

**GOVERNMENT OF THE INDEPENDENT STATE OF SAMOA**

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**BIDDING DOCUMENT FOR THE  
PROCUREMENT OF CONSULTANCY  
SERVICES**

**FOR THE PROCUREMENT OF A LEGISLATIVE  
DRAFTING CONSULTANT TO REVIEW THE  
DISASTER AND EMERGENCY MANAGEMENT  
ACT 2007**

**BY OPEN COMPETITIVE BIDDING**

**ISSUED ON: 15 JULY 2024**

**PROCURING ENTITY: MINISTRY OF NATURAL RESOURCES AND ENVIRONMENT**

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## Section 1: Letter of Invitation

Dear Mr/Ms:

1. The Government of Samoa (“procuring entity”) has available *donor funds* toward the cost of a Legislative Drafting Consultant to Review the Disaster and Emergency Management Act 2007. The procuring entity intends to apply a portion of the funds to payments under the contract for which this Request for Proposals is issued.
2. The Ministry of Natural Resources and Environment now invites proposals to provide the following consulting services: Legislative Drafting Consultant to Review the Disaster and Emergency Management Act 2007. More details on the services are provided in the Terms of Reference.
4. A firm will be selected under the Quality and Cost Based Selection and procedures described in this RFP, in accordance with Treasury Instructions Amended Part K 2020.

5. The 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,

Lealaisalanoa Frances Reupena  
Chief Executive Officer

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## Section 2: Instructions to Consultants

- 1. Definitions**
- (a) “consultant” means any entity or person that may provide or provides the services to the procuring entity under the Contract;
  - (b) “Contract” means the Contract signed by the Parties and all the documents listed in its General Conditions of Contract (GCC), the Special Conditions of Contract (SCC), and the Appendices;
  - (c) “Data Sheet” means such part of the Instructions to consultants used to reflect specific country and assignment conditions;
  - (d) “Day” means calendar day;
  - (e) “Government” means the Government of the Independent State of Samoa;
  - (f) “Instructions to Consultants” or “ITC” (Section 2 of the RFP) means the document which provides shortlisted consultants with all information needed to prepare their Proposals;
  - (g) “in writing” means a communication in hand or machine written type and includes messages by facsimile, e-mail and other electronic forms of communications with proof of receipt.
  - (h) “Joint Venture (JV)” means an association with or without a legal personality distinct from that of its members, of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the procuring entity for the performance of the contract.
  - (i) “Letter of Invitation” or “LOI” (Section 1 of the RFP) means the Letter of Invitation being sent by the procuring entity to the shortlisted consultants;
  - (j) “Personnel” means professionals and support staff provided by the consultant or by any Sub-consultant and assigned to perform the services or any part of the services; “Foreign Personnel” means such professionals and support staff who at the time of being so provided had their domicile outside Samoa; “Local Personnel” means such professionals and support staff who at the time of being so provided had their domicile in Samoa;
  - (k) “procuring entity” means any Government Ministry or public body engaging in procurement and the agency with which the selected consultant signs the Contract;
  - (l) “professional staff” means, collectively any personnel of the Consultant, Sub-consultant or JV member(s) whose skills,

qualifications, knowledge and experience are critical to the performance of the consulting services under the contract and whose CV is taken into account in the technical evaluation of the Consultant's Proposal. It may also include personnel who are assigned to perform the consulting services or any part thereof under the contract and whose CVs are not evaluated individually.

- (m) "Proposal" means the Technical Proposal and the Financial Proposal;
- (n) "Request for Proposal" or "RFP" means the document to be prepared by the procuring entity for the selection of consultants, based on the SBD;
- (o) "services" means the tasks or obligations to be performed by the consultant pursuant to the Contract;
- (p) "Sub-consultant" means any person or entity with which the consultant subcontracts any part of the services;
- (q) "Terms of Reference" or "TOR" means the document included in the RFP as Section 5 which explains the objectives, scope of services, activities, tasks to be performed, respective responsibilities of the procuring entity and the consultant and expected results and deliverables of the assignment.
- (r) if the context so requires, "singular" means "plural" and vice versa.

## 2. Introduction

- 2.1 The procuring entity named in the Data Sheet will select a consulting firm or organisation (the consultant) from those listed in the LOI, in accordance with the method of selection specified in the Data Sheet.
- 2.2 The shortlisted 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 name and identification number of this international competitive bidding (RFP) procurement are specified in the Data Sheet.
- 2.3 The Proposal will be the basis for contract negotiations and ultimately for a signed Contract with the selected consultant, although any terms or conditions (relating to application of taxes, duties or levies required by law) may change prior finalisation of the Contract provided that the correct application is confirmed by the Ministry for Revenue and such change agreed to by both Parties.
- 2.4 Consultants should familiarise themselves with local conditions and take them into account in preparing their Proposals.

- 2.5 The consultant may also attend a pre-proposal conference, at their own expense, if one is specified in the Data Sheet. Consultants should contact the procuring entity or procuring entity'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.
- 2.6 The procuring entity will make available at no cost to the consultants the inputs and facilities specified in the Data Sheet. The procuring entity shall also endeavour to assist the firm in expediting the process to obtaining licenses and permits needed to carry out the services and make available relevant project data and reports.
- 2.7 Consultants shall bear all costs associated with the preparation and submission of their proposals and contract negotiation. The procuring entity is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to Contract award, without incurring any liability to the consultants.
3. **Conflict of Interest**
- 3.1 The consultant is required to provide professional, objective, and impartial advice and at all times hold the procuring entity's interests paramount, strictly avoid conflicts with other assignments or their own corporate interests and act without any consideration for future work.
- 3.2 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 contracted, under any of the circumstances set forth below:
- (i) A consultant who are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of consulting services under these bidding documents; or
  - (ii) A consultant that submits more than one Proposal in this bidding process, however, this does not limit the participation of subcontractors in more than one Proposal.
  - (iii) A firm that has been engaged by the procuring entity to provide goods, works or services other than
- Conflicting activities**

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**

- (iv) 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 procuring entity. 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 procuring entity in the privatisation 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**

- (v) A consultant (including its Personnel and Sub-consultants) that has a business or family relationship with a member of the procuring entity'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 procuring entity

throughout the selection process and the execution of the Contract.

- 3.3 Consultants must disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the procuring entity, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the consultant or termination of its Contract and/or sanctions by the Government.
- 3.4 No agency or current employees of the procuring entity shall work as consultants under their own ministries, departments or agencies. On the other hand, former government employees of the procuring entity may be recruited to work for their former ministries, departments or agencies is acceptable provided that there is no conflict of interest. When the consultant nominates any person employed in a Government ministry or public body<sup>1</sup> (other than for the procuring entity) in their technical proposal, such personnel must have written authorisation from the Public Service Commission in the case of an employee in a Government Ministry or certification from the appointing authority of an employee in a public body. Such authorisation must confirm and allow for such employee to work and commit full-time to the consulting services (outside of his or her official position with Government Ministry or public body). Such certification shall be provided to the procuring entity by the consultant as part of his or her technical proposal.
- Unfair Advantage** 3.5 If a shortlisted consultant could derive a competitive advantage from having provided consulting services related to the assignment in question, the procuring entity shall make available to all shortlisted consultants together with this RFP all information that would in that respect give such consultant any competitive advantage over competing consultants.
- 4. Fraud and Corruption** 4.1 All participants in the selection process as well as consultants and their sub-consultants must observe the highest standard of ethics during the selection and execution of contracts.<sup>2</sup> For the purposes this section, the procuring entity:

<sup>1</sup> The reference to public body shall have the same meaning as defined under the *Public Finance Management Act 2001*;

<sup>2</sup> In this context, any action taken by a consultant or a sub-consultant to influence the selection process or contract execution for undue advantage is improper.

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) “corrupt practice<sup>3</sup>” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - (ii) “fraudulent practice<sup>4</sup>” is any act or omission, including misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
  - (iii) “collusive practices<sup>5</sup>” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - (iv) “coercive practices<sup>6</sup>” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
  - (v) “obstructive practice” means:
    - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
    - (bb) acts intended to materially impede the exercise of the Government’s inspection and audit rights.

4.2 The procuring entity will:

- (i) 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, coercive, or obstructive practices in competing for the contract in question;

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<sup>3</sup> “Another party” refers to a public official acting in relation to the selection process or contract execution.

<sup>4</sup> A “party” refers to a public official; the terms “benefit” and “obligation” relate to the selection process or contract execution; and the “act or omission” is intended to influence the selection process or contract execution.

<sup>5</sup> “Parties” refers to participants in the procurement or selection process (including public officials) attempting to establish contract prices at artificial, non competitive levels.

<sup>6</sup> “Party” refers to a participant in the selection process or contract execution.

- (ii) cancel the portion of the funding appropriation allocated to a contract if it determines at any time that representatives of the procuring entity or of a beneficiary of the appropriation were engaged in corrupt, fraudulent, collusive, or coercive practices during the selection process or the execution of that contract, without the procuring entity having taken timely and appropriate action satisfactory to the procuring entity to address such practices when they occur;
- (iii) sanction a consultant, including declaring 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, coercive, or obstructive practices in competing for, or in executing, a Government financed contract; and
- (iv) have the right to require that, in contracts financed by a Government appropriation, a provision be included requiring consultants to submit audited financial statements and the same to be certified by an independent auditor, and also to permit the Government to inspect their accounts and records and other documents relating to the submission of proposals and contract performance and to have them audited by auditors appointed by the Government.

- 4.3 A person who commits an offence relating to corrupt activities in Samoa shall
- (a) be liable for conviction under the provisions of the laws of the Independent State of Samoa relating to corrupt activities in Samoa;
  - (b) have their bid rejected if it is determined that the consultant is not in compliance with the laws of the Independent State of Samoa relating to corrupt activities in Samoa;
  - (c) risk other sanctions in accordance with the Procurement Suspensions and Debarments Procedure.

- 4.4 Furthermore, consultants shall be aware of the provision stated in GCC 35.1 of this bidding document with regard to termination

## 5. Eligibility

- 5.1 A consultant may be a natural person, private entity, or government-owned entity or a joint venture (JV), under an existing agreement, or with the intent to constitute a legally-enforceable JV (supported by a letter of intent). All partners shall be jointly and severally liable for

the execution of the Contract in accordance with the terms and conditions of Contract. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. Unless specified in the Data Sheet, there is no limit on the number of members in a JV.

- 5.2 A consultant shall be deemed to have the nationality of a country if the consultant is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.
- 5.3 An eligible consultant (regardless of its country of registration and including any director, officer, manager or supervisor of the consultant) shall not within a period of 3 years preceding the date of issuance of the invitation to bid have been:
- a) convicted of any criminal offence, whether in Samoa or elsewhere:
    - (i) relating to his or her professional conduct;
    - (ii) relating to the making of false statements or misrepresentations as to his or her qualifications to enter into a procurement contract;
    - (iii) involving dishonesty; or
    - (iv) under anti-corruption legislation; or
  - b) suspended or disbarred by administrative or judicial proceedings from participating in procurements, whether in Samoa or elsewhere; or
  - c) convicted of an offence involving dishonesty, obstruction of justice or a lack of honesty or business integrity; or
  - d) convicted for an offence involving corruption; or
  - e) convicted for engaging in anti-competitive practices, whether or not involving collusion; or
  - f) deliberately neglectful or failed without good cause to perform a contract in accordance with its terms, if so serious in nature as to justify suspension or debarment.
- 5.4 The bidding process is open to all eligible consultants.

- 5.5 A consultant shall not have a conflict of interest. All consultants found to have conflict of interest shall be disqualified. consultants may be considered to have a conflict of interest with one or more parties in the bidding process if they are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this bidding document; or that has been hired (or is proposed to be hired) by the procuring entity as Project Manager for the Contract.
- 5.6 A firm that has been sanctioned by the Government in accordance with ITC 4 shall be ineligible to be awarded a contract, or benefit from a Government-financed contract, financially or otherwise, during such period of time as the Government shall determine.
- 5.7 In accordance with the Instructions, the consultant and any named Subconsultants shall certify in the Bid Submission Form that they are in good standing with the Government and have paid all taxes, duties, fees and other impositions as may be levied in Samoa prior to the award of contract. Evidence of such certification may be required from the successful consultant prior to award of contract.
- 5.8 Foreign Government-owned enterprises and public bodies in Samoa shall be eligible only if they can establish that they:
- (i) are legally and financially autonomous,
  - (ii) operate under commercial law, and
  - (iii) are not a dependent agency of the procuring entity.
- 5.9 Failure to directly purchase or receive the bidding documents from the procuring entity will result in ineligibility of that consultant from participating in the procurement process.
- 5.10 Consultants shall provide such evidence of their continued eligibility satisfactory to the procuring entity as the procuring entity shall reasonably request.
- 5.11 In case a shortlisted 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 same eligibility criteria.
- 6. Proposal by consultants**
- 6.1 Shortlisted consultants (including members of a JV) may only submit one proposal. If a consultant submits or participates in more than one proposal, all such proposals shall be disqualified. However, this does

- and Sub-consultants** not limit the participation of the same Sub-consultant, including individual experts, to more than one proposal.
- 7. Validity of Proposal**
- 7.1 The Data Sheet indicates how long consultants' Proposals must remain valid after the submission date. A Proposal valid for a shorter period shall be rejected by the procuring entity as non-responsive. During this period, consultants shall maintain the availability of professional staff nominated in the Proposal.
- 7.2 If it is established that any professional staff nominated in the consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without his/her confirmation, such Proposal may be disqualified and rejected for further evaluation and may be subject to sanctions in accordance with Clause 4 of this ITC.
- 7.3 The procuring entity will use its best efforts to complete negotiations within this period. However, should the need arise, the procuring entity 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
- 7.4 Consultants have the right to refuse to extend the validity of their Proposals and the original Proposal will not be evaluated further
- 7.5 If any of the professional staff become unavailable for the extended validity period, the consultant shall provide a written adequate justification and evidence satisfactory to the procuring entity together with the substitution request. In such case, a replacement professional staff shall have equal or better qualifications and experience than those of the originally proposed professional staff. The technical evaluation score, however, will remain to be based on the evaluation of the CV of the original professional staff.
- 7.6 If the Consultant fails to provide a replacement professional staff with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the procuring entity, such Proposal will be rejected.
- 7.7 The Consultant shall not subcontract the whole of the consulting services.
- 8. Clarification and Amendment**
- 8.1 Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the Data Sheet before the submission of Proposals. Any request for clarification must be in writing and delivered by post mail or facsimile or hand delivered to

- of RFP Documents**
- the procuring entity's address indicated in the Data Sheet. The procuring entity will respond in writing and will hand deliver or post mail or facsimile written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all consultants to their respective addresses.
- 8.2 Should the procuring entity deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under paragraph 8.3.
- 8.3 At any time before the submission of Proposals, the procuring entity may amend the RFP by issuing an addendum in writing. 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 procuring entity may, if the amendment is substantial, extend the deadline for the submission of Proposals.
- 9. Cost of Preparation of Proposal**
- 9.1 The consultant shall bear all costs associated with the preparation and submission of its Proposal, and the procuring entity shall not be responsible or liable for those costs.
- 9.2 The procuring entity shall incur no liability by virtue of it exercising its power to cancel a procurement.
- 10. Preparation of Proposals**
- 10.1 The Proposal as well as all related correspondence exchanged by the consultants and the procuring entity, shall be written in the English language. Supporting documents and printed literature that are part of the Proposal may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English language, in which case, for purposes of interpretation of the Proposal, such translation shall govern.
- 10.2 In preparing their Proposal, consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested will result in rejection of a Proposal.
- 10.3 The Proposal shall comprise the documents and forms listed in the Data Sheet without omission or modification to their format.
- 10.4 In addition to the requirements under ITC 10.3, Proposals submitted by a JV shall include a copy of the JV Agreement entered into by all partners. Alternatively, a Letter of Intent to execute a JV Agreement in the event of a successful Proposal shall be signed by all partners

and submitted with the Proposal, together with a copy of the proposed agreement.

10.5 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 permitted in the Data Sheet. A shortlisted consultant must first obtain the approval of the procuring entity 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) in a JV or sub-consultancy, the shortlisted consultant shall act as lead member. In case of a joint venture, all partners shall be jointly and severally liable. If shortlisted consultants form a JV then any of them may be lead member.
- (b) Although the Proposal is based on the number of professional staff-months or budget estimated by the consultants, the Data Sheet must show either the estimated number of professional staff-months or the budget for executing the assignment. This estimate is indicative, and the Proposal shall be based on the consultant's own estimates for the same.
- (c) For fixed-budget-based assignments (SFB), 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.
- (d) Alternative professional staff shall not be proposed, and only one curriculum vitae (CV) is required to be submitted for each position.

**11. Technical Proposal Format and Content**

11.1 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 paragraphs 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' organisation 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 TECH-2 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 procuring entity.
- (ii) For the STP the above information is not required and Form TECH-2 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 or effectiveness of the assignment; and on requirements for counterpart staff and facilities (including administrative support, office space, local transportation, equipment, data, and other matters to be provided by the procuring entity (Form TECH-3 of Section 3)).
- (ii) For the STP Form TECH-3 of Section 3 shall not be used; the comments and suggestions, if any, on matters referred to in clause 3.4(b)(i), should be incorporated into the description of the approach and methodology (refer to following sub-paragraph 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 organisation

and staffing schedule. Guidance on the content of this section of the Technical Proposals is provided under Form TECH-4 of Section 3. The work plan should be consistent with the Work Schedule (Form TECH-8 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 TECH-5 of Section 3).
- (e) Estimates of the staff input (staff-months of foreign and local professionals) needed to carry out the assignment (Form TECH-7 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 TECH-6 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.

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

## **12. Financial Proposal**

12.1 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.

12.2 If specified in the Data Sheet, 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.

- 13. Taxes**
- 13.1 The consultant may be subject to local taxes, duties, fees or other levies as required by law, on amounts payable by the procuring entity to the consultant, under the Contract. The procuring entity will state in the Data Sheet if the consultant is subject to payment of any local taxes, duties, fees or other levies required by law.
- 13.2 Any such amounts shall not be included in the Financial Proposal as they will not be evaluated. Any applicable local taxes, duties, fees or other levies will be discussed at contract negotiations and any such applicable amounts will be included in the Contract prior finalisation and signing of the Contract.
- 14. Currency of Proposal and Payment**
- 14.1 The currency(ies) of the Proposal and currency(ies) of payments shall be the same. Consultants may express the price of their services in a maximum of three freely convertible currencies.
- 14.2 The consultants shall quote the portion of their price representing local cost in the Samoan Tala (SAT\$) unless otherwise specified in the Data Sheet.
- 14.3 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 FIN-1 of Section 4.
- 15. Submission, Sealing and Marking of Proposals**
- 15.1 The original proposal and all copies shall be typed, digitally entered or written in permanent ink. And stamped by a person duly authorised to sign on behalf of the consultant. It shall contain no interlineations or overwriting, except as necessary to correct errors made by the consultants themselves. The authorised representative must initial such corrections.
- 15.2 The written confirmation of authorisation to sign on behalf of the consultants shall be:
- (a) a notarized Power of Attorney authorising and assigning the authority of the signatory to sign the bid in all its parts; and
  - (b) in the case of a bid submitted by an existing JV joint venture (“JV”), a notarised undertaking signed by all parties:
    - (i) stating that all parties shall be jointly and severally liable, if so required in accordance with ITC 5.1, and
    - (ii) nominating a representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and in the event the JV is awarded the Contract, during contract execution.

- 15.3 The consultant shall prepare on original can clearly mark it as “ORIGINAL”. The consultant shall submit copies of the proposal in the number specified in the Data Sheet and clearly mark them “COPY”. If there are discrepancies between the original and the copies of the Technical Proposal, the original prevails.
  - 15.4 The original and all copies of the Technical Proposal shall be placed in one 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 one sealed envelope clearly marked “Financial Proposal” followed by the RFP number and the name of the assignment, and a warning note stating: “Do Not Open With The Technical Proposal.”
  - 15.5 The envelopes containing the Technical and Financial Proposals shall be placed together in one envelope (“outer envelope”) and sealed. This outer envelope shall bear the submission address, reference number and title of the RFP, and a note clearly marked stating: “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]”.
  - 15.6 The procuring entity 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 case for Proposal rejection. If a Financial Proposal which has been submitted is not placed in a separate sealed envelope and duly marked as specified.
  - 15.7 The Proposals must be sent to the address(es) indicated in the Data Sheet and received by the procuring entity no later than the time and the date indicated in the Data Sheet. Any proposal received by the procuring entity after the deadline for submission shall be returned unopened.
16. **Opening of Technical Proposals**
- 16.1 The procuring entity shall conduct the Proposal opening in public at the address, date and time specified in the Data Sheet and in accordance with ITC Sub-Clauses 16.2 to 16.7. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored with a reputable public auditor or independent authority until they are opened in accordance with ITC 20.
  - 16.2 Envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding Proposal shall not be opened but returned to the consultant. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the consultant, the

corresponding Proposal will be opened. No Proposal withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Proposal opening.

- 16.3 Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Proposal. No Proposal modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Proposal opening. Only envelopes that are opened and read out at Proposal opening shall be considered further.
- 16.4 All other envelopes shall be opened one at a time, reading out: (i) the name and the country of the consultant or, in case of a JV, the name of the JV, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial Proposal; (iii) any modifications to the Proposal submitted prior to Proposal submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.
- 16.5 The procuring entity shall prepare a record of the Proposal opening.
- 16.6 The consultants’ representatives who are present shall be requested to sign the attendance sheet.
- 16.7 A copy of the record shall be distributed to all consultants who submitted proposals in time.

**17. Proposal  
Evaluation**

- 17.1 From the time the Proposals are opened to the time the Contract is awarded, the consultants should not contact the procuring entity on any matter relating to its Technical or Financial Proposal. Any effort by consultants to influence the procuring entity in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the consultants’ Proposal.
- 17.2 Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.
- 17.3 The consultant is not permitted to alter or modify its Proposal in any way after the Proposal submission deadline except as permitted under ITC 7.5. While evaluating the Proposals, the procuring entity will conduct the evaluation solely on the basis of the submitted Technical and Financial Proposals.

- 18. Evaluation of Technical Proposals**
- 18.1 The Bid Evaluation Committee shall evaluate the Technical Proposals on the basis of their responsiveness to the TOR, applying the evaluation criteria, sub-criteria, and point system specified in the Data Sheet.
- 18.2 A proposal may be rejected at this stage if it does not respond to important aspects of the RFP or if it fails to achieve a minimum technical score if so indicated in the Data Sheet.
- 19. Financial Proposals for QBS**
- 19.1 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 ITC 21.
- 19.2 Where Technical and Financial Proposals have been submitted in separate envelopes. Only the Financial Proposal of the first ranked consultant will be opened. Any other Financial Proposals will be returned once the Contract has been signed.
- 20. Public Opening and Evaluation of Financial Proposals (only for QCBS, SFB, and LCS)**
- 20.1 After the technical evaluation is completed the procuring entity shall inform the consultants who submitted a proposal the technical scores. Those consultants whose Proposals did not meet the minimum qualifying mark or were considered non responsive to the RFP will be advised that their Financial Proposals will be returned unopened after completing the selection process.
- 20.2 The procuring entity 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.
- 20.3 The Financial Proposals shall be opened in the presence of the consultants or their respective representatives, Tenders Board and representatives of the procuring entities. 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 opened, and the total prices read aloud and recorded.
- 20.4 A copy of the record shall be sent to all consultants who submitted Proposals.
- 20.5 The Bid Evaluation Committee will correct any computational errors. When correcting computational errors, in case of discrepancy between a partial amount and the total amount, the partial amount

prevails; and in case of discrepancy between numerals in words and figures the numerals in word form prevails. In addition, activities and items described in the Technical Proposal and 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:

- 20.5.1 if the Time-Based form of contract has been included in the RFP, the Bid 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;
  - 20.5.2 if the Lump-Sum form of contract has been included in the RFP, no corrections are applied to the Financial Proposal in this respect.
- 20.6 For evaluation purposes, prices shall be converted to a single currency specified in the Data Sheet using the selling rates of exchange, source and date indicated in the Data Sheet.
- 20.7 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.
- 20.8 In the case of Selection under fixed budget (SFB) the procuring entity will select the firm that submitted the highest ranked Technical Proposal within the budget. Proposals that exceed the indicated budget will be rejected.
- 20.9 In the case of the Least-Cost Selection (LCS) the Bid Evaluation Committee will select the lowest proposal among those that passed the minimum technical score.
- 20.10 In both SFB and LCS cases the evaluated proposal price according to paragraph 20.5 shall be considered, and the selected firm is invited for negotiations.

- 21. Negotiations**
- 21.1 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 to confirm availability may result in the rejection of the consultants' Proposal and the procuring entity shall move to the next ranked consultant.
- 21.2 The consultant's representative who attends the negotiations must be authorised to negotiate and sign the Contract on behalf of the consultant.
- 21.3 Failure of the consultant or its representative(s) to attend any negotiations may result in the procuring entity proceeding to negotiate with the next-ranked consultant.
- 21.4 The procuring entity shall prepare minutes of the negotiations that will be signed by both parties.
- Technical negotiations**
- 21.5 Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organisation and staffing, and any suggestions made by the consultant to improve the TOR. The procuring entity 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". These discussions shall not substantially change the TOR to such an extent that the price, quality or evaluation of the Proposal may be impacted.
- Financial negotiations**
- 21.6 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 consultant's tax liability in Samoa, and the manner in which it will be reflected in the Contract. Despite any matter agreed at financial negotiations, any applicable tax or matter relating to the same may be confirmed at any time after the said negotiations but before finalisation and signing of the Contract.
- 21.7 In the cases of QCBS, SFB and LCS, unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.
- 21.8 In the case of QBS consultants will provide the procuring entity 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 or experts**
- 21.9 The procuring entity 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.
- 21.10 Any proposed substitute requires the procuring entity's approval. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate to address the same criteria, is paid at the same rate as the original candidate and submitted by the consultant within the period of time specified in the letter of invitation to negotiate the Contract.
- 21.11 If it is established that professional staff were offered in the proposal without confirming their availability, the consultant may be disqualified and subject to the Government's antifraud and corruption policy.
- Conclusion of the negotiations**
- 21.12 Negotiations will conclude with a review of the draft Contract. To complete negotiations the procuring entity and the consultant will initial the agreed Contract.
- 21.13 If negotiations fail, the procuring entity shall notify the consultant of the issues and disagreements and provide one last chance to respond. If agreement cannot be reached the procuring entity will invite the consultant whose Proposal received the second highest score to negotiate a Contract. Once the procuring entity has commenced fresh negotiations, negotiations with the previous consultant cannot be reopened.
- 22. Award of Contract and Standstill Period**
- 22.1 After completing negotiations, the procuring entity shall award the Contract to the selected consultant, publish the awarding of the Contract to the consultant on the Ministry of Finance website, and promptly notify all consultants who have submitted proposals with regards status of their proposals.
- 22.2 The date of the notification under ITC 22.1 establishes the commencement of the standstill period specified in the Data Sheet. During this time consultant may request, in writing, a debrief or invoke the 'right to complain' in accordance with ITC 24. The request for debriefing may only seek explanations for the grounds on which their proposal was not selected.
- 22.3 The procuring entity shall promptly respond in writing to any unsuccessful consultant who requests a debrief. If the request is made within the standstill period, the contract award will be suspended until the debrief has taken place.

- 22.4 Until a formal Contract is prepared and executed, the initialled Contract shall constitute a binding Contract
- 22.5 After Contract signing between the procuring entity and the successful consultant the procuring entity shall return any unopened Financial Proposals to the unsuccessful consultants.
- 22.6 The consultant is expected to commence the assignment on the date and at the location specified in the Data Sheet.
- 23. Confidentiality**
- 23.1 Information relating to the examination, evaluation, comparison, and post-qualification of the proposals and recommendation of contract award, shall not be disclosed to the consultants or any other persons not officially concerned with the proposal process until the Contract Award has been formally made to the successful consultant.
- 23.2 Any effort by a consultant to influence the procuring entity in the examination, evaluation, comparison, and post qualification of the proposals or contract award decisions may result in the rejection of its proposal and may be subject to the provisions of the Government's antifraud and corruption policy.
- 23.3 Notwithstanding ITC 23.2, from the time of proposal opening to the time of Contract Award, if any consultant wishes to contact the procuring entity on any matter related to the bidding process, it should do so in writing.
- 24. Right to complain**
- 24.1 The consultant has a right to complain in accordance with the Procurement Complaints Review Procedure (Instructions K9).
- 24.2 A potential or actual consultant in procurement proceedings who claims to have suffered, or to be likely to suffer harm due to a breach of a duty imposed on a procuring entity by or under the Instructions, may complain to a procuring entity.
- 24.3 Such complaint must be made in writing -
- (a) within 10 days of when the consultant submitting it became aware of the circumstances giving rise to the complaint or when the consultant should have become aware of those circumstances, whichever is earlier; or
- (b) in any event within 5 days of the date of notification of the proposed award of the contract.
- 24.4 The consultant should submit its complaint in accordance with the procedures to the address specified in the Data Sheet.

- 24.5 A complaint shall not be entertained unless the complainant has identified the specific act or omission alleged to constitute a breach of duty on the part of the procuring entity.

## Data Sheet

Paragraph Reference	
2.1	Name of the procuring entity: <b>Ministry of Natural Resources and Environment</b>
2.1	Method of selection: <b>Quality and Cost Based Selection</b>
2.2	Financial Proposal to be submitted together with Technical Proposal: <b>YES</b>
2.2	Name of the assignment is: <b>Legislative Drafting Consultant to Review the Disaster and Emergency Management Act 2007</b> RFP No:
2.5	A pre-Proposal conference will be held: NO
2.6	The procuring entity will provide the following inputs and facilities: Not Applicable
5.1	Maximum number of members in the JV shall be: Not Applicable
7.1	The Proposal validity period shall be 90 calendar days after the Proposal submission date ie until
8.1	Clarifications may be requested no later than 7 days before the submission date. <i>Attention: Kathleen Taituave-Afereti</i> <i>Procuring entity: Ministry of Natural Resources and Environment</i> <i>Address: Level 3, Tui Atua Tupua Tamasese Efi Building</i> <i>City: APIA</i> <b>Country: SAMOA</b>

	Electronic mail address: <u><i>kathleen.taituave@mnre.gov.ws</i></u>
<b>10.5 (a)</b>	Shortlisted Consultants may associate with (a) non-shortlisted Consultant(s): No Or (b) other shortlisted Consultants: No
<b>10.5 (b)</b>	The estimated number of professional staff-months required for the assignment is: Not Applicable  For estimated total cost of this assignment is: Not Applicable
<b>10.5 (c)</b>	The total available budget for this assignment is: Not Applicable
<b>11.1</b>	The format of the Technical Proposal to be submitted is: STP
<b>11.1 (g)</b>	Training is a specific component of this assignment: <i>NO</i>
<b>12.1</b>	No Reimbursable Costs under this Assignment.
11.2	The costs in the Financial Proposal shall be broken down by activity and local expenditure.
<b>13.1</b>	Amounts payable by the procuring entity to the consultant under the contract are subject to all applicable local taxation, duty, fee or other levy as required by law: <i>YES</i>
<b>14.2</b>	Consultant to state local cost in the national currency: <i>YES</i>
<b>15.3</b>	Consultant must submit the original and three (3) copies of the Technical Proposal, and the original of the Financial Proposal.

15.7	<p>For bid submission purposes, the procuring entity’s address is:</p> <p><b>Attention: The Secretary, Tenders Board</b></p> <p><b>Floor-Room number: 4th Floor</b></p> <p><b>Address: Central Bank Building of Samoa, Beach Road</b></p> <p><b>City: APIA</b></p> <p><b>Country: SAMOA</b></p> <p><b>The deadline for the submission of bids is:</b></p> <p><b>Date: Monday 11 August 2024</b></p> <p><b>Time: 11:00am</b></p>												
16.1	<p>The bid opening shall take place at:</p> <p><b>Ministry of Finance</b></p> <p><b>Floor-Room number: 4th Floor</b></p> <p><b>Street Address: Central Bank of Samoa Building, Beach Road</b></p> <p><b>City: APIA</b></p> <p><b>Country: SAMOA</b></p> <p><b>Date: Monday 11 August 2024</b></p> <p><b>Time: 11:30am</b></p>												
	<p>Criteria, sub criteria, and point system for the evaluation of Simplified Technical Proposals are:</p> <table border="0" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: right; vertical-align: bottom;"><u>Points</u></th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">(i) Adequacy of the proposed technical approach, methodology and work plan in responding to the Terms of Reference<sup>7</sup>:</td> <td style="text-align: right; vertical-align: bottom;"><b>[20 – 40]</b></td> </tr> <tr> <td style="vertical-align: top;">(ii) Key professional staff qualifications and competence for the assignment:</td> <td></td> </tr> <tr> <td style="padding-left: 20px;">a) Team Leader</td> <td style="text-align: right; vertical-align: bottom;"><i>[Insert points]</i></td> </tr> <tr> <td style="padding-left: 20px;">b) <i>[Insert position or discipline as appropriate]</i></td> <td style="text-align: right; vertical-align: bottom;"><i>[Insert points]</i></td> </tr> <tr> <td style="padding-left: 20px;">c) <i>[Insert position or discipline as appropriate]</i></td> <td style="text-align: right; vertical-align: bottom;"><i>[Insert points]</i></td> </tr> </tbody> </table>		<u>Points</u>	(i) Adequacy of the proposed technical approach, methodology and work plan in responding to the Terms of Reference <sup>7</sup> :	<b>[20 – 40]</b>	(ii) Key professional staff qualifications and competence for the assignment:		a) Team Leader	<i>[Insert points]</i>	b) <i>[Insert position or discipline as appropriate]</i>	<i>[Insert points]</i>	c) <i>[Insert position or discipline as appropriate]</i>	<i>[Insert points]</i>
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b) <i>[Insert position or discipline as appropriate]</i>	<i>[Insert points]</i>												
c) <i>[Insert position or discipline as appropriate]</i>	<i>[Insert points]</i>												

<sup>7</sup> Consideration may also be given to the number of pages submitted as compared to the number recommended under paragraph 3.4 (c) (ii) of these Instructions.

	<p>d) <i>[Insert position or discipline as appropriate]</i> <span style="float: right;"><i>[Insert points]</i></span></p> <p>e) <i>[Insert position or discipline as appropriate]</i> <span style="float: right;"><i>[Insert points]</i></span></p> <p style="text-align: right;">Total points for criterion (ii): <b>[60 - 80]</b></p> <p>The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following three sub criteria and relevant percentage weights:</p> <p>1) General qualifications <span style="float: right;"><i>[Insert weight between 20 and 30%]</i></span></p> <p>2) Adequacy for the assignment <span style="float: right;"><i>[Insert weight between 50 and 60%]</i></span></p> <p>3) Experience in region and language <span style="float: right;"><i>[Insert weight between 10 and 20%]</i></span></p> <p style="text-align: right;">Total weight: <b>100%</b></p> <p style="text-align: right;">Total points for the two criteria: <b>100</b></p> <p>The minimum technical score <math>S_t</math> required to pass is: 70 points</p>
<b>20.6</b>	<p>The single currency for price conversions is: N/A</p> <p>The source of official selling rates is: N/A</p> <p>The date of exchange rates is: N/A</p>
<b>20.7</b>	<p>The formula for determining the financial scores is the following: N/A</p> <p><math>S_f = 100 \times FM / F</math>, in which <math>S_f</math> is the financial score, FM is the lowest price and F the price of the proposal under consideration.</p> <p>The weights given to the Technical (T) and Financial (P) Proposals are:</p> <p>T = ..... <i>[Insert weight: normally 0.8]</i>, and</p> <p>P = ..... <i>[Insert weight: normally 0.2]</i></p> <p>Proposals are ranked according to their combined technical (<math>S_t</math>) and financial (<math>S_f</math>) scores using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following: <math>S = S_t \times T\% + S_f \times P\%</math>.</p>
<b>21.1</b>	<p>Expected date and address for contract negotiations: N/A</p>
<b>22.2</b>	<p>The number of days for standstill shall be <b>15</b> days.</p>

<b>22.6</b>	Expected date for commencement of, and location of, consulting services: 1 September 2024
<b>24.4</b>	Any complaint should be sent to the following address: For the attention of: <b>Lealaisalanoa Frances Reupena</b> <b>Ministry of Natural Resources and Environment</b> <b>Address: Level 3, Tui Atua Tupua Tamasese Efi Building</b> <b>City: APIA</b> <b>Country: SAMOA</b>

## Section 3: Technical Proposal - Standard Forms

*[Comments in brackets [ ] provide guidance to the shortlisted consultants for the preparation of their Technical Proposals; they should not appear on the Technical Proposals to be submitted.]*

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Form TECH-3: Comments and Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be Provided by the procuring entity .....	<b>Error!</b>
<b>Bookmark not defined.</b>	
A - On the Terms of Reference.....	<b>Error! Bookmark not defined.</b>
B - On Counterpart Staff and Facilities .....	<b>Error! Bookmark not defined.</b>
Form TECH-4 Description of Approach, Methodology and Work Plan for Performing the Assignment.....	41
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## Form TECH-1: Technical Proposal Submission Form

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To: *[Name and address of procuring entity]*

Dear Sirs

We, the undersigned, offer to provide without reservations the consulting services for *[Insert title of assignment]* in accordance with your Request for Proposal (RFP) No. *[Insert RP No.]* dated *[Insert Date]*, our Proposal (s) and the following attestations

We are hereby submitting our Proposal, which: *[delete non-applicable]*

includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope.

includes this Technical Proposal only.

Our Proposal shall be valid for a period of *[insert number of days from Data Sheet]* calendar days from the date fixed for proposal submission deadline in accordance with the RFP documents and it shall remain binding on us and may be accepted at any time before expiration of that period.

If negotiations are held during the period of validity of the Proposal, i.e., before the date indicated in Paragraph Reference 15.7 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.

*[Select]* We are submitting our Proposal in association/ as a consortium/as a joint venture with: *[Insert a list with full name and address of each associated consultant and indicate the lead member]*. We have attached a copy *[insert: “of our letter of intent to form a joint venture” or, if a JV is already formed, “of the JV agreement”]* signed by every participating member, which details the likely legal structure of and the confirmation of joint and severable liability of the members of the said joint venture.

*[Or If the Consultant’s Proposal includes Sub-consultants, insert the following:]* We are submitting our Proposal with the following firms as Sub-consultants: *[Insert a list with full name and address of each Sub-consultant.]*

Our firm and all associated consultants:

- have satisfied all the legal requirements to carry on business in Samoa and, if our headquarters are outside Samoa, of our entitlement to carry on business in Samoa;
- are not subject to or anticipate being subject to legal proceedings, either in Samoa or another jurisdiction, that would materially affect our ability or legal capacity to carry out the contract;
- meet the eligibility requirements as stated in ITC 5, and we confirm our understanding of our obligation to abide by the Government’s policy in regard to prohibited practices as per ITC 4.
- are participating as a consultant in only one proposal in accordance with ITC 6.1, notwithstanding that sub-consultants including individual consultants may participate in more than one proposal

- do not have any conflict of interest in accordance with ITC 3
- have not been subject to insolvency or bankruptcy or receivership or liquidation proceedings during the immediate past twelve (12) months;
- has not been declared ineligible by the Government of Samoa or the procuring entity under the laws of the Independent State of Samoa;
- are not a government owned entity/ We are a government owned entity but comply with the requirements of ITC 5.8 [*delete non-applicable statement;*]
- and its principals including any director, officer, manager or supervisor, currently and in the past three years, have not committed criminal offenses involving fraud, corruption or other misconduct signifying unsuitability for participation in any way in the procurement and contracting process;
- and its principals including any director, officer, manager or supervisor, currently and in the past three years, have not been suspended or disbarred by administrative or judicial proceedings from participating in procurements, whether in Samoa or elsewhere.

We certify that we are in good standing with the Government and have paid all taxes, duties, fees and other impositions as may be levied in Samoa prior to the award of contract. We also understand evidence of such certification may be required from the successful consultant prior to award of contract.

We undertake, if our Proposal is accepted, to initiate the consulting services related to the assignment not later than the date indicated in Paragraph 22.6 of the Data Sheet.

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

We understand that you are not bound to accept the lowest responsive Proposal or any other Proposal that you may receive. We understand that the procuring entity may cancel a procurement at any time prior to the acceptance of the successful Proposal or after the successful Proposal is accepted if

- (i) the consultant presenting the proposal is suspended or debarred;
- (ii) the procurement is cancelled;
- (iii) the consultant presenting the successful Proposal is excluded on the grounds of corruption, unfair competition or conflict of interest; or
- (iv) the procurement, the Proposal or the consultant contravenes or is otherwise not compliant with the provisions of the laws of the Independent State of Samoa.

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 *[In case Paragraph Reference 2.2 of the Data Sheet requires to submit a Technical Proposal only, replace this sentence with: "We are hereby submitting our Proposal, which includes this Technical Proposal only."]*
  - 2 *[Delete in case no association is foreseen.]*

## Form TECH-2: Consultant's Organisation and Experience

### A - Consultant's Organisation

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

### B - Consultant's Experience

- List only previous similar assignments successfully completed in the last [insert number of years] years.
- 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. Assignments completed by the consultant's professional staff working privately or through other consulting firms cannot be claimed as the relevant experience of the consultant, or that of the consultant's partners or sub-consultants, but can be claimed by the professional staff themselves in their CVs. The consultant should be prepared to substantiate the claimed experience by presenting copies of relevant documents and references if so requested by the procuring entity.

Assignment name:	Approx. value of the contract (in any currency):
Country: Location within country:	Duration of assignment (months):
Name of Client:	Total N° 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° 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: \_\_\_\_\_

## **TERMS OF REFERENCE**

### **LEGISLATIVE DRAFTING CONSULTANT TO REVIEW THE DISASTER AND EMERGENCY MANAGEMENT ACT 2007**

#### **1. Background**

The Disaster and Emergency Management Act 2007 (DEM Act) is an Act for the management of disasters and emergencies in Samoa by effective planning and risk reduction, response and recovery procedures and the promotion of coordination amongst the response agencies, and for related purposes. The DEM Act provides a comprehensive disaster management framework for Samoa.

The Ministry of Natural Resources and Environment (MNRE) through the Disaster Management Office (DMO) has administered and operationalize the Act since its enactment.

The key components of the DEM Act include:

- Establishment of the Disaster Management Office (DMO), the National Disaster Council (NDC), the Disaster Advisory Committee (DAC).
- Definition of roles and responsibilities of government agencies, non-governmental organizations, private sector entities, and other stakeholders in disaster management.
- Provisions for the development of a national disaster management plan to guide preparedness and response capabilities.
- Guidelines for the declaration of disaster or emergency situations, outlining the procedures for activating response mechanisms and mobilizing resources.
- Provisions for the establishment of coordination mechanisms at all levels (national, district and community) to ensure effective communication and collaboration during emergencies.

The DEM Act 2007 plays a critical role in strengthening the country's resilience to disasters, ensuring a coordinated and effective response to emergencies and promoting a culture of safety and preparedness among the population.

Samoa has responded to major disasters such as the 2009 Tsunami, 2012 Tropical Cyclone Evan, 2019 Measles and the 2020 COVID19 utilizing the provisions of the DEM Act to guide its national responses. It is seventeen (17) years since the establishment and endorsement of the Act and the major disasters experiences and lessons learnt sets the necessity to review the DEM Act. During the administration and implementation of DMO functions under the DEM Act, there have been challenges to its work. As such, a policy review were conducted which resulted in the development of three policy documents namely; the Multi Hazard Early Warning System Policy 2022-2032, the Disaster Risk Finance Policy 2022-2025 and the Samoa Disaster Risk Management Policy 2024-2034. The rationale for development of the three policies was premised on the following:

- a) Effectiveness and Efficiency – over time it is important to assess whether the DEM Act is effectively fulfilling its intended purpose of managing disasters and emergencies in Samoa. The review can help determine if the current legal framework is efficient and if there are any areas that can be strengthened or improved on.
- b) Relevance and Current Challenges – with the changing environmental and weather conditions and increasing disaster risks, it is crucial to ensure that the legislation governing disaster and emergency management remains relevant and responsive to current and emerging challenges. The review can help identify if the DEM Act needs to be updated to address new threats or risks.
- c) Alignment with Best Practices – best practices in disaster and emergency management evolve over time based on lessons learnt from past experiences. By reviewing the DEM Act, Samoa can assess whether it aligns with international standards and best practices in disaster risk reduction, response and recovery.
- d) Community Engagement and Participation – ensuring that the DEM Act reflects the needs and perspectives of communities and stakeholders is essential for effective disaster and emergency management. The review can provide the opportunity to engage with communities, civil society organizations, and other stakeholders to gather feedback on the DEM Act’s implementation and effectiveness.
- e) Legal Compliance – it is also important to ensure that the DEM Act is consistent with national and international legal frameworks, including human rights standards and principles of good governance. The review can help identify any legal gaps or inconsistencies that need to be addressed.
- f) Continuous Improvement – regular reviews of legislation are a standard practice in good governance to promote accountability, transparency, and continuous improvement. By periodically reviewing the Act, Samoa can strengthen its legal framework for disaster management and enhance its resilience to future disasters.

The review of the Disaster and Emergency Act 2007 can help identify areas for improvement, ensure the legislation remains relevant and effective, and enhance Samoa’s overall capacity to manage disasters and emergencies in a timely manner.

## **2. Scope of Work**

The Legislative Drafting Consultant (“Consultant”) will work closely with the Disaster Management Office and the Legal Services Division under the Ministry of Natural Resources and Environment to:

- a) Conduct a comprehensive legal review of the Disaster and Emergency Management Act 2007 and any other relevant legislation to gauge the relevancy and appropriateness of any proposed change to the DEM Act.;
- b) Identify gaps and integrate relevant aspects from the Multi Hazard Early Warning Policy, Disaster Risk Finance Policy and Samoa Disaster Risk Management Policy;
- c) Prepare and submit a Report on key findings from the legal review and recommendations on necessary/proposed legislative amendments to the Disaster Management Office and Legal Services Division;
- d) Consult with the Assistant Chief Executive Officer of the Disaster Management Office and Assistant Executive Officer of the Legal Services Division on the key findings from the legal review and recommendations for necessary/proposed legislative amendments for their consideration;
- e) Prepare and draft the first draft Bill (“first draft Bill”) based on key findings and recommendations for necessary/proposed legislative amendments;
- f) Conduct relevant stakeholder consultations on the draft Bill. A consultation report must also be prepared indicating who were consulted, summaries of issues/comments raised and how such were addressed or reflected in the Bill;
- g) Prepare a second draft Bill to incorporate changes from the stakeholder consultations and submit to the Disaster Management Office and Legal Services Division for their consideration;
- h) Consult the Chief Executive Officer and the Management for MNRE on the second draft Bill following consultation;
- i) Prepare a Summary Report to include specific recommendations and instructions from the Disaster Management Office and the Legal Division on what is needed to improve and finalize the second draft Bill;
- j) Prepare the final draft Bill and the Explanatory Memorandum (“EM”) explaining the policy rationale and the intention of each clauses of the final draft Bill to be provided to the Attorney General’s Office for vetting and clearance;;
- k) Prepare and draft Cabinet Submission (in Samoan) for the Bill;
- l) Ensure compliance with the Samoa Legislative Drafting Manual 2014 as issued by the Office of the Attorney General;
- m) The Legislative Drafting Consultant may also be required to support the Ministry of Natural Resources and Environment during the drafting and legislative process by attending meetings and consultations and providing legal advice on the Review of the DEM Act.

### 3. Deliverables and Timeframe:

The Consultant will provide the services requested according to the following deliverables:

	Timeframe
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<b>Deliverables</b>	<b>Description</b>	<b>Legal Consultant</b>
1. Report on key findings from the legal review (20%)	<ul style="list-style-type: none"> <li>• Report on the legal review undertaken and should include the following:               <ul style="list-style-type: none"> <li>➤ Review of the DEM Act, other relevant legislation, and other existing policies;</li> <li>➤ Recommendations on necessary/proposed legislative amendments</li> </ul> </li> </ul>	3 weeks
2. First Draft Bill (20%)	<ul style="list-style-type: none"> <li>• Prepare and draft first draft Bill based on the review of the DEM Act, existing policies and recommended proposed legislative amendments.</li> </ul>	3weeks
3. Consultation report (10%)	<ul style="list-style-type: none"> <li>• To carry out stakeholder and internal consultations on the draft Bill and prepare a Consultation Report to include the following:               <ul style="list-style-type: none"> <li>➤ Who were consulted and summaries of issues/comments raised; and</li> <li>➤ How the issues were addressed or reflected in the draft Bill.</li> </ul> </li> </ul>	2 weeks
4. Second Draft Bill (10%)	<ul style="list-style-type: none"> <li>• Prepare second draft Bill to reflect comments from the Consultation and provide to the Disaster Management Office and Legal Services Division for their consideration</li> </ul>	1 week
5. Summary Report (10%)	<ul style="list-style-type: none"> <li>• Prepare a Summary Report to include a final instructions from the Ministry (through the Disaster Management Office and the Legal Division) after</li> </ul>	1 week

	Consultations and the second revised draft Bill.	
6. Final Bill, Explanatory Memorandum and Cabinet Submission (30%)	<ul style="list-style-type: none"> <li>• Prepare final draft Bill and EM</li> <li>• Draft Cabinet Submission (in Samoan)</li> </ul>	3 weeks

#### 4. Duration of Consultancy Service:

The duration of the project is 14 weeks with indicative consultancy days specified above.

#### 5. Supervision:

The Legislative Drafting Consultant will report to the ACEO – Legal, ACEO – DMO. The CEO MNRE will provide oversight for the consultancy.

#### 6. Qualifications and Experience:

- Holds a Bachelor of Laws Degree (LLB) from a recognized tertiary institution;
- Must hold a certificate for legislative drafting or adequate drafting experience;
- At least 10 years' experience in legal practice with experience in legislative drafting that is evidenced by a full list of laws which he or she has drafted;
- Must have a valid annual practicing certificate from the Samoa Law Society;
- Has prior work experience on legal issues related to this assignment;
- Excellent understanding of the Legislative Drafting Manual 2014 issued by the Office of the Attorney General;
- Understanding of the roles of the different relevant stakeholders who are / will be affected by this assignment;
- Demonstrated experience in working with government partners and other stakeholders in public sector.

#### 7. Skills and Competencies:

- Ability to work with minimal supervision;
- Strong organizational skills and attention to details;
- High level written and oral communication skills in English and Samoan languages;
- Demonstrates excellent interpersonal and professional skills in interacting with government agencies and stakeholders for this assignment.

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## Form TECH-4: Description of Approach, Methodology and Work Plan for Performing the Assignment

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*Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal (inclusive of charts and diagrams) and the Proposal must be divided into the following three chapters:*

- a) *Technical Approach and Methodology,*
- b) *Work Plan, and*
- c) *Organization and Staffing,*

a) *Technical Approach and Methodology.* *In this chapter you should explain your understanding of the objectives of the assignment, approach to the services, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach. Please do not just repeat/copy the TOR here.*

b) *Work Plan.* *In this chapter you should propose the main activities of the assignment, their content and duration, phasing and interrelations, milestones (including interim approvals by the procuring entity), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here. The work plan should be consistent with the Work Schedule of Form TECH-8.*

c) *Organisation and Staffing.* *In this chapter you should propose the structure and composition of your team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff.*

For STP Proposals only you should also include:

- d) *Comments in the TOR and counterpart staff and facilities.*



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**Form TECH-6: Curriculum Vitae (CV) for Proposed Professional Staff**

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**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 organisation, positions held.*]:

From [Year]: \_\_\_\_\_ To [Year]: \_\_\_\_\_

Employer: \_\_\_\_\_

Positions held: \_\_\_\_\_

<p><b>11. Detailed Tasks Assigned</b></p> <p><i>[List all tasks to be performed under this assignment]</i></p>	<p><b>12. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned</b></p> <p><i>[Among the assignments in which the staff have 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>
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### 13. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes me, my qualifications, and my experience. I understand that any wilful misstatement described in the CV may lead to my disqualification or dismissal, if engaged. I certify that I have been informed by the firm that it is including my CV in the Proposal for the *[name of project and contract]*. I confirm that I will be available to carry out the assignment for which my CV has been submitted in accordance with the implementation arrangements and schedule set out in the Proposal.

OR

*[If CV is signed by the firm's authorized representative and the written agreement attached]*



I, as the authorized representative of the firm submitting this Proposal for the *[name of project and contract]*, certify that I have obtained the consent of the named expert to submit his/her CV, and that I have obtained a written representation from the expert that s/he will be available to carry out the assignment in accordance with the implementation arrangements and schedule set out in the Proposal.

\_\_\_\_\_  
*[Signature of staff member or authorised representative of the staff]* Date: \_\_\_\_\_  
 \_\_\_\_\_  
*Day/Month/Year*

Full name of authorized representative: \_\_\_\_\_

### Form TECH-7: Staffing Schedule<sup>1</sup>

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

- 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

*[Comments in brackets [ ] provide guidance to the shortlisted consultants for the preparation of their Financial Proposals; they should not appear on the Financial Proposals to be submitted.]*

*[The Appendix “Financial Negotiations - Breakdown of Remuneration Rates” is to be only used for financial negotiations when Quality-Based Selection method is adopted, according to the indications provided under paragraph 19 of Section 2.]*

Form FIN-1: Financial Proposal Submission Form.....	48
Form FIN-2: Summary of Costs .....	49
Form FIN-3: Breakdown of Costs by Activity .....	50
Form FIN-4A: Breakdown of Remuneration (Time-Based).....	51
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## Form FIN-1: Financial Proposal Submission Form

[Location, Date]

To: [Name and address of procuring entity]

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 figures<sup>1</sup>]. This amount is exclusive of the local taxes, which shall be identified by the procuring entity and relevant local authorities during negotiations or at any time prior finalisation and signing of a Contract 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 15.7 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 below<sup>2</sup>:

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,

Authorised 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 be paid by us to agents relating to this Proposal and Contract execution.”

### Form FIN-2: Summary of Costs

<b>Item</b>	<b>Costs</b>			
	<i>[Indicate Foreign Currency # 1]<sup>1</sup></i>	<i>[Indicate Foreign Currency # 2]<sup>1</sup></i>	<i>[Indicate Foreign Currency # 3]<sup>1</sup></i>	<i>[Indicate Local Currency]</i>
Total Costs of Financial Proposal <sup>2</sup>				

- 1 Indicate between brackets the name of the foreign currency. Maximum of three currencies; use as many columns as needed and delete the others.
- 2 Indicate the total costs, net of local taxes, to be paid by the procuring entity in each currency. Such total costs must coincide with the sum of the relevant Subtotals indicated in all Forms FIN-3 provided with the Proposal.

### Form FIN-3: Breakdown of Costs by Activity<sup>1</sup>

<b>Group of Activities (Phase):</b> <sup>2</sup>  _____	<b>Description:</b> <sup>3</sup>  _____			
<b>Cost component</b>	<b>Costs</b>			
	<i>[Indicate Foreign Currency # 1]</i> <sup>4</sup>	<i>[Indicate Foreign Currency # 2]</i> <sup>4</sup>	<i>[Indicate Foreign Currency # 3]</i> <sup>4</sup>	<i>[Indicate Local Currency]</i>
Remuneration <sup>5</sup>				
Reimbursable Expenses <sup>5</sup>				
Subtotals				

- 1 Form FIN-3 shall be filled at least for the whole assignment. In case some of the activities require different modes of billing and payment (e.g.: the assignment is phased, and each phase has a different payment schedule), the consultant shall fill a separate Form FIN-3 for each group of activities. For each currency, the sum of the relevant Subtotals of all Forms FIN-3 provided must coincide with the Total Costs of Financial Proposal indicated in Form FIN-2.
- 2 Names of activities (phase) should be the same as or correspond to the ones indicated in the second column of Form TECH-8.
- 3 Short description of the activities whose cost breakdown is provided in this Form.
- 4 Indicate between brackets the name of the foreign currency. Use the same columns and currencies of Form FIN-2.
- 5 For each currency, Remuneration and Reimbursable Expenses must respectively coincide with relevant Total Costs indicated in Forms FIN-4, and FIN-5.

## Form FIN-4A: Breakdown of Remuneration<sup>1</sup> (Time-Based)

(This Form FIN-4 shall only be used when the Time-Based Form of Contract has been included in the RFP)

Group of Activities (Phase): _____							
Name <sup>2</sup>	Position <sup>3</sup>	Staff-month Rate <sup>4</sup>	Input <sup>5</sup> (Staff-months)	[Indicate Foreign Currency # 1] <sup>6</sup>	[Indicate Foreign Currency # 2] <sup>6</sup>	[Indicate Foreign Currency # 3] <sup>6</sup>	[Indicate Local Currency] <sup>6</sup>
<b>Foreign Staff</b>							
		[Home]					
		[Field]					
<b>Local Staff</b>							
		[Home]					
		[Field]					
<b>Total Costs</b>							

- 1 Form FIN-4 shall be filled for each of the Forms FIN-3 provided.
- 2 Professional staff should be indicated individually; Support Staff should be indicated per category (e.g.: draftsmen, clerical staff).
- 3 Positions of professional staff shall coincide with the ones indicated in Form TECH-5.
- 4 Indicate separately staff-month rate and currency for home and field work.
- 5 Indicate, separately for home and field work, the total expected input of staff for carrying out the group of activities or phase indicated in the Form.
- 6 Indicate between brackets the name of the foreign currency. Use the same columns and currencies of Form FIN-2. For each staff indicate the remuneration in the column of the relevant currency, separately for home and field work. Remuneration = Staff-month Rate x Input.

## Form FIN-4B: Breakdown of Remuneration<sup>1</sup> (Lump-Sum)

(This Form FIN-4 shall only be used when the Lump-Sum Form of Contract has been included in the RFP. Information to be provided in this Form shall only be used to establish payments to the consultant for possible additional services requested by the procuring entity)

Name <sup>2</sup>	Position <sup>3</sup>	Staff-month Rate <sup>4</sup>
<b>Foreign Staff</b>		
		[Home]
		[Field]
<b>Local Staff</b>		
		[Home]
		[Field]

- 1 Form FIN-4 shall be filled in for the same professional and support staff listed in Form TECH-7.
- 2 Professional staff should be indicated individually; support staff should be indicated per category (e.g.: draftsmen, clerical staff).
- 3 Positions of the professional staff shall coincide with the ones indicated in Form TECH-5.
- 4 Indicate separately staff-month rate and currency for home and field work



## Form FIN-5B: Breakdown of Reimbursable Expenses (Lump-Sum)

(This Form FIN-5 shall only be used when the Lump-Sum Form of Contract has been included in the RFP. Information to be provided in this Form shall only be used to establish payments to the consultant for possible additional services requested by the procuring entity)

N°	Description <sup>1</sup>	Unit	Unit Cost <sup>2</sup>
	Per diem allowances	Day	
	International flights <sup>3</sup>	Trip	
	Miscellaneous travel expenses	Trip	
	Communication costs between [ <i>Insert place</i> ] and [ <i>Insert place</i> ]		
	Drafting, reproduction of reports		
	Equipment, instruments, materials, supplies, etc.		
	Shipment of personal effects	Trip	
	Use of computers, software		
	Laboratory tests.		
	Subcontracts		
	Local transportation costs		
	Office rent, clerical assistance		
	Training of the procuring entity's personnel <sup>4</sup>		

- 1 Delete items that are not applicable or add other items according to Paragraph Reference 3.6 of the Data Sheet.
- 2 Indicate unit cost and currency.
- 3 Indicate route of each flight, and if the trip is one- or two-ways.
- 4 Only if the training is a major component of the assignment, defined as such in the TOR.

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## Appendix: Financial Negotiations - Breakdown of Remuneration Rates

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*[To be deleted unless the method of selection is QBS]*

### 1. Review of Remuneration Rates

1.1 The remuneration rates for staff are made up of salary, social costs, overheads, fee that is profit, and any premium or allowance paid for assignments away from headquarters. To assist the firm in preparing financial negotiations, a Sample Form giving a breakdown of rates is attached (no financial information should be included in the Technical Proposal). Agreed breakdown sheets shall form part of the negotiated contract.

1.2 The procuring entity is charged with the custody of government funds and is expected to exercise prudence in the expenditure of these funds. The procuring entity is, therefore, concerned with the reasonableness of the firm's Financial Proposal, and, during negotiations, it expects to be able to review audited financial statements in support of the firm's remuneration rates, certified by an independent auditor. The firm shall be prepared to disclose such audited financial statements for the last three years, to substantiate its rates, and accept that its proposed rates and other financial matters are subject to scrutiny. Rate details are discussed below.

(i) **Salary**

This is the gross regular cash salary paid to the individual in the firm's home office. It shall not contain any premium for work away from headquarters or bonus (except where these are included by law or Government regulations).

(ii) **Bonus**

Bonuses are normally paid out of profits. Given that the procuring entity does not wish to make double payments for the same item, staff bonuses shall not be included in the rates. Where the consultant's accounting system is such that the percentages of social costs and overheads are based on total revenue, including bonuses, those percentages shall be adjusted downward accordingly. Where national policy requires that 13 months' pay be given for 12 months' work, the profit element need not be adjusted downward. Any discussions on bonuses shall be supported by audited documentation, which shall be treated as confidential.

(iii) **Social Costs**

Social costs are the costs to the firm of staff's non-monetary benefits. These items include, *inter alia*, social security including pension, medical and life insurance costs, and the cost of a staff member being sick or on vacation. In this regard, the cost of leave for public holidays is not an acceptable social cost nor is the cost of leave taken during an assignment if no additional staff replacement has been provided. Additional leave taken

at the end of an assignment in accordance with the firm's leave policy is acceptable as a social cost.

(iv) **Cost of Leave**

The principles of calculating the cost of total days leave per annum as a percentage of basic salary shall normally be as follows:

$$\text{Leave cost as percentage of salary}^1 = \frac{\text{total days leave} \times 100}{[365 - w - ph - v - s]}$$

It is important to note that leave can be considered a social cost only if the procuring entity is not charged for the leave taken.

(v) **Overheads**

Overhead expenses are the firm's business costs that are not directly related to the execution of the assignment and shall not be reimbursed as separate items under the contract. Typical items are home office costs (partner's time, no billable time, time of senior staff monitoring the project, rent, support staff, research, staff training, marketing, etc.), the cost of staff not currently employed on revenue-earning projects, taxes on business activities and business promotion costs. During negotiations, audited financial statements, certified as correct by an independent auditor and supporting the last three years' overheads, shall be available for discussion, together with detailed lists of items making up the overheads and the percentage by which each relates to basic salary. The procuring entity does not accept an add-on margin for social charges, overhead expenses, etc., for staff who are not permanent employees of the firm. In such case, the firm shall be entitled only to administrative costs and fee on the monthly payments charged for subcontracted staff.

(vi) **Fee or Profit**

The fee or profit shall be based on the sum of the salary, social costs, and overhead. If any bonuses paid on a regular basis are listed, a corresponding reduction in the profit element shall be expected. Fee or profit shall not be allowed on travel or other reimbursable expenses, unless in the latter case an unusually large amount of procurement of equipment is required. The firm shall note that payments shall be made against an agreed estimated payment schedule as described in the draft form of the contract.

(vii) **Away from Headquarters Allowance or Premium**

Some consultants pay allowances to staff working away from headquarters. Such allowances are calculated as a percentage of salary and shall not draw overheads or profit. Sometimes, by law, such allowances may draw social costs. In this case, the

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<sup>1</sup> Where  $w$  = weekends,  $ph$  = public holidays,  $v$  = vacation, and  $s$  = sick leave.

amount of this social cost shall still be shown under social costs, with the net allowance shown separately. For concerned staff, this allowance, where paid, shall cover home education, etc.; these and similar items shall not be considered as reimbursable costs.

(viii) **Subsistence Allowances (per diems & living allowances)**

Subsistence allowances are not included in the rates but are paid separately and in local currency. No additional subsistence is payable for dependents—the subsistence rate shall be the same for married and single team members.

Per diems and living allowances shall be in accordance with those established approved by the Government of Samoa Ministry of Finance, unless otherwise established by particular donor policies

In the absence of the above, UNDP standard rates for the particular country may be used as reference to determine subsistence allowances.

**2. Reimbursable expenses**

- 2.1 The financial negotiations shall further focus on such items as out-of-pocket expenses and other reimbursable expenses. These costs may include, but are not restricted to, cost of surveys, equipment, office rent, supplies, international and local travel, computer rental, mobilisation and demobilisation, insurance, and printing. These costs may be either unit rates or reimbursable on the presentation of invoices, in foreign or local currency.

**3. Advance Payment Bank Guarantee**

- 3.1 Payments to the firm, including payment of any advance based on cash flow projections covered by a bank guarantee, shall be made according to an agreed estimated schedule ensuring the firm regular payments in local and foreign currency, as long as the services proceed as planned.

## Sample Form

Consulting Firm: \_\_\_\_\_

Country: \_\_\_\_\_

Assignment: \_\_\_\_\_

Date: \_\_\_\_\_

### Consultant's Representations Regarding Costs and Charges

We confirm that:

- (a) the basic salaries indicated in the attached table are taken from the firm's payroll records and reflect the current salaries of the staff members listed which have not been raised other than within the normal annual salary increase policy as applied to all the firm's staff;
- (b) attached are true copies of the latest salary slips of the staff members listed;
- (c) the away from headquarters allowances indicated below are those that the consultants have agreed to pay for this assignment to the staff members listed;
- (d) the factors listed in the attached table for social charges and overhead are based on the firm's average cost experiences for the latest three years as represented by the firm's financial statements; and
- (e) said factors for overhead and social charges do not include any bonuses or other means of profit-sharing.

\_\_\_\_\_  
*[Name of Consulting Firm]*

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Consultant’s Representations Regarding Costs and Charges**

(Expressed in *[insert name of currency]*)

Personnel		1	2	3	4	5	6	7	8
Name	Position	Basic Salary per Working Month/Day/Year	Social Charges <sup>1</sup>	Overhead <sub>1</sub>	Subtotal	Fee <sup>2</sup>	Away from Headquarters Allowance	Proposed Fixed Rate per Working Month/Day/Hour	Proposed Fixed Rate per Working Month/Day/Hour <sup>1</sup>
Home Office									
Field									

- 1. Expressed as percentage of 1
- 2. Expressed as percentage of 4

## Section 5. Terms of Reference

1. Background \_\_\_\_\_
2. Objective(s) of the Assignment \_\_\_\_\_
3. Scope of consulting services, Tasks (Components) and Expected Deliverables
  - 3.1 \_\_\_\_\_
  - 3.2 *[indicate if downstream work is required]*
  - 3.3 *[indicate if training is a specific component of the assignment]*

4. Team Composition & Qualification Requirements for the Key Experts (and any other requirements which will be used for evaluating the Key Experts under Data Sheet 18.1 of the ITC)

5. Outputs and Time Schedule

At a minimum, list the following:

- (a) format, frequency, and contents of outputs and reports;
- (b) number of copies, and requirements to electronic submission (or on CD ROM). Final reports shall be delivered in CD ROM in addition to the specified number of hard copies;
- (c) dates of submission;
- (d) persons (indicate names, titles, submission address) to receive them; etc.

*[If no reports are to be submitted, state here "Not applicable."]*

If the services consist of or include the supervision of civil works, the following action that require prior approval by the procuring entity shall be added: "Taking any action under a civil works contract designating the Consultant as "Engineer", for which action, pursuant to such civil works contract, the written approval of the procuring entity as "procuring entity" is required."

6. Data, Local Services, Personnel, and Facilities to be provided by the procuring entity

Procuring entity's Input and Counterpart Personnel

- (a) services, facilities and property to be made available to the Consultant by the procuring entity: \_\_\_\_\_ *[list/specify]*
- (b) Professional and support counterpart personnel to be assigned by the procuring entity to the Consultant's team: \_\_\_\_\_ *[list/specify]*

7. \_\_\_\_\_

