



**GOVERNMENT OF
THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE**

REQUEST FOR PROPOSALS

**Consultancy Services: Selection of a Firm as an Aggregating Body to
prepare and reconcile the Third and Forth Timor-Leste EITI Reports**

Secretary of State for Natural Resources

31 January 2012

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Section 1. Letter of Invitation

Dili, 31 January 2012

Dear Sir or Madam:

1. The Secretary of State for Natural Resources, Government of the Republic of Timor-Leste, invites proposals to provide the following services: **“Consultancy Services: Selection of a Firm as an Aggregating Body to prepare and reconcile the Third and Forth Timor-Leste EITI Reports”**. More details on the services required are provided in the attached Terms of Reference.
2. A firm will be selected under Quality and Cost Based Selection procedures as described in this RFP.
3. This RFP includes the following documents:
 - Section 1 - Letter of Invitation
 - Section 2 - Instructions to Consultants (including Data Sheet)
 - Section 3 - Technical Proposal - Standard Forms
 - Section 4 - Financial Proposal - Standard Forms
 - Section 5 - Terms of Reference
 - Section 6 - Standard Forms of Contract

Yours sincerely,



Alfredo Pires

Secretary of State for Natural Resources

Section 2. Instructions to Consultants

- 1. Introduction**
- 1.1 The Client named in the Data Sheet will select a consulting firm/organization (the Consultant) in accordance with the method of selection specified in the Data Sheet.
 - 1.2 The Consultants are invited to submit a Technical Proposal and a Financial Proposal, or a Technical Proposal only, as specified in the Data Sheet, for consulting services required for the assignment named in the Data Sheet. The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected Consultant.
 - 1.3 Consultants should familiarize themselves with local conditions and take them into account in preparing their Proposals. To obtain first-hand information on the assignment and local conditions, Consultants are encouraged to visit the Client before submitting a proposal and to attend a pre-proposal conference if one is specified in the Data Sheet. Attending the pre-proposal conference is optional. Consultants should contact the Client's representative named in the Data Sheet to arrange for their visit or to obtain additional information on the pre-proposal conference. Consultants should ensure that these officials are advised of the visit in adequate time to allow them to make appropriate arrangements.
 - 1.4 The Client will provide at no cost to the Consultants the inputs and facilities specified in the Data Sheet, assist the firm in obtaining licenses and permits needed to carry out the services, and make available relevant project data and reports.
 - 1.5 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The Client is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultants.



Conflict of Interest

1.6 The Client's policy requires that Consultants provide professional, objective, and impartial advice and at all times hold the Client's interests paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.

1.6.1 Without limitation on the generality of the foregoing, Consultants, and any of their affiliates, shall be considered to have a conflict of interest and shall not be recruited, under any of the circumstances set forth below:

Conflicting activities

- (i) A firm that has been engaged by the Client to provide goods, works or services other than consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods or works or services other than consulting services resulting from or directly related to the firm's consulting services for such preparation or implementation. For the purpose of this paragraph, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

Conflicting assignments

- (ii) A Consultant (including its Personnel and Sub-Consultants) or any of its affiliates shall not be hired for any assignment that, by its nature, may be in conflict with another assignment of the Consultant to be executed for the same or for another Client. For example, a Consultant hired to prepare engineering design for an infrastructure project shall not be engaged to prepare an independent environmental assessment for the same project, and a Consultant assisting a Client in the privatization of public assets shall not purchase, nor advise purchasers of, such assets. Similarly, a Consultant hired to prepare Terms of Reference for an assignment should not be hired for the assignment in question.

Conflicting relationships

- (iii) A Consultant (including its Personnel and Sub-Consultants) that has a business or family relationship with a member of the Client's staff who is directly or indirectly involved in any part of (i) the preparation of the Terms of Reference of the assignment, (ii) the selection process for such assignment, or (iii) supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Client throughout the selection process and the execution of the Contract.

1.6.2 Consultants have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Client, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

1.6.3 No agency or current employees of the Client shall work as Consultants under their own ministries, departments or agencies. Recruiting former government employees of the Client to work for their former ministries, departments or agencies is acceptable provided no conflict of interest exists. When the Consultant nominates any government employee as Personnel in their technical proposal, such Personnel must have written certification from their government or employer confirming that they are on leave without pay from their official position and allowed to work full-time outside of their previous official position. Such certification shall be provided to the Client by the Consultant as part of his technical proposal.

**Unfair
Advantage**

1.6.4 If a Consultant could derive a competitive advantage from having provided consulting services related to the assignment in question, the Client shall make available to all Consultants together with this RFP all information that would in that respect give such Consultant any competitive advantage over competing Consultants.

**Fraud and
Corruption**

- 1.7 The Client requires that all Consultants participating in this project adhere to the highest ethical standards, both during the selection process and throughout the execution of a contract. In pursuance of this policy, the Client:
- (a) defines, for the purpose of this paragraph, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;
 - (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
 - (iii) “collusive practices” means a scheme or arrangement between two or more consultants with or without the knowledge of the Client, designed to establish prices at artificial, noncompetitive levels;
 - (iv) “coercive practices” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract.
 - (b) will reject a proposal for award if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question;
 - (c) will sanction a Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Government financed contract if at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Government-financed contract; and
 - (e) will have the right to require that, in contracts financed by the Government, a provision be included requiring

Consultants to permit the Government to inspect their accounts and records and other documents relating to the submission of proposals and contract performance, and have them audited by auditors appointed by the Government.

- 1.8 Consultants, their Sub-Consultants, and their associates shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Government in accordance with the above para. 1.7. Furthermore, the Consultants shall be aware of the provisions on fraud and corruption stated in the specific clauses in the General Conditions of Contract.
- 1.9 Consultants shall furnish information on commissions and gratuities, if any, paid or to be paid to agents relating to this proposal and during execution of the assignment if the Consultant is awarded the Contract, as requested in the Financial Proposal submission form (Section 4).
- Origin of Goods and Consulting Services** 1.10 Goods supplied and Consulting Services provided under the Contract may originate from any country except if:
- (i) as a matter of law or official regulation, this country prohibits commercial relations with that country; or
 - (ii) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, this Country prohibits any imports of goods from that country or any payments to persons or entities in that country.
- Only one Proposal** 1.11 Consultants may only submit one proposal. If a Consultant submits or participates in more than one proposal, such proposals shall be disqualified. However, this does not limit the participation of the same Sub-Consultant, including individual experts, to more than one proposal.

- Proposal Validity**
- 1.12 The Data Sheet indicates how long Consultants' Proposals must remain valid after the submission date. During this period, Consultants shall maintain the availability of Professional staff nominated in the Proposal. The Client will make its best effort to complete negotiations within this period. Should the need arise, however, the Client may request Consultants to extend the validity period of their proposals. Consultants who agree to such extension shall confirm that they maintain the availability of the Professional staff nominated in the Proposal, or in their confirmation of extension of validity of the Proposal, Consultants could submit new staff in replacement, who would be considered in the final evaluation for contract award. Consultants who do not agree have the right to refuse to extend the validity of their Proposals.
- Eligibility of Sub-Consultants**
- 1.13 In case a Consultant intends to associate with Consultants who have not been shortlisted and/or individual expert(s), such other Consultants and/or individual expert(s) shall be subject to the eligibility criteria set forth in the Guidelines.
- 2. Clarification and Amendment of RFP Documents**
- 2.1 Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the proposal submission date. Any request for clarification must be sent in writing, or by standard electronic means to the Client's address indicated in the Data Sheet. The Client will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Consultants. Should the Client deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under para. 2.2.
- 2.2 At any time before the submission of Proposals, the Client may amend the RFP by issuing an addendum in writing or by standard electronic means. The addendum shall be sent to all Consultants and will be binding on them. Consultants shall acknowledge receipt of all amendments. To give Consultants reasonable time in which to take an amendment into account in their Proposals the Client may, if the amendment is substantial, extend the deadline for the submission of Proposals.

3. Preparation of Proposals

- 3.1 The Proposal (see para. 1.2), as well as all related correspondence exchanged by the Consultants and the Client, shall be written in the language (s) specified in the Data Sheet.
- 3.2 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.
- 3.3 While preparing the Technical Proposal, Consultants must give particular attention to the following:
- (a) If a shortlisted Consultant considers that it may enhance its expertise for the assignment by associating with other Consultants in a joint venture or sub-consultancy, it may associate with either (a) non-shortlisted Consultant(s), or (b) shortlisted Consultants if so indicated in the Data Sheet. A shortlisted Consultant must first obtain the approval of the Client if it wishes to enter into a joint venture with non-shortlisted or shortlisted Consultant(s). In case of association with non-shortlisted Consultant(s), the shortlisted Consultant shall act as association leader. In case of a joint venture, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture.
 - (b) The estimated number of Professional staff-months or the budget for executing the assignment shall be shown in the Data Sheet, but not both. However, the Proposal shall be based on the number of Professional staff-months or budget estimated by the Consultants.

For fixed-budget-based assignments, the available budget is given in the Data Sheet, and the Financial Proposal shall not exceed this budget, while the estimated number of Professional staff-months shall not be disclosed.
 - (c) Alternative professional staff shall not be proposed, and only one curriculum vitae (CV) may be submitted for each position.

Language

- (d) Documents to be issued by the Consultants as part of this assignment must be in the language(s) specified in the Reference Paragraph 3.1 of the Data Sheet. If Reference Paragraph 3.1 indicates two languages, the language in which the proposal of the successful Consultant will be submitted shall govern for the purpose of interpretation. It is desirable that the firm's Personnel have a working knowledge of the Client's national language.

**Technical
Proposal
Format and
Content**

- 3.4 Depending on the nature of the assignment, Consultants are required to submit a Full Technical Proposal (FTP), or a Simplified Technical Proposal (STP). The Data Sheet indicates the format of the Technical Proposal to be submitted. Submission of the wrong type of Technical Proposal will result in the Proposal being deemed non-responsive. The Technical Proposal shall provide the information indicated in the following paras from (a) to (g) using the attached Standard Forms (Section 3). Paragraph (c) (ii) indicates the recommended number of pages for the description of the approach, methodology and work plan of the STP. A page is considered to be one printed side of A4 or letter size paper.

- (a) (i) For the FTP only: a brief description of the Consultants' organization and an outline of recent experience of the Consultants and, in the case of joint venture, for each partner, on assignments of a similar nature is required in Form 3B of Section 3. For each assignment, the outline should indicate the names of Sub-Consultants/ Professional staff who participated, duration of the assignment, contract amount, and Consultant's involvement. Information should be provided only for those assignments for which the Consultant was legally contracted by the client as a corporation or as one of the major firms within a joint venture. Assignments completed by individual Professional staff working privately or through other consulting firms cannot be claimed as the experience of the Consultant, or that of the Consultant's associates, but can be claimed by the Professional staff themselves in their CVs. Consultants should be prepared to substantiate the claimed experience if so requested by the Client.
- (ii) For the STP the above information is not required and Form 3B of Section 3 shall not be used.
- (b) (i) For the FTP only: comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the Client (Form 3C of Section 3).
- (ii) For the STP Form 3C of Section 3 shall not be used; the above comments and suggestions, if any, should be incorporated into the description of the approach and methodology (refer to following sub-para. 3.4 (c) (ii)).
- (c) (i) For the FTP, and STP: a description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form 3D of

Section 3. The work plan should be consistent with the Work Schedule (Form 3H of Section 3) which will show in the form of a bar chart the timing proposed for each activity.

- (ii) For the STP only: the description of the approach, methodology and work plan should normally consist of 10 pages, including charts, diagrams, and comments and suggestions, if any, on Terms of Reference and counterpart staff and facilities.
- (d) The list of the proposed Professional staff team by area of expertise, the position that would be assigned to each staff team member, and their tasks (Form 3E of Section 3).
- (e) Estimates of the staff input (staff-months of foreign and local professionals) needed to carry out the assignment (Form 3G of Section 3). The staff-months input should be indicated separately for home office and field activities, and for foreign and local Professional staff.
- (f) CVs of the Professional staff signed by the staff themselves or by the authorized representative of the Professional Staff (Form 3F of Section 3).
- (g) For the FTP only: a detailed description of the proposed methodology and staffing for training, if the Data Sheet specifies training as a specific component of the assignment.

3.5 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information may be declared non responsive.

Financial Proposals

3.6 The Financial Proposal shall be prepared using the attached Standard Forms (Section 4). It shall list all costs associated with the assignment, including (a) remuneration for staff (foreign and local, in the field and at the Consultants' home office), and (b) reimbursable expenses indicated in the Data Sheet. If appropriate, these costs should be broken down by activity and, if appropriate, into foreign and local expenditures. All activities and items described in the Technical Proposal must be priced separately; activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items.

Taxes

3.7 The Consultant may be subject to local taxes (such as: value added or sales tax, social charges or income taxes on non resident Foreign Personnel, duties, fees, levies) on amounts payable by the Client under the Contract. The Client will state in the Data Sheet if the Consultant is subject to payment of any local taxes. Any such amounts shall not be included in the Financial Proposal as they will not be evaluated, but they will be discussed at contract negotiations, and applicable amounts will be included in the Contract.

3.8 Consultants may express the price of their services in a maximum of three freely convertible currencies, singly or in combination. The Client may require Consultants to state the portion of their price representing local cost in the national currency if so indicated in the Data Sheet.

3.9 Commissions and gratuities, if any, paid or to be paid by Consultants and related to the assignment will be listed in the Financial Proposal Form 4A of Section 4.

4. Submission, Receipt, and Opening of Proposals

- 4.1 The original proposal (Technical Proposal and, if required, Financial Proposal; see para. 1.2) shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed the proposal must initial such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of 3A of Section 3, and 4A of Section 4.
- 4.2 An authorized representative of the Consultants shall initial all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been duly authorized to sign. The signed Technical and Financial Proposals shall be marked "ORIGINAL".
- 4.3 The Technical Proposal shall be marked "ORIGINAL" or "COPY" as appropriate. The Technical Proposals shall be sent to the addresses referred to in para. 4.5 and in the number of copies indicated in the Data Sheet. All required copies of the Technical Proposal are to be made from the original. If there are discrepancies between the original and the copies of the Technical Proposal, the original governs.
- 4.4 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked "TECHNICAL PROPOSAL". Similarly, the original Financial Proposal (if required under the selection method indicated in the Data Sheet) shall be placed in a sealed envelope clearly marked "FINANCIAL PROPOSAL" followed by the RFP number and the name of the assignment, and with a warning "**DO NOT OPEN WITH THE TECHNICAL PROPOSAL.**" The envelopes containing the Technical and Financial Proposals shall be placed into an outer envelope and sealed. This outer envelope shall bear the submission address, reference number and title of the Loan, and be clearly marked "**DO NOT OPEN, EXCEPT IN PRESENCE OF THE OFFICIAL APPOINTED, BEFORE** [*insert the time and date of the submission deadline indicated in the Data Sheet*]". The Client shall not be responsible for misplacement, losing or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be cause for Proposal rejection. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive.
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- 4.5 The Proposals must be sent to the address/addresses indicated in the Data Sheet and received by the Client no later than the time and the date indicated in the Data Sheet, or any extension to this date in accordance with para. 2.2. Any proposal received by the Client after the deadline for submission shall be returned unopened.
- 4.6 The Client shall open the Technical Proposal immediately after the deadline for their submission. The envelopes with the Financial Proposal shall remain sealed and securely stored.
- 5. Proposal Evaluation**
- 5.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the Client on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the Client in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants' Proposal.
- Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.
- Evaluation of Technical Proposals**
- 5.2 The evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, subcriteria, and point system specified in the Data Sheet. Each responsive Proposal will be given a technical score (St). A Proposal shall be rejected at this stage if it 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 the Data Sheet.
- Financial Proposals for QBS**
- 5.3 Following the ranking of technical Proposals, when selection is based on quality only (QBS), the first ranked Consultant is invited to negotiate its proposal and the Contract in accordance with the instructions given under para. 6 of these Instructions.
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**Public Opening
and Evaluation
of Financial
Proposals (only
for QCBS, FBS,
and LCS)**

- 5.4 After the technical evaluation is completed, the Client shall inform the Consultants who have submitted proposals the technical scores obtained by their Technical Proposals, and shall notify those Consultants whose Proposals did not meet the minimum qualifying mark or were considered non responsive to the RFP and TOR, that their Financial Proposals will be returned unopened after completing the selection process. The Client shall simultaneously notify in writing Consultants that have secured the minimum qualifying mark, the date, time and location for opening the Financial Proposals. The opening date should allow Consultants sufficient time to make arrangements for attending the opening. Consultants' attendance at the opening of Financial Proposals is optional.
- 5.5 Financial Proposals shall be opened publicly in the presence of the Consultants' representatives who choose to attend. The name of the Consultants, and the technical scores of the Consultants shall be read aloud. The Financial Proposal of the Consultants who met the minimum qualifying mark will then be inspected to confirm that they have remained sealed and unopened. These Financial Proposals shall be then opened, and the total prices read aloud and recorded. Copy of the record shall be sent to all Consultants.
- 5.6 The Evaluation Committee will correct any computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, or between word and figures the formers will prevail. In addition to the above corrections, as indicated under para. 3.6, activities and items described in the Technical Proposal but not priced, shall be assumed to be included in the prices of other activities or items. In case an activity or line item is quantified in the Financial Proposal differently from the Technical Proposal, (i) if the Time-Based form of contract has been included in the RFP, the Evaluation Committee shall correct the quantification indicated in the Financial Proposal so as to make it consistent with that indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity and correct the total Proposal cost, (ii) if the Lump-Sum form of contract has been included in the RFP, no corrections are applied to the Financial Proposal in this respect. Prices shall be converted to a single currency using the selling rates of exchange, source and date indicated in the Data Sheet.
- 5.7 In case of QCBS, the lowest evaluated Financial Proposal

(Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals will be computed as indicated in the Data Sheet. Proposals will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) indicated in the Data Sheet: $S = St \times T\% + Sf \times P\%$. The firm achieving the highest combined technical and financial score will be invited for negotiations.

5.8 In the case of Fixed-Budget Selection, the Client will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected. In the case of the Least-Cost Selection, the Client will select the lowest proposal among those that passed the minimum technical score. In both cases the evaluated proposal price according to para. 5.6 shall be considered, and the selected firm is invited for negotiations.

6. Negotiations

6.1 Negotiations will be held at the date and address indicated in the Data Sheet. The invited Consultant will, as a pre-requisite for attendance at the negotiations, confirm availability of all Professional staff. Failure in satisfying such requirements may result in the Client proceeding to negotiate with the next-ranked Consultant. Representatives conducting negotiations on behalf of the Consultant must have written authority to negotiate and conclude a Contract.

Technical negotiations

6.2 Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing, and any suggestions made by the Consultant to improve the Terms of Reference. The Client and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as "Description of Services". Special attention will be paid to clearly defining the inputs and facilities required from the Client to ensure satisfactory implementation of the assignment. The Client shall prepare minutes of negotiations which will be signed by the Client and the Consultant.

- Financial negotiations** 6.3 If applicable, it is the responsibility of the Consultant, before starting financial negotiations, to contact the local tax authorities to determine the local tax amount to be paid by the Consultant under the Contract. The financial negotiations will include a clarification (if any) of the firm's tax liability in the Client's country, and the manner in which it will be reflected in the Contract; and will reflect the agreed technical modifications in the cost of the services. In the cases of QCBS, Fixed-Budget Selection, and the Least-Cost Selection methods, unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates. For other methods, Consultants will provide the Client with the information on remuneration rates described in the Appendix attached to Section 4 - Financial Proposal - Standard Forms of this RFP.
- Availability of Professional staff/experts** 6.4 Having selected the Consultant on the basis of, among other things, an evaluation of proposed Professional staff, the Client expects to negotiate a Contract on the basis of the Professional staff named in the Proposal. Before contract negotiations, the Client will require assurances that the Professional staff will be actually available. The Client will not consider substitutions during contract negotiations unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that Professional staff were offered in the proposal without confirming their availability, the Consultant may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate and be submitted by the Consultant within the period of time specified in the letter of invitation to negotiate.
- Conclusion of the negotiations** 6.5 Negotiations will conclude with a review of the draft Contract. To complete negotiations the Client and the Consultant will initial the agreed Contract. If negotiations fail, the Client will invite the Consultant whose Proposal received the second highest score to negotiate a Contract.

7. Award of Contract

- 7.1 After completing negotiations the Client shall award the Contract to the selected Consultant, publish in the Government website, the award of the Contract, and promptly notify all Consultants who have submitted proposals. After Contract signature, the Client shall return the unopened Financial Proposals to the unsuccessful Consultants.
- 7.2 The Consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.



- 8. Confidentiality** 8.1 Information relating to evaluation of Proposals and recommendations concerning awards shall not be disclosed to the Consultants who submitted the Proposals or to other persons not officially concerned with the process, until the publication of the award of Contract. The undue use by any Consultant of confidential information related to the process may result in the rejection of its Proposal.



Instructions to Consultants

DATA SHEET

| Paragraph Reference | |
|---------------------|---|
| 1.1 | <p>Name of the Client is: Secretary of State for Natural Resources, Government of the Democratic Republic of Timor-Leste.</p> <hr/> <p>Method of selection: is: Quality and Cost Based.</p> |
| 1.2 | <p>Financial Proposal to be submitted together with Technical Proposal: Yes</p> <p>Name of the assignment is: Aggregating Body for Timor-Leste EITI Secretariat, Secretary of State for Natural Resources.</p> |
| 1.3 | <p>A pre-proposal conference will be held: No</p> <p>The Client's representative is: Ms. Elda Guterres da Silva, Timor-Leste EITI National Coordinator Address: TL-EITI National Secretariat, Secretary of State for Natural Resources Office, Fomento Building, Mandarin, Dili, Timor-Leste. Mobile phone: +670 729 0141, Fixed line: +670 3331231 Facsimile: n/a Email: <u>vanozela@yahoo.com</u></p> |
| 1.4 | <p>The Client will provide inputs and facilities: as defined in the Terms of Reference (TOR).</p> |
| 1.6.1 (a) | <p>The Client envisages the need for continuity for downstream work: Yes</p> |
| 1.12 | <p>Proposals must remain up to 30 days after the proposal submission date.</p> |

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|---------|--|
| 2.1 | <p>Clarifications may be requested not later than 5 calendar days before the submission date.</p> <p>The address for requesting procurement clarifications is: Ms. Elda Guterres da Silva, Timor-Leste EITI National Coordinator Address: TL-EITI National Secretariat, Secretary of State for Natural Resources Office, Fomento Building, Mandarin, Dili, Timor-Leste. Mobile phone: +670 729 0141, Fixed line: +670 3331231 Facsimile: n/a E-mail: <u>vanozela@yahoo.com</u></p> |
| 3.1 | Proposals shall be submitted in the following language: English. |
| 3.3 (a) | Shortlisted Consultants may associate with other shortlisted Consultants: No |
| 3.4 (g) | Training is a specific component of this assignment: No |
| 3.7 | <p>Amounts payable by the Client to the Consultant under the contract to be subject to local taxation: Yes</p> <p>Amounts payable by the Client to the Consultant under the Contract will be subject to local taxation at a rate of 10%, calculated in the manner of a withholding tax rather than a surcharge tax (ie gross = nett divided by 0.90). The Consultant shall clearly estimate, as a separate amount, local taxation in the Financial Proposal.</p> |
| 3.8 | Consultant to state local cost in the national currency: Yes, US\$ |
| 4.3 | Consultant must submit one original and four (4) copies of the Technical Proposal, and the original of the Financial Proposal. |
| 4.5 | <p>The Proposal submission address is: Timor-Leste EITI National Secretariat, Secretary of State for Natural Resources Office, Fomento Building, Mandarin, Dili, Timor-Leste.</p> <p>Proposals must be submitted no later than the following date and time: <u>1700 hrs 17 February 2012.</u></p> <hr/> |
| 5.2 (a) | Criteria, sub-criteria, and point system for the evaluation of Full Technical Proposals are: |

| | <p style="text-align: right;"><u>Points</u></p> <p>(i) Specific experience of the Consultants relevant to the assignment: 10</p> <p>(ii) Adequacy of the proposed methodology and work plan in responding to the Terms of Reference:</p> <p style="padding-left: 20px;">a) Technical approach and methodology (30)</p> <p style="padding-left: 20px;">b) Work plan (10)</p> <p style="padding-left: 20px;">c) Organization and staffing (10)</p> <p style="text-align: right; padding-right: 20px;">Total points for criterion (ii): 50</p> <p>(iii) Key professional staff qualifications and competence for the assignment:</p> <p style="padding-left: 20px;">1) General qualifications (10)</p> <p style="padding-left: 20px;">2) Adequacy for the assignment (15)</p> <p style="padding-left: 20px;">3) Experience with similar kinds of clients (15)</p> <p style="text-align: right; padding-right: 20px;">Total weight: 40</p> <p style="text-align: right;">100%</p> | | | | | | | | | | |
|--------------|---|-------|----------|------|----|--------------|----|------|----|-----------|-----|
| | <p>The level of responsiveness of each criteria and/or sub-criteria will be rated on a scale of 1 to 100. This will be calculated on a percentage scale and each corresponding percentage rating will be multiplied by the maximum number of points assigned to the relevant criteria and/or sub-criteria to obtain the score.</p> <table border="1" data-bbox="391 1136 1377 1325" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">SCALE</th> <th style="text-align: center;">% RATING</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Poor</td> <td style="text-align: center;">20</td> </tr> <tr> <td style="text-align: center;">Satisfactory</td> <td style="text-align: center;">80</td> </tr> <tr> <td style="text-align: center;">Good</td> <td style="text-align: center;">90</td> </tr> <tr> <td style="text-align: center;">Very Good</td> <td style="text-align: center;">100</td> </tr> </tbody> </table> <p>The minimum technical score (qualifying mark) required for opening financial proposals is: eighty (80) Points.</p> | SCALE | % RATING | Poor | 20 | Satisfactory | 80 | Good | 90 | Very Good | 100 |
| SCALE | % RATING | | | | | | | | | | |
| Poor | 20 | | | | | | | | | | |
| Satisfactory | 80 | | | | | | | | | | |
| Good | 90 | | | | | | | | | | |
| Very Good | 100 | | | | | | | | | | |
| 5.6 | <p>The single currency for price conversions is: United States Dollars.</p> <p>The source of official selling rates is: Banking & Payments Authority RDTL</p> <p>The date of exchange rates is: Day of opening Proposals.</p> | | | | | | | | | | |
| 5.7 | <p>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.</p> | | | | | | | | | | |

| | |
|------------|--|
| | The weights given to the Technical and Financial Proposals are: T = 0.80 P = 0.20 |
| 6.1 | The address for holding contract negotiations shall be: Secretary of State for Natural Resource Office, Fomento Building, Mandarin, Dili, Timor-Leste. |
| 7.2 | Expected date for commencement of consulting services shall be: 3 weeks after date of submission of proposals. |

Section 3. Technical Proposal - Standard Forms

- 3A. Technical Proposal Submission Form
- 3B. Consultant's Organization and Experience
 - A Consultant's Organization
 - B Consultant's Experience
- 3C. Comments or Suggestions on the Terms of Reference and on Facilities to be Provided by the Client.
- 3D. Description of the Approach, Methodology and Work Plan for Performing the Assignment
- 3E. Team Composition and Task Assignments
- 3F. Format of Curriculum Vitae (CV) for Proposed Professional Staff
- 3G. Staffing Schedule
- 3H. Work Schedule



3A. TECHNICAL PROPOSAL SUBMISSION FORM

[insert Location, Date]

To: **Timor-Leste EITI National Secretariat,
Secretary of State for Natural Resources,
Fomento Building, Mandarin
Dili, Timor-Leste.**

Dear Madam:

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 Proposal. We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Paragraph Reference 1.12 of the Data Sheet, 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 undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Paragraph Reference 7.2 of the Data Sheet.

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: _____

3B. CONSULTANT’S ORGANIZATION AND EXPERIENCE

A - Consultant’s Organization

[Provide here a brief (two pages) description of the background and organization of your firm/entity and each associate for this assignment.]



B - Consultant's Experience

[Using the format below, provide information on each assignment for which your firm, and each associate for this assignment, was legally contracted either individually as a corporate entity or as one of the major companies within an association, for carrying out consulting services similar to the ones requested under this assignment.]

| | |
|--|---|
| Assignment name: | Approx. value of the contract (in current US\$ or Euro): |
| Country: Location within country: | Duration of assignment (months): |
| Name of Client: | Total N ^o of staff-months of the assignment: |
| Address: | Approx. value of the services provided by your firm under the contract (in current US\$ or Euro): |
| Start date (month/year): Completion date (month/year): | N ^o of professional staff-months provided by associated Consultants: |
| Name of associated Consultants, if any: | Name of senior professional staff of your firm involved and functions performed (indicate most significant profiles such as Project Director/Coordinator, Team Leader): |
| Narrative description of Project: | |
| Description of actual services provided by your staff within the assignment: | |

Firm's Name: _____

3C. COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE AND ON FACILITIES TO BE PROVIDED BY THE CLIENT

A - On the Terms of Reference

[Present and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the assignment (such as deleting some activity you consider unnecessary, or adding another, or proposing a different phasing of the activities). Such suggestions should be concise and to the point, and incorporated in your Proposal.]



B - On Facilities

[Comment here on facilities to be provided by the Client according to Paragraph Reference 1.4 of the Data Sheet including: administrative support, office space, local transportation, equipment, data, etc.]



3D. DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT



3E. TEAM COMPOSITION AND TASK ASSIGNMENTS

| Professional Staff | | | | |
|---------------------------|------|-------------------|-------------------|---------------|
| Name of Staff | Firm | Area of Expertise | Position Assigned | Task Assigned |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |



3F. CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

1. Proposed Position *[only one candidate shall be nominated for each position]:* _____

2. Name of Firm *[Insert name of firm proposing the staff]:* _____

3. Name of Staff *[Insert full name]:* _____

4. Date of Birth: _____ **Nationality:** _____

5. Education *[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:* _____

6. Membership of Professional Associations: _____

7. Other Training *[Indicate significant training since degrees under 5 - Education were obtained]:* _____

8. Countries of Work Experience: *[List countries where staff has worked in the last ten years]:* _____

9. Languages *[For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:* _____

10. Employment Record *[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:*

From [Year]: ____ To [Year]: _____

Employer: _____

Positions held: _____

| | |
|--|--|
| <p>11. Detailed Tasks Assigned</p> <p><i>[List all tasks to be performed under this assignment]</i></p> | <p>12. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</p> <p><i>[Among the assignments in which the staff has been involved, indicate the following information for those assignments that best illustrate staff capability to handle the tasks listed under point 11.]</i></p> <p>Name of assignment or project: _____</p> <p>Year: _____</p> <p>Location: _____</p> <p>Client: _____</p> <p>Main project features: _____</p> <p>Positions held: _____</p> <p>Activities performed: _____</p> |
|--|--|

13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any wilful misstatement described herein may lead to my disqualification or dismissal, if engaged.

_____ Date: _____
[Signature of staff member or authorized representative of the staff] *Day/Month/Year*

Full name of authorized representative: _____

3G. STAFFING SCHEDULE¹

| N° | Name of Staff | Staff input (in the form of a bar chart) ² | | | | | | | | | | | | | Total staff-month input | | | |
|----------------|---------------|---|---|---|---|---|---|---|---|---|----|----|-----------------|---|-------------------------|--------------------|-------|--|
| | | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | n | Home | Field ³ | Total | |
| Foreign | | | | | | | | | | | | | | | | | | |
| 1 | | [Home] | | | | | | | | | | | | | | | | |
| | | [Field] | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | | |
| 3 | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| n | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | Subtotal | | | | | |
| Local | | | | | | | | | | | | | | | | | | |
| 1 | | [Home] | | | | | | | | | | | | | | | | |
| | | [Field] | | | | | | | | | | | | | | | | |
| 2 | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | | | | |
| n | | | | | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | Subtotal | | | | | |
| | | | | | | | | | | | | | Total | | | | | |

- 1 For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).
- 2 Months are counted from the start of the assignment. For each staff indicate separately staff input for home and field work.
- 3 Field work means work carried out at a place other than the Consultant's home office.

Full time input
 Part time input

Section 4. Financial Proposal - Standard Forms

- 4A. Financial Proposal Submission Form
- 4B. Summary of Costs
- 4C. Breakdown of Costs by Activity
- 4D. Breakdown of Remuneration
- 4E. Reimbursable expenses



4A. FINANCIAL PROPOSAL SUBMISSION FORM

[Insert Location, Date]

To: [Name and address of Client]

Dear Sirs:

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]. This amount is exclusive of the local taxes, which shall be identified during negotiations and shall be added to the above amount.

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, i.e. before the date indicated in Paragraph Reference 1.12 of the Data Sheet.

Commissions and gratuities paid or to be paid by us to agents relating to this Proposal and Contract execution, if we are awarded the Contract, are listed below²:

| Name and Address of Agents | Amount and Currency | Purpose of Commission or Gratuity |
|----------------------------|---------------------|-----------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

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

We remain,

Yours sincerely,

Authorized Signature [In full and initials]: _____

Name and Title of Signatory: _____

Name of Firm: _____

Address: _____

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

2 If applicable, replace this paragraph with: "No commissions or gratuities have been or are to paid by us to agents relating to this Proposal and Contract execution."

4B. SUMMARY OF COSTS

| Item | Costs |
|------------------------------------|-------|
| | US\$ |
| Subtotal | |
| Local Taxes | |
| Total Amount of Financial Proposal | |

4C. BREAKDOWN OF COSTS BY ACTIVITY

| | |
|---|---------------------------------------|
| Group of Activities (Phase): _____ _____ | Description: _____ _____ |
| Cost component | Costs |
| Remuneration | |
| Reimbursable Expenses | |
| Subtotals | |

4D. BREAKDOWN OF REMUNERATION¹

| Group of Activities (Phase): _____ | | | | |
|------------------------------------|-----------------------|--------------|--------------------------------------|--------|
| Name ² | Position ³ | Remuneration | Input ⁵ (Staff-months) | Amount |
| Foreign Staff | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| Local Staff | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | Total Costs | |

4E. BREAKDOWN OF REIMBURSABLE EXPENSES

| Group of Activities (Phase): _____ | | | | | |
|------------------------------------|---|------|-----------|----------|------------|
| N° | Description | Unit | Unit Cost | Quantity | Total Cost |
| | Per diem allowances | Day | | | |
| | International flights | Trip | | | |
| | Miscellaneous travel | Trip | | | |
| | Communication costs between [Insert place] and [Insert place] | | | | |
| | Drafting, reproduction of reports | | | | |
| | Local transportation costs | | | | |
| | Office rent, clerical assistance | | | | |
| Total Costs | | | | | |



TERMS OF REFERENCE FOR AGGREGATING BODY

Timor-Leste Extractive Industries Transparency Initiative (TL-EITI) Timor-Leste EITI Third and Forth Reconciliation Reports

Endorsed by the National EITI Working Group on 20 September 2011

BACKGROUND

The Extractive Industries Transparency Initiative (EITI) is the global standard for promoting greater transparency and accountability in countries rich in oil, gas, or mineral resources which aimed to increase the likelihood that such revenues are used in an efficient and equitable manner and to reduce the risk of diversion or misappropriation of funds generated by the development of a country's extractive industry resources. The initiative is supported by an international coalition of developing countries, donors, extractive industry companies, civil society organizations, investors, and international organizations since launched in 2002.

The Government of Timor-Leste was one of the first countries to state its commitment to the Principles and Criteria of the Extractive Industries Transparency Initiative (EITI) on the occasion of the first international conference on EITI in London in June 2003. The Principles and Criteria of EITI can be found in <http://www.eiti.org/eiti>.

The first meeting of Timor-Leste's national EITI Working Group was held in Dili on May 15, 2007, bringing together representatives from relevant government agencies ("Government"), civil society, and the licence holders within the petroleum industry ("Industry"). In July 2010, Timor-Leste was accepted as the first country in Asia to be as an EITI Compliant Country.

OBJECTIVE

Reconciliation is an essential element of the EITI process, and central to the initiative's status as an international standard. The objective of the reconciliation is to ensure, in compliance with the procedures set out by the international EITI Secretariat, the transparency and credibility of extractive industries payments and receipts in Timor-Leste. Therefore, the assignment entails an analysis and reconciliation of payments and receipts made in fiscal year 2010 and 2011 in the petroleum sector. The Secretariat seeks the services of an internationally recognized and reputable audit firm to ensure full transparency, independence and international recognition of the audit process.

SCOPE OF WORK

The assignment is not a traditional financial audit. However auditing skills are critical to address the scope of work. This assignment will consist of two reports which are the third and fourth reconciliation reports to be produced in 2012. The selected Aggregating Body shall:

- (i) Analyze all payments by Industry companies to the government and receipts by the government from the Industry companies for the tax year 2010 and 2011.

- a. The analysis will be based and connected to the preparation for the EITI Report in accordance with the Government of The Democratic Republic of Timor-Leste Extractive Industries Transparency Initiative Guidelines for Reporting to the EITI Aggregating Body Revised December 2011 ([“the Guidelines”](#)).
 - b. As necessary, directly communicate with the Government and/or the relevant Industry company in respect to any discrepancy identified between that Industry company payment and the relevant government receipt in order to resolve such discrepancy ahead of the preparation and publication of the EITI Report.
 - c. All information provided to the Aggregating Body shall be treated on a confidential basis and is only for the use by the Aggregating Body for the sole purpose of producing the EITI Report. No information shall be disclosed to any party without the disclosing party’s written consent, unless as strictly required to be disclosed in the EITI Report. The Aggregating Body will have the ultimate responsibility for maintaining confidentiality towards all parties in regard to the information it will possess.
- (ii) Produce third (2010) and forth (2011) reports—in English, Portuguese and Bahasa Indonesia—showing, on aggregated and disaggregated basis of all Industry company payments and government receipts, including breakdown by Industry companies, Government institutions and type of payments in accordance with the agreed EITI template attached to the Guidelines. The report shall consist of:
- a. An overview of the Extractive Industry in Timor-Leste and the fiscal regime to assist users of the report in understanding the context in which the reconciled figures are presented.
 - b. A description of the work performed by the selected Aggregating Body, including in the case of discrepancies identified, a description of what has been done to reconcile them and conclusions on the reason of the discrepancy. Included in the report will be a separate reconciliation of figures reported by Industry and Government with the Petroleum Fund Financial Statements in order to identify and explain the reasons why those are different.
 - c. Information about the total amount of petroleum taxes paid by the Industry companies and received by the Government.
 - d. Information about the total amount of FTP and Profit Oil/Gas paid by the Industry companies and received by the Government, for each license hold.
 - e. Information about the total amount for each of the other various fees applicable (Application Fee, License Fee, Development Fee, Seismic Data Fee etc) paid by the Industry companies and received by the Government, for each license hold.
 - f. Any potential areas for improvement in the EITI reporting process as identified in course of compiling the EITI report.
 - g. The Aggregating Body report (English, Portuguese and Bahasa Indonesia versions)
- 

- will initially be submitted to the Timor-Leste EITI working group for discussion and agreement within 60 days of its receipt of the completed reporting templates by the Government and Industry.
- h. The final report of the Aggregating Body shall be submitted to the Timor-Leste EITI Working Group within 45 days of the agreement of the TL EITI Working Group provided that any inconsistencies have been either resolved, agreed to be insignificant, or until such time these inconsistencies have been resolved. All such inconsistencies and the manner in which they were resolved will be reflected in the Final Report.
 - i. The Final Report will be published and disseminated to public by the Secretary of State for Natural Resources.

AGGREGATING BODY PROCUREMENT PROCESS AND CONTRACTING

The Secretary of State for Natural Resources will enter into a contract with the selected Aggregating Body as approved by the Timor-Leste EITI Working Group. The initial term of the contract will be one year, extendable on a yearly basis to a maximum term of 3 (three) years. Extensions will be given in writing by SERN to the selected Aggregating Body.

The Aggregating Body shall provide a submission with information including:

- The Aggregating Body Organization and its Internationally Recognised Experience – it is expected that selected Aggregating Body will be an organization that is affiliated to an international body e.g. the International Federation of Accountants and one that is qualified to undertake statutory audits in the major capital markets
- Description of the Approach, Methodology and Work Plan for Performing the Assignment
- Curriculum Vitae (CV) for Proposed Professional Staff assigned for the task
- Work Schedule (ref. 3H, Section 3. Technical proposal – standard form).

For the appointment of an Aggregating Body, a panel comprising of two representatives from each of the three stakeholders has been established and the following selection criteria will apply:

- Quality of the proposal made by the bidder (eg. how the scope of work will be addressed)
- Examples of analysis, assessments or reports undertaken by the bidder to other clients that show similar kind of work;
- The qualification and experience of the bidder to undertake the work; and
- The level of experience of the staff assigned for the task
- Proposed period for the completion of the work
- Proposed fees.

The deadline for submitting proposals is Friday, 17 February 2012.

Any questions to the Terms of Reference and submission of proposals can be addressed to the Government's EITI National Coordinator:

Ms. Elda Guterres da Silva
Timor-Leste EITI National Coordinator
E-mail: vanozela@yahoo.com
Telephone: +670 729 0141

Or

Mr. Filipe Nery Bernardo
Member of MSG TL-EITI
Email: fnbernardo@mof.gov.tl
Telephone: +670 751 9659



SECTION 6.
STANDARD FORM OF CONTRACT

CONSULTANT'S SERVICES:
Lump-Sum Contract

Government of Timor-Leste

Month and Year



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CONTRACT FOR CONSULTANTS' SERVICES

Time-Based

between

[name of the Client]

and

[name of the Consultant]

Dated: _____



I. Form of Contract

LUMP-SUM

This CONTRACT (hereinafter called the “Contract”) is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of client]* (hereinafter called the “Client”) and, on the other hand, *[name of Consultant]* (hereinafter called the “Consultant”).

WHEREAS

- (a) the Client has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);
- (b) the Consultant, having represented to the Client that it has the required professional skills, and personnel and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract;
 - (b) The Special Conditions of Contract;
 - (c) The following Appendices:
 - Appendix A: Description of Services
 - Appendix B: Reporting Requirements
 - Appendix C: Key Personnel and Sub-Consultants
 - Appendix D: Breakdown of Contract Price in Foreign Currency
 - Appendix E: Breakdown of Contract Price in Local Currency
 - Appendix F: Services and Facilities Provided by the Client
2. The mutual rights and obligations of the Client and the Consultant shall be as set forth in the Contract, in particular:
 - (a) the Consultants shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) the Client shall make payments to the Consultants in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *[name of Client]*



[Authorized Representative]

For and on behalf of *[name of Consultant]*

[Authorized Representative]



II. General Conditions of Contract

1. GENERAL PROVISIONS



1.1 Definitions

Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “Applicable Law” means the laws and any other instruments having the force of law in the Government’s country, or in such other country as may be specified in the Special Conditions of Contract (SC), as they may be issued and in force from time to time.
- (b) “Consultant” means any private or public entity that will provide the Services to the Client under the Contract.
- (d) “Contract” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is these General Conditions (GC), the Special Conditions (SC), and the Appendices.
- (e) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6;
- (f) “Effective Date” means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- (g) “Foreign Currency” means any currency other than the currency of the Client’s country.
- (h) “GC” means these General Conditions of Contract.
- (i) “Government” means the Government of the Client’s country.
- (j) “Local Currency” means the currency of the Client’s country.
- (k) “Member” means any of the entities that make up the joint venture/consortium/association, and “Members” means all these entities.
- (l) “Party” means the Client or the Consultant, as the case may be, and “Parties” means both of them.
- (m) “Personnel” means persons hired by the Consultant or by any Sub-Consultants and assigned to the performance of the Services or any part thereof.
- (n) “SC” means the Special Conditions of Contract by which the GC may be amended or supplemented.
- (o) “Services” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.
- (p) “Sub-Consultants” means any person or entity to whom/which the Consultant subcontracts any part of the Services.

(q) “In writing” means communicated in written form with proof of receipt.

1.2 Law Governing Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.

1.3 Language

This Contract has been executed in the language specified in the SC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

1.4 Notices

1.4.1

Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SC.

1.4.2

A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

1.5 Location

The Services shall be performed at such locations as are specified in Appendix A hereto and, where the location of a particular task is not so specified, at such locations, whether in the Government’s country or elsewhere, as the Client may approve.

1.6 Authority of Member in Charge

In case the Consultant consists of a joint venture/ consortium/ association of more than one entity, the Members hereby authorize the entity specified in the SC to act on their behalf in exercising all the Consultant’s rights and obligations towards the Client under this Contract, including without limitation the receiving of instructions and payments from the Client.

1.7 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Client or the Consultant may be taken or executed by the officials specified in the SC.

1.8 Taxes and Duties

The Consultant, Sub-Consultants, and their Personnel shall pay such indirect taxes, duties, fees, and other impositions levied under the Applicable Law as specified in the SC, the amount of which is deemed to have been included in the Contract Price.

1.9 Fraud and Corruption**1.9.1 Definitions**

It is the Government's policy to require that the Consultants observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the Government:

- (a) defines, for the purpose of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of any thing of value to influence the action of a public official in the selection process or in contract execution;
 - (ii) "fraudulent practice" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;
 - (iii) "collusive practices" means a scheme or arrangement between two or more consultants, with or without the knowledge of the Borrower, designed to establish prices at artificial, noncompetitive levels;
 - (iv) "coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

1.9.2 Measures to be Taken

- (b) will sanction a Consultant, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Government-financed contract if it at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Government-financed contract;

1.9.3 Commissions and Fees

- (d) will require the successful Consultant to disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution of the contract. The information disclosed must include at least the name and address of the agent, representative, or commission agent, the

amount and currency, and the purpose of the commission or fee.

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

- 2.1 Effectiveness of Contract** This Contract shall come into effect on the date the Contract is signed by both Parties or such other later date as may be stated in the SC. The date the Contract comes into effect is defined as the Effective Date.
- 2.2 Commencement of Services** The Consultant shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.
- 2.3 Expiration of Contract** Unless terminated earlier pursuant to Clause GC 2.6 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.
- 2.4 Modifications or Variations** Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. However, each Party shall give due consideration to any proposals for modification or variation made by the other Party.
- 2.5 Force Majeure**
- 2.5.1 Definition** For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
- 2.5.2 No Breach of Contract** The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
- 2.5.3 Extension of Time** Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

2.5.4 Payments During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.

2.6 Termination

2.6.1 By the Client The Client may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (f) of this Clause GC 2.6.1. In such an occurrence the Client shall give a not less than thirty (30) days' written notice of termination to the Consultant, and sixty (60) days' in the case of the event referred to in (e).

- (a) If the Consultant does not remedy a failure in the performance of their obligations under the Contract, within thirty (30) days after being notified or within any further period as the Client may have subsequently approved in writing.
- (b) If the Consultant becomes insolvent or bankrupt.
- (c) If the Consultant, in the judgment of the Client has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- (d) If, as the result of Force Majeure, the Consultant are unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (e) If the Client, in its sole discretion and for any reason whatsoever, decides to terminate this Contract.
- (f) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.

- 2.6.2 By the Consultant** The Consultants may terminate this Contract, by not less than thirty (30) days' written notice to the Client, such notice to be given after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause GC 2.6.2:
- (a) If the Client fails to pay any money due to the Consultant pursuant to this Contract and not subject to dispute pursuant to Clause GC 7 hereof within forty-five (45) days after receiving written notice from the Consultant that such payment is overdue.
 - (b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
 - (c) If the Client fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.
- 2.6.3 Payment upon Termination** Upon termination of this Contract pursuant to Clauses GC 2.6.1 or GC 2.6.2, the Client shall make the following payments to the Consultant:
- (a) payment pursuant to Clause GC 6 for Services satisfactorily performed prior to the effective date of termination;
 - (b) except in the case of termination pursuant to paragraphs (a) through (c), and (f) of Clause GC 2.6.1, reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel and their eligible dependents.

3. OBLIGATIONS OF THE CONSULTANT

3.1 General

- 3.1.1 Standard of Performance** The Consultant shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Client, and shall at all times support and safeguard the Client's legitimate interests in any dealings with Sub-Consultants or third Parties.

- 3.2 Conflict of Interests** The Consultant shall hold the Client's interests paramount, without any consideration for future work, and strictly avoid conflict with other assignments or their own corporate interests.
- 3.2.1 Consultants Not to Benefit from Commissions, Discounts, etc.** The payment of the Consultant pursuant to Clause GC 6 shall constitute the Consultant's only payment in connection with this Contract or the Services, and the Consultant shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Consultant shall use their best efforts to ensure that the Personnel, any Sub-Consultants, and agents of either of them similarly shall not receive any such additional payment.
- 3.2.2 Consultant and Affiliates Not to be Otherwise Interested in Project** The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-Consultants and any entity affiliated with such Sub-Consultants, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Consultant's Services for the preparation or implementation of the project.
- 3.2.3 Prohibition of Conflicting Activities** The Consultant shall not engage, and shall cause their Personnel as well as their Sub-Consultants and their Personnel not to engage, either directly or indirectly, in any business or professional activities which would conflict with the activities assigned to them under this Contract.
- 3.3 Confidentiality** Except with the prior written consent of the Client, the Consultant and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Personnel make public the recommendations formulated in the course of, or as a result of, the Services.
- 3.4 Insurance to be Taken Out by the Consultant** The Consultant (a) shall take out and maintain, and shall cause any Sub-Consultants to take out and maintain, at their (or the Sub-Consultants', as the case may be) own cost but on terms and conditions approved by the Client, insurance against the risks, and for the coverage, as shall be specified in the SC; and (b) at the Client's request, shall provide evidence to the Client showing that such insurance has been taken out and maintained and that the current premiums have been paid.

- 3.5 Consultant's Actions Requiring Client's Prior Approval** The Consultant shall obtain the Client's prior approval in writing before taking any of the following actions:
- (a) entering into a subcontract for the performance of any part of the Services,
 - (b) appointing such members of the Personnel not listed by name in Appendix C, and
 - (c) any other action that may be specified in the SC.
- 3.6 Reporting Obligations**
- (a) The Consultant shall submit to the Client the reports and documents specified in Appendix B hereto, in the form, in the numbers and within the time periods set forth in the said Appendix.
 - (b) Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.
- 3.7 Documents Prepared by the Consultant to be the Property of the Client**
- (a) All plans, drawings, specifications, designs, reports, other documents and software submitted by the Consultant under this Contract shall become and remain the property of the Client, and the Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Client, together with a detailed inventory thereof.
 - (b) The Consultant may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the SC.
- 3.8 Accounting, Inspection and Auditing** The Consultant (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the Client or its designated representative and/or the Bank, and up to two years from the expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the Client, if so required by the Client as the case may be.

4. CONSULTANT'S PERSONNEL

- 4.1 Description of Personnel** The Consultant shall employ and provide such qualified and experienced Personnel and Sub-Consultants as are required to carry out the Services. The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Consultant's Key Personnel are described in Appendix C. The Key Personnel and Sub-Consultants listed by title as well as by name in Appendix C are hereby approved by the Client.
- 4.2 Removal and/or Replacement of Personnel**
- (a) Except as the Client may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Consultant, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Key Personnel, the Consultant shall provide as a replacement a person of equivalent or better qualifications.
 - (b) If the Client finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Consultant shall, at the Client's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Client.
 - (c) The Consultant shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.

5. OBLIGATIONS OF THE CLIENT

- 5.1 Assistance and Exemptions** The Client shall use its best efforts to ensure that the Government shall provide the Consultant such assistance and exemptions as specified in the SC.
- 5.2 Change in the Applicable Law Related to Taxes and Duties** If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in Clauses GC 6.2 (a) or (b), as the case may be.
- 5.3 Services and Facilities** The Client shall make available free of charge to the Consultant the Services and Facilities listed under Appendix F.

6. PAYMENTS TO THE CONSULTANT

- 6.1 Lump-Sum Payment** The total payment due to the Consultant shall not exceed the Contract Price which is an all inclusive fixed lump-sum covering all costs required to carry out the Services described in Appendix A. Except as provided in Clause 5.2, the Contract Price may only be increased above the amounts stated in Clause 6.2 if the Parties have agreed to additional payments in accordance with Clause 2.4.
- 6.2 Contract Price** (a) The price payable in foreign currency/currencies is set forth in the SC.
- (b) The price payable in local currency is set forth in the SC.
- 6.3 Payment for Additional Services** For the purpose of determining the remuneration due for additional services as may be agreed under Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.
- 6.4 Terms and Conditions of Payment** Payments will be made to the account of the Consultant and according to the payment schedule stated in the SC. Unless otherwise stated in the SC, the first payment shall be made against the provision by the Consultant of an advance payment guarantee for the same amount, and shall be valid for the period stated in the SC. Such guarantee shall be in the form set forth in Appendix G hereto, or in such other form, as the Client shall have approved in writing. Any other payment shall be made after the conditions listed in the SC for such payment have been met, and the Consultant has submitted an invoice to the Client specifying the amount due.
- 6.5 Interest on Delayed Payments** If the Client has delayed payments beyond forty five (45) days after the due date stated in the Clause SC 6.4, interest shall be paid to the Consultant for each day of delay at the rate stated in the SC.

7. GOOD FAITH

- 7.1 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.

8. SETTLEMENT OF DISPUTES

8.1 Amicable Settlement

The Parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of the Contract and the success of the assignment. The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

8.2 Dispute Resolution

Any dispute between the Parties as to matters arising pursuant to this Contract that cannot be settled amicably within thirty (30) days after receipt by one Party of the other Party's request for such amicable settlement may be submitted by either Party for settlement in accordance with the provisions specified in the SC.

III. Special Conditions of Contract

| Number of GC Clause | Amendments of, and Supplements to, Clauses in the General Conditions of Contract |
|---------------------|---|
| 1.1(a) | The words “in the Government’s country” are amended to read “in <i>Timor-Leste</i> .” |
| 1.3 | The language/s is English. |
| 1.4 | <p>The addresses are:</p> <p>Client: _____</p> <p>Attention: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p> <p>Consultant: _____</p> <p>_____</p> <p>Attention: _____</p> <p>Facsimile: _____</p> <p>E-mail: _____</p> |
| 1.7 | <p>The Authorized Representatives are:</p> <p>For the Client: _____</p> <p>For the Consultant: _____</p> |
| 2.1 | The Effective Date is <i>[insert date]</i> . |



| | |
|---------|---|
| 2.2 | The date for the commencement of Services is <i>[insert date]</i> . |
| 2.3 | The time period shall be <i>[insert time period, e.g.: twelve months]</i> . |
| 3.4 | <p>The risks and the coverage shall be at comparable premiums, to be proposed by the Consultant, for:</p> <ul style="list-style-type: none"> (a) Third Party motor vehicle liability insurance in respect of motor vehicles operated in the Government's country by the Consultant or its Personnel or any Sub-Consultants or their Personnel, with a minimum coverage of <i>[insert amount and currency]</i>; (b) Third Party liability insurance, with a minimum coverage of <i>[insert amount and currency]</i>; (c) professional liability insurance, with a minimum coverage of <i>[insert amount and currency]</i>; (d) employer's liability and workers' compensation insurance in respect of the Personnel of the Consultant and of any Sub-Consultants, in accordance with the relevant provisions of the Applicable Law, as well as, with respect to such Personnel, any such life, health, accident, travel or other insurance as may be appropriate; and (e) insurance against loss of or damage to (i) equipment purchased in whole or in part with funds provided under this Contract, (ii) the Consultant's property used in the performance of the Services, and (iii) any documents prepared by the Consultant in the performance of the Services. |
| 3.7 (b) | The Consultant shall not use any documents and/or reports for purposes unrelated to this Contract without the prior written approval of the Client. |
| 6.2(a) | The amount in foreign currency or currencies is <i>[insert amount]</i> . |
| 6.2(b) | The amount in local currency is <i>[insert amount]</i> . |

IV. Appendices

APPENDIX A – DESCRIPTION OF SERVICES

APPENDIX B - REPORTING REQUIREMENTS

APPENDIX C - KEY PERSONNEL AND SUB-CONSULTANTS

APPENDIX D - BREAKDOWN OF CONTRACT PRICE IN FOREIGN CURRENCY

APPENDIX E - BREAKDOWN OF CONTRACT PRICE IN LOCAL CURRENCY

APPENDIX F - SERVICES AND FACILITIES PROVIDED BY THE CLIENT

