant 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 Consultant 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 Consultant pursuant to Article 20 for reasons attributable to the fault or neglect of the Consultant, its agents, servants, employees, sub-Consultants or independent Consultants, or to a failure by the Consultant 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 Consultant.
2. Upon termination of this Contract:
 - (a) The Consultant 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 Consultant and the results thereof and all property of the Employer, and to minimize losses and further expenditures; the Consultant shall also take all reasonable measures to provide for such prevention and protection and for minimization of losses and expenditures;
 - (b) The Consultant 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 Consultant, its agents, servants, employees, sub-Consultants or independent Consultants, or by any failure of the Consultant to perform an obligation under this Contract, the Consultant 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 Consultant's personnel and the return shipment of their personal effects and of the equipment of the Consultant, to the extent that the same are not otherwise covered by any fees, reimbursements or other compensation paid or payable to the Consultant;
 - (d) The Consultant 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 Consultant 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 Consultant shall not be entitled to receive any payments other than those provided for in this paragraph 2.

Article 23 - Termination by the Consultant

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

Article 26 - Facilities, Exemptions, Privileges and Immunities of Consultant and Consultant'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 Consultant's personnel (except the Employer nationals employed locally) in the performance of the Contract or on any equipment, materials or supplies which the Consultant 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 Consultant 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 Consultants 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 Consultant 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 Consultant 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 Consultant or its officers, agents, servants, employees sub-Consultants or independent Consultants 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 Consultant, its officers, agents, servants, employees, sub-Consultants or independent Consultants and or others responsible to the Consultant, 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 between The Mekong River Commission and the Government of the Lao People's Democratic Republic 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 Consultant authorizes the Employer to deduct from the Consultant'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 Consultant 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 - Observation 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

ANNEX III
TECHNICAL AND FINANCIAL PROPOSALS
BREAKDOWN COST

A handwritten signature in blue ink, located in the bottom right corner of the page. The signature is stylized and appears to be a combination of letters and a flourish.

ANNEX IV
SCHEDULE TO COMPLETE THE TASK

Annex V NEGOTIATION





PERFORMANCE ASSESSMENT FORM FOR CONSULTANCY SERVICES BY FIRMS

<Contract reference number> <Contract title>

1. SUPPLIER

Member	Name(s) of Firm(s)
Leader*	
Partner 2*	
Etc ... *	

2. PERFORMANCE PERIOD OF CONTRACT

From	< Date >	To	< Date >
------	----------	----	----------

3. PERFORMANCE RATING OF CONTRACTOR

Factor	Rating	Comments (if rating is not 3)
Achievement of contract objectives (as specified in the Terms of Reference)		
Ability to meet deadlines		
Quality of service		

Rating scheme	
1	Excellent
2	Good
3	Average
4	Below average
5	Unsatisfactory

4. PERFORMANCE RATING OF KEY EXPERTS

Name	Client Relations	Written Communication	Verbal Communication	Drive & Determination	Job Management	Personal Effectiveness	Technical Competence	Overall

Rating scheme	
1	Excellent
2	Good
3	Average
4	Below average
5	Unsatisfactory

5. PROJECT MANAGER

Full Name

Signature

Date



Mekong River Commission
For Sustainable Development

Annex 21

REQUEST FOR PAYMENT

Date: DD/MM/YYYY

To: (Name) _____
Director of AD

Through: (Name) _____
Chief Finance Officer

(Name) _____
Chief Human Resources Officer/Procurement Officer

From: (Name) _____
Position _____

Subject: Request for _____

Payment Type:	☐ Bank Transfer	☐ Cheque																														
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3.																																
4.																																
Availability of Funds:																																
☐ Yes ☐ No																																
Remarks:																																



VENDOR REGISTRATION FORM

Company Name:	
Full Address:	Branch Office Address: <i>(if any)</i>
E-mail:	E-mail:
Tel (bus):	Tel (bus):
Tel (a/h):	Tel (a/h):
Mobile:	Mobile:
Fax:	Fax:
Contact Person:	

Please state the specific products that your company could supply within the groups as following;

Description	Put ☒ on the row that you offer products	Remarks
	☐	
	☐	
	☐	
	☐	

Experience in providing or serving the above products/services			
3 years	5 years	10 years	More than 10 years
If consultancy services, please provide your area of expertise detail:			
Certificate of legal business registration is available (Yes/No)			

Declaration

I certify that the statements made by me in this application form are true, complete and correct to the best of my knowledge and belief. Permission is given to the MRC to make such investigations as are necessary on the information provided. I understand that any misrepresentation or material omission made herein or in any other document requested by the MRC can render a staff member liable to termination of service or dismissal.

Date:

Signature:



NOTE TO FILE

PR No. ____

Reference is made to the Memo/PR No. _____ of _____ requesting to _____.

As the purchase is less than US\$2,000, the 3 quotations method will be applied. Admin and PU have collected 3 quotations by hands for further evaluation and selection as follows:

- 1.
- 2.
- 3.

Following table is the price comparison as lot basis:

No.	Description	QTY	Quotation #1		Quotation #2		Quotation #3	
			UP	Total	UP	Total	UP	Total
1								
2								
Total Offer in (currency)								
Ranking								

It is therefore recommended to issue a Purchase order to company name _____ as its offer was the most competitive with the total amount of US\$ _____ (in wording USD only)

Reported by:

Concurred by:

Concurred by:

Name
Procurement Assistant
Date:

Name
Procurement Officer
Date:

Name
Position
Date:

Concurred by:

Approved by:

Name
Chief Finance Officer
Date:

Name
Director of AD
Date:



Mekong River Commission

For Sustainable Development

Issue:dd/mm/year

Request for Quotation

No. RFQxx-xx

Dear Sir/Madam,

The Mekong River Commission Secretariat (MRCS) is now inviting your Company to submit the sealed Quotation for the supply of IT equipment for the MRCS.

The Technical Specifications and Quantities of equipment are provided in the Annex I attached.

1. The quotation shall be quoted in **USD** for a fixed price excluded all taxes and remaining valid at least for **45 days** after the deadline for submission of quotations.
2. Documents to be provided with the bid:
 - The Bid Submission Form: The format is provided in the Annex II for your use. A format is attached as example.
 - Copy of a valid certificate of the authorized dealer in the region (for the offered equipment branch if available)
 - Evidence proving that the company has branch/office in **Lao PDR** for after sale services.

The quotation shall be submitted to MRC Procurement Unit not later than **22 April 2022, 15:00**, a sealed envelope clearly marked "**RFQ22-02 Supply of IT equipment**"; - DO NOT OPEN BEFORE SUBMISSION DEADLINE". The sealed envelope shall be addressed to the Mekong River Commission Secretariat at the following address:

Mekong River Commission Secretariat

Administration
Procurement Unit

Division

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

Alternatively, bidders have the option of submitting their Quotation electronically by email to the Procurement team account: procurement@mrcmekong.org. The subject of the email should be clearly marked "RFQ22-02 Supply of IT equipment; - DO NOT OPEN BEFORE SUBMISSION DEADLINE".

E-mails will be opened only after the submission deadline and at the time of the opening session.

Please be aware that bids not emailed to the Procurement team account: procurement@mrcmekong.org will be rejected. Bids received after the deadline for bid submission will also be rejected. 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.

3. MRCS may annul the bidding process and reject all quotations at any time prior to contract award, without thereby incurring any liability to the bidders, according to the revised Procurement Manual posted in MRC website: <http://www.mrcmekong.org/working-with-mrc/tenders/>
4. MRCS will evaluate quotations **received on the Lot basis and** Purchase Order will be awarded to the supplier(s) whose quotation is substantially technical compliant and lowest offer.
5. The equipment shall be delivered at **MRCS Office** within **6 weeks** after issuance of the Purchase Order. Failure to respect the delivery date gives MRCS the right to cancel the Purchase Order. **Failure to respect the delivery date gives MRCS the right to apply a penalty of 0.01% of the total cost of the order per day.**
6. Full payment will be paid to the Supplier's bank account within 30 days after delivery and all equipment are checked and functioning well and upon receive the original invoice duly accepted by MRCS.
7. MRCS as International Organization is exempted from import taxes/VAT to its member countries – Cambodia, Laos, Thailand and Vietnam. Support to clearance documents will be provided if required.

We appreciate receiving your quotation.

Sincerely yours,

Signed

Tran Minh Khoi

Director Administration Division



ANNEX I

Technical Specifications and Quantities of Goods to be supplied

(Model detailed Price Schedule to be attached to the Bid Submission Form)

Ref	Minimum Technical Specifications of goods required	Qty	Yes/No	Technical Specifications of goods to be offered
Lot 1				
1		1		Brand name: Model:
	Warranty: 3 years			
2	Laptop Dell 5421 or equivalent	1		Brand name: Model:
3	Desktop XPS or equivalent	1		Brand name: Model:
	Warranty: 1-year			
4	Desktop computer All in One	1		Brand name: Model:
	Warranty: 1-year			
5	External HDD	1		Brand name: Model:
	Warranty: 1-year			
Lot 2				
6	Copier Image Runner C3226i or equivalent	1		Brand name: Model:
	Warranty: 1 year			

ANNEX II

[Insert Supplier logo and paper heading]

BID SUBMISSION FORM

To: Mekong River Commission
Procurement Office

Date: _____

Ref. No.: _____

Dear Mr. Tran Minh Khoi,
Administration Division Director

Subject: Supply of

Having examined the Request for Quotation by Email/Fax (or published in the MRCS website) dated dd/mm/yy, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply in conformity with the required specifications in the Request for quotation for the sum of *[total bid amount in words and figures]*.

We undertake, if our Quotation is accepted, to deliver the goods in accordance with our offered terms of conditions as informed below.

Our quotation is valid until: *[please insert the date (at least for 45 days after the deadline for submission of quotations)]*.

Local representatives: Name & address

Offered Price:

Item No	Offered Equipment	Qty (set)	Unit price (USD)	Total (USD)
Lot 1				
1				

Item No	Offered Equipment	Qty (set)	Unit price (USD)	Total (USD)
2				
3				
4				
5				
Lot 2				
6				
TOTAL (VAT excluded)				

GRAND TOTAL (VAT excluded)			
-----------------------------------	--	--	--

- Delivery after order: _____ week(s)
- Payment term: within 30 days after received goods.

Signature and stamp: _____

Name on behalf of Supplier: _____

Title: _____

PRE-QUALIFICATION CRITERIA

Ref	Evaluation criteria	Supplier A	Supplier B
		Y/N	Y/N
1	Submission form duly signed by authorized person		
2	Certificate of business registration (copy)		
3	Quotation validity: at least 45 days		
	Prequalification	Y/N	Y/N



Mekong River Commission

For Sustainable Development

REQUEST FOR PROPOSAL

NO. RFPXX-XX

Project title:

Vientiane, Lao PDR. dd/mm/Year

A handwritten signature in blue ink, located at the bottom right corner of the page.

SECTION I

INVITATION FOR PROPOSALS

Consultancy services for Implementation medium and long-range flood and drought forecasting at the RFDMC

The Mekong River Commission Secretariat (hereinafter “the Employer”) hereby invites sealed Proposals from eligible Consultants for the consultancy services called “Consultancy services for Implementation medium and long-range flood and drought forecasting at the RFDMC” in accordance with the terms and conditions mentioned in the Request for Proposal.

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 fo 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 **30 May 2022 at 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 upon the receipt of this letter of invitation (or announcement) your/your firm's intention for the bid and submit the detailed proposals to the address stated above by the stated deadline.

Yours Faithfully,

Tran Minh Khoi
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.
- 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.
- d. **Cancellation:** The MRCS reserves the right to cancel this Request for Proposal at any time

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 **7** 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. 2022-001 Consultancy Services for Implementation Pilot Projects for Mekong Water Infrastructure Operations; 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
Procurement Unit

Division

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 2007 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 **30 May 2022 at 3:00 PM** local 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 7 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).

- 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.

- 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.



- 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.
--

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



SECTION IV

TECHNICAL EVALUATION CRITERIA

No	Criteria	Max. Score	Company			
			A	B	C	D
1	Organization and methodology	40				
1.1	Proposed methodology and approach based on the analysis of the TOR	10				
1.2	Workplan (timetable of outputs, activities & inputs by team members)	10				
1.3	More than 10 years of professional experience in relevant fields such as hydrology, sediment and environment management, and in sustainable hydropower operations and management	10				
1.4	An in depth understanding of sustainable hydropower practice in particular in Mekong region, and hydropower coordinated cascade operations in large river basins	10				
2	Quality of key personnel					
	A team leader and a small team of experts	60				
2.1	Post graduate degree in relevant fields, in particular hydrology, sustainable hydropower	10				
2.2	More than 10 years of professional experience in relevant field, including experience in sustainable hydropower operations and management	10				
2.3	Proven capability to consult with diverse stakeholders across sectors and across national boundaries	10				
2.4	Proven experience and capability in designing data platform (i.e. dashboard)	10				
2.5	Connected to a wide global network of opinion in the field of interest and good knowledge of the Mekong river basin and experience in the riparian countries is an advantage	5				

No	Criteria	Max. Score	Company			
			A	B	C	D
2.6	Proven experience in working with multi-disciplinary teams and leading studies of complex technical nature	5				
2.7	Excellent communication and writing skills in English	10				
	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 Consultant logo and paper heading]

STATEMENT OF AVAILABILITY

To: Mekong River Commission Secretariat
Procurement Office

Date: _____

Ref. No.: _____

Dear Mr. Tran Minh Khoi, Director Administration Division

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



FORM FIN-2 BREAKDOWN OF COSTS

No.	MRC BL	Description	Unit Price	Quantity	Total in USD
I	Remuneration (*)				
		Consultant			
Sub-Total (I)					
II	Other costs (if any)				
		Regional/International Airfares (Economy class)			
		DSA			
		Other expenses, including visa and land transportation			
Sub-Total (II)					
Grand Total (I+II)					

▪ (*) Fees must cover:

- (i) The remuneration actually paid to the concerned expert(s) per working day;
- (ii) Administrative costs of employing the expert(s);
- (iii) 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:

a. Contract Documents

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".
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:
 - f) this letter including Annex I;
 - g) the Terms of Reference for the Service, attached hereto as Annex II.
 - h) the breakdown of costs as Annex III.
 - i) the proposal from the Consultant, attached hereto as Annex IV.
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.

b. Obligations of the Consultant

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

Name	Area of Expertise	Position Assigned

- iii. Any changes in the above key personnel shall require prior written approval of the Chief Executive Officer of the MRCS, and the Employer.
- iv. The Consultant shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.
- v. 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]

- vi. 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.
- vii. 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.

c. 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 ¹	AMOUNT	TARGET DATE
[Insert milestone]	[Insert amount]	[Insert date]

d. **Special Conditions**

- No special conditions shall apply.

e. **Submission of Invoices**

- 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.
- Invoices submitted by fax or copies of invoice shall not be accepted by the Employer.

f. **Time and Manner of Payment**

- 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.
- 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:

g. **Entry into Force, Time Limits**

¹ 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.



- The Contract shall enter into force upon its signature by both parties.
- The Contractor shall commence the performance of the Services not later than **[INSERT DATE]** and shall complete the Services by **[INSERT DATE]**.
- All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

h. Modifications

- 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.

i. 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: procurement@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:

Chief, Financial Officer

Director, Administration Division

Director, Technical Support Division

Head of RFDMC

Funds are available and obligated:

Director, Technical Division

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

2. 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

2. 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 there from. 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 here of;

- (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;
 - (f) 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)

[Insert TOR texts]



ANNEX [INSERT ANNEX NUMBER]

CONSULTANT PROPOSAL



