

KURDISTAN REGIONAL GOVERNMENT

Ministry of Planning

STANDARD REQUEST FOR PROPOSALS

**Selection of Consultants**

**June 2016**

Kurdistan Regional Government

**Request for Proposal**

**for**

**Consulting Services**

**Contracting Authority: *[insert: name of Contracting Authority]***

**Request for Proposals reference: *[insert: RFP number]***

**Source of fund: *[insert: Budget Classification]***

**Title of Consulting Services: *[insert: title]***

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# Section 1. Letter of Invitation

[*insert Request for Proposal N°*]

[*Insert: Location and Date*]

*[Insert: Name and Address of Consultant]*

Dear Mr./Ms.:

1. *[Insert name of Contracting Authority]* invites you to submit your proposal for the consultant services related to the *[Insert the name of the assignment]*. Further information regarding these services is available in Section 5 – Terms of Reference.

2. A firm will be selected under [*insert selection method*] Method stated in the Public Procurement Regulation no. 2 of 2016

3. 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

Section 7 – Standard Forms

4. Please inform us in writing within (insert no. of days) days from the receipt of this invitation, at the following address *[insert address],*:

###### (a) that you received the Letter of Invitation; and

###### (b) Whether you will submit a proposal alone or in association.

Yours sincerely,

*[Insert: Signature, full name of the authorized Contracting Authority’s representative]*

# Section-2. Instructions to Consultants

1. **General Provisions**

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| 1. **Definitions** |
| 1. “**Applicable Law**”: means the laws in-force in Kurdistan Region to which the contract and its interpretation are subjected. 2. “**Contracting Authority**” means the agency with which the selected Consultant signs the Contract for the Services.   (b) “**Consultant**” means any entity or person that may provide or provides the Services to the Contracting Authority under the Contract.  (c) “**Contract**” means the Contract signed by the Parties and all the attached documents listed in its Clause 1, that is the General Conditions (GC), the Special Conditions (SC), and the Annexes.  (d) “**Data Sheet**” means such part of the Instructions to Consultants used to reflect specific consulting assignment conditions.  (e) “**Day**” means calendar day.  (f) “**Government**” means the government of the Contracting Authority’s (Kurdistan Regional Government)  (h) “**Joint Venture**”: means a partnership or association established by mutual agreement of two or more consultants in order to participate in the competition process for the consulting service. The Joint Venture members shall nominate an authorized partner (Joint Venture lead member) to conduct all business for and on behalf of the Joint Venture members during the competition process and during the implementation of the contract if it is awarded to the Joint Venture. Members of the joint venture shall be jointly and severally liable.  (i) “**Instructions to Consultants**” (Section 2 of the RFP) means the document which provides shortlisted Consultants with all information needed to prepare their Proposals.  (j) “Letter of Invitation (**LOI)**” (Section 1 of the RFP) means the Letter of Invitation being sent by the Contracting Authority to the shortlisted Consultants.  (k) “**Experts**” means professionals and support staff provided by the Consultant, by any Joint Venture member, or by a sub-consultant assigned to perform the Services or any part thereof;  (l) “**Key Experts**”: Professionals and personnel within the Consultant staff who have the necessary qualifications and experience to get the assignment done and whose CVs are considered during technical evaluation  (m) “**Non-Key Experts**”: Professionals and personnel within the Consultant staff whose CVs are not considered during technical evaluation  (n) “**Proposal**” means the Technical Proposal and the Financial Proposal presented by the Consultant.  (o) “**RFP**” means the Request For Proposal prepared by the Contracting Authority for the selection of Consultants.  (p) “**Services**” means the work to be performed by the Consultant pursuant to the Contract.  (q) “**Sub-Consultant**” means any person or entity with whom the Consultant subcontracts any part of the Services.  (r) “**Terms of Reference**” (TOR) means the document included in the RFP as Section 5 which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Contracting Authority and the Consultant, and expected results and deliverables of the assignment. |
| 2. Introduction |
| 2.1 The Contracting Authority invites the shortlisted Consultants to submit a Technical Proposal and a Financial Proposal for consulting services required for the assignment named in the **Data Sheet** in accordance with the method of selection specified in the **Data Sheet**. The Proposal will be the basis for contract negotiations and ultimately for Contract signature with the selected Consultant. |
| 2.2 Consultants should familiarize themselves with local conditions and take them into account in preparing their Proposals. To obtain information on the assignment and local conditions from the source, Consultants are invited to visit the Contracting Authority before submitting a proposal and to attend a pre-proposal conference if one is specified in the **Data Sheet**. Attending the pre-proposal conference is optional and at the Consultants’ own expense. |
| 2.3 The Contracting Authority will timely provide at no cost to the Consultants the needed information related to the project and the requested reports in order for the Consultants to prepare their proposals and as specified in the **Data Sheet**. |
| 3. Conflict of Interest |
| 3.1 The Public Procurement Regulation require that the Consultants provide professional, objective, and impartial advice and at all times hold the Contracting Authority’s interests paramount acting without any consideration for future work, and strictly avoid conflicts with other assignments or their own corporate interests.  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 recruited, under any of the circumstances mentioned in Article 93 of the Public Procurement Regulation no. 2 of 2016 |
| 3.3 Consultants have an obligation to disclose any situation of actual or potential conflict or that may reasonably be perceived as having this effect that impacts their capacity to serve the best interest of the Contracting Authority. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.  3.4 No current employees of the Contracting Authority are allowed to work as Consultants under their own ministries or departments. Recruiting former employees of the Contracting Authority (retirees or resigners) to work for their former ministries or departments or agencies is acceptable provided no conflict of interest exists. When the Consultant nominates any government employee as Personnel (Experts) in their technical proposal, such Personnel should present written no objection from the institution he\she works for or from the Contracting Authority as set forth in applicable laws. |
| 4. Unfair Advantage |
| 4.1 If a shortlisted Consultant could derive a competitive advantage over other competing Consultants from having provided consulting services related to the assignment in question, the Contracting Authority 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. |
| 5. Fraud and Corruption |
| 5.1 The Contracting Authority requires that Consultants adhere to the highest ethical standards, both during the selection process and throughout the execution of the contract. In pursuance of this policy,:  (a) The Contracting Authority shall adopt the definitions contained in paragraphs 16-20 of Article 1 of the Public Procurement Regulation no. 2 of 2016.  (b) The Contracting Authority may sanction (individuals, firms, or companies, including sub-consultants and any joint venture and its members), including the declaration of their disqualification from participating in public procurement in Kurdistan Region according to the procedures for debarment from participation, in the event of their involvement, either directly or through an intermediary, in any corrupt practices during the competition process or the execution of the contract.  (c) The Contracting Authority will have the right to require that, a provision be included in the RFP and the Contract requiring Consultants including Sub Consultants and members of Joint Venture to permit the Contracting Authority or the auditors appointed by the Contacting Authority to inspect and audit their accounts and records or any other documents relating to the submission of proposals and contract implementation. |
| **6. Eligibility of Consultants**  6.1. Consultants (individuals, offices, or companies, including sub-consultants and any joint venture and its members) are subject to eligibility criteria stipulated in Article 8 of the Public Procurement Regulation no. 2 of 2016.  6.2. In addition to the aforementioned, the Consultant must verify that its experts, Joint Venture members, sub-consultants, sub-contractors, service providers, suppliers and/or their employees, meet the eligibility criteria set forth in the Regulations.  6.3. The Directorate of Public Contract at the Ministry of Planning shall publish on the website specified in the **Data Sheet** a list of the consultants and contractors subjected to the procedures of debarment from participation in public procurement.  B. Preparation of Proposals  **7. General Provisions**  7.1 In preparing their Proposal, Consultants are expected to examine in detail the documents comprising the RFP. Material deficiencies in providing the information requested may result in rejection of the Proposal.  **8. Cost of Preparation of Proposal**  8.1 The Consultants shall bear all costs associated with the preparation and submission of their Proposals and Contract negotiations. Moreover, the Contracting authority is not bound to accept the proposal with the lowest cost, and reserves the right to annul the contracting procedures at any time prior to Contract award, without thereby incurring any liability to the Consultants.  **9. Language**  **9.1** The Proposal, as well as all correspondence and documents exchanged between the Consultants and the Contracting Authority, shall be written in the language(s) specified in the **Data Sheet**. In the case of issuance of the RFP in more than one language, the **Data Sheet** shall define the languages permitted for the presentation of proposals.  10. Documents Comprising the Proposal  10.1 The Proposal shall consist of the documents and forms listed in the **Data Sheet**. In case of Joint Venture, the technical proposal should include a copy of a Joint Venture Agreement signed by all members of the Joint Venture and certified by a notary public. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of Contract award shall be signed by all members and submitted with the proposal, together with a copy of the proposed Joint Venture Agreement.  11. Only one Proposal |
| 11.1 Short listed Consultants are not allowed to submit more than one proposal. If a Consultant submits or participates in more than one proposal, all such proposals shall be disqualified. However, there are no limitations to the participation of the same Sub-Consultant as expert, to more than one proposal prepared by more than one short listed Consultant. |
| 12. Proposal Validity |
| 12.1 The **Data Sheet** indicates how long Consultants’ Proposals must remain valid after Proposals submission deadline. During this period, Consultants shall maintain the original proposal without any modifications including the availability of Key Experts nominated in the Proposal, the proposed remuneration and total cost.  12.2 The Contracting authority will make its best effort to complete negotiations and Contract Award within the original proposal validity period. Should the need arise, however, the Contracting Authority may request Consultants to extend the validity period of their proposals before the expiry of the original validity period.  12.3 Consultants who agree to such extension shall confirm it without making any amendment to the original proposal including the confirmation that they maintain the availability of the Key Experts nominated in the Proposal.  12.4 Consultants who do not agree to the request of the Contracting Authority have the right to refuse to extend the validity of their Proposals. In this case, their proposals shall be excluded from the evaluation process.  12.5 If any of the Key Experts become unavailable for the extended validity period, the Consultant shall provide a replacement Key Expert(s) with equal or better qualifications and experience than those of the originally proposed Key Expert(s). The new Key Expert(s) shall be evaluated in the final proposal evaluation.  **13. Proposal-Securing Declaration**  13.1. The Consultant must submit a written Proposal-Securing Declaration as part of their Technical Offer.  13.2. The written Proposal-Securing Declaration must be submitted according to Form No. 9 in Section 3.  13.3. Procedures for debarment from participation specified in the Proposal-Securing Declaration will be applied and the Consultant will be deemed disqualified from to participation in public procurement in Kurdistan Region, in accordance with procedures for debarment from participation, during the period set forth in the Data Sheet, if the successful Consultant fails to:   * 1. Provide a performance security in accordance with ITC 29   2. Sign the contract in accordance with ITC 30   13.4. If the Proposal is submitted by a Joint Venture (JV), the Proposal-Securing Declaration must be submitted in the name of the JV submitting the proposal or in the name of all the mentioned future partners. The declaration must be signed by the authorized partner. |
| 14. Clarification and Amendment of the Request for Proposal Documents |
| 14.1 Consultants may request a clarification of any of the RFP documents up to the number of days indicated in the **Data Sheet** before the proposal submission deadline. Request for clarification must be sent in writing to the Contracting Authority’s address indicated in the **Data Sheet**. The Contracting authority will respond in writing, or by standard electronic means and will send written copies of the response (including an explanation of the query but without identifying the source of inquiry) to all shortlisted Consultants. Should the Contracting Authority deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure under 14.2.  14.2 At any time before the deadline for the submission of Proposals, the Contracting Authority 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 to take an amendment into account in their Proposals, the Contracting Authority may, if deemed necessary, extend the deadline for the submission of Proposals. |
| 15. Preparation of Proposals |
| 15.1 While preparing the Technical Proposal, Consultants must give particular attention to the following:  (a) The **Data Sheet** indicates if it is permissible for shortlisted Consultants to present proposals in association with other Consultants. A shortlisted Consultant must first obtain the approval of the Contracting Authority if it wishes to enter into a joint venture with other Consultant(s). In case of a joint venture, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture.  (b) The **Data Sheet** shows the key experts’ estimated time input for completing the assignment. Nonetheless, the proposal must hinge on the estimations of the Consultant.  (c) The Consultant must use the same effort in the technical and financial offers for key experts, or else the financial offer will be amended according to the technical offer for evaluation and comparison purposes in accordance with the measures set forth in 24.1.(a). |
| (d) Documents to be issued by the Consultants as part of this assignment must be in the language specified in the Reference ITC 9.1 of the **Data Sheet**. If Reference ITC 9.1 indicates two languages, the language in which the proposal of the successful Consultant will be submitted shall govern for the purpose of interpretation and contract. |
| 16. Technical Proposal Format and Content |
| 16.1 Consultants are required to submit a Technical Proposal providing the information indicated in the following ITC from (a) to (g) using the attached Standard Forms (Section 3). |
| (a) A brief description of the Consultants’ organization and an outline of recent experience of the Consultants and, in the case of joint venture, for each partner, on assignments of a similar nature is required in Form TECH-2 of Section 3. For each assignment, the outline should indicate the names of Sub-Consultants/ Key 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 Employer as a corporation or as one of the major firms within a joint venture. Assignments completed by individual Key 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 Key staff themselves in their CVs. Consultants should substantiate the claimed experience with certificated from the Employers.  (b) The Consultants provides comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/ effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the Contracting Authority (Form TECH-3 of Section 3).  (c) The description of the approach, methodology and work plan for performing the assignment covers the following subjects:  1- Technical approach  2- Methodology,  3- Work plan,  4- Organization 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.  (d) The list of the proposed 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 staff team signed by the staff themselves or by the authorized representative of the Staff team (Form TECH-6 of Section 3).  (g) A detailed description of the proposed methodology and staffing for training the Contracting Authority’s members, if the **Data Sheet** specifies training as a specific component of the assignment. |
| 16.2 It is not acceptable to offer alternatives for key staff. Only one CV should be presented for each position.  16.3 The Technical Proposal shall not include any financial information. A Technical Proposal containing financial information shall be declared non responsive. |
| 17. Financial Proposals |
| 17.1 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**. If appropriate, these costs should be broken down by activity and, if appropriate, into foreign and local expenditures. All activities and items described in the Technical Proposal must be priced separately in the Financial Proposal; activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items. |
| 17.2 The Consultant is responsible for local taxes and duties imposed on Services, in accordance with the related Laws in force, including custom duties, unless otherwise stated in the **Data Sheet** by the Contracting Authority. Any such amounts shall be included in the Financial Proposal, and included in the Contract.  17.3 Consultants shall express the price of their services in Iraqi Dinars unless otherwise stated in the **Data Sheet**.  17.4 Payment under the Contract shall be made in the currency or currencies of the Proposal.  17.5 For assignments with a duration exceeding 18 months, a price adjustment for remuneration rates of staff applies if so stated in the **Data Sheet**. |
| **C. Submission, Opening and Evaluation of Proposals** |
| **18.** **Sealing, Marking, and Submission of Proposals**  18.1 The proposal shall contain no interlineations or overwriting, except as necessary to correct errors made by the Consultants themselves. The person who signed the proposal must initial and stamp such corrections. Submission letters for both Technical and Financial Proposals should respectively be in the format of TECH-1 of Section 3, and FIN-1 of Section 4.  18.2 The authorized representative of the Consultants shall sign all pages of the original Technical and Financial Proposals. The authorization shall be in the form of a written power of attorney accompanying the Proposal or in any other form demonstrating that the representative has been dully authorized to sign. A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has been authorized by each member’s authorized representative.  18.3 The signed Technical and Financial Proposals shall be marked “Original” and the copies of the Technical Proposal shall be marked “Copy”. The number of copies is indicated in the **Data Sheet**. All copies shall be made from the signed original. If there are discrepancies between the original and the copies, the original shall prevail.  18.4 The original and all copies of the Technical Proposal shall be placed in a sealed envelope clearly marked “Technical Proposal”. Similarly, the original Financial Proposal shall be placed in a sealed envelope clearly marked “Financial Proposal” followed by the reference number of the Request for the Proposal, name of the assignment, and with a warning “**Do Not Open With The Technical Proposal**.” The envelopes containing the Technical and Financial Proposals shall be placed into one outer envelope and sealed. This outer envelope shall bear the submission address, reference number and title of the assignment, and be clearly marked “**Do Not Open Before** [*insert the time and date of the submission deadline indicated in the Data Sheet point 18.5*]”. The Contracting Authority shall not be responsible for losing, misplacement, or premature opening if the outer envelope is not sealed and/or marked as stipulated. This circumstance may be case for Proposal rejection. If the Financial Proposal is not submitted in a separate sealed envelope duly marked as indicated above, this will constitute grounds for declaring the Proposal non-responsive and consequently rejected. |
| 18.5 The Proposals must be sent to the address indicated in the **Data Sheet** and received by the Contracting Authority before the time and the date indicated in the **Data Sheet**, or any extension to this date in accordance with ITC 14.2. Any proposal received after the deadline for submission shall be returned unopened.  **19. Opening of the Technical Proposals**  19.1 The Committee responsible for the opening of proposals shall open the Technical Proposal at the address and time indicated in the **Data Sheet**. The envelopes with the Financial Proposal shall remain sealed and securely stored after they have been duly stamped by the Committee responsible for the opening of proposals.  **20. Confidentiality**  20.1 From the time the Proposals are opened to the time the Contract is awarded, the Consultants should not contact the Contracting Authority on any matter related to its Technical and/or Financial Proposal. Any effort by Consultants to influence the Contracting Authority in the examination, evaluation, ranking of Proposals, and recommendation for award of Contract may result in the rejection of the Consultants’ Proposals. |
| 21. Proposal Evaluation |
| 21.1 The Financial Proposals will not be opened until the technical evaluation is concluded and the head of the Contracting Authority or his representative approves the technical evaluation report.  21.2 The Consultant is not permitted to withdraw or modify its Proposal in any way after the proposal submission deadline. While evaluating the Proposals, the Contracting Authority will conduct the evaluation solely on the basis of the submitted Technical and Financial Proposals.  21.3 The Contracting Authority may seek clarification in writing from the Consultant on condition of non-impact on the principle of competition. The Consultant shall respond to the Contracting Authority in writing. |
| 22. Evaluation of Technical Proposals |
| 22.1 The evaluation committee shall evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, subcriteria, and point system specified in the **Data Sheet**. Each responsive Proposal will be given a technical score (St). A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, and particularly the Terms of Reference or if it fails to achieve the minimum technical score indicated in the **Data Sheet**. |
| 23. Public Opening and Evaluation of Financial Proposals |
| 23.1 After the technical evaluation is completed and an approval has been issued on the technical evaluation report by the head of the Contracting Authority or his representative, the Contracting Authority shall inform the Consultants who have submitted proposals about the technical scores obtained for their Technical Proposals, and shall notify those Consultants whose Proposals did not meet the minimum qualifying mark or were considered non responsive to the requirements of proposal submission or TOR. The date, time and place of the Financial Proposals opening shall be fixed. The opening date should allow Consultants achieving the minimum technical score sufficient time to make arrangements for attending the opening session. Consultants’ attendance at the opening of Financial Proposals is optional. The Contracting Authority shall return the Financial Proposal to the Consultants who failed to achieve the minimum technical score “unopened” after Contract signature.  23.2 Financial Proposal opening session shall be public in the presence of the representatives of Consultants who meet the minimum technical score who choose to attend. The name of the Consultants, and their technical scores shall be read aloud. The Financial Proposal of the Consultants who met the minimum qualifying mark will then be opened after being inspected to confirm that they have remained sealed and unopened. The total prices shall be read aloud, recorded and published on the bulletin board noting that these prices can be rectified after checking  **24. Correction of Errors**  24.1 Activities and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, and no corrections are made to the Financial Proposal.  (a) **In the case of a Time-Based contract**: The evaluation committee will (1) correct any computational or arithmetical errors, and (2) 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. While correcting computational errors, in case of discrepancy between (i) a partial amount (sub-total) and the total amount, or (ii) between the amount derived by multiplication of unit price with quantity and the total price, or (iii) between words and figures, the former will prevail.  (b) **In the case of a Lump-Sum contract**: No adjustments shall be applied in this regard.  **25.** **Conversion to Single Currency**  25.1 For the evaluation purposes, prices shall be converted to a single currency using the selling rates of exchange issued by the competent authority and date indicated in the **Data Sheet**.  **26. Combined Quality and Cost Evaluation (Joint technical and financial evaluation)**  26.1 In the case of QCBS, the total score is calculated by weighting the technical and financial scores and adding them as per the formula and instructions in the **Data Sheet**. The Consultant achieving the highest combined technical and financial score will be invited for negotiations.  26.2 In the case of Least-Cost Selection (LCS), the Contracting Authority will select the Consultant with the lowest evaluated total price among those consultants that achieved the minimum technical score. And the financial proposal , which was evaluated in accordance with ITC (24.1) is taken into consideration and the nominated Consultant shall be invited for the purpose of negotiations. |
| 27. Negotiations |
| 27.1 Negotiations will be held at the date and address indicated in the **Data Sheet** between the Contracting Authority and the Consultant’s authorized representative(s) who must have written power of attorney to negotiate the Contract on behalf of the Consultant.  27.2 The Contracting Authority shall prepare minutes of negotiations that are signed by the Contracting Authority and the Consultant or his representative.  **Availability of Key Experts**  27.3 The Consultant invited for negotiations will, as a pre-requisite for attendance at the negotiations, confirm availability of all Key-Experts. Failure in satisfying such requirements may result in the proposal being rejected and taking measures to activate the Proposal-Securing Declaration. In this case the Contracting Authority proceeds by inviting the next-ranked Consultant to negotiations.  27.4 Notwithstanding the above, the substitution of Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall offer a substitute Key Expert within the period of time specified in the letter of invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original candidate. |
| Technical negotiations |
| 27.5 Negotiations will include a discussion of the Technical Proposal, the proposed technical approach and methodology, work plan, and organization and staffing (Including the replacement of one or more of the non- qualified experts at the request of the contracting authority), and any other suggestions made by the Consultant to improve the Terms of Reference. The Contracting authority and the Consultants will finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract as “Description of Services”. Special attention will be paid to clearly defining the inputs and facilities required from the Contracting Authority to ensure satisfactory implementation of the assignment. |
| Financial negotiations |
| 27.6 The financial negotiations will reflect the agreed technical modifications in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor any other dues. The Contracting Authority has the right to request documentation supporting the authenticity of the dues / wages of the proposed experts in the proposal and confirm that they receive equivalent dues / wages in similar consulting assignments |
| Conclusion of the negotiations |
| 27.7 Negotiations will conclude with a review of the draft Contract. To complete negotiations the Contracting authority and the Consultant will initial the agreed Contract. The Contracting Authority shall prepare minutes of negotiations that are signed by the Contracting Authority and the Consultant. If negotiations fail, the Contracting authority will invite the Consultant whose Proposal received the second highest score to negotiate a Contract. The Consultant shall bear no repercussions in case of failure of the negotiations. |
| 28. Award of Contract |
| 28.1 After completing negotiations the Contracting Authority shall promptly notify the other shortlisted Consultants about the name and address of the nominated Consultant for award together with the price of his proposal.  28.2. Seven days after the contract award notification and before the end of the proposal validity, the Contracting Authority must notify the successful Consultant in writing that his offer was accepted. The award letter will set the price to be paid by the Contracting Authority to the Consultant against the consulting services “Contract Price”.  28.3. Once the award letter is issued, the Contracting Authority must notify the other consultants about the contract award and publish the award results on its website, along with the Request for Proposal number, name of the consulting assignment, and the following information:   * 1. The name of every Consultant who participated in the proposal submission.   2. Proposals’ prices and technical scores as read out during the public opening session of Financial Proposals.   3. Names of consultants whose proposals were rejected.   4. The name of the successful Consultant and price of his proposal, in addition to the contract duration and a summary about the contract scope.   28.4. The award letter is deemed a binding contract to the successful Consultant until the final contract is signed.  28.5. After the notification of the consultants about the name and address and proposal price of the awarded Consultant in accordance with ITC 28.1, the Contracting Authority must reply in writing to every consultant who submitted a written request, within a maximum period of seven days after the award notification, inquiring about the reason behind the rejection of their proposal. The reply must be sent within a maximum period of seven days after receiving the request.  **29. Performance Security**  29.1. The successful Consultant must submit, within the period stipulated in the **Data Sheet** and the award letter, a performance security according to the General Conditions of Contract (GCC). The Consultant must use the performance security form attached in Section 6-Forms of Contract, or any other form adopted by the Contracting Authority.  29.2. Should the successful Consultant fail to submit a performance security or sign the contract, this shall be deemed sufficient cause for canceling the award and applying the procedures for debarment from participation by virtue of the written Proposal-Securing Declaration. In this case, the Contracting Authority may invite the Consultant whose proposal was next in line in evaluation for negotiation. The Contracting Authority shall take the necessary measures to make the eliminated party bear the difference between the prices of the two proposals.  **30. Contract Signature**  30.1 The awarded Consultant shall sign the Contract and send it to the Contracting Authority when submitting the Performance Security, within the period stipulated in point 29.1 of the **Data Sheet**.  30.2 The Consultant is expected to commence the assignment on the date and at the location specified in the **Data Sheet**. |
|  |
|  |

**Data Sheet**

[*Comments in brackets provide guidance for the preparation of the Data Sheet; they should not appear on the final RFP to be delivered to the shortlisted Consultants*]

| **ITC Clause Reference** | **Data** | |
| --- | --- | --- |
| **2.1** | Name of the assignment is: *[insert name of the consulting services assignment]*  Method of selection: [*insert” Selection “Quality-And Cost-Based Selection (QCBS)” or “Least-Cost Selection (LCS)”***]** | |
| **2.2** | A pre-proposal conference will be held: [*insert “Yes” or “No”]*  *[If yes, indicate date, time, and venue]*  The Contracting Authority’s representative is: *[insert name and title of the person]*  Address: *[insert address]*  Telephone: *[insert telephone number]* Facsimile: *[insert fax number]*  E-mail: *[insert e-mail address]* | |
| **2.3** | The Contracting Authority will provide the following inputs and facilities: *[insert list of provided inputs and facilities]* | |
| **6.3** | A list of the names of contractors and consultants subject to decision of debarment from the participation in Public Procurement is found at the following website : *[insert website]* | |
| **9.1** | Proposals and all correspondences shall be written in the following language: *[Insert language].*  *[In the case of issuance of the RFP in more than one language, insert the following: “ The proposal shall be written in one of the following languages [insert languages], and the contract shall be concluded in the language in which the proposal of the successful Consultant was submitted”].* | |
| **10.1** | The Proposal shall be composed of the following documents and forms:  **TECHNICAL PROPOSAL:**  **1st Inner Envelope with the Technical Proposal shall contain:**   * + - * 1. Power of Attorney to sign the Proposal         2. TECH-1         3. TECH-2         4. TECH-3         5. TECH-4         6. TECH-5         7. TECH-6         8. TECH-7         9. TECH-8         10. TECH-9 Proposal-Securing Declaration (as per ITC 13.1)   **Financial Proposal:**  **2nd Inner Envelope with the Financial Proposal shall contain**  (1) FIN-1  (2) FIN-2  (3) FIN-3  (4) FIN-4  (5) FIN-5 | |
| **12.1** | Proposals must remain valid *[Insert number of days]* days after the deadline for proposal submission i.e. until: *[Insert date]* | |
| **13.3** | Should the Consultant fail to perform any of the actions set forth in clauses (a) or (b) of this ITC, the consultant shall automatically be deemed ineligible to take part in the public procurement in Kurdistan Region, in accordance with the procedures for debarment from participation, for \_\_\_ years *[insert debarment from participation period]* | |
| **14.1** | Clarifications may be requested not later than *[Insert number]* days before the deadline of proposal submission.  The address for requesting clarifications is:  Facsimile: E-mail: | |
| **15.1 (a)** | Shortlisted Consultants may associate with other shortlisted Consultants:  Yes / No | |
| **15.1 (b)** | The estimated number of Key staff-months *[or staff-weeks]* required for the assignment is: *[Insert number]* staff months *[or staff weeks].* | |
| **16.1 (g)** | Training is a specific component of this assignment: Yes / No .  [*If yes, provide appropriate information including the training subject, purpose objectives and desired outcomes , duration, the number of trainees and the qualifications of the trainer and others or mention the paragraphs in Section 5-Terms of Reference that deal with these details]* | |
| **17.1** | *[List the applicable Reimbursable expenses. A sample list is provided below for guidance: items that are not applicable should be deleted, others may be added. If the Contracting Authority wants to define ceilings for unit prices of certain Reimbursable expenses, such ceilings should be indicated in this section]*  (1) a per diem allowance in respect of International Personnel of the Consultant for every day in which the Personnel shall be absent from the home office;  (2) cost of necessary travel, including transportation of the Personnel by the most appropriate means of transport and the most direct practicable route;  (3) cost of office accommodation and surveys;  (4) cost of applicable international or local communications such as the use of telephone and facsimile required for the purpose of the Services;  (5) cost, rental and freight of any instruments or equipment required to be provided by the Consultants for the purposes of the Services;  (6) cost of printing and dispatching of the reports to be produced for the Services;  (7) cost of such further items required for purposes of the Services not covered in the foregoing. | |
| **17.2** | *[Insert on of the following:*  *“Amounts payable by the Contracting Authority to the Consultant against the provision of Services under the contract is subject to local taxation”*  *Or*  *“Amounts payable by the Contracting Authority to the Consultant against the provision of Services under the contract is exempted from local taxation”]* | |
| **17.3** | The Financial Proposal shall be stated in the following currencies: *[insert currency]* | |
| **17.5** | Prices are subject to modification: Yes / No | |
| **18.3** | Consultant must submit the original and *[Insert number]* copies of the Technical Proposal, and the original of the Financial Proposal. | |
| **18.5** | The Proposal submission address is:  Proposals must be submitted no later than the following date and time:  Date: Time: | |
| **19.1** | The opening of the Technical Proposal shall take place at: [*Insert address*]  The date and time of Technical Proposal opening: [Note: Technical Proposals must be open immediately after the deadline for submission of offers (or afterwards , if necessary, and with minimum interval for logistical reasons)  Date: [*Insert Date*] Time: [*Insert Time*] | |
| **22.1** | Criteria, sub-criteria, and point system for the evaluation of Technical Proposals are:  Points  (i) Specific experience of the Consultants relevant to the assignment:  Total **points for criterion (i):**  (ii) Adequacy of the proposed methodology and work plan  in responding to the Terms of Reference:  a) Technical approach and methodology  b) Work plan  c) Organization and staffing  **Total points for criterion (ii):**  (iii) Key professional staff qualifications and competence for the assignment:  a) Team Leader  b) [*Insert position or discipline as appropriate*]  c) [*Insert position or discipline as appropriate*]  d) [*Insert position or discipline as appropriate*]  e) [*Insert position or discipline as appropriate*]  **Total points for criterion (iii):**  The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following subcriteria and relevant percentage weights:  1) General qualifications [*Insert weight between 20 and 30%*]  2) Adequacy for the assignment [*Insert weight between 50 and 60%*]  3) Experience in region and language [*Insert weight between 10 and 20%*]  Total weight: 100%  (iv) Suitability of the transfer of knowledge (training) program:  [*Normally not to exceed 10 points. When transfer of knowledge is a particularly important component of the assignment, more than 10 points may be allocated, subject to using the following subcriteria ]* | Points  [*Insert points*]  [*0 - 10*]  [*Insert points*]  [*Insert points*]  [*Insert points*]  [*20 - 50*]  [*Insert points*]  [*Insert points*]  [*Insert points*]  [*Insert points*]  [*Insert points*]  [*30 - 60*] |
| **25.1** | a) Relevance of training program  b) Adequacy of the training Program to the Assignment  c) Qualifications of experts and trainers  **Total points for criterion (iv):**  (v) Percent Employment of local Consultants among the total consultant staff for the mission:  Total percentage for criteria(v) :    **Total points for the five criteria:**  The minimum technical score St required to pass is: *[Insert number of points]* Points. | [*Insert points*]  [*Insert points*]  [*Insert points*]  [*0 – 10*]  [0- 10]  **100** |
| **26.1**  **(in case of Quality-and Cost-Based Selection (QCBS)** | The lowest evaluated Financial Proposal (Fm) is given the maximum financial score (Sf) of 100. Other Proposals scores are calculated inversely proportional to their prices as follows:  Sf = 100 x Fm / F,  in which Sf is the financial score, Fm is the lowest price and F the price of the proposal under consideration.  The weights given to the Technical Proposal (T) and Financial Proposal (P) are:  T = *[Insert weight (normally 70-80)]*, and  P = *[Insert weight (normally 20-30)]*  The final Score is obtained by adding the Technical and Financial Scores. The Consultant achieving the highest combined technical and financial score will be invited for Contract negotiations or signature.  The Scores of the Proposals are given by adding 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) as following: S = Sf x P + St x T  (S) is the Final score after adding the Technical Financial Scores | |
| **27.1** | Expected date and address for contract negotiations: *[insert date and address]* | |
| **29.1** | The Performance Security shall be furnished within \_\_\_\_\_\_\_\_\_\_\_ *[insert number of days]* days of the receipt of notification of award | |
| **30.2** | Expected date and address for commencement of consulting services:  Date: *[Insert date]* at: Location:  *[Insert location]* | |

# 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.*]

Refer to Reference ITC 16.1 of Section 2 of the RFP for Standard Forms required, and for number of pages.

TECH-1 Technical Proposal Submission Form

TECH-2 Consultant’s Organization and Experience

A Consultant’s Organization

B Consultant’s Experience

TECH-3 Comments or Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be provided by the Contracting Authority

A On the Terms of Reference

B On the Counterpart Staff and Facilities

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

TECH-5 Team Composition and Task Assignments

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

TECH-7 Staffing Schedule

TECH-8 Work Schedule

TECH-9 Written Proposal-Securing Declaration

**Form TECH-1 Technical Proposal Submission Form**

[*Location, Date*]

To: [*Name and address of Contracting Authority]*

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

We are submitting our Proposal in association with: [*Insert a list with full name and address of each associated Consultant*][[1]](#footnote-1)

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

If negotiations are held during the period of validity of the Proposal, or any subsequent extension to it, we undertake to negotiate on the basis of the proposed staff. Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We commit, if our Proposal is accepted, to submit a performance security during the period specified in ITC 29.1 of the Data Sheet and to initiate the consulting services related to the assignment not later than the date indicated in ITC 30.2 of the Data Sheet.

We understand you are not bound to accept the lowest proposal or any Proposal you receive.

We remain,

Yours sincerely,

Consultant’s Authorized Signature [*In full and initials*]:

Name of authorized Signatory:

Title:

Name of Consultant:

Address:

e-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Form TECH-2 Consultant’s Experience and Organization**

**Consultant’s Experience and Organization**

1. *Provide here a brief (two pages) description of the background and organization of your firm/entity and each associate for this assignment.*]
2. Using the form below, provide the Contracting Authority with information on previous experience of Consultant, shareholders, or any companies within this association if it is a joint venture, in regard to any projects similar to the current one to which you are presenting an offer. No more than 20 forms may be filled. Such data pertaining to experience must be supported by certificates from employers where possible.

|  |  |
| --- | --- |
| Assignment name: | Approx. value of the contract (in current US$, Euro or Iraqi Dinar): |
| Country:  Location within country: | Duration of assignment: |
| Name of Contracting Authority | Total No of staff-months of the assignment: |
| Address: | Approx. value of the services provided by your firm under the contract (in current US$, Euro or Iraqi Dinar): |
| Start date (month/year):  Completion date (month/year): | No 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: | |

Consultant’s Name:

**Form TECH-3 Comments and Suggestions on the Terms of Reference and on Counterpart Staff and Facilities to be Provided by the Contracting Authority**

**A - On the Terms of Reference**

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

**B - On Counterpart Staff and Facilities**

[*Comment here on counterpart staff and facilities to be provided by the Contracting Authority according to ITC 2.3 of the Data Sheet which are: administrative support, office space, local transportation, equipment, data, etc.*]

**FORM TECH-4 Description of Approach, Methodology and Work Plan for Performing the Assignment**

[*Technical approach, methodology and work plan are key components of the Technical Proposal. You are suggested to present your Technical Proposal divided into the following three chapters (inclusive of charts and diagrams: No more than 10 pages):*

*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.*

*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 Contracting Authority), 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) Organization and Staffing. In this chapter you should propose the structure and composition of your proposed team. You should list the main disciplines of the assignment, the key expert responsible, and proposed technical and support staff from the Head Office of the Consultant.*]

**FORM TECH-5 Team Composition and Task Assignments**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Professional Staff | | | | |
| Name of Staff | Firm | Area of Expertise | Position Assigned | Task Assigned | |
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**FORM TECH-6 Curriculum Vitae (CV) for Proposed Professional Staff**

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

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

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

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

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

**6. Membership of Professional Associations**:

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

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

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

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

From [*Year*]: To [*Year*]:

Employer:

Positions held:

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

**13. Certification:**

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

Date:

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

Full name of authorized representative

**FORM TECH-7 STAFFING Schedule1**

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

1 For Professional Staff the input should be indicated individually; for Support Staff it should be indicated by category (e.g.: draftsmen, clerical staff, etc.).

2 Months are counted from the start of the assignment. For each staff indicate separately staff input for home and field work.

3 Field work means work carried out at a place other than the Consultant's home office.

Full time input

Part time input

**Form TECH-8 Work Schedule**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **N°** | **Activity**1 | **Months**2 \ Weeks | | | | | | | | | | | | |
| **1** | **2** | **3** | **4** | **5** | **6** | **7** | **8** | **9** | **10** | **11** | **12** |  |
| 1 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| 4 |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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1 Indicate all main activities of the assignment, including delivery of reports (e.g.: inception, interim, and final reports), and other benchmarks such as Contracting Authority approvals. For phased assignments indicate activities, delivery of reports, and benchmarks separately for each phase.

2 Duration of activities shall be indicated in the form of a bar chart

Form TECH-9 Form of Proposal-Securing Declaration

*[The Consultant shall fill in this Form in accordance with the instructions indicated.]*

Date: *[insert date]*

Request for Proposal No.: *[number of Request for Proposal]*

To: *[complete name of Contracting Authority]*

We, the undersigned, declare that:

We understand that, according to your conditions, the Proposal must be supported by a Proposal-Securing Declaration.

We accept that we will automatically be suspended from being eligible for Public Procurement in Kurdistan Region of Iraq in accordance with the procedures for debarment from participation for the period of time of *[insert period]* starting on *[date],* if we are in breach of our obligation(s) under the Request for Proposal conditions, because, having been notified of the acceptance of our Proposal by the Contracting Authority during the period of proposal validity we:

1. fail or refuse to furnish the Performance Security, in accordance with the Instructions to Consultants.
2. fail or refuse to sign the Contract

We understand this Proposal-Securing Declaration shall expire if the award is not done, upon the earlier of

1. our receipt of your notification to us that the Contract was not awarded to us; or
2. twenty-eight days after the expiration of our Proposal

We understand that in case of a Joint Venture, the Proposal-Securing Declaration must be in the name of all members to the Joint Venture that submits the Proposal. If the joint venture is not duly registered at the time the proposal submission, the declaration must be registered in the name of all the partners as named in the joint venture agreement.

**Signature** [Insert signature of person whose name and capacity are listed]

**In their capacity as** [Insert the legal capacity of the signatory on the proposal securing declaration included in the proposal]

**Name** [Insert full name of the signatory on the proposal securing declaration]

**Authorized signatory for and on behalf of** [Insert full name of the party submitting the proposal

]

**On** [Insert date as day/month/year]

# Section 4. Financial Proposal - Standard Forms

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

Financial Proposal Standard Forms shall be used for the preparation of the Financial Proposal according to the instructions provided under ITC 17 of Section 2. Such Forms are to be used whichever is the selection method indicated in para. 2 of the Letter of Invitation.

FIN-1 Financial Proposal Submission Form

FIN-2 Summary of Costs

FIN-3 Breakdown of Costs by Activity

FIN-4 Breakdown of Remuneration

FIN-5 Reimbursable expenses

#### FORM FIN-1 Financial Proposal Submission Form

[*Location, Date*]

To: [Name and address of Contracting Authority]

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 currency and amount(s) in words and figures[[2]](#footnote-2)*]. This amount is inclusive of taxes.

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 ITC 12.1 of the Data Sheet.

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

We remain,

Yours sincerely,

Consultant’s Authorized Signature [*In full and initials*]:

Name and Title of Signatory:

Name of Consultant:

Address:

#### FORM FIN-2 SUMMARY of Costs

|  |  |
| --- | --- |
| Item | **Costs** |
| [*Indicate Currency*] |
| Total Costs of Financial Proposal  (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 Activity1 (This Form should be repeated for each activity)

|  |  |
| --- | --- |
| **Group of Activities (Phase):**2 | |
| Description:3 | |
| Cost component | **Costs** |
| [*Indicate Currency*] |
| Remuneration4 of Experts |  |
| Reimbursable Expenses 4 |  |
| Subtotals |  |

1 Form FIN-3 shall be filled at least for each activity. 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 Remuneration and Reimbursable Expenses must respectively coincide with relevant Total Costs indicated in Forms FIN-4, and FIN-5.

#### Form FIN-4 BREAKDOWN of Remuneration1 for the Proposed Staff

(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**2 | **Position**3 | **Staff-month Rate**4 | **Input**5  (Staff-months) | **Remuneration**  [*Indicate Currency*]6 |
| **Foreign Staff** |  |  |  |  |
|  |  | [*Home*] |  |  |
| [*Field*] |  |  |
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| **Local Staff** |  |  |  |  |
|  |  | [*Home*] |  |  |
| [*Field*] |  |  |
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|  |  |  |
|  |  | **Total Remuneration** | |  |

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 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 Remuneration = Staff-month Rate x Input.

**Form FIN-4 Breakdown of Remuneration1 for the Proposed Staff**

(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 Contracting Authority)

|  |  |  |
| --- | --- | --- |
| **Name**2 | **Position**3 | **Staff-month Rate**4 |
| **Foreign Staff** |  |  |
|  |  | [*Home*] |
| [*Field*] |
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| **Local Staff** |  |  |
|  |  | [*Home*] |
| [*Field*] |
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|  |

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 for home and field work.

.

#### FORM FIN-5 BREAKDOWN of Reimbursable Expenses1

(This Form FIN-5 shall only be used when the Time-Based Form of Contract has been included in the RFP)

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Group of Activities (Phase):** | | | | | |
| **N°** | **Description**2 | **Unit** | **Unit Cost**3 | **Quantity** | [*Indicate Local Currency*]4 |
|  | Per diem allowances | Day |  |  |  |
|  | Miscellaneous travel expenses | Trip |  |  |  |
|  | Communication costs between [*Insert place*] and [*Insert place*] |  |  |  |  |
|  | Drafting, reproduction of reports |  |  |  |  |
|  | Equipment, instruments, materials, supplies, etc. |  |  |  |  |
|  | Shipment of personal effects | Trip |  |  |  |
|  | Use of computers, software |  |  |  |  |
|  | Laboratory tests. |  |  |  |  |
|  | Local transportation costs |  |  |  |  |
|  | Office rent, clerical assistance |  |  |  |  |
|  | Training of the Contracting authority’s personnel 5 |  |  |  |  |
| Total Costs | | | | |  |

1 Form FIN-5 should be filled for each of the Forms FIN-3 provided, if needed.

2 Delete items that are not applicable or add other items according to Paragraph Reference 17.1 of the Data Sheet.

3 Indicate unit cost.

4 Cost = Unit Cost x Quantity.

5 Only if the training is a major component of the assignment, defined as such in the TOR.

**FORM FIN-5 BREAKDOWN of Reimbursable Expenses**

(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 Contracting Authority)

|  |  |  |  |
| --- | --- | --- | --- |
| **N°** | **Description1** | **Unit** | **Unit Cost2** |
|  | Per diem allowances | Day |  |
|  | Miscellaneous travel expenses | Trip |  |
|  | Communication costs between [*Insert place*] and [*Insert place*] |  |  |
|  | Drafting, reproduction of reports |  |  |
|  | Equipment, instruments, materials, supplies, etc. |  |  |
|  | Shipment of personal effects | Trip |  |
|  | Use of computers, software |  |  |
|  | Laboratory tests. |  |  |
|  | Local transportation costs |  |  |
|  | Office rent, clerical assistance |  |  |
|  | Training of the Contracting Authority’s personnel 3 |  |  |

1 Delete items that are not applicable or add other items according to Paragraph Reference 17.1 of the Data Sheet.

2 Indicate unit cost.

3 Only if the training is a major component of the assignment, defined as such in the TOR.

# Section 5. Terms of Reference

**Consulting Assignment** (Name and number of the Consulting Service)

**(a) Background,**

**(b) Objectives,**

**(c) Scope of the Services,**

**(d) Training (when appropriate),**

**(e) Reports and Time Schedule**

**(f) Data, Local Services, Personnel, and Facilities to be provided by the Contracting Authority.**

# Section 6. Standard Forms of Contracts

[*Text in brackets provides guidance to the Contracting Authority for the preparation of the RFP; it should not appear on the final RFP to be delivered to the short-listed Consultants*]

Contract for Consulting Services: Time-Based Payments

Contract for Consulting Services: – Lump-Sum Payments

Contract for Small Consulting Services - Time-Based Payments

Contract for Small Consulting Services – Lump-Sum Payments

*[One of the forms of contracts attached shall be used according to the nature of the consulting assignment, and the other forms shall be removed from the final request for proposal delivered to the shortlisted consultants. Contract for Small Consulting Services forms shall be used for small consulting assignments which estimated cost does not exceed 100 million Iraqi dinars].*

# Sample Contract for Consulting Services Time-Based Payments

**SAMPLE CONTRACT FOR CONSULTING SERVICES**

**(**Time-Based **PAYMENTS)**

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## Section I. The Contract Form

This CONTRACT (hereinafter called the “Contract”) is made on the [*insert the date of signature of the Contract by the Contracting Authority (dd/mm/yy*)], between, on the one hand, *[insert name of the Contracting Authority]* (hereinafter called the “Contracting Authority”) having its head office at [*insert address of the Contracting Authority*] and, on the other hand,*[insert the name of the Consultant]* (hereinafter called the “Consultant”) having its head office [*insert address of the Consultant*],.

[Note: *If the Consultant is a Joint Venture, the above should be partially amended to read as follows:* “…[*insert address of the Contracting Authority*] and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Contracting Authority for all the Consultant’s obligations under this Contract, namely, *[name of member]* and *[name of member]* (hereinafter called the “Consultant”).

WHEREAS

(a) the Contracting Authority has requested the Consultants to provide certain consulting services as defined in the Annex A attached to this Contract (hereinafter called the “Services”);

(b) the Consultants, having represented to the Contracting Authority that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

(a) The Letter of Award

(b) The Special Conditions of Contract; and

(c) The General Conditions of Contract;

(d) The following Annexes:

Annex A: Terms of Reference and Scope of Services

Annex B: Consultant’s Key Experts

Annex C: Remuneration Cost Estimates of Consultant’s Experts

Annex D: Reimbursables Cost Estimates

2. This Contract Form shall supersede all other Contract documents In the event of any inconsistency between the documents, the order of precedence set above shall prevail.

3. The mutual rights and obligations of the Contracting Authority and the Consultants shall be as set forth in the Contract, in particular:

(a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and

(b) The Contracting Authority shall make payments to the Consultants in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names on *[to be mentioned in day, month and year].*

For and on behalf of *[the Contracting Authority]*

*[Authorized Representative]*

For and on behalf of *[the Consultant]* (in accordance with the Technical Proposal Submission Form)

*[Authorized Representative]*

*[For a joint venture, either all members shall sign with their names clearly showing or only the legally authorized lead member as follows:]*

For and on behalf of each of the members of the Consultant *[insert the name of the Joint Venture]*

*[Name of the lead member]:*

*[Legally Authorized Representative on behalf of a Joint Venture]:*

*[add signature blocks for each member if all are signing]*

## Section II. General Conditions of Contract

**1. General Provisions**

#### 1.1 Definitions

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

(a) “Applicable Law” means the laws in force in the Kurdistan Region to which the contract and its interpretation are subjected.;

(b) “Consultant” means the entity or person or the joint venture that may provide or provides the Services to the Contracting Authority under the Contract.

(c) “Contract” means the Contract signed by both Parties, including the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC) and Annexes, together with all the documents listed in Clause 1 of such signed Contract;

(d) “Contract Price” means the price specified in the Contract to be paid for the performance of the Services, in accordance with GCC 6.1 of the General Conditions of Contract;

(e) “Contracting Authority” means the agency with which the selected Consultant signs the Contract for the Services.

(f) “Government” means Kurdistan Regional Government.;

(g) “Party” means the Contracting Authority or the Consultants, as the case may be, and “Parties” means both of them;

(h) Experts” means, collectively, Key Experts and Non-Key Experts, assigned by the Consultant or any Sub-Consultant to perform the Services or any part thereof.

(i) “Key Expert(s)” means an individual professional with skills, qualifications, knowledge and experience critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant’s proposal.

(j) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract and whose Curricula Vitae (CV) was not taken into account in the technical evaluation of the Consultant’s proposal.

(k) “Joint Venture (JV)” means a partnership or association contracted by mutual agreement between two or more consultants in order to participate in the competition for implementing the consulting assignment. The JV members shall nominate the authorized partner (JV lead member) to conduct all procedures for and on behalf of the JV members during the competition process and during the implementation of the contract if it is awarded to the joint venture. Members of the Joint Venture shall be jointly and severally liable.

(l) “Services” means the work to be performed by the Consultants pursuant to this Contract and, as described in Annex A (Terms of Reference and Scope of Work);

(m) “Sub-consultant” means any entity to which the Consultants subcontract any part of the Services, and

(n) “Terms of Reference” (TOR) means the document included in Annex A which explains the objectives, scope of work, activities, tasks to be performed, responsibilities of the Consultant, expected results and deliverables of the assignment, and cost inputs.

(o) “Project Coordinator” The person responsible for follow-up and coordination of activities under the contract and to receive and substantiate advances guarantees and obtaining the endorsement of the Contracting Authority on the outputs of the Consulting Services.

#### 1.2 Law Governing the Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by laws in force in Kurdistan Region of Iraq.

#### 1.3 Language

The language of the Contract is the one specified in the **SCC.**

#### 1.4 Notices

Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, or receipt–confirmed electronic mail to such Party at the address specified in the **SCC**.

#### 1.5 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Contracting Authority or the Consultants may be taken or executed by the officials specified in the **SCC**.

#### 1.6 Taxes and Duties

The price of the contract is inclusive of all applicable taxes and duties under applicable law at the time of the contract, unless otherwise specified in the **SCC**.

#### 1.7 Performance Security

1.7.1 Within twenty eight (28) days of receiving the letter of award, the Consultant shall furnish the Performance Security in the form of a bank guarantee or a certified bond with the amount and currency specified in the Special Conditions of the Contract (**SCC**) from an accredited bank in the Kurdistan Region of Iraq chosen by the Consultant, or by a foreign bank (non-operating in Iraq) accredited by the Central Bank of the Kurdistan Region.

1.7.2 The Contracting Authority shall seize the performance security amount in case of the Consultant's failure to complete its obligations under the contract in a manner that leads to termination of the contract by the Contracting Authority.

1.7.3 The Contracting Authority shall release the performance security 28 days after the end of the contract as specified in GCC 2.3 and after the Consultant completes all its obligations under the contract and after the issuance of the completion certificate.

#### 1.8 Corruption and Fraud Practices

The Contracting Authority requires that Consultants abide by the highest professional standards of ethics during both the competition process and the implementation of the contract. To achieve this policy, the Contracting Authority shall:

1. Adopt the definitions contained in para 16-20 of Article 1 of the Public Procurement Regulation no. 2 of 2016
2. Be entitled to sanction (individuals or companies), including the declaration of their ineligibility to participate in public procurement in the Kurdistan Region, according to the procedures for debarment from participation, in the event of their involvement, either directly or through an intermediary, in any corrupt practices during the execution of the contract.
3. Bind the Consultants to allow the Contracting Authority or its appointed auditors to consult or audit statements and records or any documents related to the proposal submission or contract execution.

**2. Commencement, Completion, Modification, and Termination of Contract**

#### 2.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date mutually agreed upon by both parties as may be stated in the **SCC**. If this Contract has not become effective within such time period after the date of Contract signature by both parties as specified in the **SCC**, either Party may, by not less than twenty eight (28) calendar days from the expiry of the specified time period, through a written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto..

#### 2.2 Commencement of Services

The Consultants shall begin carrying out the Services after confirming the availability of Key Experts within the period specified in the **SCC.**

#### 2.3 Contract Completion date

The contract shall end upon the expiry of its duration specified in the **SCC**, unless extended pursuant to GCC 2.4 or terminated earlier pursuant to GCC 2.7.

#### 2.4 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, the Contract Price or extension of the implementation period, may only be made by written agreement between the Parties concerning the details of the modification.

#### 2.5 Force Majeure

**2.5.1 Definition**

1. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is unavoidable, is not foreseeable, is not caused by the negligence or default of any of the parties, and makes a Party’s performance of its obligations hereunder impossible. These events include, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, lockouts or disorders demands
2. Force Majeure shall not include:

* any event which is caused by the negligence or intentional action of a Party or such Party’s Sub-consultants or agents or employees, nor
* any event carried out by either party because of precipitance and that such party could reasonably have taken it into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

1. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

**2.5.2 No Breach of Contract**

The failure of a Party to fulfil any of its contractual obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract, and informed the other party as soon as possible.

**2.5.3 Measures to be Taken**

1. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
2. A Party affected by an event of Force Majeure shall notify the other Party not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the date expected to return to normal conditions
3. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
4. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Contracting Authority, shall either:

* Stop all activities under the Contract, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Contracting authority, in reactivating the Services; or
* continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

1. Should a dispute arise between the Parties as to the extent of losses resulting from Force Majeure, it shall be settled according to GCC 7.1 and 7.2.

#### 2.6 Suspension of Payment

The Contracting Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to provide justifications for such failure and remedy such failure within a period not exceeding twenty eight (28) calendar days after receipt by the Consultant of such notice of suspension.

#### 2.7 Termination of Contract

**2.7.1 by the Contracting Authority**

The Contracting Authority may terminate this Contract in case of the occurrence of any of the events specified below. In such an occurrence the Contracting Authority shall give at least twenty eight (28) calendar days’ written notice of termination to the Consultant.

(a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to GCC 2.6 and within twenty eight (28) days from the receipt of notification or within other time period written and agreed upon with the Contracting Authority;

(b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) subject to bankruptcy or judicial reorganization, unless the court allows them to pursue their activities;

(c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC 7.2;

(d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than fifty-six (56) calendar days;

(e) If the Contracting Authority, decides to terminate this Contract for Public Interest;

(f) If the Consultant fails to confirm availability of Key Experts as required in GCC 2.2.

If the Contracting Authority determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Contracting Authority should, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

The Contracting Authority shall confiscate the Performance security if the Contract termination was done pursuant to clause (a), (b), (c) or (f) stated above or as a result of a proven involvement of the Consultant in corrupt, fraudulent, collusive, coercive or obstructive practices.

**2.7.2 by the Consultant**

The Consultant may terminate this Contract, by not less than twenty-eight (28) calendar days’ written notice to the Contracting authority, in case of the occurrence of any of the events specified below:

(a) If the Contracting Authority fails to pay any validated money due to the Consultant pursuant to this Contract and not subject to dispute within fifty-six (56) calendar days after receiving written notice from the Consultant that such payment is overdue.

(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than fifty-six (56) calendar days.

(c) If the Contracting Authority fails to comply with any final decision reached as a result of arbitration pursuant to GCC 7.2.

(d) If the Contracting Authority is in material breach of its obligations pursuant to this Contract and has not remedied the same within fifty-six (56) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Contracting Authority of the Consultant’s notice specifying such breach.

**2.7.3 Cessation of Rights and Obligations**

Upon termination of this Contract pursuant to GCC 2.7.1 and GCC 2.7.2 hereof, or upon expiration of this Contract pursuant to GCC 2.3, all rights and obligations of the Parties hereunder shall cease, except

1. such rights and obligations as may have accrued on the date of termination or expiration,
2. the obligation of confidentiality set forth in GCC 3.3,
3. the Consultant’s obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC 1.8 (c), and
4. any right which a Party may have under the Applicable Law.

**2.7.4 Cessation of Services**

Upon termination of this Contract by written notice of either Party to the other pursuant to GCC 2.7.1 and 2.7.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Contracting authority, the Consultant shall proceed as provided by GCC 3.6.

**2.7.5 Payment upon Termination**

Upon termination of this Contract pursuant to GCC (2.7), the Contracting authority shall make the following payments to the Consultant:

(a) payments due pursuant to GCC (6) for Services satisfactorily performed prior to the effective date of termination, and actual payments done in accordance with the arrangements of GCC 6 against reimbursable expenditures for expenditures actually incurred prior to the effective date of termination

(b) in the case of termination pursuant to GCC 2.7.1 (d) and (e), in addition to payments due for Services satisfactorily performed, reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

**3. Obligations of the Consultants**

#### 3.1 General

The Consultants shall perform the Services and carry out their obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Contracting Authority, and shall at all times support and safeguard the Contracting Authority’s legitimate interests in any dealings with Sub-consultants or third parties.

The Consultant’s Personnel shall be appropriately qualified, skilled and experienced intheir respective trades or occupations. The Contracting Authority may require the Consultant to remove (or cause to be removed) any person employed for the mission, including the Consultant’s Representative if applicable, and ask the Consultant to replace such person with another qualified person, for person who:

1. Persists in a
2. any misconduct or lack of care,

(b) Carries out duties incompetently or negligently,

(c) Fails to conform with any provisions of the Contract, or

(d) Persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

#### 3.2 Conflict of Interests

**3.2.1** Contracting Authority’s public procurement policy requires that Consultants provide professional, objective, and impartial advice and at all times hold the Contracting Authority’s interests paramount, act without any consideration for future work, strictly avoid conflicts with other assignments or their own corporate interests and

**3.2.2** 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 recruited, under any of the circumstances set forth in 93 of the Public Procurement Regulation no.2 of 2016.

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

**3.2.4** No current employees of the Contracting Authority shall work as Consultants under their own ministries, departments or agencies. Recruiting former government employees of the Contracting Authority (retirees or resigns) to work for their former ministries, departments or agencies is acceptable provided no conflict of interest exists. When the Consultant nominates any government employee as Personnel in their technical proposal, such Personnel must have written certification from their Government or Contracting Authority as per applicable laws.

#### 3.3 Confidentiality

The Consultants, their Sub-consultants, and the personnel of either of them shall not disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Contracting Authority’s business or operations without the prior written consent of the Contracting Authority.

#### 3.4 Insurance to Be Taken Out by the Consultant

The Consultants shall take out and maintain, and shall ensure that any Sub consultants take out and maintain, any insurance that is necessary for performance under the contract or to protect the Consultants and / or Contracting Authority from any liability arising out of the course of the Consultant’s performance under the Contract and as specified in the **SCC**.

#### 3.5 Reporting Obligations of the Consultant

The Consultants shall submit to the Contracting Authority the reports and documents specified in Annex A in the quality, in the numbers, and within the periods set forth in the said Annex.

#### 3.6 Documents Prepared by the Consultants to Be the Property of the Contracting Authority

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Consultants in accordance with GCC 3.5 shall become and remain strictly the property of the Contracting Authority, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Contracting Authority, together with a detailed inventory thereof. The Consultants may retain one copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the **SCC**.

**4. Scope of Consultant Services**

#### 4.1 Services

The Consultant shall perform the services specified in Annex A, “Terms of Reference and Scope of Services” which is made an integral part of this Contract (“the Services”).

#### 4.2 Consultant Personnel

The Consultant shall provide the personnel listed in Annex B, “Consultant’s Key Experts,” to perform the Services.

**5. Obligations of the Contracting Authority**

#### 5.1 Assistance and Exemptions

The Contracting Authority shall use its best capabilities and efforts to ensure that the Government shall provide the Consultants such assistance and exemptions as specified in the **SCC**.

#### 5.2 Changes in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the services rendered by the Consultants, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in 6.1 [Contract Price].

#### 5.3 Services and Facilities

The Contracting Authority shall make available to the Consultants the Services and Facilities listed in Annex A, “Terms of Reference and Scope of Services”

**6. Payments to the Consultants**

#### 6.1 Contract Price and Ceiling

The Contract Price and its ceiling are stipulated in the **SCC**. For Services rendered pursuant to Annex A, the Contracting Authority shall pay the Consultant due amounts not to exceed a ceiling as stated in **SCC***.* These amounts have been established based on the understanding that it includes all of the Consultant’s costs and profits as well as any tax obligation that may be imposed on the Consultant. The payments made under the Contract consist of the Consultant's remuneration as defined in GCC 6.2 below and of the reimbursable expenditures as defined in GCC 6.3 below.

#### 6.2 Remuneration of the Consultant Personnel

The Contracting authority shall pay the Consultant for Services rendered at the rate(s) per staff/month spent[[3]](#footnote-3)1for the period spent on a certain activity (or per day spent **or** per hour spent, subject to a maximum of eight hours per day) in accordance with the rates agreed and specified in Annex C, “Remuneration Cost Estimates of Consultant’s Experts” Unless otherwise specified in the **SCC,** the remuneration rates of the Consultant’s personnel shall be fixed for the duration of the Contract.

#### 6.3 Reimbursable

The Contracting Authority shall pay the Consultant for reimbursable expenses in accordance with the expenses agreed upon and specified in Annex D - Reimbursables Cost Estimates, which shall consist of and be limited to:

(i) Normal and customary expenditures for official travel, accommodation, printing, and telephone charges. Official travel will be reimbursed at the cost of less than first class travel and will need to be authorized by the Contracting Authority’s coordinator;

(ii) Such other expenses as approved in advance by the Contracting Authority.

#### 6.4 Payment for Additional Services

For the purpose of determining the remuneration due for additional services as may be agreed under GCC 2.4, the rates specified in Annexes C and D shall be used.

#### 6.5 Terms and Conditions of Payment

Payments will be made to the consultant according to the following:

(a) *The Advance Payment:* If the Advance Payment is stated in **SCC**, The Advance Payment shall be paid in the amount and currency specified in the **SCC** after the Consultant had submitted a bank guarantee to the Contracting Authority in amounts equal to the Advance Payment and in the form included in Annex E or any other form acceptable to the Contracting Authority. The bank guarantee shall be valid until the total amount of the Advance Payment is repaid. The Advance Payment shall be repaid through a percentage deduction from the interim payments as stated in **SCC**, provided that the Advance Payment shall be totally repaid prior to the Interim Payment when its amount is 80% of the total Contract Price.

*(b) The Itemized Invoices.* As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in the **SCC**, the Consultant shall submit to the Contracting Authority, in duplicate, itemized invoices, accompanied by the receipts, documents and completion reports in conformity with the amounts payable pursuant to GCC 6.2 and GCC 6.3 for such interval indicated in the **SCC**. Each invoice shall show remuneration and reimbursable expenses separately. The Contracting authority shall pay the Consultant’s invoices within sixty (60) days after the receipt and approval by the Contracting Authority of such itemized invoices with supporting documents.

*(c) The Final Payment:* The final payment shall only be made after a final invoice and a final report are submitted by the Consultant and are accepted by the Contracting Authority. The Contracting Authority shall settle the final payment within sixty (60) days after receiving the final invoice and final report. If the invoice or report is rejected or if the Contracting Authority has observations about the services rendered, it shall, within the same period, provide the Consultant with its observations and required amendments to the report, services, and/or invoice. The final payment shall therefore be suspended until the Consultant submits the amended report acceptable by the Contracting Authority.

#### 6.6 Delayed Payments

If the Consultant does not receive any due payment in accordance with GCC 6.5, the Consultant shall be entitled to receive legal financing charges compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in GCC 6.5. Interest shall be at the interest rate stated in the **SCC.** The Consultant shall be entitled to this payment without formal notice or certification, and without prejudice to any other right or remedy.

#### 6.7 Liquidated Damages

If the Consultant fails to comply with GCC 2.), the Contracting Authority shall deduct from the amounts due to the Consultant, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the Contract Price for each day of delay. In case the maximum deduction specified in the **SCC is reached,** and which shall not exceed 10% of the final Contract price, the Contracting Authority shall have the right to terminate the Contract pursuant to GCC 2.7.1.

Such liquidated damages are for the delays caused by the Consultant except in the case of termination pursuant to GCC 2.7.1 and prior to the contract expiration date specified in GCC 2.3. This delay shall not exempt the Consultant from its obligation to complete services, or any other obligation, duty, or responsibility pursuant to the contract.

#### 6.8 Project Administration

**6.8.1. Coordinator**

The Contracting Authority designates a representing Project Coordinator as stated in **SCC**; the Coordinator shall be responsible for the coordination of activities under the Contract, for receiving and approving invoices for payment, and for acceptance of the deliverables by the Contracting Authority.

**6.8.2. Timesheets**

During the course of their work under this Contract, including field work, the Consultant’s employees providing consulting services under this Contract are required to complete timesheets or any other document used to identify time spent, as well as expenses incurred for such services, as instructed by the Project Coordinator.

**6.8.3. Records and Accounts**

The Consultant shall keep accurate and systematic records and accounts in respect of the Consulting Services, which will clearly identify all experts remuneration and expenses. The Contracting Authority reserves the right to audit, or to nominate a reputable accounting firm to audit, the Consultant’s records relating to amounts claimed under this Contract during its term and any extension, and for a period of three months thereafter.

**7. Settlement of Dispute**

#### 7.1 Amicable Settlement

The Contracting Authority and the Consultant shall attempt to settle any dispute related to the Contract through direct and amicable negotiations.

#### 7.2 Arbitration

Should the Parties fail to settle the dispute twenty-eight (28) days after the beginning of the negotiations mentioned in GCC 7.1, any Party may notify the other Party of its intention to resort to arbitration in regard to the dispute. Arbitration proceedings shall only be commenced after such notification is received by the other party, and shall be followed in accordance with the **SCC** rules as follows:

1. For contracts with foreign Consultants, arbitration shall be conducted in accordance with the international rules of arbitration of the appointed international institution, as stated in **SCC**, such as ICC or UNCITRAL or Arab Chamber of Arbitration for consultants;
2. Unless otherwise stated, the place of Arbitration shall be in Kurdistan Region of Iraq.
3. Arbitration Decision is subjected to Kurdistan Region laws in force.
4. The Arbitration shall be conducted in the communication language defined in GCC 1.3, and
5. For contracts with domestic contractors, arbitration with proceedings conducted in accordance with the laws in force in Kurdistan Region of Iraq shall be adopted.

The arbitrators shall have full power to open up, review and revise any instructions, certificate, determination, opinion or valuation of the Contracting Authority. Nothing shall disqualify representatives of the Parties from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

Arbitration may be commenced prior to or after completion of the Consultant Services. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the progress of the Consultant Services.

## Section III. Special Conditions of Contract

|  |  |
| --- | --- |
| **Number of GC Clause** | **Amendments of, and Supplements to, Clauses in the General Conditions of Contract** |
| **1.3** | The language is *[insert language(s)]:*  In the event of more than one language and in the case of misunderstanding due to interpretation barriers, the controlling language shall be: *[insert language]* |
| **1.4** | The addresses are:  Contracting Authority:  Attention:  E-Mail:  Facsimile:  Consultants:  Attention:  E-mail:  Facsimile: |
| **1.5** | The Authorized Representatives are:  For the Contracting Authority:  For the Consultants: |
| **1.6** | The contract price is *[“inclusive” or “not inclusive”]* of Taxes |
| **1.7.1** | The value of the Performance Security is *[insert percentage]* % of the Contract Price.  The currency of the Performance Security is [insert currency] |
| **2.1** | The date on which this Contract shall come into effect is ***:*** *[insert “the Contract signature date” or “within [insert number of days] days from Contract signature date”]* |
| **2.2** | The date for the commencement of Services is *:[insert date]* |
| **2.3** | The Contract Completion Date is *[Insert number of days] days from the Date of Effectiveness of the Contract.* |
| **3.4** | The risks coverage shall cover all risks due on the following items and with the minimum coverage set forth below for each item [non applicable items shall be deleted except for item (a)]  a) Professional liability insurance, with a minimum coverage of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert amount and currency which should be not less than the total ceiling amount of the Contract]*;  b) Third Party motor vehicle *[insert amount and currency in accordance with the applicable law in Kurdistan Region of Iraq]*  c) Third Party liability *[insert amount and currency in accordance with the applicable law in Kurdistan Region of Iraq]*  d) Loss or damage to equipment and property *[insert amount and currency in accordance with the applicable law in Kurdistan Region of Iraq]*  e) Consultant’s Experts *[insert amount and currency in accordance with the applicable law in Kurdistan Region of Iraq]* |
| **3.6** | *[If applicable, insert any exceptions to proprietary rights provision for documents presented by the Consultant]* |
| **5.1** | *[if applicable, list here any assistance and exemptions to be provided by the Contracting authority.* |
| **6.1** | Contract Price in *[currency(ies)]* is : |
| **6.2** | [Insert the following proposed text if the implementation period is more than 18 months, and if the data sheet stipulates that the prices of the Consultant’s staff remuneration are subject to change during the execution of the contract]  “The changes to the consultant’s staff remuneration are calculated in local or foreign currencies as follows:  (1) Remuneration paid in foreign currency on the basis of the rates set forth in **Annex C of the Contract** shall be adjusted every 12 months (and, will be paid the first time, with effect for the remuneration earned in the 13th calendar month after the date of the Contract Effectiveness date) by applying the following formula:  {or }  where  *Rf* is the adjusted international experts remuneration;  *Rfo* is the remuneration of international experts payable on the basis of the remuneration rates (**Annex C of the contract**) in foreign currency;  *If* is the official index for salaries in the country of the foreign currency for the first month for which the adjustment is supposed to have effect; and  *Ifo* is the official index for salaries in the country of the foreign currency for the month of the date of the Contract.  The Consultant shall state here the name, source institution, and any necessary identifying characteristics of the official index for salaries corresponding to *If* and *Ifo* in the adjustment formula for remuneration paid in foreign currency:  (2) Remuneration paid in local currency pursuant to the rates set forth in **Annex C of the Contract** shall be adjusted every *[insert number]* months (and, for the first time, with effect for the remuneration earned in the *[insert number] th* calendar month after the date of the Contract) by applying the following formula:  {or }  where  *Rl* is the adjusted remuneration of local staff;  *Rlo* is the remuneration of local staff payable on the basis of the remuneration rates (**Annex C of the Contract**) in local currency;  *Il* is the official index for salaries in Kurdistan Region of Iraq for the first month for which the adjustment is to have effect; and  *Ilo* is the official index for salaries in the Kurdistan region of Iraq for the month of the date of the Contract.    The Contracting authority shall state here the name, source institution, and any necessary identifying characteristics of the official index for salaries corresponding to *Il* and *Ilo* in the adjustment formula for remuneration paid in local currency: |
| **6.5.a** | The advance payment shall be in the following value and currency: *[insert value and currency]*  The deduction percentage for the repayment of the Advance Payment shall be: *[insert percentage]* |
| **6.5.b** | *[This paragraph shall be deleted in case the Consultant is requested to present monthly invoices]*  The Consultant should present invoices *every [insert duration: “two weeks” or “two months” or other]* |
| **6.6** | The interest rate is *[insert interest rate]* |
| **6.7** | The liquidated damage per day shall be: [*insert number]*% per day  The maximum amount of daily liquidated damages shall not exceed *[insert %]* of the Contract Price. |
| **6.8.1** | The nominated Contracting Authority’s coordinator: |
| **7.2** | Any dispute, controversy, or claim arising out of or relating to this contract, or the breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the *[insert Arbitration Rules]*  The Arbitration Institution for Contracts signed with foreign Consultants is: *[insert institution]* |

## Section IV. Annexes

Annex A: Terms of Reference and Scope of Services

Annex B: Key Experts

Annex C: Remuneration Cost Estimates of Consultant’s Experts

Annex D: Reimbursables Cost Estimates

# Sample Contract for Consulting Services -Lump-Sum Payments

Preface

Lump-sum contracts are used when definition of the tasks to be performed by the Consultants is clear and unambiguous, when the commercial risk taken by the Consultants is minimal, and when therefore such Consultants are prepared to perform the assignment for an agreed predetermined lump-sum price. Such price is arrived at on the basis of inputs—including rates—provided by the Consultants. The Contracting Authority agrees to pay the Consultants according to a schedule of payments linked to the delivery of certain outputs, including reports. A major advantage of the lump-sum contract is the simplicity of its administration, the Contracting Authority having only to be satisfied with the outputs without monitoring the staff inputs. Studies are usually carried out on a lump-sum basis: for example, master plans, economic, sector, feasibility, engineering studies, and surveys.

**SAMPLE CONTRACT FOR CONSULTING SERVICES**

**(LUMP-SUM PAYMENTS)**

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## Section I. The Contract

This CONTRACT (hereinafter called the “Contract”) is made on the[insert the date of Contract signature by the latest Party dd/mm/yy], between, on the one hand, *[insert name of the Contracting Authority]* (hereinafter called the “Contracting Authority”) ”) having its head office at [*insert address of the Contracting Authority*] and, on the other hand,*[insert the name of the Consultant]*, (hereinafter called the “Consultants”) having its head office at [*insert address of the Consultant*].

[Note: *If the Consultant is a Joint Venture, the above should be partially amended to read as follows:* “…[*insert address of the Contracting Authority*] and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Contracting Authority for all the Consultant’s obligations under this Contract, namely, *[name of member]* and *[name of member]* (hereinafter called the “Consultant”).]

WHEREAS

(a) the Contracting Authority has requested the Consultants to provide certain consulting services as defined in the Annex A attached to this Contract (hereinafter called the “Services”);

(b) the Consultants, having represented to the Contracting Authority that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents attached hereto shall be deemed to form an integral part of this Contract:

1. The Letter of Award
2. The Special Conditions of Contract;

(b) The General Conditions of Contract;

(c) The following Annexes:

Annex A: Terms of Reference and Scope of Services

Annex B: Consultant’s Key Experts

Annex C: Consultant’s Reporting Obligations

Annex D: Breakdown of Contract Price - remuneration and reimbursable costs.

2. This Contract Form shall supersede all other Contract documents In the event of any inconsistency between the documents, the order of precedence set above shall prevail.

3. The mutual rights and obligations of the Contracting Authority and the Consultants shall be as set forth in the Contract, in particular:

(a) The Consultants shall carry out the Services in accordance with the provisions of the Contract; and

(b) The Contracting Authority shall make payments to the Consultants in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names on *[to be mentioned in day, month and year].*.

For and on behalf of *[the Contracting Authority]*

*[Authorized Representative]*

For and on behalf of *[the Consultant]* (in accordance with the Technical Proposal Submission Form)

*[Authorized Representative]*

*[For a joint venture, either all members shall sign with their names clearly showing or only the legally authorized lead member as follows:]*

For and on behalf of each of the members of the Consultant *[insert the name of the Joint Venture]*

*[Name of the lead member]:*

*[Legally Authorized Representative on behalf of a Joint Venture]:*

*[add signature blocks for each member if all are signing]*

## Section II. General Conditions of Contract

**1. General Provisions**

#### 1.1 Definitions

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

(a) “Applicable Law” means the laws in force in Kurdistan Region of Iraq to which the Contract and its interpretation are subjected.

(b) “Consultant” means the entity or person or the joint venture that may provide or provides the Services to the Contracting Authority under the Contract.

(c) “Contract” means the Contract signed by both Parties, including the General Conditions of Contract (GCC), the Special Conditions of Contract (SCC) and Annexes, together with all the documents listed in Clause 1 of such signed Contract;

(d) “Contract Price” means the price specified in the Contract to be paid for the performance of the Services, in accordance with GCC 6.1 of the General Conditions of Contract;

(e) “Contracting Authority” means the agency with which the selected Consultant signs the Contract for the Services.

(f) “Government” means Kurdistan Regional Government;

(g) “Party” means the Contracting Authority or the Consultants, as the case may be, and “Parties” means both of them;

(h) Experts” means, collectively, Key Experts and Non-Key Experts, assigned by the Consultant or any Sub-Consultant to perform the Services or any part thereof.

(i) “Key Expert(s)” means an individual professional with skills, qualifications, knowledge and experience critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical evaluation of the Consultant’s proposal.

(j) “Non-Key Expert(s)” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract and whose Curricula Vitae (CV) was not taken into account in the technical evaluation of the Consultant’s proposal.

(k) “Joint Venture (JV)” means a partnership or association contracted by mutual agreement between two or more consultants in order to participate in the competition for implementing the consulting assignment. The JV members shall nominate the authorized partner (JV lead member) to conduct all procedures for and on behalf of the JV members during the competition process and during the implementation of the contract if it is awarded to the joint venture. Members of the joint venture shall be jointly and severally liable.

(l) “Services” means the work to be performed by the Consultants pursuant to this Contract and as described in Annex A (Terms of Reference and Scope of Work);

(m) “Sub-consultant” means any entity to which the Consultants subcontract any part of the Services.

(n) “Terms of Reference” (TOR) means the document included in Annex A which explains the objectives, scope of work, activities, tasks to be performed, respective responsibilities of the Consultant, and expected results and deliverables of the assignment and Costs Input.

(o) “Project Coordinator” The person responsible for follow-up and coordination of activities under the contract and to receive and substantiate advances guarantees and obtaining the endorsement of the Contracting authority on the output of the Consulting Services.

#### 1.2 Law Governing the Contract

This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by laws in force in Kurdistan Regional Government.

#### 1.3 Language

The language of the Contract is the one specified in the **SCC**.

#### 1.4 Notices

Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, or receipt–confirmed electronic mail to such Party at the address specified in the **SCC**.

#### 1.5 Authorized Representatives

Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Contracting Authority or the Consultants may be taken or executed by the officials specified in the **SCC**.

#### 1.6 Taxes and Duties

The price of the contract is inclusive of all applicable taxes and duties under applicable law at the time of the contract, unless otherwise specified in the Special Conditions of this contract.

#### 1.7 Performance Security

1.7.1 Within twenty eight (28) days of receiving the letter of award, the Consultant shall furnish the Performance Security in the form of a bank guarantee or a certified bond with the amount and currency specified in the (**SCC**) from an accredited bank in Kurdistan Region chosen by the Consultant, or by a foreign bank (non-operating in Iraq) accredited by the Central Bank of the Kurdistan Region.

1.7.2 The Contracting Authority shall seize the performance security amount in case of the Consultant's failure to complete its obligations under the contract in a manner that leads to termination of the contract by the Contracting Authority.

1.7.3 The Contracting Authority shall release the performance security 28 days after the end of the contract as specified in GCC 2.3 and after the Consultant completes all its obligations under the contract.

#### 1.8 Corruption and Fraud Practices

The Contracting Authority requires that Consultants abide by the highest professional standards of ethics during both the competition process and the implementation of the contract. To achieve this policy, the Contracting Authority shall:

1. Adopt the definitions contained in paragraphs 16 to 20 of Article 1 of the Public Procurement Regulation no. 2 of 2016
2. Be entitled to sanction (individuals or companies), including the declaration of their ineligibility to participate in public procurement in the Kurdistan Regional Government, according to the procedures for debarment from participation, in the event of their involvement, either directly or through an intermediary, in any corrupt practices during the execution of the contract.
3. Bind the Consultants to allow the Contracting Authority or its appointed auditors to consult or audit statements and records or any documents related to the proposal submission or contract execution.

**2. Commencement, Completion, Modification, and Termination of Contract**

#### 2.1 Effectiveness of Contract

This Contract shall come into effect on the date the Contract is signed by both parties or such other later date mutually agreed upon by both parties as may be stated in the **SCC**. If this Contract has not become effective within such time period after the date of Contract signature by both parties as specified in the **SCC**, either Party may, by not less than twenty eight (28) calendar days from the expiry of the specified time period, through a written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

#### 2.2 Commencement of Services

The Consultants shall begin carrying out the Services after confirming the availability of Key Experts within the period specified in the **SCC.**

#### 2.3 Contract completion date

The contract shall end upon the expiry of its duration specified in the **SCC**, unless extended pursuant to GCC 2.4 or terminated earlier pursuant to GCC 2.7.

#### 2.4 Modification

Modification of the terms and conditions of this Contract, including any modification of the scope of the Services, the Contract Price or extension of the implementation period, may only be made after the written agreement between the Parties.

#### 2.5 Force Majeure

**2.5.1 Definition**

1. For the purposes of this Contract, “Force Majeure” means an event which is beyond the reasonable control of a Party, is unavoidable, is not foreseeable, is not caused by the negligence or default of any of the parties, and makes a Party’s performance of its obligations hereunder impossible. These events include, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other adverse weather conditions, lockouts or disorders demands
2. Force Majeure shall not include:

* any event which is caused by the negligence or intentional action of a Party or such Party’s Experts, Sub-consultants or agents or employees, nor
* any event carried out by either party because of precipitance and that such party could reasonably have taken it into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.

1. Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

**2.5.2 No Breach of Contract**

The failure of a Party to fulfil any of its contractual obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract, and informed the other party as soon as possible.

**2.5.3 Measures to be Taken**

1. A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
2. A Party affected by an event of Force Majeure shall notify the other Party not later than fourteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the date expected to return to normal conditions.
3. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
4. During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Contracting Authority, shall either:

* Stop all activities under the Contract, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Contracting authority, in reactivating the Services; or
* Continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

1. In the case of disagreement between the Parties as to the extent of Force Majeure, the matter shall be settled according to GCC 7.1 & 7.2.

#### 2.6 Suspension of Payment

The Contracting Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall request the Consultant to provide justifications for such failure and remedy such failure within a period not exceeding twenty eight (28) calendar days after receipt by the Consultant of such notice of suspension.

#### 2.7 Termination of Contract

**2.7.1 by the Contracting Authority**

The Contracting Authority may terminate this Contract in case of the occurrence of any of the events specified below. In such an occurrence the Contracting Authority shall give at least twenty eight (28) calendar days’ written notice of termination to the Consultant.

(a) If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to GCC 2.6 and within twenty eight (28) days from the receipt of notification or within other time period written and agreed upon with the Contracting Authority;

(b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) subject to bankruptcy or judicial reorganization, unless the court allows them to pursue their activities;

(c) If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC 7.2;

(d) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than fifty-six (56) calendar days;

(e) If the Contracting Authority, decides to terminate this Contract for Public Interest;

(f) If the Consultant fails to confirm availability of Key Experts as required in GCC 2.2.

If the Contracting Authority determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Contracting Authority should, after giving fourteen (14) calendar days written notice to the Consultant, terminate the Consultant's employment under the Contract.

The Contracting Authority shall confiscate the Performance Security if the Contract termination was done pursuant to clause (a), (b), (c) or (f) stated above or as a result of a proven involvement of the Consultant in corrupt, fraudulent, collusive, coercive or obstructive practices.

**2.7.2 by the Consultant**

The Consultant may terminate this Contract, by not less than twenty-eight (28) calendar days’ written notice to the Contracting authority, in case of the occurrence of any of the events specified below:

(a) If the Contracting Authority fails to pay any validated money due to the Consultant pursuant to this Contract and not subject to dispute within fifty-six (56) calendar days after receiving written notice from the Consultant that such payment is overdue.

(b) If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than fifty-six (56) calendar days.

(c) If the Contracting Authority fails to comply with any final decision reached as a result of arbitration pursuant to GCC 7.2.

(d) If the Contracting Authority is in material breach of its obligations pursuant to this Contract and has not remedied the same within fifty-six (56) days (or such longer period as the Consultant may have subsequently approved in writing) following the receipt by the Contracting Authority of the Consultant’s notice specifying such breach.

**2.7.3 Cessation of Rights and Obligations**

Upon termination of this Contract pursuant to GCC 2.7.1 and GCC 2.7.2 hereof, or upon expiration of this Contract pursuant to GCC 2.3, all rights and obligations of the Parties hereunder shall cease, except:

1. such rights and obligations as may have accrued on the date of termination or expiration,
2. the obligation of confidentiality set forth in GCC 3.3,
3. the Consultant’s obligation to permit inspection, copying and auditing of their accounts and records set forth in GCC 1.8 (c), and
4. any right which a Party may have under the Applicable Law.

**2.7.4 Cessation of Services**

Upon termination of this Contract by written notice of either Party to the other pursuant to GCC 2.7.1 and 2.7.2, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Contracting authority, the Consultant shall proceed as provided by GCC 3.6.

**2.7.5 Payment upon Termination**

Upon termination of this Contract pursuant to GCC 2.7, the Contracting authority shall make the following payments to the Consultant:

(a) Payments due pursuant to GCC 6 for Services satisfactorily performed prior to the effective date of termination.

(b) in the case of termination pursuant to GCC 2.7.1 (d) and (e), reimbursement of any reasonable cost incidental to the prompt and orderly termination of this Contract, including the cost of the return travel of the Experts.

**3. Obligations of the Consultants**

#### 3.1 General

The Consultants shall perform the Services and carry out their obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Consultants shall always act, in respect of any matter relating to this Contract or to the Services, as faithful advisers to the Contracting Authority, and shall at all times support and safeguard the Contracting Authority’s legitimate interests in any dealings with Sub-consultants or third parties.

The Consultant’s Personnel shall be appropriately qualified, skilled and experienced intheir respective trades or occupations. The Contracting Authority may require the Consultant to remove (or cause to be removed) any person employed for the mission, including the Consultant’s Representative if applicable, and ask the Consultant to replace such person with another qualified person, for person who:

(a) Persists in any misconduct or lack of care,

(b) Carries out duties incompetently or negligently,

(c) Fails to conform with any provisions of the Contract, or

(d) Persists in any conduct which is prejudicial to safety, health, or the protection of the environment.

#### 3.2 Conflict of Interests

**3.2.1** Contracting Authority’s public procurement policy requires that Consultants provide professional, objective, and impartial advice and at all times hold the Contracting Authority’s interests paramount, act without any consideration for future work, strictly avoid conflicts with other assignments or their own corporate interests.

**3.2.2** 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 recruited, under any of the circumstances set forth in Article 93 of the Public Procurement Regulation no. 2 of 2016.

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

**3.2.4** No agency or current employees of the Contracting Authority shall work as Consultants under their own ministries, departments or agencies. Recruiting former government employees of the Contracting Authority (retirees or resigns) to work for their former ministries, departments or agencies is acceptable provided no conflict of interest exists. When the Consultant nominates any government employee as Personnel in their technical proposal, such Personnel must have written certification from their government or contracting authority as per applicable laws.

#### 3.3 Confidentiality

The Consultants, their Sub-consultants, and the personnel of either of them shall not, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Contracting Authority’s business or operations without the prior written consent of the Contracting Authority.

#### 3.4 Insurance to Be Taken Out by the Consultant

The Consultants shall take out and maintain, and shall ensure that any Sub-consultants take out and maintain, any insurance that is necessary for performance under the contract or to protect the Consultants and / or Contracting Authority from any liability arising out of the course of the Consultant’s performance under the Contract and as specified in the **SCC**.

#### 3.5 Reporting Obligations of the Consultant

The Consultants shall submit to the Contracting Authority the reports and documents specified in Annex C in the form, in the numbers, and within the periods set forth in the said Annex.

#### 3.6 Documents Prepared by the Consultants to Be the Property of the Contracting Authority

All plans, drawings, specifications, designs, reports, and other documents and software submitted by the Consultants in accordance with GCC 3.5 shall become and remain strictly the property of the Contracting Authority, and the Consultants shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Contracting Authority, together with a detailed inventory thereof. The Consultants may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be specified in the **SCC**.

**4. Scope of Consultant Services**

#### 4.1 Services

The Consultant shall perform the services specified in Annex A, “Terms of Reference and Scope of Services,” which is made an integral part of this Contract (“the Services”).

#### 4.2 Consultant Personnel

The Consultant shall provide the personnel listed in Annex B, “Consultant’s Key Experts,” to perform the Services.

**5. Obligations of the Contracting Authority**

#### 5.1 Assistance and Exemptions

The Contracting Authority shall use its best capabilities and efforts to ensure that the Government shall provide the Consultants such assistance and exemptions as specified in the SC.

#### 5.2 Changes in the Applicable Law

If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the services rendered by the Consultants, then the remuneration and reimbursable expenses otherwise payable to the Consultants under this Contract shall be increased or decreased accordingly by agreement between the Parties, and corresponding adjustments shall be made to the amounts referred to in GCC 6.1 [Contract Price].

#### 5.3 Services and Facilities

The Contracting Authority shall make available to the Consultants the Services and Facilities listed in Annex A, “Terms of Reference and Scope of Services”.

**6. Payments to the Consultants**

#### 6.1 Contract Price

6.1.1 The Contract price is fixed and is set forth in the **SCC.** The Contract price breakdown is provided in Annex D

6.1.2 Any change to the Contract Price specified in **SCC** 6.1 the can be made only in writing and upon the agreement of the two Parties in accordance with GCC 2.4. For the purpose of determining the remuneration due for additional services, the remuneration and expenses listed in Annex D shall be used.

#### 6.2 Terms and Conditions of Payment

**6.2.1** The total payments under this Contract shall not exceed the Contract price set forth in GCC 6.1.

**6.2.2** The payments under this Contract shall be made according to the payment schedule stated in the **SCC** against the Consultant’s submission of the deliverables (reports) specified in Annex C, which is acceptable to the Contracting Authority. The payments will be made according to the payment schedule stated in the **SCC**. The Contracting Authority shall designate the Contracting Authority’s Coordinator specified in the **SCC** to be responsible for the coordination of activities under the Contract, for receiving and approving invoices for payment, and for acceptance of the deliverables by the Contracting Authority.

**6.2.3** *The Advance Payment***:** Unless otherwise indicated in the **SCC**, an advance payment shall be made by the Contracting Authority to the consultant in an amount and in a currency specified in the **SCC** against the Consultant’s submission of a bank guarantee in an amount equal to the Advance Payment and in the form included in Annex E or any other form acceptable to the Contracting Authority. The bank guarantee shall be valid until the total amount of the Advance Payment is repaid. The advance payment will be set off by the Contracting Authority in equal portions against the lump-sum installments specified in the **SCC.** It is Conditional that the Advance Payment shall be totally repaid prior to the lump-sum Payment when the cumulative value of the payments is equal to 80% of the total Contract Price.

**6.2.4** *The Lump-Sum Installment Payments.* The Contracting Authority shall settle the installment payments within sixty (60) days after receiving the output (report) linked to each payment along with the payment request. In case the output (report) is rejected by the Contracting Authority, it shall, within the same period, provide the Consultant with the observations and required amendments to the report. Payment shall therefore be suspended until the Consultant submits the amended report and it is approved as satisfactory by the Contracting Authority.

#### 6.3 Delayed Payments

If the Consultant does not receive payment in accordance with GCC 6.2, the Consultant shall be entitled to receive financing charges compounded monthly on the amount unpaid during the period of delay. This period shall be deemed to commence on the date for payment specified in 6.2. The financing charges are calculated based on the interest rate stated in the **SCC**. The Consultant shall be entitled to this payment without any formal notice or certification, and without any prejudice to any other right or remedy.

#### 6.4 Liquidated Damages

If the Consultant fails to comply with GCC 2.3, the Contracting Authority shall deduct from the amounts due to the Consultant, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the Contract Price for each day of delay. In case the maximum deduction specified in the **SCC is reached,** the Contracting Authority shall have the right to terminate the Contract pursuant to GCC 2.7.1.

Such liquidated damages are for the delays caused by the Consultant except in the case of termination pursuant to GCC 2.7.1 and prior to the contract expiration date specified in GCC 2.3. This delay shall not exempt the Consultant from its obligation to complete services, or any other obligation, duty, or responsibility pursuant to the contract.

**7. Settlement of Dispute**

#### 7.1 Amicable Settlement

The Contracting Authority and the Consultant shall attempt to settle any dispute related to the Contract through direct and amicable negotiations.

#### 7.2 Arbitration

Should the Parties fail to settle the dispute twenty-eight (28) days after the beginning of the negotiations mentioned in GCC 7.1, any Party may notify the other Party of its intention to resort to arbitration in regard to the dispute. Arbitration proceedings shall only be commenced after such notification is received by the other party, and shall be followed in accordance with the **SCC** rules as follows:

1. For contracts with foreign Consultants, arbitration shall be conducted in accordance with the international rules of arbitration of the appointed international institution, as stated in **SCC**, such as ICC or UNCITRAL or Arab Chamber of Arbitration for consultants;
2. Unless otherwise stated, the place of Arbitration shall be in Kurdistan Regional Government.
3. Arbitration Decision is subjected to Kurdistan Region of Iraq laws in force.
4. The Arbitration shall be conducted in the communication language defined in GCC 1.3, and
5. For contracts with domestic contractors, arbitration with proceedings conducted in accordance with the laws in force in Kurdistan Regional of Iraq shall be adopted.

The arbitrators shall have full power to open up, review and revise any instructions, certificate, determination, , opinion or valuation of the Contracting Authority. Nothing shall disqualify representatives of the Parties from being called as a witness and giving evidence before the arbitrators on any matter whatsoever relevant to the dispute.

Arbitration may be commenced prior to or after completion of the Consultant Services. The obligations of the Parties shall not be altered by reason of any arbitration being conducted during the progress of the Consultant Services.

## Section III. Special Conditions of Contract

|  |  |
| --- | --- |
| **Number of GC Clause** | **Amendments of, and Supplements to, Clauses in the General Conditions of Contract** |
| **1.3** | The language is *[insert language(s)]:*  In the event of more than one language and in the case of misunderstanding due to interpretation barriers, the controlling language shall be: : *[insert language]* |
| **1.4** | The addresses are:  Contracting Authority:  Attention:  E-Mail:  Facsimile:  Consultants:  Attention:  E-mail:  Facsimile: |
| **1.5** | The Authorized Representatives are:  For the Contracting Authority:  For the Consultants: |
| **1.6** | The contract price is *[“inclusive” or “not inclusive”]* of Taxes |
| **1.7.1** | The value of the Performance Security is *[insert percentage]* % of the Contract Price.  The currency of the Performance Security is *[insert currency]* |
| **2.1** | The date on which this Contract shall come into effect is ***:*** *[insert “the Contract signature date” or “within [insert number of days] days from Contract signature date”]* |
| **2.2** | The date for the commencement of Services is *: [insert date]* |
| **2.3** | The Contract Completion Date is *[Insert Period] from the Date of Effectiveness of the Contract* |
|  |  |
|  |  |
| **3.4** | The risks coverage shall cover all risks due on the following items and with the minimum coverage set forth below for each item [non applicable items shall be deleted except for item (a)]   1. Professional liability insurance, with a minimum coverage of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert amount and currency which should be not less than the Contract Price]*; 2. Third Party motor vehicle *[insert amount and currency in accordance with the applicable law in Kurdistan Regional Government]* 3. Third Party liability *[insert amount and currency in accordance with the applicable law in Kurdistan Regional Government]* 4. Loss or damage to equipment and property *[insert amount and currency in accordance with the applicable law in Kurdistan Regional Government]* 5. Consultant’s Experts *[insert amount and currency in accordance with the applicable law in Kurdistan Regional Government]* |
| **3.6** | *[If applicable, insert any exceptions to proprietary rights provision for documents presented by the Consultant]* |
| **5.1** | *[if applicable, list here any assistance and exemptions to be provided by the Contracting authority.* |
| **6.1.1** | The Contract Price and Currency(ies) is: |
| **6.2.2** | Payments shall be made according to the following schedule:  *[insert payments and specify the reports or outputs set forth in Annex C and linked to each payment]*  First payment: *[insert amount and currency or percentage from contract price] upon submission of [insert report] acceptable to the Contracting Authority*  Second payment: *[insert amount and currency or percentage from contract price]* upon submission of [insert report] acceptable to the Contracting Authority  Final payment: *[insert amount and currency or percentage from contract amount]* upon submission of final report acceptable to the Contracting Authority.  [*The total amount of the payments shall be equivalent to the contract price. If the first payment is the advance payment, it shall be recovered in accordance with 6.2.3 below]*  The Project Coordinator is: *[insert name]* |
| **6.2.3** | The Advance Payment shall be in the amounts and currencies : *[insert amount and currency(ies)]*  The advance payment will be set off by the Contracting Authority in equal portions to be deducted from invoices presented by the consultant against the following payments [list the payments against which the advance is offset]. |
| **6.3** | The financing charges percentage is: *[insert percentage]*  : |
| **6.4** | The liquidated damage per day shall be: [*insert number]*% per day  The maximum amount of daily liquidated damages shall not exceed *[insert %]* of the Contract Price. |
| **7.2** | Any dispute, controversy, or claim arising out of or relating to this contract, or the breach, termination, or invalidity thereof, shall be settled by arbitration in accordance with the *[insert Arbitration Rules]* currently in effect  The Arbitration Institution for Contracts signed with foreign Consultants is: |

## Section IV. Annexes

Annex A: Terms of Reference and Scope of Services

Annex B: Consultant’s Key Experts

Annex C: Consultant’s Reporting Obligations

Annex D: Breakdown of Contract Price - remuneration and reimbursable costs.

# Sample Contract for Consulting Services – Small Assignment- Time-Based Payments

THIS CONTRACT (“Contract”) is entered into this *[insert contract signature date]*, by and between *[insert Contracting Authority’s name]* (“the Contracting Authority”) having its principal place of business at *[insert Contracting Authority’s address]*, and *[insert Consultant’s name]* (“the Consultant”) having its principal office located at *[insert Consultant’s address].*

WHEREAS, the Contracting Authority wishes to have the Consultant performing the services hereinafter referred to, and

WHEREAS, the Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

|  |  |
| --- | --- |
| **1. Services** | (i) The Consultant shall perform the services specified in Annex A, “Terms of Reference and Scope of Services,” which is made an integral part of this Contract (“the Services”).  (ii) The Consultant shall provide the reports listed in Annex B, “Consultant's Reporting Obligations,” within the time periods listed in such Annex, and the personnel listed in Annex C, “Cost Estimate of Services, List of Personnel and Schedule of Rates” to perform the Services. |
| **2. Term** | The Consultant shall perform the Services during the period commencing *[insert start date]* and continuing through *[insert completion date]* or any other period as may be subsequently agreed by the parties in writing. |
| **3. Payment** | A. Ceiling  For Services rendered pursuant to Annex A, the Contracting Authority shall pay the Consultant an amount not to exceed a ceiling of *[insert ceiling amount and currency].* This amount has been established based on the understanding that it includes all of the Consultant’s costs and profits as well as any tax obligation that may be imposed on the Consultant. The payments made under the Contract consist of the Consultant's remuneration as defined in sub-paragraph B below and of the reimbursable expenditures as defined in sub-paragraph C below.  B. Experts Remuneration  The Contracting Authority shall pay the Consultant for Services rendered at the rate(s) per expert/month spent[[4]](#footnote-4)1(**or** per day spent **or** per hour spent, subject to a maximum of eight hours per day) in accordance with the rates agreed and specified in Annex C, “Cost Estimate of Services, List of Personnel and Schedule of Rates.”  C. Reimbursables  The Contracting Authority shall pay the Consultant for reimbursable expenses, which shall consist of and be limited to:  (i) normal and customary expenditures for official travel, accommodation, printing, and telephone charges; official travel will be reimbursed at the cost of less than first class travel and will need to be authorized by the Project Coordinator;  (ii) such other expenses as approved in advance by the Project Coordinator.  D. Payment Conditions  Payment shall be made not later than 60 days following submission of invoices in duplicate to the Project Coordinator designated in paragraph 4 and which are approved by the Contracting Authority. |
| **4. Project Administration** | A. Project Coordinator  The Contracting Authority designates Mr./Ms. *[insert name]* as Contracting Authority’s Project Coordinator; the Project Coordinator shall be responsible for the coordination of activities under the Contract, for receiving and approving invoices for payment, and for acceptance of the deliverables submitted by the Consultant.  B. Timesheets  During the course of their work under this Contract, including field work, the Consultant’s employees providing services under this Contract are required to complete timesheets or any other document used to identify time spent, as well as expenses incurred, as instructed by the Project Coordinator.  C. Records and Accounts  The Consultant shall keep accurate and systematic records and accounts in respect of the Services, which will clearly identify all charges and expenses. The Contracting Authority reserves the right to audit, or to nominate a reputable accounting firm to audit, the Consultant’s records relating to amounts claimed under this Contract during its term and any extension, and for a period of three months thereafter. |
| **5. Performance Standard** | The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Contracting Authority considers unsatisfactory. |
| **6.Confidentiality** | The Consultants shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Contracting Authority’s business or operations without the prior written consent of the Contracting Authority. |
| **7. Ownership of Material** | Any studies, reports or other material, graphic, software or otherwise, prepared by the Consultant for the Contracting Authority under the Contract shall belong to and remain the property of the Contracting Authority. The Consultant may retain a copy of such documents and software. |
| **8. Consultant Not to be Engaged in Certain Activities** | The Consultant agrees that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than the services or any continuation to these services) resulting from or closely related to the Services. |
| **9. Insurance** | The Consultant will be responsible for taking out any appropriate insurance coverage. |
| **10. Assignment** | The Consultant shall not assign this Contract or Subcontract any portion of it without the Contracting Authority’s prior written consent. |
| **11. Law Governing Contract and Language** | The Contract shall be governed by the laws in force in Kurdistan Region of Iraq and the language of the Contract shall be*[insert language].* |
| **12. Dispute Resolution** | Any dispute arising out of this Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws in force in Kurdistan Region of Iraq. |
| **13. Termination** | 13.1 The Contracting Authority may terminate this Contract with at least twenty-eight (28) working days prior written notice to the Consultant after the occurrence of any of the events specified in paragraphs (a) through (e) of this Clause: |
|  | (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract within twenty-eight (28) working days after being notified of the contract suspension issued by the Contracting Authority, or within any further period as the Contracting Authority may have subsequently approved in writing;  (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) subject to bankruptcy or judicial reorganization, unless the court allows the Consultant to pursue ita activities.  (c) If the Consultant fails to comply with a final decision reached in accordance with the arbitration measures specified in paragraph 12 of the contract conditions.  (d) If the Consultant fails due to Force Majeure to perform an essential part of their services for a period exceeding 56 calendar days.  (e) If the Contracting Authority decides to terminate this Contract for Public interest.  13.2 Furthermore, if the Contracting Authority deems that the Consultant has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for, or in performing the Contract, the Contracting Authority should terminate the contract after fourteen (14) calendar days of giving the Consultant a written notification,  13.3. After the contract is terminated by the Contracting Authority and as soon as the Consultant is notified of this in writing, the consultant must take the necessary measures to cease services immediately, subject to the control of expenses.  13.4. After the contract is terminated, the Contracting Authority must settle the due amounts to the Consultant according to the measures specified in paragraph 3 of the contract conditions in exchange for the services the Consultant performed in a satisfactory manner until the termination date, and the actual amounts paid for the reimbursables expenses that took place before the termination entered into effect. |

For the Consultant For the Contracting Authority

Signed by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signed by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**List of Annexes**

Annex A: Terms of Reference and Scope of Services

Annex B: Consultant’s Reporting Obligations

Annex C: Cost Estimate of Services, List of Personnel and Schedule of Rates

**Annex C**

Cost Estimate of Services, List of Personnel and Schedule of Rates

(1) Remuneration of Staff

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | Name | Rate  (per month/day/ hour in currency) | Time spent  (number of month/day/hour) | Total  (currency) |
| (a) Team Leader |  |  |  |  |
| (b) |  |  |  |  |
| (c) |  |  |  |  |
|  |  |  |  | Sub-Total (1) |

(2) Reimbursables

|  |  |  |  |
| --- | --- | --- | --- |
|  | Rate | Days | Total |
| (a) International Travel |  |  |  |
| (b) Local Transportation |  |  |  |
| (c) Per Diem |  |  |  |
|  |  |  | Sub-total (2) |

TOTAL COST \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# Sample Contract for Consulting Services – Small Assignment Lump-Sum Payments

THIS CONTRACT (“Contract”) is entered into this *[insert contract signature date]*, by and between *[insert Contracting Authority name]* (“the Contracting Authority”) having its principal place of business at *[insert Contract authority’s address]*, and *[insert Consultant’s name]* (“the Consultant”) having its principal office located at *[insert Consultant’s address[[5]](#footnote-5)].*

WHEREAS, the Contracting Authority wishes to have the Consultant perform the services hereinafter referred to, and

WHEREAS, the Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

|  |  |
| --- | --- |
| **1. Services** | (i) The Consultant shall perform the services specified in Annex A, “Terms of Reference and Scope of Services,” which is made an integral part of this Contract (“the Services”).  (ii) The Consultant shall provide the personnel listed in Annex B, “Consultant’s Personnel,” to perform the Services.   1. The Consultant shall submit to the Contracting Authority the reports in the form and within the time periods specified in Annex C, “Consultant’s Reporting Obligations.” |
| **2. Term** | The Consultant shall perform the Services during the period commencing *[insert starting date]* and shall end the services on *[insert completion date]*, or any other period as may be subsequently agreed by the parties in writing. |
| **3. Payment** | A. Ceiling  For Services rendered pursuant to Annex A, the Contracting Authority shall pay the Consultant an amount not to exceed *[insert amount]*. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits as well as any tax obligation that may be imposed on the Consultant.  B. Schedule of Payments  The schedule of payments is specified below:  ***[insert amount and currency ]*** when the Contracting Authority receives a copy of this contract signed by the Consultant;  ***[insert amount and currency]*** when the Contracting Authority receives a draft report acceptable by the Contracting Authority;  ***[insert amount and currency]*** when the Contracting Authority receives a final report acceptable by the Contracting Authority;  ***[insert amount and currency]***Total  C. Payment Conditions  Payment shall be made no later than 60 days following submission by the Consultant of invoices in duplicate to the Project Coordinator designated in paragraph 4 and which are approved by the Contracting Authority. |
| **4. Project Administration** | A. Project Coordinator.  The Contracting Authority designates Mr./Ms. *[insert name]* as Contracting Authority’s Project Coordinator; the Project Coordinator will be responsible for the coordination of activities under this Contract, for acceptance and approval of the reports and of other deliverables submitted by the Consultant and for receiving and approving invoices for the payment.  B. Reports.  The reports listed in Annex C, “Consultant's Reporting Obligations,” shall be submitted in the course of the assignment, and will constitute the basis for the payments to be made under paragraph 3. |
| **5. Performance Standards** | The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity. The Consultant shall promptly replace any employees assigned under this Contract that the Contracting Authority considers unsatisfactory. |
| **6. Confidentiality** | The Consultants shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary or confidential information relating to the Services, this Contract or the Contracting Authority’s business or operations without the prior written consent of the Contracting Authority. |
| **7. Ownership of Material** | Any studies, reports or other material, graphic, software or otherwise, prepared by the Consultant for the Contracting Authority under the Contract shall belong to and remain the property of the Contracting Authority. The Consultant may retain a copy of such documents and software. |
| **8. Consultant Not to be Engaged in Certain Activities** | The Consultant agrees that, during the term of this Contract and after its termination, the Consultants and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than the services or any continuation to these services) resulting from or closely related to the Services. |
| **9. Insurance** | The Consultant will be responsible for taking out any appropriate insurance coverage. |
| **10. Assignment** | The Consultant shall not assign this Contract or sub-contract any portion of it without the Contracting Authority’s prior written consent. |
| **11. Law Governing Contract and Language** | The Contract shall be governed by the laws in force in Kurdistan Region and the language of the Contract shall be*[insert language].* |
| **12. Dispute Resolution** | Any dispute arising out of the Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws in force in Kurdistan Region. |
| **13. Termination** | The Contracting Authority may terminate this Contract with at twenty-eight (28) working days prior written notice to the Consultant after the occurrence of any of the events specified in paragraphs (a) through (e) of this Clause:  (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract within twenty-eight (28) working days after being notified of the contract suspension issued by the Contracting Authority, or within any further period as the Contracting Authority may have subsequently approved in writing;  (b) If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) subject to bankruptcy or judicial reorganization, unless the court allows the Consultant to pursue its activities.  (c) If the Consultant fails to comply with a final decision reached in accordance with the arbitration measures specified in paragraph 12 of the contract conditions.  (d) If the Consultant fails due to Force Majeure to perform an essential part of their services for a period exceeding 56 calendar days.  (e) If the Contracting Authority decides to terminate this Contract for Public interest.  13.2 Furthermore, if the Contracting Authority deems that the Consultant has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for or in performing the Contract, the Contracting Authority should terminate the contract after fourteen (14) calendar days of giving the Consultant a written notification,  13.3. After the contract is terminated by the Contracting Authority and as soon as the Consultant is notified of this in writing, the consultant must take the necessary measures to cease services immediately, subject to the control of expenses.  13.4. After the contract is terminated, the Contracting Authority must settle the due amounts to the Consultant according to the measures specified in paragraph 3 of the contract conditions in exchange for the services the Consultant performed in a satisfactory manner before the termination entered into effect. |

For the Consultant For the Contracting Authority

Signed by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signed by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

**List of Annexes**

Annex A: Terms of Reference and Scope of Services

Annex B: Consultant’s Personnel and corresponding unit rates

Annex C: Consultant’s Reporting Obligations

# Section 7. Standard Contract Forms

This Section contains form of contract award and forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Consultant after contract award.

**Table of Forms**

[Letter of Acceptance 96](#_Toc447797937)

[Performance Security (Bank Guarantee) 97](#_Toc447797938)

[Advance Payment Security 99](#_Toc447797939)

## Letter of Acceptance

*[Letterhead paper of the Contracting Authority]*

[The Letter of Acceptance shall be the basis for formation of the Contract as described in ITC 28 This Standard Form of Letter of Acceptance shall be filled in and sent to the successful Consultant only after evaluation of bids has been completed]

*[Insert date]*

Identification No and Title of Contract: *[insert identification number and title of the Contract]*

To: *[insert name and address of the Consultant]*

This is to notify you that your proposal dated *[insert date]* for execution of the *[insert name of the Contract and identification number]* for the Contract Price of *[insert amount in numbers and words] in [insert currency]*, within the specified completion duration of *[-----------days/months/years]*, as corrected and modified[[6]](#footnote-6) in accordance with the Instructions to Consultants is hereby accepted by our Agency.

This Letter of Acceptance is considered a binding contract between the two parties after your due notification hereof. Accordingly, you are hereby instructed to (a) proceed with the execution of the said Services in accordance with the Contract Documents, (b) sign and return the attached Contract Documents, and (c) forward the performance security pursuant to ITC 29 within *[insert no. of days]* days after receipt of this Letter of Acceptance, and pursuant to GCC 1.7

Authorized Signature:

Name and Title of Signatory:

Name of Contracting Authority:

Attachment: Agreement

## Performance Security (Bank Guarantee)

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[insert name and Address of Contracting Authority]*

**Date:** \_ *[Insert date of issue]*

**PERFORMANCE GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that \_ *[insert name of Consultant, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant ") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the execution of \_ *[insert name of contract and brief description of consulting services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* (\_\_\_\_\_\_) *[insert amount in words]*,[[7]](#footnote-7)1 such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the …. Day of ……, 2… [[8]](#footnote-8)2, and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***

## Advance Payment Security

*{Guarantor letterhead or SWIFT identifier code}*

**Bank Guarantee for Advance Payment**

**Guarantor:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert commercial Bank’s Name, and Address of Issuing Branch or Office]*

**Beneficiary:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[insert Name and Address of Contracting Authority]*

**Date:** \_\_\_\_\_\_\_\_\_\_\_\_*[insert date]*\_\_\_\_

**ADVANCE PAYMENT GUARANTEE No.:** \_\_\_\_\_\_\_\_\_\_\_*[insert number]*\_\_\_\_\_\_

We have been informed that \_\_\_\_\_\_\_\_\_\_\_\_ *[name of Consultant or a name of the Joint Venture, same as appears on the signed Contract]* (hereinafter called "the Consultant") has entered into Contract No. \_\_\_\_\_\_\_\_\_\_\_\_\_ *[reference number of the contract]* dated \_\_\_*[insert date]*\_\_\_\_\_\_\_\_\_ with the Beneficiary, for the provision of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[brief description of Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of \_\_\_\_\_\_\_\_\_\_\_ *[insert amount in figures]* ( ) *[amount in words]* is to be made against an advance payment guarantee.

At the request of the Consultant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_\_\_\_\_\_\_ *[amount in figures]* ( ) *[amount in words]*[[9]](#footnote-9)1 upon receipt by us of the Beneficiary’s complying demand supported by the Beneficiary’s ~~a~~ written statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Consultant is in breach of their obligation under the Contract because the Consultant:

(a) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Consultant has failed to repay;

(b) has used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Consultant on their account number \_\_\_\_\_\_\_\_\_\_\_ at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[name and address of bank]*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in certified statements or invoices marked as “paid” by the Client which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the payment certificate or paid invoice indicating that the Consultant has made full repayment of the amount of the advance payment, or on the \_\_ day of \_*[month]*\_\_\_\_\_\_\_\_\_\_, *[year]*\_\_,[[10]](#footnote-10)2 whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 revision, ICC Publication No. 758.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[signature(s)]*

*{Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.}*

# Sample Format – Request for Expression of Interest

(CONSULTING SERVICES – FIRMS SELECTION)

**[*NAME OF CONTRACTING AUTHORITY*]**

**[*NAME OF PROJECT*]**

Project Reference no.:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Assignment Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

The [*insert name of Contracting Authority*] invites eligible consulting firms (“Consultants”) to indicate their interest in providing consultancy services. (“the Services”) for [*insert brief description, implementation period, etc.*][[11]](#endnote-1) Interested Consultants should provide information demonstrating that they have the required qualifications and relevant experience to perform the Services. The shortlisting criteria are: [*insert criteria related to required qualifications and experience of the firm, but not individual experts’ bio data*].

The selection of consultants will be conducted in accordance with Kurdistan Regional Government - Public Procurement Regulation no 2 of 2016 (“Regulations”), and is open to all eligible consultants as defined in the Regulations. Consultants may associate with other firms in the form of a joint venture or a subconsultancy to enhance their qualifications.

A Consultant will be selected in accordance with the *[insert selection method]* method set out in the Regulations.

Further information can be obtained at the address below during office hours [*insert office hours if applicable, i.e. 0900 to 1700 hours*].

Expressions of interest must be delivered in a written form to the address below (in person, or by mail, or by fax, or by e-mail) by [*insert date*].

[*insert name of office*]

Attn: [*insert name of officer & title*]

[*insert address*]

[*insert city and country*]

Tel: [*include the country and city code*]

E-mail: *[include e-mail address]*

1. [*Delete in case no association is foreseen.*] [↑](#footnote-ref-1)
2. Amounts must coincide with the ones indicated under Total Cost of Financial proposal in Form FIN-2 [↑](#footnote-ref-2)
3. 1 Select the applicable rate and delete the others. [↑](#footnote-ref-3)
4. 1 Select the applicable rate and delete the others. [↑](#footnote-ref-4)
5. Avoid use of *“P.O. Box” address* [↑](#footnote-ref-5)
6. *Delete “corrected and” or “and modified” if not applicable.* [↑](#footnote-ref-6)
7. *1 The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.* [↑](#footnote-ref-7)
8. *2 Insert the date twenty-eight days after the expected completion date as described in GCC 53.1. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.”* [↑](#footnote-ref-8)
9. 1 The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Client. [↑](#footnote-ref-9)
10. 2 Insert the expected expiration date. In the event of an extension of the time for completion of the Contract, the Client would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Client might consider adding the following text to the form, at the end of the penultimate paragraph: “The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Client’s written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee.” [↑](#footnote-ref-10)
11. *[Provide enough information allowing Consultants to decide whether or not to prepare an expression of interest or insert a link to the website where the terms of reference can be found. Requested information should be the minimum required to judge a Consultant’s suitability and not so complex as to discourage Consultants from expressing interest.]* [↑](#endnote-ref-1)