



Energy Fiji Limited

TENDER DOCUMENT AND SPECIFICATION

TENDER NUMBER: MR16/2019

**TENDER NAME: Specialist Consultancy Services for ongoing 132kV
Transmission Lines Maintenance and Refurbishment Works**

TENDER CLOSING DATE: Thursday 31ST January, 2019
TENDER CLOSING TIME: 4:00pm (16:00hrs) Fiji Time (UTC +12:00hrs)

1 Instructions to Bidders

1.	Scope of Bid	The Energy Fiji Limited (hereinafter referred to as "the Client"), wishes to receive bids for <i>Specialist Consultancy Services for ongoing 132kV Transmission Lines Maintenance and Refurbishment Works</i> , as specified in these bidding documents.
2.	Eligible Bidders	<p>This Invitation to Bid is open to bidders who have sound technical and financial background and have relevant past experience. Consulting firms with relevant proven experience in transmission line engineering, maintenance and refurbishment are encouraged to bid.</p> <p>Bidders with relevant technical expertise and demonstrated experience in the Power Transmission Industry with a firm understanding of technical compliance requirements of relevant AS/NZS, IEC, IEEE, and ANSI standards as and where applicable to Transmission Lines at the 132kV or higher system voltage level shall be preferred.</p> <p>Bidders shall provide such evidence of their eligibility satisfactory to the Client as the Client may reasonably request.</p> <p>Bidders shall not be under a declaration of ineligibility for corrupt or fraudulent practices.</p>
3.	Qualification of the Bidder	<p>To be qualified for award of Contract, bidders shall submit proposals in sufficient detail to confirm the bidder's in-house capability and competence to execute the works and fulfil the contract.</p> <p>Bidders shall submit a detailed project plan, outlining the key activities and the critical path for the completion of the project.</p> <p>Bidders shall submit Curriculum Vitae or Résumés of all key personnel to be engaged in the execution of the scope of works</p>
4.	Cost of Bidding	The bidder shall bear all costs associated with the preparation and submission of its bid and the Client will in no case be responsible or liable for those costs.
5.	Submission of Bids	<p>Bidders are required to submit only Electronic copies of the Bid in the electronic tender box.</p> <p><u>Tender Submission - Instruction to bidders: Electronic Submission of Bids</u></p> <p>It is mandatory for Bidders to upload an electronic submission their bid in the TENDER LINK Electronic Tender Box no later than the Deadline for the Submission of Bids</p> <p>To register your interest and tender a response, view 'Current Tenders' at: https://www.tenderlink.com/efl</p> <p>For further information contact The Secretary Tender Committee, by e-mail TDelairewa@efl.com.fj</p> <p>Tenders received after the closing date shall not be considered.</p>

		Lowest bid will not necessarily be accepted as successful bid.
6.	Deadline for Submission of Bids	<p>Bids must be received by the Client before 4:00pm Fiji Time (UTC +12), on Thursday 31st of January, 2019.</p> <p>The Client may, at its sole discretion, extend the deadline for submission of bids by issuing an addendum, in which case all rights and obligations of the Client and the bidders previously subject to the original deadline will thereafter be subject to the deadlines extended.</p>
7.	Late Bids	Any bid received by the Client after the deadline shall not be accepted.
8.	Modification and Withdrawal of Bids	The bidder may modify or withdraw its bid after bid submission, provided that written notice of the modification or withdrawal is received by the Client prior to the deadline for submission of bids. A withdrawal notice may also be sent by fax but must be followed by a signed confirmation copy. No bid may be modified by the bidder after the deadline for submission of bids.
9.	Client's Right to Accept any Bid and to Reject any or all Bids	The Client reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids, at any time prior to award of Contract, without thereby incurring any liability to the affected bidder or bidders or any obligation to inform the affected bidder or bidders of the grounds for the Client's action.
10.	Notification of Award	<p>Prior to expiration of the period of bid validity prescribed by the Client, the Client will notify the successful bidder by fax/email, confirmed by registered letter, that its bid has been accepted. This letter (hereinafter and in the Conditions of Contract called the "Letter of Award") shall name the sum which the Client will pay the Bidder in consideration of the execution, completion and maintenance of the Works by the Bidder as prescribed by the Contract (hereinafter and in the Conditions of Contract called "the Contract Price"). The notification of award will constitute the formation of the Contract.</p> <p>The Client will promptly notify the other bidders that their bids have been unsuccessful.</p>
11.	Corrupt or Fraudulent Practices	<p>The Client requires that the Bidder observe the highest standard of ethics during the procurement and execution of such contracts. In Pursuance of this policy, the Client:</p> <p>(a) defines, for the purposes of this provision, the terms set forth below as follows:</p> <p>(i) "corrupt practice" means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves and/or those close to them, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving or soliciting of anything of value to influence the action of any such official in the procurement process or in contract</p>

		<p>execution; and</p> <p>(ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Client, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Client of the benefits of free and open competition;</p> <p>(b) will reject a proposal for tender award if it is determined that the bidder has engaged in corrupt or fraudulent practices in competing for the contract in question.</p>
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2 Scope of Services

2.1 Purpose

The Energy Fiji Limited (EFL) is a limited liability company, which is solely responsible for generating, transmitting, distributing and retailing electricity in the Republic of Fiji Islands.

The EFL has undertaken major refurbishment works on its aged Transmission Lines which include the following:

- Rust Treatment and refurbishment of 132kV Transmission Lines' Lattice Steel Towers which includes:
 - re-torquing of all existing bolts, and replacement of degraded bolts as and where required
 - Steel member replacement (both major and minor structural members)
 - Wet abrasive blasting
 - Application of protective coatings
 - Replacement of tower signage
 - Replacement of anti-climb devices
 - Remediation works on rusted foundations
 - Review and remediation works for tower earthing
 - Review and remediation works for lightning protection
- Replacement of insulators and line hardware on 132kV and 33kV Transmission Lines
- Replacement of earth wire with OPGW on 33kV Transmission Lines
- Replacement of wooden poles and cross-arms on 33kV Transmission Lines
- Identification and mitigation of landslide risks on 132kV and 33kV Transmission Lines
- Upgrade of access roads to 132kV Transmission Towers and 33kV Poles
- Helicopter patrolling of 132kV Transmission Lines to carry out
 - Corona Scanning
 - Thermal Imaging
 - Visual Recording
- Any other remedial works and repairs or maintenance required to ensure security and reliability of power supply

2.2 Scope of Services

The EFL intends to appoint a suitable and experienced consultant to deliver the following specialist services for a duration of 3 years. The scope of work includes but is not limited to the services listed below. The appointed Consultant will be required to provide the necessary resources, such as test equipment, expertise, and manpower from within their organisation to be able to fulfil the following functions:

2.2.1 Engineer to Contract, Project Management and Quality Assurance for Ongoing Rust treatment and refurbishment works

The EFL has recently awarded two tenders, namely, *MR13/2018 - Refurbishment of 132kV Transmission Line Towers* and *MR232/2017 - Rust Treatment & Refurbishment of Communication Towers*.

it is anticipated that the refurbishment works within the scope of *MR13/2018* and *MR232/2017* shall commence in the early 2019 and complete by late 2020. The EFL requires a suitable consultant to perform the following services:

- Provide a suitably competent and qualified engineer to fulfil the role of **Engineer to Contract**
 - Approval of Project Plan and Procedures
 - Approval of Contract Programme
 - Verification and approval of necessary procedures proposed by the successful contractor
 - Peer Review / Verification and approval of major steel member replacement procedures and calculations proposed contractor's engineer
 - Conducting monthly meetings with contractor and client
 - Preparation and Submission of Weekly and Monthly and reports documenting Project Progress
 - Verification of Contractor's progressive claims and preparing and submitting payment certificates to EFL
 - Any / All other project management and professional duties assigned by the EFL to the consultant engineer to contract.
- Provide suitably competent coating inspectors (minimum NACE Level I qualified) to carry out necessary hold point and witness point inspections to ensure compliance of project works with specifications so that the quality and durability of the refurbishment works is ensured. The coating inspectors would be required to perform inspections on a daily and an ongoing basis, to ensure quality control in the following areas (on all of the towers):
 - Confirmation / Identification of replacement criteria bolts to be replaced
 - Confirmation / Identification of replacement criteria steel members to be replaced
 - Verification of purity of water being used for high pressure water blasting
 - Verification of Surface preparation to specifications including:
 - Primary Preparation through High Pressure Water Blasting and Cleaning of Tower Steel to specification (full blasting)
 - Secondary Preparation through High Pressure Wet Abrasive Blasting and Sweep blasting of Tower Steel to specification
 - Wash-down prior to application of painted protective coatings
 - Verification of selective priming of Secondary Preparation areas
 - Verification of undercoat painting of entire tower
 - Verification of finish coat painting of entire tower,
 - Final inspections to ensure satisfactory practical completion of works on each tower

- Verification of all Non-conformances
 - Verification of Contractor's care of insulators and non-contamination by the applied protective coatings
 - Verification of Contractors, care of insulators, line hardware and fittings and non-damage by over-blast
 - Inspections upon project completion to establish defect liability remedial works within the defect notification period
 - Inspections upon completion of defect liability remedial works
 - Any / All other professional duties to be performed as required by the specifications of the rust treatment and refurbishment contract or any relevant duties assigned by the EFL.
- Other duties to be carried out by the coating inspector or a suitably competent technician includes:
 - Verification of the contractor's site activities and ensuring compliance to specifications and approved procedures
 - Verification of the contractor's records of environmental conditions, such as Relative Humidity, Dew Point, Wind, Rain, Temperature, Surface Temperature of Steel, etc to ensure compliance to the specifications
 - Verification of the contractor's paint storage, handling and thinning processes.
 - Verification of the contractor's testing for Soluble Salts on steel surfaces immediately prior to the application of any coatings
 - Verification of the contractor's records of water (conductivity) test results
 - Any / All other professional duties to be performed as required by the specifications of the rust treatment and refurbishment contract or any relevant duties assigned by the EFL.

2.2.2 Condition Assessment of 132kV Transmission Lines and Structures

The EFL requires the Consultant to carry out **Detailed Condition Assessment** of all 132kV Transmission Lines and associated Transmission Tower Structures, namely:

1. **132kV Wailoa - Cunningham Transmission Line** which links the Wailoa Switchyard and the Cunningham Road Switchyard and covers a distance of approximately 61.82 km, which is traversed through 164 Transmission Towers of the Lattice Steel Tower type.
2. **132kV Wailoa - Nadarivatu -Transmission Line** which links the Wailoa Switchyard and the Vuda Switchyard and covers a distance of approximately 78.24 km, which is traversed through 199 Transmission Towers of the Lattice Steel Tower type.
3. **132kV Wailoa Power Station - Wailoa Switchyard Tie Line 1** which links the Wailoa Power Station Switchyard and the Wailoa Switchyard and covers a distance of approximately 0.510 km, which is traversed through 2 Transmission Towers of the Lattice Steel Tower type.
4. **132kV Wailoa Power Station – Wailoa Switchyard Tie Line 2** which links the Wailoa Power Station Switchyard and the Wailoa Switchyard and covers a distance of approximately 0.504 km, which is traversed through 2 Transmission Towers of the Lattice Steel Tower type.
5. **132kV Nadarivatu Power Station – Nadarivatu Switchyard Double Circuit Tie Line** which links the Nadarivatu Power Station and the Nadarivatu Switchyard and covers a distance of approximately 4.87 km which is traversed through 16 Transmission Towers of the Lattice Steel Tower type.

The consultant is required to engage competent personnel to carry out necessary inspections, tests and condition assessment and establish any/all workscope which is required to be executed to remedy any/all defects identified.

The condition assessment shall include but not be limited to:

1. Assessment of any towers site remediation works required, which may be practically envisaged through visual inspections. The consultant shall report on any works required to ensure site stability from emerging threats due to foundation movement, soil erosion, drainage deficiencies, etc.
2. Visual assessment of landslide risks associated with all towers being inspected
3. Corrosion assessment of all grillage foundations to an excavated depth of upto 900mm below the ground level, as and where required.
4. Condition assessment of tower earthing and measurement of electrical resistance from the tower steel to earth using a suitable method such as the remote earth method.
5. Condition assessment of connection of the OPGW to the Transmission Tower and any defects present on the OPGW Line hardware and relevant attachment points on the tower's earth peak. Measurement and reporting of the bonding resistance of the OPGW to the tower's earth peak is required.
6. Condition assessment Earthing Resistance of the Tower Steel to ground. Measurement and reporting of the earthing resistance of the tower steel to earth is required using suitable method.

7. Visually inspect the external Condition of OPGW Splicing Junction Boxes and the mounting of the junction boxes to the Transmission Tower. The inspection shall include measurement of electrical resistance across the loop in and loop out of the OPGW from the splicing junction box to establish any requirements for additional cross-bonding leads external to the junction box to ensure the required electrical continuity and conductance in the event of lightning strikes.
8. Condition of all strain plates, suspension plates, hanger brackets, through bolts, holding bolts, etc which secure the line to the tower.
9. Assessment and identification of structural bolts & nuts and step bolts to be replaced. All replacement criteria bolts, are to be physically marked by suitable means such as red paint which is durable in nature. The consultant shall provide reports with approximate numbers and sizes of the bolts requiring replacement.
10. Condition of all steel members present on the tower and any replacement criteria steel members, which are to be physically marked by suitable means such as red coloured adhesive tape or red paint (either of which are durable in nature). The consultant is required to highlight and indicate the locations of the replacement criteria members on the relevant tower drawings.
11. Condition Assessment of all insulators, corona rings, vibrational dampers, sag-links, turn-buckles, Shackles, link plates, arcing horns, armour rods, suspension baskets, dead-ends, jumpers, line hardware, and their associated fittings, fasteners, bolts, connectors and couplings. The consultant shall submit detailed reports with photos, life expectancy of various existing components and the live-line maintenance workscope required to replace insulators, line hardware, and fittings on each tower.
12. Condition of the anti-climb fence and tower signage, and report any remedial action required.
13. Condition assessment of any/all other items deemed necessary.

Thereafter the consultant is required to submit detailed inspection reports for each tower inspected within 5 working days.

The reports shall include necessary photographs of the inspections carried out. The consultant is required to submit electronic folders for each tower which shall contain the original photographs.

The consultant is required to separately report defect rectification workscope which can be issued as a job-card to EFL's Live-Line Teams.

2.2.3 Other Services

The consultant is required to provide expertise and services on an ongoing basis for the asset management of Transmission Lines. The consultant would be required to carry out the following additional tasks and provide the necessary reports and deliverables:

- 1. Manage Helicopter Patrolling of Line including Corona Scanning Inspections, Thermal Imaging Inspections, High Definition Visual Inspections, and Condition Assessment of Line.**
 - a. Develop tender documents and specifications for advertising tenders
 - b. Technical Evaluation of Tenders and Tender Evaluation Reports
 - c. Engineer to Contract Services
 - d. Project Management Services
 - e. Quality Assurance Inspections
 - f. Payment Certificates
 - g. Other services as deemed necessary
- 2. Develop Asset Management Plan including prioritised maintenance recommendations.**
- 3. Live – Line Works**
 - a. Review existing Live Line Works Procedures
 - b. Provide Live Line training to train and authorise the competency of new live line team members.
 - c. Live-Line refresher training on an annual basis to maintain the competency of EFL's live line team members.
 - d. Develop tender documents and specifications with detailed workscope for contractor to execute 132kV Live-Line Maintenance works (hot stick and bare-hand method):
 - i. Tender Administration
 - ii. Execute the role of Engineer to Contract
 - iii. Provide Project Management
 - iv. Inspections, Completion Certificates, payment certificates
 - v. Other tasks envisaged in administering the execution of Live-Line works by a suitable contractor.
- 4. Develop training programme and train EFL's linesmen to carry out condition assessment of wooden poles, cross-arms, insulators and line hardware for ongoing in-house annual Condition Assessment.**
- 5. Provide expertise for ongoing Rust Treatment and Refurbishment works, entailing:**
 - a. Condition Assessment reports of towers
 - b. Develop tender documents and specifications for advertising tenders
 - c. Technical Evaluation of Tenders and Tender Evaluation Reports
 - d. Engineer to Contract Services
 - e. Project Management Services
 - f. Quality Assurance Inspections
 - g. Payment Certificates
 - h. Other services as deemed necessary

6. Earthing Studies and Foundation Earth Resistance Testing

- a. Inspect and Report on OPGW and Tower earthing (both mechanical and electrical)
- b. Carry out measurements and tests to establish resistance from OPGW to tower steel
- c. Carry out measurements and tests to establish the earthing resistance from tower steel to ground
- d. Design remedial solutions as and where required
- e. Develop tender documents and specifications for advertising tenders
- f. Technical Evaluation of Tenders and Tender Evaluation Reports
- g. Engineer to Contract Services
- h. Project Management Services
- i. Quality Assurance Inspections
- j. Payment Certificates
- k. Other services as deemed necessary

7. Condition Assessment of conductor and joints.

- a. Inspect conductor samples and joints and provide condition assessment reports
- b. Design remedial solutions as and where required
- c. Develop tender documents and specifications for advertising tenders
- d. Technical Evaluation of Tenders and Tender Evaluation Reports
- e. Engineer to Contract Services
- f. Project Management Services
- g. Quality Assurance Inspections
- h. Payment Certificates
- i. Other services as deemed necessary

8. Access Tracks:

- a. Inspect and Report on Access Tracks and provide GPS routes after data capture.
- b. Develop / Review Tender documents, specifications and drawings for access roads construction including road forming works, spreading and compacting base-coarse / crushed-rock, drainage, culverts, headwalls, Irish crossings, ford crossings, etc.
- c. Technical Evaluation of Tenders and Tender Evaluation Reports
- d. Engineer to Contract Services
- e. Project Management Services
- f. Quality Assurance Inspections
- g. Payment Certificates
- h. Other services as deemed necessary

9. Transmission Safe Working Procedures

- a. Review existing Transmission Safe Working Procedures
- b. Facilitate training for each procedure

3 Schedule of Fees and Rates

The bidder is required to submit a detailed schedule of fees for various personnel, and rates for equipment, flights, accommodation, rentals, and other chargeable expenses which can be envisaged with delivering the Scope of Services.

TABLE 1 - FEES

Project Title (suggested)	Position Name (suggested)	Available hours (per year)	Hourly Rate [Currency]
Account Director	Principal Consultant		
Relationship Manager	Senior Consultant		
Design Engineer	Principal Consultant		
Lines Engineer	Principal Consultant		
Lines Engineer	Senior Consultant		
Corrosion Engineer	Principal Consultant		
Corrosion Engineer	Senior Consultant		
Lines CA specialist	Consultant		
Corrosion specialist	Consultant		
Other Titles	Other Positions		
Other Titles	Other Positions		
Other Titles	Other Positions		
Other Titles	Other Positions		
Other Titles	Other Positions		

TABLE 2 – EXPENSES AND DISBURSEMENTS[illegible]

4 Schedule of Project Estimates

The bidder is required to submit a detailed schedule of Project Estimates for the scope of Services listed herein this document.

5 Sample Contract



Conditions of Contract for Specialist Engineering Consultancy Services

Contract Name: Provision of Specialist High Voltage Electrical Transmission Structure Engineering Consultancy Services

Contract Number MR16/2018

**Energy Fiji Limited.
2 Marlow Street
Private Mail Bag
Suva
Fiji Islands**

CONDITIONS OF CONTRACT FOR CONSULTANCY SERVICES

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FOREWORD

The Energy Fiji Limited (EFL) is a limited liability company, which is solely responsible for generating, transmitting, distributing and retailing electricity in the Republic of Fiji Islands.

The EFL has undertaken major refurbishment works on its aged Transmission Lines which is detailed in the scope of work (Appendix A)

SAMPLE

FORM OF AGREEMENT FOR ENGAGEMENT OF CONSULTANT

This **AGREEMENT** is made the day of (year)

BETWEEN

Of Energy Fiji Limited., a body corporate established under the Electricity Act, Cap 180 Laws of Fiji and having its place of business at 2 Marlow Street, Suva, Fiji together with its successors and assigns of the one part
("the Client")

AND

("the Consultant")

THE Client engages the Consultant to provide the professional services set out in Appendix A and agrees to pay the Consultant as described in Appendix B and to undertake its other obligations set out in this Agreement.

THE Consultant agrees to perform the Services on the terms of this Agreement.

The following documents shall form the Agreement in order of precedence:

- Form of Agreement for Engagement of Consultant
- The Special Conditions – Part A (Specific Conditions)
- The Special Conditions – Part B (Other Special Conditions)
- Additional documents specified in the Special Conditions
- General Conditions of Contract for Consultancy Services (Third Edition)
- Appendix A: Scope, Purpose, Programme and Completion Date for the Services
- Appendix B: Fees, Expenses and Payment
- Appendix C: Client's Representative
- Appendix D: Consultant's Key Personnel
- Appendix E: Subconsultants and Subconsultants' Key Personnel
- Appendix F: Other Consultants, Other Consultant's insurance, personnel, equipment, facilities and information supplied by the Client
- Appendix G: Consultant's H&S and Hazard Identification Manual

SIGNED for the Client by:

SIGNED for the Consultant by:

Signature

Signature

Name

Name

Position

Position

In the presence of:

In the presence of:

Signature of
Witness

Signature of
Witness

Name of Witness _____

Name of Witness _____

(NB: This document should be signed by an authorized person. Signatures should be witnessed.)

SAMPLE

GENERAL CONDITIONS OF CONTRACT FOR CONSULTANCY SERVICES

1. Definitions and Interpretation

1.1 Definitions

Agreement

The Agreement is:

the contract between the Consultant and the Client. The documents forming the contract are listed in the Form of Agreement for Engagement of Consultant.

Client

The Client is:

the Party named as the Client in the Agreement.

Client's Representative

The Client's Representative is:

the person named as the Client's Representative in Appendix C.

Confidential Information

Confidential Information means:

any professional advice or other information of a sensitive nature, whether or not specifically identified as confidential; and

any information about the Parties, or their businesses, or their clients gained during the currency of this Agreement that is not already in the public domain.

Consultant

The Consultant is:

the Party named as the Consultant in the Agreement.

Consultant's Representative

The Consultant's Representative is:

the person named as the Consultant's Representative in Appendix D.

Contractor

Contractor means:

a person or entity that the Client engages to carry out the whole or part of the Works and includes any subcontractor engaged by a Contractor.

Intellectual Property

New Intellectual Property means:

all intellectual property rights, including, but not limited to, copyright, in all concepts, designs, drawings, specifications, plans, studies, reports, and documentation collated, prepared or created by the Consultant (or persons on behalf of the Consultant) in carrying out the Services but not including pre-existing Intellectual Property.

Pre-existing Intellectual Property means:

all intellectual property rights owned by the Consultant or any third party and provided or used by the Consultant in carrying out the Services.

Client's Intellectual Property means:

all intellectual property rights owned by the Client and provided to the Consultant for the purposes of carrying out the Services or the Works.

Key Personnel

Key Personnel are:

the persons named as the Consultant's and/or Subconsultant's Key Personnel in Appendix D or E, including the Consultant's Representative.

Other Consultant

Other Consultant means:

a person or entity listed in Appendix F (other than the Consultant) the Client engages to carry out other consulting or advisory services related to the Services. It does not include a Contractor.

Party

Party means:

the Client or Consultant; "Parties" means the Client and the Consultant and "Third Party" means any other person or entity as the context requires, including a Contractor and Other Consultants, but excluding Subconsultants.

Services

The Services are:

the services listed in Appendix A.

Subconsultant

Subconsultant means:

a person or entity, as listed in Appendix E, engaged by the Consultant to assist in the provision of the Services, together with any Subconsultants appointed under clause 2.4.

Variation

Variation means:

a change in scope, time of supply or scale of the Services.

Working Day

A Working Day is:

a calendar day other than a Saturday, Sunday, statutory or public holiday.

Works

Works means:

the physical and other works (if any) relating to the Services, to be carried out by a Contractor or by the Client, including goods and equipment to be supplied to the Client.

1.2 Interpretation

In these General Conditions of Contract for Consultancy Services, the singular shall include the plural, the masculine shall include the feminine, and vice versa where the context requires.

A reference to a Party includes their respective successors, executors and administrators.

2. Obligations of the Consultant

2.1 The Services

The Consultant must:

- provide the Services set out in Appendix A; and
- perform the Services in accordance with the timetable set out in Appendix A; and
- advise the Client promptly if additional briefing or information is required from the Client to avoid any delay to the provision of Services or Works; and
- act for the Client as set out or implied in Appendix A; and
- notify the Client in writing within 10 Working Days if the Consultant thinks a Client direction is a Variation, and as soon as practicable if the Consultant thinks any other circumstance is a Variation. The notice shall include details of the estimated cost of the Services, likely or estimated impact on the programme and completion date for the Services and make recommendations on how to proceed.
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2.2 Duty of Care

In providing the Services, the Consultant must use the degree of skill, care and diligence reasonably expected of a professional consultant providing services similar to the Services.

2.3 Duty of Independent Judgement

Where the Services require the Consultant to certify, decide or use discretion under a contract between the Client and a Third Party, the Consultant must act independently, and with professional skill and judgement, according to the terms of the contract between the Client and the Third Party.

2.4 Subconsultants

Subject to clause 12.8, the Consultant shall appoint, direct and pay any Subconsultant. The Consultant is responsible to the Client for the services of any Subconsultant.

The sub-contracting of any of the Services shall not relieve the Consultant from any liability or obligation under the Agreement.

If the Client decides for good reason that a Subconsultant is unsuitable, the Client can require the Consultant not to have that Subconsultant perform the Services. The Consultant shall then replace that Subconsultant.

Subconsultants may be appointed at any time subject to approval by the Client.

2.5 Other Consultants

The Consultant must direct and/or co-ordinate the work of Other Consultants where required by the Services. The Consultant shall not be responsible for the services and/or work of Other Consultants.

2.6 Ordering Client Materials or Services

The Consultant must obtain the Client's written approval before purchasing or ordering any goods or services, materials or equipment on behalf of the Client.

2.7 Client Concerns

The Consultant must remedy any concerns notified by the Client under clause 3.3 to the satisfaction of the Client, or agree with the Client a plan for remedying any such concerns, before proceeding to the next stage of the Services.

2.8 Conflicts of Interest

The Consultant must try to ensure that conflicts of interest do not arise, and notify the Client immediately in writing if it is thought that a conflict of interest may arise or has arisen.

Where a conflict of interest is identified and the Client has given informed consent, the Consultant must establish structures and practices which:

- ensure that the conflict is avoided in practice; or
- if avoidance is not practicable, ensure that the effects of conflict are minimized.

In either situation, the Consultant must inform the Client of the structures and practices that have been established.

2.9 Instructions to Contractors

The Consultant may instruct the Contractor and/or vary the Works to the extent authorized in Appendix A. The Consultant must not instruct a Contractor to vary the Works in a material way beyond this authority, unless an emergency occurs. In emergency circumstances, the Consultant may vary the Works and shall immediately notify the Client about the changes.

2.10 Health and Safety

The Consultant must have in place a health and safety management plan that is appropriate for the Services and comply with any health and safety plan operated by the Party or Third Party in control of the site. (Refer to Appendix G)

The Consultant is responsible for health and safety issues relating to the provision of the Services including, but not limited to:

- complying with the Consultant's obligations under the applicable Fiji Health and Safety Act

- where the Services expressly include management duties in relation to the Works, assisting the Client in complying with the Client's obligations, in relation to the Contractor, under the above act including raising health and safety issues with the Contractor and the party in control of the workplace.

Should the Client disregard the Consultant's proper written recommendation on an H&S matter, the Consultant is deemed to have met the Consultant's obligations in this clause in respect of that matter.

2.11 Public Statements

The Consultant must not make any public or media statements to anyone about this Agreement, the Services or the Works without the Client's written approval.

2.12 Delay

If at any time the Consultant's performance falls behind the programme set out in Appendix A (as amended from time to time in accordance with the Agreement), then the Consultant shall notify the Client and, where due to matters within the control of the Consultant, shall take all practicable steps to remedy such delay.

3. Obligations of the Client

3.1 Payment

The Client must pay the Consultant for the Services according to the terms and conditions set out in Appendix B and elsewhere in this Agreement.

3.2 Provision of Information to the Consultant

The Client must:

- provide, free of charge, the information listed in Appendix F; and
- declare any ownership or proprietary rights any other person may have to this information and pay for any royalties or fees; and
- in response to the Consultant's request, provide additional relevant information, within a timeframe that does not materially delay the Services or the Works; and
- accept responsibility for the accuracy of information provided. The Consultant is expected to review all the information provided to ensure that it contains no manifest errors or omissions. No Variation will exist if the information contains manifest errors or omissions that the Consultant should reasonably have been expected to find.

3.3 Client Decisions

The Client must respond to any written request from the Consultant for a decision within a reasonable time, to avoid or minimize any delay to the provision of the Services or Works.

If the Services are to be provided in stages, then the Client must approve the current stage before the Consultant may proceed with the next stage. If the Client has any concerns with the current stage, the Client shall notify the Consultant of these in writing prior to giving approval for the Consultant to proceed to the next stage.

3.4 Assistance to the Consultant

The Client must co-operate with the Consultant and not obstruct the proper performance of the Services.

The Client must, as soon as practicable:

- provide, free of charge, the personnel, equipment and facilities described in Appendix F; and
- allow the Consultant to visit the site and other locations associated with the Services; and
- obtain and pay for all consents, certificates, approvals, authorities, licenses and permits that are needed to lawfully carry out the Works, except where they are to be obtained by the Consultant as set out in Appendix A.

3.5 Other Consultants

Where the Consultant is directed and/or co-ordinate the work of Other Consultants, the Client must include in the conditions of contract with the Other Consultants a requirement that the Other Consultants have the required insurance and that they will work under the direction of, and co-operate with, the Consultant. The amount of insurance required by each Other Consultant shall be the amount specified in Appendix F. If no sum is specified, it shall be not less than that required of the Consultant under Section 6 and the Special Conditions, unless the Client and Consultant specifically agree otherwise.

The Client shall arrange and must pay for the services provided by Other Consultants.

The Client shall be responsible for the services or work provided by Other Consultants.

Where the Client wishes to appoint another Consultant not included in Appendix F, the Client shall, where relevant, confer with the Consultant prior to the appointment of another Consultant regarding the scope of work, conditions of contract and selection of the Other Consultant.

3.6 Instructions to Others

If, under this Agreement, the Consultant has to direct and/or co-ordinate work carried out by Other Consultants and/or Third Parties directly contracted to the Client, the Client shall give all instructions to such Other Consultants and/or Third Parties through the Consultant.

3.7 Matters Affecting the Services

As soon as the Client becomes aware of anything that will materially affect the scope or timing of the Services, the Client must inform the Consultant in writing.

3.8 Health & Safety

The Client shall provide to the Consultant a list of known identified hazards relevant to the Services and as set out in Appendix G, and any health and safety management plan operated by the Client that is relevant to the Services.

On sites where there is multiple provision of services and works, the Client shall establish a clear hierarchy of responsibilities related to health and safety management between all parties.

The Consultant does not assume any obligation of the Client under the Fiji Health & Safety Legislation, unless that obligation is part of the Services.

3.9 Approvals

Where approval of the Client is sought under this Agreement, it shall not be unreasonably withheld or delayed.

Where the Client gives its consent, review or approval in respect of any matter arising in relation to the Services, such consent, review or approval shall not reduce the liability of the Consultant in respect of the matter approved except: -

- where the matter being approved reasonably carries some risk; and
- the risk has been identified to the Client in writing; and
- the Client has accepted that risk in writing.

SAMPLE

4. Personnel

4.1 Client's Representative

The Client's Representative has authority to give the Consultant instructions on the Client's behalf; and may monitor, review, approve, accept, reject or confirm any part, or all, of the Services.

If the Client changes the Client's Representative, the Client shall first inform the Consultant in writing.

4.2 Consultant's Representative

The Consultant's Representative has authority to receive instructions on behalf of the Consultant and for coordinating and providing the Services as agreed on a day-to-day basis, and must communicate with the Client's Representative when required.

4.3 Key Personnel

The written approval of the Client shall be obtained by the Consultant before Key Personnel can be replaced or substituted.

If the Client decides for good reason that one of the Key Personnel is unsuitable:

- the Client can require the Consultant not to have that person perform the Services; and
- the Consultant shall then replace that person with someone acceptable to the Client; and
- the Client shall not bear any cost or liability arising from the replacement of that person.

5. Payment

5.1 Time for Payment

The Client must pay the Consultant all amounts claimed and due under this Agreement within the time set out in the Special Conditions.

5.2 Disputed and Unpaid Invoices

If the Client disputes an invoice, or part of an invoice, the Client must promptly give the reasons for withholding the disputed amount and pay any undisputed amount.

Where an invoice, or part of an invoice, is not disputed and is not paid as required in clause 5.1, the Client must pay interest on the unpaid amount from due date to the date of actual payment at the Consultant's non-penalty overdraft interest rate.

6. Liability and Insurance

6.1 Consultant's Liability

Where the Consultant breaches this Agreement, the Consultant is liable to the Client for reasonably foreseeable claims, damages, liabilities (including any liability of the Client to a third party), losses or expenses caused directly by the breach.

The Consultant shall not be liable to the Client under this Agreement for the Client's indirect, consequential or special loss, or loss of profit, however arising, whether under contract, in tort or otherwise.

6.2 Limitation of Liability

The maximum aggregate amount payable, whether in contract, tort or otherwise, in relation to claims, damages, liabilities, losses or expenses, is as specified in the Special Conditions.

6.3 Contributory Conduct

If either Party is found liable to the other (whether in contract, tort or otherwise), and the claiming Party and/or a Third Party has contributed to the loss or damage, the liable Party shall only be liable to the proportional extent of its own contribution.

6.4 Duration of Liability

Neither party shall be liable for any loss or damage occurring after the period stated in the Special Conditions from the date on which the Services were completed.

6.5 Insurance

The Consultant shall take out and maintain for the duration of the Services:

- professional indemnity insurance for the amount of the liability under clause 6.2; and
- public liability insurance cover as set out in the Special Conditions; and
- provision for reasonable defence costs.

The Consultant shall use all reasonable endeavors to maintain professional indemnity insurance for the duration of liability stated under clause 6.4. If at any time the Consultant is unable to obtain or maintain professional indemnity cover as required by the Agreement, or if any material change to the terms and conditions of the cover occurs, the Consultant shall, as soon as practicable, notify the Client in writing.

6.6 Proof of Insurance

If the Client asks, the Consultant must produce certificates evidencing the currency of such cover and proving that professional indemnity and public liability insurance policies meet the requirements in clause 6.5.

7. Variations

7.1 Variations to the Services

The Client may order a Variation to the Services, in writing, or may ask the Consultant to propose a Variation to the Services, the impact of which on the cost, programme and completion date for the Services shall be agreed as in 7.2.

Where the Consultant notifies the Client under clause 2.1 that any direction or circumstance should be treated as a Variation, the Client shall as soon as practicable after receiving such notice, but within 10 Working Days, notify the Consultant in writing whether or not it considers the direction or other circumstances to be a Variation.

If the Client does not consider the direction or other circumstance to be a Variation then the Client and Consultant shall attempt to resolve the matter as soon as practicable, and if a Variation entitlement is agreed, proceed as in 7.2.

7.2 Agreement of Variations

The Client and the Consultant shall agree, in writing, the value of the Variation and its impact on the programme and completion date for the Services, or the mechanism under which the value and impact on the programme and completion date for the Services will be derived.

Where practicable the value of the Variation and impact on the programme and completion date for the Services shall be agreed between the parties prior to the Variation works progressing.

Where the value of the Variation cannot practicably be agreed between the Parties prior to the Variation works commencing, the parties shall agree to a budget for the Variation works that shall not be exceeded without further agreement between the Parties.

7.3 Failure to Agree

In the event that the Parties are unable to reach agreement on the value and impact on the programme and completion date for the Services, the matter shall be treated as a dispute and resolved in accordance with clause 10.

8. Confidentiality

8.1 Client Obligations

The Client must:

- identify Confidential Information at the time it is supplied to the Consultant; and

- keep all Confidential Information relating to the Consultant confidential and only use it for the purposes it was made available; and
- not disclose Confidential Information relating to the Consultant without the Consultant's written approval, unless it is necessary for the purposes of the Services or the Works to disclose it to any appropriate third party, or as required by law.

8.2 Consultant Obligations

The Consultant must:

- identify Confidential Information at the time it is supplied to the Client; and
- keep all Confidential Information relating to the Client or the Client's project confidential and only use it for the purposes it was made available; and
- not disclose any Confidential Information relating to the Client or the Client's project or the Works without the Client's written approval, unless it is necessary for the purposes of the Services or Works to disclose it to any appropriate third party, or as required by law.

8.3 Exclusions

Information shall cease to be Confidential Information when the information is publicly available through no unauthorized act of either Party.

If either Party is legally bound to disclose Confidential Information, that Party must first advise the other Party what information will be provided and limit the information to that required by the law.

8.4 Return of Confidential Information

Upon request, and except as in clause 11.3, the Consultant must promptly return to the Client or destroy all Confidential Information which is in the Consultant's possession or control.

9. Copyright of Documents

- 9.1** Subject to clause 9.6 all new Intellectual Property held in any medium, whether electronic or otherwise, shall be jointly owned by the Client and the Consultant. The Client and the Consultant hereby grant to the other an unrestricted royalty-free license in perpetuity to copy or use such New Intellectual Property and each Party is free to make whatever use they wish of the New Intellectual Property without any obligation to obtain the other's consent or to account for any future benefits.
- 9.2** All Pre-existing Intellectual Property shall remain the property of the original owner. The Client's Intellectual Property shall remain the property of the Client. The Consultant hereby grants to the Client, or agrees to procure the grant to the Client of, an unrestricted royalty-free licence to use and copy Pre-existing Intellectual Property to the extent reasonably required to enable the Client to make use of the Services or use, adapt, update or amend the Works. The Client hereby grants to the Consultant, an unrestricted royalty-free licence to use and copy the Client's Intellectual Property provided to the Consultant to the extent reasonably required to enable the Consultant to provide the Services.
- 9.3** The Consultant confirms (save in respect of any of the Client's Intellectual Property and subject to clause 9.4) that the New Intellectual Property, the Pre-existing Intellectual Property, the Services and the Services as incorporated in the Works will not infringe any intellectual property or other rights of any third party.
- 9.4** The Consultant does not warrant the suitability of the New Intellectual Property for any purpose other than the Services or any other use stated in the Agreement.
- 9.5** The Client owns, or has the right to use, Confidential Information disclosed or provided to the Consultant under this Agreement.
- 9.6** The ownership of data and factual information collected by the Consultant and paid for by the Client shall, after payment by the Client, lie with the Client.

10. Disputes

- 10.1** If there is a dispute between the Parties in relation to this Agreement, or any matter arising from it, the Parties will in good faith in the first instance use their best endeavors to resolve the dispute themselves.
- 10.2** If the dispute cannot be resolved by the Parties themselves within a reasonable time, then they must explore whether the dispute can be resolved by use of mediation or other alternative resolution technique.
- 10.3** If the dispute is not settled within a reasonable time, then either Party may refer the dispute to arbitration by a sole arbitrator under the provisions of the Laws of Fiji. The arbitrator will be appointed by agreement between the Parties within 15 working days of written notice of referral by the referring party to the other. In either case, the arbitrator must not be a person who has participated in any informal dispute resolution procedure in respect of the dispute.
- 10.4** No dispute arising gives either Party the right to suspend their obligations under the terms of this Agreement.

11. Termination

11.1 Termination of the Agreement

The Client may terminate this Agreement at any time, or under the provisions of clause 12.4, by written notice to the Consultant. As soon as this notice is received, the Consultant shall stop the Services.

The Consultant may terminate this Agreement by written notice only if the Client has materially breached the terms of the Agreement.

At the completion of the Services the Agreement is hereby terminated.

Termination of this Agreement shall not prejudice or affect the accrued rights or claims and liabilities of the Parties.

11.2 Payment on Early Termination

If the Client terminates this Agreement, or the Consultant terminates this Agreement because the Client has breached it, then the Client must immediately pay the Consultant for Services provided to the date of termination.

If the Client terminates the Agreement for reasons other than a default by the Consultant, or if the Consultant terminates the Agreement because of a default by the Client, the Client must also pay any reasonable costs that the Consultant incurs solely because of the early termination of the Agreement

11.3 Return of Property/Equipment

At the end of the Services, the Consultant must return to the Client any property, including the Client's Intellectual Property, or equipment of the Client which is in the Consultant's possession or control.

Notwithstanding any other provision in this Agreement the Consultant shall be entitled to retain a copy of all documentation including Confidential Information, drawings, specifications, reports, correspondence, computer files and records of every description for its record keeping purposes only. Such documentation shall include all relevant New, Pre-existing and Client's Intellectual Property. The Consultant shall treat all such documentation as Confidential Information and shall mark it confidential.

11.4 Transfer of New Intellectual Property

In the event of termination by the Client, the Consultant shall provide reasonable assistance to the Client in the transfer of the Services (including delivering copies of any New Intellectual Property in the Consultant's control) to the new consultant provided that the Client has made all payments due and owing under the Agreement.

12. General Provisions

12.1 Law and Currency

This Agreement is subject to Fijian law. References to dollars are references to New Zealand dollars unless otherwise stated. Any arbitration or court proceedings about this Agreement, or the Services, must be brought and heard in Fiji.

12.2 Consumer Guarantees Act

The Client and the Consultant agree that, where the Services are provided for the Client's business purposes, the provisions of any applicable Consumer Guarantees legislation are excluded in relation to the Services.

12.3 Changes in Legislation

If, after the date of this Agreement, the cost or duration of the Services alter because of changes or additions to any statute, regulation or by-law, or requirements of any authority that has jurisdiction over any part of the Works or the Services, the agreed changes to cost and duration of the Services will be treated as a Variation.

12.4 Events beyond Control

Should any event occur which:

- is beyond the control of either Party; and
- is neither directly nor indirectly caused by either Party; and
- prevents the performance of the Services (in whole or in part) required under this Agreement,

then those Services will be suspended until such time that it becomes practicable to recommence the Services. This does not include events personal to either Party, such as ill-health or lack of funding or resources.

In the event that there is a reasonable likelihood that the Services are not able to be recommenced, then this Agreement may be terminated by the Client.

In circumstances where the Services or part of the Services have to be suspended or delayed, the Consultant will be allowed extra time to complete the Services and such extra time should be reasonable in the circumstances.

In the event that the suspension continues for greater than 6 months, then this Agreement may be terminated by the Consultant.

12.5 Advertising

The Consultant must first obtain the Client's written permission if it wants to put up a sign on or near the site of the Works (or to which the Services relate) that directly or indirectly shows its involvement with the Works

12.6 Reporting

The Client and the Consultant shall review and discuss the progress of the Services, as agreed from time to time, or as reasonably requested.

12.7 Notices

All demands, notices, requirements and consents this Agreement authorizes or requires, or that relate to this Agreement, must be in writing and will take effect from receipt at any one of the addresses shown in the Special Conditions. These may be delivered:

- by hand or by facsimile, in which case a written confirmation of receipt is required, or
- by registered letter, or
- by email, in which case receipt will take effect upon receipt by the sender of the email message indicating that the email has been opened at the recipient's terminal, provided that any communication received, or deemed received after 5pm, or on a day which is not a Working Day, shall be deemed not to have been received until the next Working Day.

12.8 No Assignment

The Consultant must not assign, transfer or subcontract all or part of its rights or obligations under this Agreement without the Client's prior written approval. This approval may be refused without the need to give reasons, except that, in the case where the Consultant requests approval to subcontract to a related company of the Consultant, such approval shall not be unreasonably withheld.

If the Consultant assigns or transfers its rights, the Consultant will remain liable for the performance of its obligations under this Agreement, unless specifically stated to the contrary in any written consent to an assignment or transfer.

12.9 Survival of Provisions

The provisions of clauses 2.10, 2.11, 5, 6, 8 and 9 shall continue in effect after termination of the Agreement.

12.10 No Waiver

Any waiver given by either Party in connection with this Agreement is binding only if it is in writing, and then strictly in accordance with the terms on which it is given. Subject to this clause, no waiver given by either Party for the purposes of this Agreement affects or limits that Party's rights against the other Party under this Agreement.

12.11 Severability

Each term of this Agreement is separately valid and binding. If for any reason either Party cannot rely on any term, all other terms will remain valid and binding, and the Parties will negotiate in good faith for an alternative term with similar financial effect for both Parties.

12.12 No Partnership

Nothing in this Agreement is to be construed as evidence of a partnership between the Parties.

12.13 VAT/GST

Where there is a reference to any payment under this Agreement, VAT (or any similar tax) is to be added to the amount of that payment.

12.14 Client's Regulatory Functions

If the Client has regulatory functions outside of the Agreement, the Client shall be deemed not to be acting in the capacity of the Client under this Agreement when exercising these functions in good faith.

SAMPLE

SPECIAL CONDITIONS – PART A

Specific Conditions of Contract

References from clauses in the General Conditions of Contract for Consultancy Services

Agreement

Additional documents forming part of the Agreement include:

Clause No.

5.1 Payment Timing*

The time for payments shall be on the 20th of the month following the month of issue of the invoice.

6.2 Limitation of Liability*

The maximum amount payable shall be three times the average monthly fee with a limit of \$500,000;

6.4 Duration of Liability*

The duration of liability shall be one year after the termination of the contract

6.5 Insurance*

The amount of public liability insurance required shall be \$2,000,000

The Amount of professional indemnity insurance shall be \$2,000,000

***NB** - Where nothing is specified in the second option, the first option shall apply.

12.7 Notices

Client's Address:

Physical Address: 2 Marlow Street,
Suva,
Fiji

Postal Address: Private Mail Bag,
2 Marlow Street,
Suva,
Fiji

Facsimile No: +679 331 1882
Email address: To Be Advised

Consultant's Address:

Physical Address:

Postal Address:

Facsimile No:
Email address:

SPECIAL CONDITIONS PART B

Other Conditions of Contract

(Include here other Special Conditions that modify the General Conditions)

SAMPLE

APPENDIX A: Scope of Services

Note: To be inserted from Section 2 of Tender Document

SAMPLE

APPENDIX B – Part 1

Schedule of fees

The Consultant shall provide a detailed schedule of fees for the various personnel needed to fulfil the scope as indicated in Appendix A.

Note: To be inserted from Section 3 of Tender Document and Successful Bid

SAMPLE

APPENDIX B – Part 2

Schedule of Project Estimates

Note: To be inserted from Section 4 of Tender Document and Successful Bid

SAMPLE

APPENDIX C

Client’s Representative

The Clients Representative is
.....

SAMPLE

APPENDIX D

Consultant's Representative

The Consultants key personnel who will be assigned to this work include: -

{The Consultant shall list those key personnel and include a one-page summary CV include qualifications and years of experience in their field of expertise}

APPENDIX E

Sub-Consultants & Sub-Consultant's Key Personnel

The Sub-Consultants key personnel who will be assigned to this work include: -

{Note that the extensive use of Sub-Consultants shall be avoided as it is intended that the Consultant has the necessary personnel with the required skills in-house}

SAMPLE

APPENDIX F

Other Consultants & Other Consultant's insurance, personnel, equipment, facilities.

List where applicable below

SAMPLE

APPENDIX G

Hazard Identification & Notification

The Consultant shall provide the Client with a copy of the Consultant's Health & Safety Manual's sections on the H&S issues that relate to the intended works. This includes but is not limited to

- Working at height
- Working near High Voltage equipment
- Working in remote & Tropical environments
- Working in locations that require access by off-road type vehicles