

Ministry of Environment and Green Development
(MEGD)
Government Building 2
United Nations Street 5/2
Ulaanbaatar 15160,
Mongolia
Phone: +976 51 266171
Fax: +976 51 266171

Matthias Hahl
our ref.: HhM
phone: 4928
email: Matthias.hahl@kfw.de
Date: November 8, 2013

**LE/c4 German Financial Cooperation with Mongolia
Programme on Biodiversity and Adaptation to Climate Change
EUR 11.5 million
No.: 2012 65 511
Separate Agreement to the Financing Agreement dated**

Dear Sir or Madam

In accordance with the Financing Agreement entered into between the State of Mongolia, represented by the Ministry of Finance (MoF) ("Recipient") and KfW ("KfW") dated _____ the following shall be determined by separate agreement between the Project Executing Agency (Ministry of Environment and Green Development, MEGD) and KfW:

Pursuant to Article 1.2:

the details of the Project as well as the goods and services to be financed from the Financial Contribution;

Pursuant to Article 2.1:

the disbursement procedure, in particular the evidence proving that the disbursed financial contribution amounts are used for the stipulated purpose;

Pursuant to Article 6.2: the details pertaining to Article 6.1.

We propose that the following be agreed upon:

I. Programme Design

1. Details of the Programme

- 1.1 The Mongolian-German Financial Cooperation Programme “Biodiversity and Adaptation to Climate Change” aims at strengthening the management of the Mongolian Protected Area System (incl. support zones and ecological corridors) with special reference to climate change, while at the same time improving/stabilising the livelihoods of local populations. This is to contribute to the overall Programme Objective of the Mongolian-German cooperation in the sector “Biodiversity”, which is the conservation of biodiversity and improvement of livelihoods, with special consideration of the effects of climate change.
- 1.2 Performance-based allocation and disbursement mechanisms shall contribute to improving the governance structures in biodiversity conservation for the management of protected areas (PA) and buffer zones (BZ). High degrees of participation in decision making and implementation on national as well as on local level shall guarantee the effectiveness of the programme and ensure that the needs and livelihoods of the people living in and adjacent to the conservation areas are reflected in the management and protection measures.
- 1.3 The design of the Programme is based on the fact finding report, the feasibility study and on the agreements reached between KfW and MEGD during the programme appraisal. The agreements as summarized in the Minutes of Meeting dated 8th of December 2012 form an integral part of this agreement (Annex 7).
- 1.4 The programme components and respective measures are:

Component 1: Management planning & project preparation

- Participatory development / update and approval of state-of-the-art management and business plans including provisions for communicating the contents to the concerned stakeholders;
- Development of a M&E system for key indicators, including conducting socio-economic and biodiversity baseline studies;
- Procurement of basic equipment for PA Administrations and BZ Councils;

- Facilitating and concluding co-management agreements between the PA administration, the surrounding communities and local governments including the development of organisational co-management structures;
- Implementing initial and priority buffer zone development measures.

Component 2: Implementation of approved management plans and co-management agreements; measures eligible for funding are e.g.:

- Developing and rehabilitating/upgrading PA key infrastructure and procurement of required equipment;
- Public relations work;
- Measures for fire and pest prevention and preparedness;
- Setting up / enhancing the M&E system;
- Promoting sustainable land use forms in restricted use zones and buffer zones (e.g. for sustainable pasture & forest management);
- Supporting the development of eco-friendly value chains;
- Establishing buffer zone self-help funds (BZ fund) or managed accounts for supporting the implementation of co-management agreements or biodiversity conservation contracts.

The financial volume of a single funding proposal (PA including buffer zone) shall be between MNT 180 million and MNT 900 million (approx. EUR 97,000 to EUR 485,000) over a period of three years. Funding for component 2 shall be limited to the Northern, Eastern and Central region of Mongolia for the first three years.

Component 3: Investments for Biodiversity Conservation that are benefiting the overall PA-network (national and regional levels), such as:

- Development of PR modules;
- Procurement of PA management software/database development;
- Special studies;
- Procurement of standard ranger equipment / uniforms.

Component 4: Capacity Development

- Development and implementation of appropriate training modules and training materials for different target groups, notably staff of PA-Department and PA administrations, rangers, BZ councils, community members, on relevant topics, including training on sustainable land management (e.g. SFM, sustainable range management, ecotourism development); organisation of an international study tour;

- Building/upgrading and equipping regional training centres (including business plan development);
- Facilitating the constitution of thematic working groups and conducting conferences and workshops to facilitate policy dialogue;
- Enhancing and promoting cooperation between PA-administrations and research institutions / research initiatives.

1.5 The required Programme activities, the Programme results, objectives, indicators and the assumptions underlying the Programme are contained in Annex 1.

2. Time Schedule

2.1 The Programme duration is estimated with 5 years (1st quarter of 2014 to 4th quarter of 2018) for planning and implementation of the programme, followed by a consolidation phase.

3. Total Cost and Financing

3.1 The estimated total Programme costs ("Total Cost") amount to approximately EUR 15.3 million. The German Financial Contribution is up to EUR 11.5 million. The Mongolian Financial Contribution is approximately MNT 6.65 billion (approx. EUR 3.8 million) to be allocated over the implementation period. The Mongolian Financial Contribution is additional to the regular budget for protected areas. The composition of total costs and the financing plan are contained in Annex 2.

3.2 Furthermore MEGD will contribute free of charge maps and other documents, information and data, which are in the ownership of state authorities.

4. Changes in the Programme Design

4.1 The Plan of Operation, including detailed description of project activities, time, cost, and financing schedule, for the proper technical and financial implementation of the Programme, shall be prepared by the PIU in cooperation with the consultant during the inception phase and submitted to KfW for non-objection. Such schedule is to show, by deadlines and amounts, the intended chronological interrelation of the programme activities and the resulting financial requirements. If any deviation from such schedule becomes necessary during the implementation of the Programme, KfW shall be furnished with a revised schedule.

- 4.2 Any major changes in the project design shall require KfW's prior consent. The Project Implementation Unit (PIU) shall inform KfW thereof immediately, stating the reasons, the planned measures and the consequences of the change (including on Total Cost). Execution of such measures may commence only on the basis of revised planning and upon KfW's consent.

II. Programme Implementation

1. Responsibilities and Time, Cost and Financing Schedule

- 1.1 The Ministry for Environment and Green Development (MEGD) shall be responsible for the implementation, supervision and monitoring of the Programme ("Programme Executing Agency (PEA)").

- 1.2 Within the MEGD, the Department for Protected Area Management (PA Department) shall be in charge of the implementation and operation of the Programme. The Head of the PA-Department will be appointed by the Minister MEGD as the National Programme Director. He/she will oversee the general implementation of the Programme on behalf of the Minister and the Steering Committee. Specific tasks include:

- Sign the agreements for implementation of Particular Projects (a. Preliminary agreement upon authorisation by the Steering Committee, b. Implementation agreement upon clearance by the Biodiversity Conservation Board),
- Initiate the annual internal and external audits,
- Sign the disbursement requests to KfW,
- Submit semi-annual technical and financial Programme Progress Reports to the Minister and KfW,
- Sign cooperation agreements with other projects or organisations,
- Initiate appropriate measures in case of difficulties in Programme implementation, which cannot be handled at the operational level.

With regard to component 1 and 2, PIU is charged with the task to screen and evaluate the submitted proposals against the defined minimum standards and scoring criteria. The results shall be documented in an evaluation report and submitted to the Steering Committee for consideration. For the components 3 and 4 PIU will prepare the proposals for decision by the Steering Committee.

- 1.3 The PEA will set up a Programme Implementation Unit (PIU), which will be supported by an Implementation Consultant. The PIU is charged with the technical, administrative and financial implementation of the Programme and executes the decisions of the Steering Committee and the Biodiversity

Conservation Board (see below). The responsibility of the PIU is the day-to-day work of Programme implementation. The full-time PIU staff shall be employed by the MEGD and be paid out of Mongolian Funds for PIUs in international cooperation programmes and include:

- Programme Coordinator (Head of the PIU, conservation / Natural Resources Management specialist, in charge of the day-to-day operations),
- Accounting and financial management officer,
- Procurement Officer,
- Officer for Administration and Office Management,
- Driver.

1.4 The PIU will be accountable for:

- general management and implementation of the programme,
- implementation and monitoring of the agreed projects,
- tendering, documenting and contracting procurements of all kinds of works, supplies and services,
- administering the disposition fund, financial management & accounting,
- project fund allocation and monitoring based on approved budget plans and the timely submission of financial reports to the recipient and the donor according to agreed schedules,
- preparation of the annual work plans which shall comprise project tasks and expected results, personnel deployment, project cost and financial forecast,
- preparation of reports (inception report, semi-annual reports, final report).

1.5 MEGD will provide offices for the PIU and the Implementation Consultant's team in close distance to the offices of the PA-Department. The PIU shall be supported by regular staff from the Department of Protected Area Management on a part-time basis as per assessed requirements for specific projects and measures. The basis for deployment will be quarterly work plans of the PIU; the minimum notice period shall be 3 weeks.

1.6 The Steering Committee (SC) is charged with the orientation and supervision of Programme implementation, in compliance with the guidelines provided by the Ministry of Finance. The Steering Committee will decide on financing proposals above MNT 20 million. For proposals for component 2, the Steering Committee will evaluate the Project proposals at the Profile stage, and thus decide on the way ahead for the preparation of a detailed and comprehensive Project proposal (decision making body is the Biodiversity Board). The PIU Programme Coordinator shall be part of the Steering Committee as non-

voting member. The PIU Coordinator would serve as Secretary to the Committee and be in charge of other administrative tasks of running the Steering Committee.

The Steering Committee should meet approximately every 2-3 months to ensure close guidance and supervision of the Programme and timely decisions on received Project Profiles. The members of the Steering Committee are at the same time ex-officio members of the Biodiversity Conservation Board.

- 1.7 The Biodiversity Conservation Board shall be the decision making body for financing proposals of component two and serves as a consultative and advisory panel. It further reviews the Programme's annual work plan, annual reports, and the external audit reports and proposes actions to be taken by the Steering Committee.

The Board should meet at least every 6 months, but if required more frequently for timely sanctioning of financing proposals.

- 1.8 Details will be defined in Operational and Financial Management Guidelines and in the Constitution of the Biodiversity Conservation Board to be developed by PIU in cooperation with the Consultant. The guidelines require approval by the Steering Committee. The Constitution shall be sanctioned by the Biodiversity Conservation Board.

2. Assignment of an Implementation Consultant

- 2.1 The implementation consultant (the "Consultant") shall support MEGD with the execution and operation of the programme. The duties of the consultant shall comprise among others:

- Supporting MEGD / the PIU in project planning and implementation,
- Assisting MEGD / the PIU in executing tender procedures (preparation of tender documents, assessment of proposals, preparation of contracts, etc.) and procurement,
- Confirming proper delivery of goods and services,
- Supporting the administration of the disposition fund, financial management & accounting, co-sign the requests for disbursement to KfW,
- Supporting the evaluation of project proposals submitted by protected areas and others,
- Providing technical consulting services on relevant topics,

- support the monitoring & supervision of implementation of approved projects,
- co-sign the contracts for implementation of Particular Projects,
- support in preparing progress reports and implementation of trainings.

Details will be defined in the ToR of the Consultant.

- 2.3 The consultant reports directly to MEGD and in copy to KfW and is liable for the application of sound professional standards in any aspect of his work.
- 2.4 Following pre-selection and international public competitive bidding, the contract shall be awarded to an independent qualified consultant. The contract awarding procedure shall be governed by the "Guidelines for the Assignment of Consultants in Financial Cooperation with Developing Countries" (Annex 4), which forms an integral part hereof.
- 2.5 In the pre-qualification notice the Recipient shall obligate the bidders to submit together with the bidding documents a properly executed declaration of undertaking (Annex 4, page 16).

3. Award of Contracts for Supplies, Works and Consulting Services

- 3.1 The contracts for supplies, works and all other consulting services to be financed from the Disposition Fund shall be awarded by the Programme Implementation Unit in the MEGD in cooperation with the implementation consultant. All pertinent documentation (e.g. tender evaluation reports) have to be co-signed by the implementation consultant.
- a) **Small scale contracts** for supplies, works and consulting services up to **MNT 10 million (approx. EUR 5,000)** can be awarded by direct assignment / purchase, provided that financial and technical adequacy of the contract is given. The procedure has to be documented by the PIU.
- b) **Supply, work and consulting contracts between MNT 10 million and MNT 180 million (approx. EUR 100,000)** shall be awarded by inviting at least three quotes or by national tendering. The respective procedure has to be determined, justified and documented by the PIU. Exceptions from this regulation (i.e. discretionary award) require a special written explanatory statement by the project and prior non-objection of KfW. The explanatory statements have to be archived together with the related tender documents for later evaluations until the conclusion of the FC Programme.

- c) **Contracts for supplies or works exceeding MNT 180 million shall be awarded by way of international or national competitive bidding. Consulting contracts exceeding MNT 180 million shall be awarded by way of international competitive bidding.** KfW's rights of information and approval in the context of tenders for supplies and works are prescribed in Annex 4, page 19, and for consulting services in Annex 3, page 13. Exceptions to the prescribed procedures for awarding contracts require a special explanatory statement by the project, and prior non-objection by KfW. Furthermore, additional information in the form of a checklist shall be documented by the PIU with support of the implementation consultant and presented to KfW. The checklist will be provided by KfW at the beginning of project implementation.
- 3.2 The bidding period shall be fixed in a way that allows the bidders sufficient time to prepare their bids.
- 3.3 The remaining details concerning the awarding procedure and contractual provisions are explained in the "Guidelines for the Procurement of Supply and Work Contracts under Financial Cooperation with Developing Countries" (Annex 3) and in the "Guidelines for the Assignment of Consultants in Financial Cooperation with Developing Countries" (Annex 4), which form integral parts of this agreement.
- 3.4 In the pre-qualification notice or - if no pre-qualification is conducted - in the tender documents, the Recipient shall obligate the bidders to submit together with the pre-qualification documents or together with the bid a declaration of undertaking (Annex 3).
- 3.5 When concluding contracts for supplies, works and consulting services to be financed from the Financial Contribution, the PIU shall also observe the following principles:
- a) As no import duties may be financed from the Financial Contribution pursuant to Article 1.3 of the Financing Agreement, such import duties, if part of the contract value, shall be stated separately in the contracts for the goods and services and in the invoices.
- b) If payments due under the contracts for goods and services are to be made from the Financial Contribution, said contracts shall include a provision stipulating that any reimbursements, guarantee or similar claimable payments and any insurance payments shall be made for account of the PMU to account no. 38 000 000 00 (IBAN: DE53 5002 0400 3800 0000 00) at KfW, Frankfurt am Main (BIC: KFWIDEFF; BLZ 500 204 00), with KfW crediting

such payments to the account of the Programme Implementation Unit. If such payments are made in local currency they shall be remitted to a special account of the Programme Implementation Unit in Mongolia, which may be drawn on only with the consent of KfW. Such funds may be re-utilized for the execution of the Project with KfW's consent.

4. Special Implementation Agreements

- 4.1 The Department for Protected Areas Management in the MEGD will ensure that staff and annual budget allocation for operation and maintenance costs meet the specifications for sustainable operation in the approved management and business plans of the protected areas supported by the FC Programme.

5. Provisions for the Proper Operation of the Project

- 5.1 The Programme finances projects (component 1 and 2) proposed by the prospective beneficiary or by an involved intermediary. In the latter case, the applicant adheres to the principle that all activities shall be planned, implemented and evaluated with full stakeholder participation (incl. communities).
- 5.2 The selection process of projects under component 2 strictly follows the defined selection criteria. For this purpose the criteria catalogue prepared by the feasibility study will be further amended during the inception phase of the programme in cooperation with the consultant and shared with KfW for no-objection.
- 5.3 All project proposals supported under this programme shall include an operation and maintenance concept (O&M), outlining on a time schedule a) required measures for O&M, b) responsibilities, c) staff inputs and d) costs and financing sources to ensure the medium- and long-term sustainability of the proposed investments. When assessing the proposals, PIU shall assess the feasibility of the respective O&M concept, identify possible risks and propose conditions for risk mitigation in the assessment report for the Steering Committee / Biodiversity Conservation Board.

As part of the monitoring, PEA shall periodically update the cost and financing plans and ensure that any financing gaps shall be covered in due course. PEA shall inform KfW about risks regarding the proper operation and maintenance of the protected areas without any delay.

III. List of Goods and Services and Disbursement Procedure

1. List of Goods and Services

- 1.1 The list of the goods and services to be financed from the Financial Contribution shall be prepared on the basis of the contracts concluded for such goods and services. If the value of the contract exceeds 100,000 EUR, KfW shall be furnished with an original or a copy of each of said contracts and of any pertinent amending contracts. For contracts not exceeding 100,000 EUR, KfW shall be furnished with a list of all contracts concluded containing the following data: contract date and value, designation of good/service, contractor, reference number, amount to be financed from the Financial Contribution.
- 1.2 If any Project measures are to be executed on force account and no contracts have been concluded, KfW shall receive, in lieu of the contracts, a schedule of the measures planned, broken down by main cost categories ("schedule of force-account measures"). Costs incurred for general administration in connection with force-account work must not be included in said schedule of force-account measures.
- 1.3 KfW shall inform the Recipient on request of the amounts of the Financial Contribution that it has reserved for financing (list of goods and services).

2. Disbursement Procedure

Disbursement shall be governed by the regulations as stipulated in Annex No. 6 (Disbursement Procedure), which forms an integral part of this agreement.

IV. Reporting and Other Provisions

1. Reporting

- 1.1 Until further notice reporting is in the responsibility of the MEGD, supported by the Consultant. If MEGD has charged the consultant to write the progress reports and/or the final report, MEGD shall comment on the reports or acknowledge its approval of the content by countersigning the reports. Reports shall be provided in English. The following reports shall be submitted to KfW:

- a) Inception Report: The first report on the state of affairs shall be submitted three months after the start of the Programme. The Inception Report shall include the evaluation and selection criteria for the process of criteria based funding, a comprehensive project management manual detailing the procedures for Programme implementation (including prescriptions for financial management and all kinds of procurements), the composition of the Steering Committee and the Biodiversity Conservation Board and their terms of reference/statutes, and the plan of operations for the current year.
- b) Progress Reports: Semi-annual reports on the progress of the Programme shall be submitted to KfW in digital form, including the fulfilment of the covenants stipulated in Article II 4 of the Separate Agreement and the development of all other important general conditions. The report shall include the points and charts listed in Annex 5 as well as the annual operational plan for the following year. Any modification of the operational plan needs to be justified and approved by KfW. In addition, MEGD shall report on all circumstances that might jeopardize the achievement of the overall objective, the Project purpose and the results.
- c) Progress Reports shall be submitted by the 15th of July (for the period 1st of January – 30th of June) and the 15th of January (for the period 1st of July – 31st of December) for the duration of the contract period. For the structure of the report refer to Annex 5. KfW shall in due course inform the Recipient about the end of the reporting period.
- d) Final report: At the time of the physical completion of the Programme, a final report on the measures carried out shall be submitted in which MEGD shall report on the further development of the Programme. The structure of the final report will be agreed with KfW 3 months before project completion.
- e) Other reports: Other reports on special subjects or issues may be requested from MEGD by KfW on special occasions.
- f) Technical reports, like management plans and business plans for protected areas, thematic and topographic maps, climate and further environmental data shall be made available to all interested partners of the Programme.

2. Other Provisions

- 2.1 MEGD shall send KfW all such documents as are necessary for KfW to give the comments and approvals mentioned above or in the enclosed guidelines early enough to allow reasonable time for examination.
- 2.2 MEGD shall set up Project sign boards that will contain at least the following message:
"A development project of the Mongolian Ministry of Environment and Green Development, co-financed by the Federal Republic of Germany through KfW."
A project seal provided by the German Embassy shall be placed on the project sign board.
- 2.3 The above provisions may be amended or modified at any time by mutual consent if this should appear useful for the implementation of the Project or the execution of the Financing Agreement. In all other respects, the provisions of Articles 5.2 and 7 of the Financing Agreement shall apply to this Agreement accordingly.

Please confirm your consent to the above Agreement by signing in a legally binding form and returning the enclosed copies.

Please forward a copy of the present letter in due course to the consultant.

Yours sincerely,

KfW



Annexes:

- Annex 1: Objectives and Results of the Project and Assumptions for their Achievement
Annex 2: Total Cost and Financing
Annex 3: Guidelines for the Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries (FI051)
Annex 4: Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries (FI050)
Annex 5: Content and Form of Reporting
Annex 6: Disbursement Procedure
Annex 7: Minutes of Meeting, dated December 8th, 2012

Read and agreed:



Place,

Date

13/11/2013



Impact Matrix

Summary	Success Indicators	Sources of Verification	Assumptions/Risks
<p>Programme Objective of the Mongolian-German cooperation in the sector</p> <p>Conservation of biodiversity and improvement of livelihoods, with special consideration of the effects of climate change</p>	<p>Success Indicators</p> <ol style="list-style-type: none"> The forest area in Mongolia does not decline more than 0.2% per year. Baseline: 2009: 9,851,185.71 ha Target: 2014: 9,752,673.82 ha The evaluation of the management effectiveness (METT) of the state protected areas incorporated in the monitoring system confirms a continued improvement (from 2013 onwards). Mongolia stabilises or increases the annual budget of the Ministry of Environment (annually from 2013 onwards) Baseline: 2012: MNT 100.214 billion Target: 2015: > MNT 120 billion Mongolia increases its budget allocations for Protected Area Management by at least 20% in the period 2012–2015. Baseline: 2012: MNT 3.544 billion Target: 2015: > MNT 4.0 billion 	<ol style="list-style-type: none"> MEGD Annual Report METT analyses Budget of Ministry Budget of Ministry 	
<p>Objective / Outcome of the Bio-Div Programme (Financial Cooperation)</p> <p>Strengthening the Management of the Mongolian Protected Area System (incl. support zones and ecological corridors) with special reference to climate change, while at the same time improving/stabilising the livelihoods of local populations</p>	<ol style="list-style-type: none"> Management effectiveness significantly improved Base value: Average METT score - tbd in inception phase Target values (preliminary): Participating SPA: METT / MoMETT score tbd in inception phase Buffer zones-LPA: METT / MoMETT score tbd in inception phase Ref.-value Year 1: Tbd; Ref.-value Year 2: Tbd In accordance with the PA and Buffer zone management plans, improved protection and sustainable management of forests and pasture, successive rehabilitation of degraded lands Base value: Tbd, for supported sites part of baseline study for Management planning Target values (preliminary): Tbd in Management plan In supported PA etc., populations of threatened species (flora, fauna) as identified in Mongolia's Red Lists and as specified in the respective PA management plan, increase to stable and sustainable levels Base value: Tbd, in supported sites part of baseline study for Management planning Target values (preliminary): Tbd in Management plan Living conditions of the local population improved / stabilized through measures for sustainable management of natural resources (BZ management planning) and additional, supporting socio-economic measures Base value: Tbd, for supported sites part of baseline study for Management planning, ref. respective Soum and Aimag data and projections Target values (preliminary): Ref. Soum / Aimag plans 	<ol style="list-style-type: none"> Government's Monitoring system (proposed MoMETT, alternatively assessment by a generic METT scoring) idem., specific forest and pasture assessments idem., specific monitoring of key species Soum reports, periodic appraisals by PA Administration 	<p>Assumptions/Risks:</p> <ul style="list-style-type: none"> Ecologically significant areas will be retained as PA and not subjected to mining activities etc Strict pasture management regulations are effective in the Buffer Zones and limited use zones of PA (i.e. GoM has to pass adequate implementation regulations for effective enforcement of the respective laws) The laws on hunting and capture and trade with animals need to be strictly enforced in collaboration with the rural population The levels of forest exploitation are reduced to sustainable levels, applied forest management practices support natural regeneration of forests after logging Ways of sustainable pasture management have to be found and implemented.

Summary	Success Indicators	Sources of Verification	Assumptions/Risks
<p>Output 1: Management and Business Planning are in compliance with current MEGD standards, Basic Equipment, Quick Start Measures, Co-Management Agreements</p>	<p>Base value: 29 PA Administrations manage 90 PA; 5 PAA (~15 PA) have no management plans at all, ~10 PAA (~15 PA) have technically up-to-date management plans. Target value: - Management & Buffer Zone Planning: updated or newly elaborated Management and Business plans and baseline studies - PA Administrations, Buffer Zone Councils and Local PA Management Bodies are sufficiently equipped (basic equipment) to ensure supervision of the PA - Co-Management Agreements between SPA, Buffer Zone population and Buffer zone Council signed Ref.-value Year 1: Tbd; Ref.-value Year 2: Tbd</p>	<p>- MEGD's guidelines for management planning, M&E and reporting - Inception and Progress reports, - Staff records, PA reports, PA Dept.'s supervision reports - Signed Co-Management Agreements</p>	<p>Assumptions/Risks relevant to the Objective of the Bio-Div Programme: - The SPA Department's and SPA Administrations will maintain their efforts to establish and maintain a competent workforce, all Ranger positions foreseen by the PA-regulations are filled latest by mid-2014. - Recurrent costs of investments are secured (either from GoM Budget or other sources) - Ecologically significant areas will be retained as PA and not subjected to mining activities etc - MEGD and PAA have the ability to cope with threats from illegal mining, logging and hunting - Political unrest (risk for implementation and cooperation) - MED, MEGD, MOF and PAA coordinate the implementation of the programme - Natural disasters don't threaten the achievement of the Programs' objectives.</p>
<p>Output 2: Implementation of Approved Management Plans and Complementary Projects</p>	<p>Base value: Conservation and management are compromised by lack of infrastructure, equipment; fire and pest prevention facilities almost entirely absent; implementation of cooperation arrangements not optimal. Target values: - Key investments in PAs and Buffer Zones realised, priorities defined in a criteria-based selection process - Activities prescribed in the Management- and Business plan of Project PA are implemented - Measures for protection and sustainable forest / pasture management implemented in PA limited use zone - In the Buffer Zones of participating PA Buffer Zone funds are established and managed conjointly by the Buffer Zone Council and the PA Administration, under the supervision of the respective Soum. Ref.-value Year 1: Tbd per selected and supported site; Ref.-value Year 2: Tbd</p>	<p>- Programme Progress Reports; PA inventory registers - PA reports on activities and key indicators, MoMETT score of PA - Fire M&E reports, - PABZ reports on activities - Preparatory documents, constitution and operations manual, constituting agreement, operational records etc.</p>	
<p>Output 3: Sector-wide Investments for Biodiversity Conservation</p>	<p>Base value: Among others, the following areas in the sector have scope for significant improvement: Public perception of PA and recognition of their importance, understanding of conservation regulations; Eco-tourism (may be linked with appropriate branding and PR of the network as well as of specific PA etc.) Complementary financing instruments and mechanisms for conservation and PA management Management integration of the PAA and more effective linkage with the Dep. of PA Management (e.g. MIS) Target value: Intervention measures will be selected and implemented.</p>		
<p>Output 4: Training, Policy Dialog and Research Cooperation</p>	<p>Base value: Assessment of competences and qualifications showed gaps; Curricula available Target value: - The PA Department's training programme is being implemented - 5 regional training centres are constructed and equipped - The Programme supports periodic "round table meetings" with critical stakeholders from conservation, politics, business, administration etc.; these may be linked with PR activities. - The Programme conducts medium to high level conferences on conservation - Topics relevant to conservation/PA management are covered by programme for research cooperation</p>	<p>- Training reports - Meeting documents - Round-table documentation - Conference proceedings - Research agreements, reports, and documentation of results</p>	

<p>Support to Programme Management: A Programme Implementation Unit (PIU) is established, operational, and cooperates with other programmes.</p>	<p>Target value: A PIU within the Department assures efficient Programme implementation, supports the Department's general management, and facilitates cooperation with partners in development and research. Ref.-value Year 1: PIU is operational and activities are implemented as per planning. Reports etc. are available on time, cooperation agreements under preparation Ref.-value Year 2: PIU is operational and cooperation agreements being implemented</p>	<p>Inception Report; progress reports (incl. financial reports, disbursements and audits) Annual ext. audit reports</p>	<p>Assumptions related to Programme Management: - The members of the SC assume their assignment reliably - The BCB becomes operational</p>
<p>Activities for Output 1: Management Planning and Basic Equipment of PA and Buffer Zone Administrations:</p> <ul style="list-style-type: none"> - Develop ToR, tender and contract service providers: Update / elaborate participatory Management and Business Plans in compliance with the established standards, including <u>baseline studies</u> for PA, M&E and Co-Management Agreements; Distribute informative pamphlets concerning the targets of Management Plans - Establish references for minimum standards for PA equipment and outfit (considering Minister's directive for standard ranger outfit), equip PAA, Buffer Zone Councils and PA according to the minimum standards - Implement Quick Start Measures 			
<p>Activities for Output 2: Implementation of Approved Management Plans and Complementary Projects</p> <ul style="list-style-type: none"> - Make the application and selection process for projects well known to stakeholders; implement the relevant procedures at PIU level; organise for the proposed support to the preparation of project profiles/proposals - Steering Committee is working according to Manual; Biodiversity Conservation Board: decide on financing of proposals - Facilitate the financing / co-financing and implementation of measures for conservation and sustainable management of selected projects for PA and buffer zone measures - In cooperation with other stakeholders (notably GIZ and UNDP) develop operational strategies for fire and pest prevention / control and monitoring systems - Facilitate the establishment of buffer zone funds including a sinking and a revolving fund component; to be managed jointly by the BZ Council and the PAA, supervision of respective Soum ("public auditing"). 			
<p>Activities for Output 3: Sector-wide Investments for Biodiversity Conservation (National and Regional Levels): Decide on the way forward – and implement as such</p>			
<p>Activities for Output 4: Training, Consulting, Policy Dialog and Research Cooperation at the PA Sector level</p> <ul style="list-style-type: none"> - Support the PA department in developing and implementing a comprehensive concept for vocational training in conservation and PA management, and recognised professional training of rangers - Build and equip five regional training centres - Support policy and cooperation meetings organised by the MEGD in close cooperation with other stakeholders; organise meetings of thematic working groups, workshops and conferences on Biodiversity Conservation and related topics; publish and distribute proceedings - Support research cooperation between the SPA Department, selected PA Administrations and research institutions at national and international levels 			
<p>Activities related to Programme Management:</p> <ul style="list-style-type: none"> - Appoint the Steering Committee, hire an Implementation Consultant, deploy PIU staff and equip the proposed PIU office within the MEGD/PA Department, effectively integrate the regular staff of the PA Department - Assure effective Programme implementation, especially management of funds and reimbursements / replenishments by KfW, and guidance of PA Administrations and other PA management bodies in identification of activities and projects for financing, and supervision of correct project execution - Implement a comprehensive Programme M&E (financial and technical), prepare semi-annual Programme progress reports; initiate annual external audits - Support cooperation with other development organisations and scientific institutions, coordinate implementation of projects 			

Total Cost and Financing

	Budget Plan Mongolian-German Biodiversity Conservation Programme	Total Costs		Financing			
		EUR	MNT (1.000)	German FC		Mongolian CC	
				EUR	MNT (1.000)	EUR	MNT (1.000)
1	Improved Protected Area and Buffer Zone Management Planning (incl. Businessplanning, Basic Equipment, Baseline Studies, So-management agreements and quick win measures	3.000.000	5.250.000	2.200.000	3.850.000	800.000	1.400.000
1.1	For State Protected Areas incl. Bufferzones	2.100.000	3.675.000	1.300.000	2.275.000	800.000	1.400.000
1.2	For Local Protected Areas, Natural Reserves (Aimag) and Eco-Corridors	900.000	1.575.000	900.000	1.575.000		0
2	Implementation of Management & Business Plans for State Protected Areas, Bufferzones, Local Protected Areas and Eco-Corridors	7.810.000	13.667.500	6.070.000	10.622.500	1.740.000	3.045.000
2.1	Projects for Implementation of Management & Business Plans for SPA	4.810.000	8.417.500	3.070.000	5.372.500	1.740.000	3.045.000
2.2	Projects for Implementation of Management Plans for Bufferzones, LPA and Eco-Corridors, incl. Socio-Economic Projects	3.000.000	5.250.000	3.000.000	5.250.000		0
3	Strengthening the Biodiversity Conservation Sector at the National Level	550.000	962.500	550.000	962.500		0
4	Training, Policy Dialog and Research Cooperation	1.250.000	2.187.500	850.000	1.487.500	400.000	700.000
4.1	Training	300.000	525.000	200.000	350.000	100.000	175.000
4.2	Establishment of Regional Training Centers	600.000	1.050.000	300.000	525.000	300.000	525.000
4.3	Workshops & Conferences	200.000	350.000	200.000	350.000		
4.4	Research Cooperation & Coordination	150.000	262.500	150.000	262.500		0
4.5	Mongolian-German Research Cooperation	50.000	87.500	50.000	87.500		0
5	Programme Implementation Unit (PIU, CTA)	490.000	857.500	130.000	227.500	360.000	630.000
5.1	Staffing	150.000	262.500		0	150.000	262.500
5.2	Office Infrastructure	100.000	175.000		0	100.000	175.000
5.3	Office Equipment	60.000	105.000	60.000	105.000		
5.4	Transport	70.000	122.500	70.000	122.500		0
5.5	Management Costs	60.000	105.000		0	60.000	105.000
5.6	Auditing	50.000	87.500		0	50.000	87.500
6.	Implementation Consultancy	1.200.000	2.100.000	1.200.000	2.100.000		0
6.1	Consultants incl. International Travel	1.080.000	1.890.000	1.080.000	1.890.000		
6.2	Office Running Cost	30.000	52.500	30.000	52.500		
6.3	Vehicle Operation / local transport costs	90.000	157.500	90.000	157.500		
7	Contingencies	1.000.000	1.750.000	500.000	875.000	500.000	875.000
	Total	15.300.000	26.775.000	11.500.000	20.125.000	3.800.000	6.650.000

Operational Manual



Technical Note no. FI051

Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries

SUBJECT AREA	Budget Funds
SCOPE OF APPLICATION	KfW Development Bank
RESPONSIBLE UNIT	LGb5
PERSON RESPONSIBLE FOR DOCUMENT	Albrecht Wald
EFFECTIVE FROM	Version May 2007, last updated in September 2013
REPLACES VERSION DATED	Version May 2007, last update on 16 April 2012

Published by:

KfW Bankengruppe
Communication Department
Palmengartenstrasse 5-9
60325 Frankfurt am Main, Germany
Phone +49 69 7431-0
Fax +49 69 7431-2944
www.kfw.de

Edited by:

KfW Development Bank, Promotional Instruments and Procedures

Please direct any queries concerning these Guidelines to:

LGb5 – Quality Assurance and Processes
Phone +49 69 7431-2371
Fax +49 69 7431-3363

May 2007, last updated in September 2013

Contents

INTRODUCTION	4
1 PRINCIPLES	5
1.1 Competitive Bidding	5
1.2 Fair and Transparent Bidding Process, Core Labour Standards	5
1.3 Eligible Bidders	5
1.4 Engagement of a Consultant	6
2 PROCEDURES IN INTERNATIONAL COMPETITIVE BIDDING	6
2.1 Submission of Documents to KfW, Publication of Procurement Notice and Bidding Period	6
2.2 Qualification Procedure	7
2.2.1 Prequalification	7
2.2.2 Postqualification	8
2.2.3 Evaluation Report on Qualification, Information of the Bidders	8
2.2.4 Further Steps following Conclusion of the Qualification Procedure	8
2.3 Bidding Documents and Terms	8
2.4 Currency of Bid Price	9
2.5 Bid Opening	10
2.6 Examination and Rejection of Bids	10
2.7 Evaluation of Bids	10
2.8 Cancellation of the Bidding Process	11
2.9 Information to the Bidders	12
3 OTHER FORMS OF PROCUREMENT, DISCRETIONARY AWARD AND COUNTERPART MEASURES	12
3.1 Supplies and Services Limited to Germany or to the Member States of the European Union	13
3.2 Local Competitive Bidding	13
3.3 Limited Competitive Bidding	13
3.4 Price Quotation	13
3.5 Multi-Stage Process	13
3.6 Discretionary Award	13
3.7 Force Account, Target Group-implemented Measures	14

4	GENERAL CONDITIONS OF CONTRACT	14
4.1	General.....	14
4.2	Liability.....	14
4.3	Payment Terms	14
4.4	Price Adjustment	15
4.5	Warranty.....	15
4.6	Guarantees	16
4.7	Penalties	16
4.8	Insurance	16
4.9	Force Majeure.....	17
4.10	Applicable Law, Settlement of Disputes.....	17

Annexes

Information and Review Requirements of KfW	Annex 1
Standard Form of a Bid Bond	Annex 2
Standard Form of an Advance Payment Bond	Annex 3
Standard Form of a Performance Bond	Annex 4
Declaration of Undertaking	Annex 5
Abbreviations and Glossary	Annex 6

Introduction

These guidelines give information on the minimum requirements for the award of contracts for goods, works and associated services in the implementation of projects and programmes financed under *German Financial Cooperation (FC)*¹. The guidelines are based on internationally acknowledged procedures and standards and apply to all supplies of goods, works and associated services² that are financed in full or in part from funds of German FC.

KfW has a responsibility for all of society and regards sustainability in the projects and programmes it supports as an overarching objective of its mission. The design, implementation and subsequent operation of the projects and programmes supported by KfW Development Bank should take reasonable account of economic efficiency as well as ecological and social aspects. Within the possibilities of the partner systems, these aspects can be considered in different ways in the selection of firms and/or in the evaluation of tenders.

Under FC, contracts for goods, works and associated services are always *awarded* by the agency ("project executing agency" or "client"³) in charge of project implementation, which in most cases is also the agency that calls for tender. It is usually subject to applicable national laws. KfW takes care that

- the funds applied under FC are used as a economically and efficiently as possible;
- the bidding process allows a fair competition that gives all bidders an equal opportunity and ensures the selection of the most favourable bid and, thus, the most efficient utilisation of scarce funds;
- the decision on the award of the contracts is taken in a comprehensible and transparent manner.

In addition, KfW reviews the draft contracts to be submitted to it to make sure that the international commercial practices applicable in the industry in question are observed, especially with regard to liability, payment terms and warranty, and that the drafts do not have any serious flaws or contain contradictions that might impede the execution of the project.⁴ Where these guidelines require a statement from KfW, its positive comment ("no objection") is a prerequisite for the contract to be financed from funds of FC.

KfW endorses the harmonization of the principles and procedures applied in the framework of international development cooperation. Therefore the harmonized standard documents for tenders and contracts, introduced by the international financing institutions (IFIs) as lead agencies, are generally to be utilized.

In exceptional cases, for instance for specific programme lines, other awarding procedures may be applied. In appropriate cases KfW may also agree with the project-executing agency,

¹ Expressions written in italics are explained in Annex 6.

² Consulting services will be carried out in accordance with the "Guidelines for the Assignment of Consultants in German Financial Cooperation with Partner Countries".

³ In the following, the terms "project executing agency" and "client" will be used interchangeably unless otherwise specified.

⁴ A list of KfW's information and review requirements is contained in Annex 1.

following a general review of the executing agency's procurement system, on a simplified review procedure. For archiving purposes the documents are to be submitted on paper and in electronic format (PDF file).

Financial Cooperation – what is it?

Financial Cooperation (FC) is a component of German Development Cooperation. The purpose of FC is to finance investments in the economic and social infrastructure, poverty reduction, and environmental protection in partner countries with loans at favourable conditions and grants provided from the German federal budget and, where appropriate, complemented by market funds raised by KfW. FC is carried out by KfW on behalf of the German Ministry for Economic Cooperation and Development (BMZ). FC funds are used to expand water and electricity supplies, improve health and education systems, develop transport infrastructure and increase agricultural output, among others. They are also used to support loan programmes for small and medium-sized enterprises and economic reforms.

1 Principles

1.1 Competitive Bidding

1.01 In principle, supplies and services for projects financed from FC funds are to be procured by the *contracting agency* on the basis of international competitive bidding. Unless there are justified restrictions in individual cases or if none of the reasons for exclusion specified under para 1.04 apply, there are no restrictions regarding the bidder's country of domicile or the country of origin of supplies and services.

1.02 Restrictions to the principle of international competitive bidding described in Section 2 are admissible in justified cases only upon prior approval by KfW. The specific features of the alternative forms of procurement to be applied in these cases are described in Section 3. The provisions of Section 2 will apply to these cases accordingly.

1.2 Fair and Transparent Bidding Process, Core Labour Standards

1.03 All parties involved in a procurement process financed under FC must ensure a fair and transparent competition and at least observe those ILO Core Labour Standards that have been ratified by the partner country. This must be documented by a corresponding declaration of undertaking (Annex 5) of all parties involved in the bidding process. The declaration of undertaking must be signed in a legally binding manner by duly authorized representatives of the bidder. Failure to submit this declaration and non-compliance with the requirements will lead to exclusion from the tender.

1.3 Eligible Bidders

1.04 Bidders may submit bids if none of the following reasons for exclusion apply:

- participation of a bidder is ruled out by sanctions issued by the United Nations, the European Union or the German Government;

- The bidder is or was involved as a consultant in the preparation or implementation of the project. The same applies to an enterprise or an individual that is closely connected to the bidder under a company group or a similar business link, or to several enterprises or individuals associated correspondingly. (exception: In *BOT* projects or turnkey projects a participation of future suppliers or manufacturers may even be desirable);
- failure to submit a declaration of undertaking in accordance with para 1.03;
- the bidder is legally barred from the procurement process in the country of the *contracting agency* on the grounds of previous violations of regulations on fraud and corruption;
- the bidders or sub-contractors to be contracted for considerable portions of the contract are enterprises economically intertwined with the *contracting agency* in the host country and/or state-controlled enterprises that are not legally or financially independent.

1.4 Engagement of a Consultant

1.05 During the awarding procedure the *contracting agency* is usually supported by an independent qualified consultant in the preparation of the bidding documents, the evaluation of the bids, the award of contract, the drafting of contract documents and contract negotiations.

2 Procedures in international competitive bidding

2.1 Submission of Documents to KfW, Publication of Procurement Notice and Bidding Period

2.01 As a rule, KfW must be furnished with the pre-qualification and bidding documents for comment in due time prior to the planned publication. It will examine whether the documents respond in form and substance to the requirements of the project, the loan and financing agreements concluded for the project and the provisions of these procurement guidelines. Among other things, it will ensure that the *bidding period* allows the bidders sufficient time to thoroughly prepare their bids and that the conditions of the procurement process have a neutral effect on competition.

2.02 The purpose of publishing the invitation to submit bids is to draw the attention of all potential bidders to the intended procurement process and to the opportunity of participating. The procurement notice must be published in due time prior to issuing the prequalification and bidding documents and in an appropriate form specifying date and place of issue. The invitation to participate in an international competitive bidding process is usually published in the partner country and in Germany, if appropriate also in international media. It is commissioned by the *contracting agency*.

- The procurement notice must be published in Germany in the databases of Germany Trade and Invest⁵ (GTAI) before or at the same time as its publication elsewhere. To this end, the *contracting agency* will supply the GTAI with the text of the procurement notice and, free of charge, with a copy of the complete bidding documents, at its discretion either as a copy in the partner country or in electronic file format directly per e-mail. Publication is free of charge.

⁵ Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH

- Publication in the partner country will follow the rules and regulations applicable there to the *contracting agency*. Publication will in principle take place in the daily newspapers of the partner country.

2.03 The deadlines for preparation of the qualification documents and for preparation of the bids must consider the particular circumstances of the project, its size and complexity and ensure adequate and transparent competition. In principle, at least 30 calendar days should be allowed for pre-qualification procedures and 45 calendar days for submission of bids.

2.04 An extension of the *bidding period* may be granted in exceptional circumstances only. Following prior information to KfW, all bidders must be notified in writing and in due time before the expiration of the original period.

2.05 Comments of the *contracting agency* on inquiries from individual bidders during the *bidding period* will be communicated to all bidders in writing simultaneously and in due time, that is, at least 14 days before expiry of the *bidding period*.

2.2 Qualification Procedure

2.06 The qualification of the bidders will be assessed in consideration of the scope and complexity of the projects. In complex and technically complicated projects that require substantial effort from the bidders in the preparation of their bids or in bidding processes that are likely to draw an unreasonably large number of bids, the *contracting agency* usually conducts a pre-qualification in consultation with KfW prior to the actual bidding process. In all other bidding processes a post-qualification is to be carried out (see section 2.2.2).

2.2.1 Prequalification

2.07 In procurement processes with prequalification the bidding will be conducted in two stages. In the first stage, the pre-qualification stage, the submitted documents are examined in order to establish whether the bidders are capable of delivering the required goods and works duly and properly. In the pre-qualification the following essential criteria are examined:

- absence of reasons for exclusion (see criteria under para 1.04);
- experience in the execution of comparable projects;
- experience in the partner country or in comparable countries;
- availability of qualified personnel and appropriate facilities and equipment in sufficient quantities;
- adequate financial capacity.

2.08 The invitation to the pre-qualification will specify the minimum requirements for the qualification, the evaluation matrix and the criteria for determining the number of bidders that are to be invited to submit their bids following the qualification. In appropriate cases, such as big infrastructure projects, environmental and social standards will be taken into account. The maximum number of bidders depends on the nature of the project and the effort involved in preparing the bid.

2.2.2 Postqualification

2.09 In bidding procedures with post-qualification the qualification documents and the actual bid are usually submitted simultaneously in two separate envelopes (two-envelope procedure). In the first public session only the qualification documents will be opened and examined for completeness, inclusion of the required bid bond and fulfilment of the qualification criteria. The qualification will be evaluated according to the criteria specified under para 2.08.

2.10 The two-envelope procedure may be dispensed with in justified exceptions, for instance in the procurement of standardized commercial goods or when bidding is restricted to enterprises whose qualification has been verified as part of their registration with the *contracting agency*. In this case fulfilment of the necessary qualification criteria will be examined at the start of the evaluation of the bids.

2.2.3 Evaluation Report on Qualification, Information of the Bidders

2.11 The *contracting agency* will prepare a detailed evaluation report on the results of the qualification procedure. If the contracting agency is supported by a consultant (para 1.05) this report is to include his/her certificate or separate comment. In procedures with pre-qualification the *evaluation report* includes the *contracting agency's* recommendation on the bidders to be invited to tender. If more than the maximum number of candidates qualify (para 2.08) these will be selected according to the number of points scored.

2.12 The evaluation report is to be sent by the *contracting agency* to KfW. Financing of the supplies and works from FC funds will be conditional on KfW's no-objection to the recommendations contained in the *evaluation report* before the invitations to tender are sent out (in procedures with pre-qualification) and before the bids are opened in the case of the two-envelope procedure.

2.13 Following receipt of KfW's no-objection, the *contracting agency* will inform all bidders immediately on the outcome of the evaluation.

2.2.4 Further Steps following Conclusion of the Qualification Procedure

2.14 In procurement procedures with pre-qualification, the bidders selected in accordance with the findings of the *evaluation report* will be invited to submit their bids in the second stage. In bidding procedures with post-qualification only the bids of those bidders who have fulfilled the qualification criteria will be opened in the second public session. The procedure for opening the bids will be conducted in accordance with para 2.22. If the two-envelope procedure was dispensed with (see para 2.10), after appraisal of the qualification criteria only the bids of those bidders will be evaluated further who have met the qualification criteria.

2.3 Bidding Documents and Terms

2.15 The bidding documents inform the bidders about the nature and scope of the goods and works to be provided and about the conditions of the contract. They will be designed in a way that ensures fair and transparent competition with equal opportunities for all bidders. To this end the bidders will also have to be informed about the selection criteria and how these are weighted in the evaluation of the bids. As a general rule, the documents include:

- general information about the project and the supplies and services to be provided;

- information on the execution of the bidding process and evaluation procedures;
- sample form of tender;
- general and specific conditions of contract and, if appropriate, draft contract;
- general technical conditions of contract, neutral technical specifications with bill of quantities, specifications or performance criteria for performance-based contracts;
- clear and complete design documents;
- specification of standards and measuring system applied;
- specimen declaration of undertaking;
- standard forms of bid bond, advance payment bond and performance bond (see Section 4.6)
- preliminary cost estimates, unless there are serious reservations against their disclosure.

2.16 Wherever possible, the standard documents of the *IFIs* are to be utilized. These will be applied wherever possible without any modifications, particularly with regard to the distribution of risk between the contractual parties. Any deviations that may become necessary are to be listed clearly in an annex.

2.17 Implementation agreements and covenants of KfW, for instance with regard to the inclusion of HIV/AIDS prevention measures in construction projects in sub-Saharan Africa, to the extent that they are relevant for the contracts, will usually be taken into consideration in the specific or technical conditions of contract but not in the general conditions of contract.

2.18 The procurement conditions clearly and unequivocally define the obligations to be entered into by the subsequent contractual parties. In particular, this applies to the scope of supplies and the place of delivery, liability and warranty obligations, and public charges and levies to be borne by the bidder. The distribution of risks resulting from geotechnical or hydrological conditions and from environmental protection requirements is to be settled. The *contracting agency* will make available studies accessible to all bidders.

2.19 The procurement conditions will also specify whether alternative bids are admissible and how they may be taken into consideration in the evaluation of bids.

2.4 Currency of Bid Price

2.20 The bidding documents specify the currencies in which the bid price is to be expressed. Usually the currencies of bids are commonly used international currencies (such as the US dollar or the Euro) and/or the national currency of the *contracting agency*.

2.21 With regard to possible changes in the exchange rates during the procurement process, the *contracting agency* specifies the relevant date for the conversion of bid prices. Such date should be as near the bid opening date as possible. The contracting agency also indicates the rate to be used for the conversion (usually the selling rate published by an official source on a specific date).

2.5 Bid Opening

2.22 The bids, which are to be submitted in a sealed envelope, must be opened at the place and time specified in the bidding documents. The bid opening will take place in public, with the name of the bidder and total amount of the bid and any alternative bids read aloud and recorded. A record of the bid opening session will be prepared, signed by the members of the bid opening commission and submitted to KfW immediately. At KfW's request a copy of the bid will be presented simultaneously to KfW in a sealed envelope.

2.6 Examination and Rejection of Bids

2.23 After opening of the bids they are examined for completeness, for compliance with the bidding documents and for conformity of the bonds submitted by the bidder with the specifications of the bidding documents.

2.24 Bids are generally rejected if

- a bid is received after the *closing date*;
- a bid fails to comply with the bidding documents in material respect, e.g. with the general conditions of contract or major technical specifications;
- a bid contains major reservations or restrictions; or
- a bid lacks the declaration of undertaking specified under para 1.03.

2.25 Negotiations between the *contracting agency* and a bidder as well as alterations of bids between the opening of the bids and the award of the contract are not admissible. However, the *contracting agency* may seek clarifications from the bidders that are necessary for the evaluation of the bids. Neither the clarifications demanded by the *contracting agency* nor the alterations made by the bidder may lead to any changes in the contents or price of the bid. Queries on the part of the *contracting agency* and responses from the bidder must be in writing.

2.26 The procurement procedure is confidential. Confidentiality enables the *contracting agency* and KfW to prevent inadmissible interference. The *contracting agency* and KfW as well as the persons in charge of the evaluation and preparation of the recommendation for the award of contract therefore will give no information on the evaluation of bids nor make any award recommendation to the bidders or to other persons who are not officially involved in the procurement procedure. In the case of breach of confidentiality KfW may demand cancellation of the tender procedure.

2.7 Evaluation of Bids

2.27 Bids that are not rejected are usually evaluated by the *contracting agency* in cooperation with the consultant or by the consultant. The purpose of the evaluation is to determine the most advantageous offer by assessing the relevant factors of the individual bids and by subsequently comparing all the bids submitted. If specified in the bidding documents (see para 2.15), the evaluation includes not only the price offered but also other factors that are relevant to the success of the project and its sustainability and that can be quantified, such as the delivery or construction period, personnel, equipment lists, environmental and social

acceptability, costs of operation and total useful life, supply of spare parts, service, and the qualification for training local personnel. If the evaluation was preceded by a prequalification, criteria that were already considered then may not be examined again unless doubts have subsequently emerged with regard to the fulfilment of the minimum qualification criteria.

2.28 The bids that have not been rejected are examined individually for technical and arithmetic correctness. Bids are evaluated and weighted in quantitative terms, in monetary units where possible and only according to the criteria stipulated in the bidding documents. The most advantageous bid determined on the basis of this procedure after correction of any arithmetic errors will win the contract. The lowest bid price alone is generally not decisive.

2.29 If a bid price appears to be unusually low in relation to the services to be rendered the bidder will be requested to submit a written breakdown of his price calculation. If after review of the notes submitted by the bidder reasonable doubts persist as to whether the required goods and works can be provided at the rates offered and if this is reasonably expected to pose a considerable risk to the performance of the contract, the bid in question will have to be excluded.

2.30 To enable a comparison of bids the evaluation of the bid prices will consider the import duties and taxes actually applicable. In cases where competition between qualified bidders would be seriously distorted as a result of local regulations or double taxation agreements, an appropriate procedure will be agreed between the *contracting agency* and KfW prior to the start of the tender to redress such distortion; a corresponding note will be included in the bidding documents.

2.31 On completion of the bid evaluation KfW is furnished with a detailed report on the evaluation and comparison of the bids ("*Evaluation Report*") and with a substantiated recommendation for award that must be coordinated with any government agencies of the partner country whose involvement may be required. If the *contracting agency* is supported by a consultant (para 1.05) this report is to include his/her certificate or separate comment.

2.32 If an extension of the *validity period* became necessary the reasons are to be stated in the *evaluation report*. An extension of the *validity period* may not lead to changes in the bid prices. The extension entitles the bidders to withdraw their bids upon expiry of the original binding period without allowing the bid bond to be drawn. KfW reserves the right to refrain from financing if the procurement procedure is unduly delayed.

2.33 The *contracting agency* will submit to KfW the *evaluation report* and award recommendation in such good time as to permit KfW's comment to be issued not later than three weeks before expiry of the *validity period*. KfW reserves the right to refrain from financing if the report is not submitted in due time.

2.34 KfW generally reserves the right to review the bids of all bidders or of specific bidders as well as all other documents in connection with the procurement process and award up to two years after completion of the project.

2.8 Cancellation of the Bidding Process

2.35 The bidding process may be cancelled if

- competition was inadequate;

- no bid was received that is considered as substantially responsive;
- the responsive bids substantially exceed the budget;
- the technical or financial bases of the procurement have changed materially prior to the award, or
- the rates of the bid are obviously and clearly unreasonably high.

2.36 Competition is usually inadequate if clearly fewer bids qualified for evaluation than could be expected from the size of the market, if the prices appear to be clearly excessive or if there is obvious price fixing.

2.37 If no substantially responsive bid was received a new qualification procedure may be dispensed with and a new bidding process may be initiated, or, under circumstances defined in Section 3.6, the contract may be *awarded at the contracting agency's discretion* to one of the bidders that originally qualified.

2.38 If the lowest bid was higher than the estimated cost this alone is no reason for cancelling the bidding procedure.

2.39 If the lowest responsive bid is clearly higher than the cost estimate the *evaluation report* must discuss on the basis of an analysis of causes whether a reasonable price could be achieved through a new bidding process. If this is not to be expected, after KfW's no-objection and cancellation of the procurement process, negotiations may be conducted with the bidder who has submitted the most advantageous responsive bid in order to determine how a reasonable contract price can be reached by adjusting the scope of the contract and/or by altering the distribution of risks and burdens.

2.40 Any cancellation of the bidding process as well as the further steps require KfW's no-objection. The cancellation of the bidding process must be notified by the *contracting agency* to all bidders stating the reasons. If the bidding process is cancelled a new procurement process is usually conducted under different circumstances that ensure greater competition, for instance by changing the object or the terms of the procurement.

2.9 Information to the Bidders

2.41 After the award of the contract the other bidders will be informed by the *contracting agency* that their bid was not successful and whether their bid fulfilled the general and technical procurement conditions.

3 Other Forms of Procurement, Discretionary Award and Counterpart Measures

3.01 On the condition that KfW give its prior no-objection, a deviation from the principle of international competitive bidding is possible in specific cases. Particularly in the forms described in sections 3.2 to 3.4, KfW may admit less stringent review requirements than those specified in section 2, or it may permit conditions of contract that differ from those specified in section 4 if this does not violate the principles mentioned in section 1. The following forms of procurement may be applied in lieu of international competitive bidding.

3.1 Supplies and Services Limited to Germany or to the Member States of the European Union

3.02 When competition is adequate the procurement process may be limited to enterprises domiciled in, for example, Germany or the EU, that conduct a significant portion of their business there and that do not resort to supplies or services from third countries to provide the supplies and services to be contracted.

3.2 Local Competitive Bidding

3.03 If adequate competition is expected and if it is likely that international enterprises will not take part in the bidding process because of the moderate size of the project, for logistical reasons or because of the low local price level, the bidding process may be restricted to the partner country in question. In this case it will be admissible to restrict publication of the tender exclusively to national media and to the official national language and to conduct it in accordance with payment and contractual procedures customary in the country. Enterprises not domiciled in the partner country are generally allowed to participate in the tender.

3.3 Limited Competitive Bidding

3.04 The procurement may be restricted from the beginning to a limited number of firms, for instance if they are the only firms that are capable of meeting the specifications or if the contract volume does not justify public bidding.

3.4 Price Quotation

3.05 In individual cases the procurement of commercially obtainable goods and services of a kind, value or scope that does not justify a competitive bidding process can be conducted on the basis of price quotations and of a sufficient number of (at least three) price quotations obtained from local or international dealers or manufacturers.

3.5 Multi-Stage Process

3.06 In complex technical projects, particularly in the procurement for turn-key projects (BOT, BOOT or similar) precise technical specifications often cannot be made in advance. In such cases a multi-stage procurement process may be used. Details of this process are agreed between the *project-executing agency* and KfW at project appraisal.

3.6 Discretionary Award

3.07 *Discretionary awards* of contracts are permitted in exceptional cases only. They are permitted

- in amending existing contracts if the additional scope is minor in comparison with the existing contract, the nature of the supplies and works is the same, and the award of these supplies and works does not justify a new bidding process;
- upon cancellation of a bidding process if a renewed bidding process is unlikely to yield reasonable results (see section 2.8);

- if for specific reasons only a particular enterprise is suitable for supplying the goods and services to be procured (for instance original spare parts, goods protected by copyright or patent registration, special experience or equipment);
- if supplies and services are so urgent that a bidding contest under these procurement guidelines is not possible, such as in the case of emergency measures.

3.08 In *discretionary awards* the *contracting agency* will examine in any case whether the bid price and the other elements of the bid are reasonable.

3.7 Force Account, Target Group-implemented Measures

3.09 Bidding procedures may be dispensed with if measures are to be carried out by the *contracting agency*, by units that report to it, or directly by the target group to achieve greater sustainability or employment effectiveness because of specific circumstances (for instance emergency measures). In this case the contract is to be adapted to the particular requirements.

4 General Conditions of Contract

4.1 General

4.01 The General Conditions of Contract are an integral part of the tender documents. They define the obligations of the contract parties and the distribution of the risks.

4.02 The General Conditions of Contract may be drafted along the lines of internationally applied standard contracts in accordance with the nature and scope of the supplies and services to be awarded. For civil works projects these are usually the Conditions of Contract prepared by *FIDIC*. The *IFIs* have prepared *standard documents* for supply contracts. Other provisions, such as contractors' general terms and conditions or model forms of agreement should additionally be agreed only if this is inevitable. In such cases the order in which the individual arrangements are to be considered should be stated.

4.2 Liability

4.03 The liability between the contractual parties will be settled in such a manner as to prevent any gaps in liability. Especially in complex projects that are difficult to coordinate technically and on a time axis, and in which various enterprises are involved, the contract should stipulate that the overall liability for the execution and successful completion of the project be assumed by one of the parties to the contract in order to avoid gaps in liability. Where measures are to be carried out by a joint venture the contract is to stipulate joint and several liability of the participating firms.

4.3 Payment Terms

4.04 Payment terms will be in accordance with the usual international practice in the industry concerned and will provide for payments to be dependent on the delivery of supplies and performance of services and be in line with the progress of the project.

4.05 The advance payment represents an input by the *contracting agency* that is designed to cover mobilization expenses accruing to the contractor. As a rule, it should not exceed 20 % of the contract price and is to be paid immediately upon entry into force and effect of the contract and upon presentation of the required advance payment and performance guarantees.

4.06 Further payments will be effected in down-payments or instalments pro rata of the progress of the project.

4.07 Disbursement will be effected in the currencies specified in the contract. If necessary, exchange rate and currency risk agreements will be entered into that place none of the contractual parties at an unreasonable advantage or disadvantage.

4.08 The final payment, usually ten per cent of the contract value, is to be made upon preliminary acceptance. It is to be secured by a performance bond in the amount of the retention money for the services to be rendered during the warranty period (usually five per cent of the contract value). If the contractor fails to present this guarantee in due time, payment of the portion of the final payment representing the retention money will be made on final acceptance unless otherwise agreed in accordance with para 4.12.

4.09 The payment terms are to be in line with the Information leaflet "*Disbursement of Funds under Financial Cooperation with Partner Countries*". In particular, the necessary documentary evidence of the proper use of the funds must be provided for disbursement. As import duties and public charges to be borne by the *contracting agency* generally are not financed from funds of German Financial Cooperation they have to be shown separately by the contractor in the invoices. If the contractor pre-finances taxes and import duties, the deadlines for reimbursement and consequences of any breach of the obligation to reimburse must be agreed.

4.4 Price Adjustment

4.10 In cases where the supply of goods and works for a project may extend over a longer period of time, the bidding documents may contain price adjustment clauses that reasonably compensate cost changes that may occur during contract implementation. These clauses should take account of changes in the prices of the major cost constituents of the contract (such as labour, raw materials, supplies and equipment) according to a given system of index numbers or on other contractually agreed bases. Evidence of cost changes is to be furnished regularly by submission of official documents such as those issued by chambers of commerce or statistical offices. In order to prevent advantages or disadvantages to a contractual party, it must be ensured that the amounts for the price adjustment are disbursed in the currency that was contractually agreed for the cost subject to price adjustment (see section 4.3).

4.5 Warranty

4.11 The contractor's warranty obligations are defined in accordance with international industry practice. The warranty period is usually one to two years.

4.12 If the final acceptance towards the end of the warranty period is delayed by more than 90 days for reasons for which the contractor cannot be held accountable, the contracting agency may commission an international audit firm to determine whether and to what extent

the services have been duly performed. Its vote will be binding for both parties. In particular cases it may be agreed that the contractor's warranty obligations will be considered fulfilled, if a contractually agreed latest date was exceeded for reasons beyond the contractor's control.

4.6 Guarantees

4.13 The contractor will provide abstract bid bonds, advance payment bonds and performance bonds. Advance payment bonds and performance bonds are to be made payable to KfW. The guarantor and the content of the bond (see specimens in Annexes 2 - 4) will require KfW's no-objection. The *contracting agency* will return the bonds of its own accord and immediately after their expiry or after the total amount has been utilized.

4.14 The bid bond ensures that the bidder adheres to the bid for the duration of the *validity period*. It is to be returned to the unsuccessful bidders after the contract has been awarded or after the *validity period* has expired, whichever event occurs first.

4.15 The advance payment bond ensures that in case the services are not performed the contracting agency will be refunded the advance payment which it has made. The amount of the advance payment bond equals the amount of the advance payment. As a rule, the bond will decrease pro rata in accordance with the value of the supplies and works provided.

4.16 The performance bond guarantees that all contractual obligations will be duly fulfilled by the contractor. The performance bond is usually valid throughout the life of the contract and normally amounts to ten per cent of the order price up to preliminary acceptance and five per cent of the order price after preliminary acceptance.

4.7 Penalties

4.17 Contractual penalties will be agreed in case the contractor fails to perform the services within the agreed period for reasons for which the contractor is responsible and if this failure leads to a delay in acceptance and entry into operation of the project. The amount of the penalty is usually established in the bidding documents as a specific amount or portion in relation to a time unit (e.g. an amount of money or percentage of the contract price per week) with a ceiling (usually five to 10 per cent of the contract price). This penalty is a blanket compensation for the additional cost and loss of operation caused by the delay. Especially in the case of contracts for plant and machinery, performance penalties are also stipulated which are due in the event of failure to achieve certain contractually agreed parameters.

4.8 Insurance

4.18 Goods and works are to be insured adequately and to the customary extent against all risks that may occur up to the orderly completion and acceptance of the project so that replacement or rehabilitation is possible in the event of damage.

4.19 Transport insurance is to be provided for the duration of the entire transport. Insurance to be agreed upon must be for full coverage (All Risks) and, where necessary, should include War Clauses (Cargo) and clauses for strikes and disturbances in accordance with internationally acknowledged clauses such as the *Standard Clauses* of the German Insurance Association.

4.20 For civil works, plant and machinery the insurance provided must cover risks resulting from the operation of construction sites and the assembly of structures. Here the main insurance to be provided is Contractors All Risks Insurance as well as insurance against damage to persons.

4.21 Insurance is to be taken out against extraordinary events such as war, riot, terrorism or revolution to the extent possible at reasonable terms and conditions. Otherwise the *contracting agency* and the contractor are to reach a settlement on the distribution of these risks in coordination with KfW.

4.22 In the case of financing of foreign currency costs, insurance is to be taken out in freely convertible currency and will provide for any payments due from the insurer to be made payable to KfW for account of the *contracting agency*. The payment clause corresponds to that of the advance payment bond and performance bond (Annex 3 and 4). If such insurance payments are rendered in national currency, they must be transferred to a special account of the *contracting agency* which cannot be accessed without KfW's consent.

4.9 Force Majeure

4.23 Force majeure means extraordinary circumstances that prevent the due performance of contractual obligations and are beyond the control of any of the parties to the contract, such as natural disasters, war, or disruption of public order.

4.24 It may be agreed that evidence of the existence of an event of force majeure and its being the cause for the contractor's failure to perform his contractual obligations is to be furnished in the form of a corresponding certificate issued by the local chamber of commerce or a similar institution.

4.25 An event of force majeure results in the suspension of contractual obligations and, thus, a postponement of the dates fixed for delivery of goods and provision of services and, accordingly, the warranty periods. As the case may be, the contractor is obligated to remove the obstacle, to take measures to eliminate damage, or to take any other extraordinary precautions (e.g. storage of goods) against reimbursement of costs. In the event of persistent force majeure the contract will be terminated; the General Conditions of Contract will contain provisions on the compensation of services rendered by the contractor in such a case.

4.10 Applicable Law, Settlement of Disputes

4.26 A clause will be included specifying the law applicable to the contract, and a provision on the settlement of disputes will be included. In larger or more complex projects the parties may agree on a Dispute Adjudication Board to accompany the project that will adjudicate on the disputed case upon failure of an attempt for an amicable settlement as first instance. In addition, an international court of arbitration will be appointed in any case, this means, in addition to the Dispute Adjudication Board, for instance a court of arbitration in accordance with the rules of arbitration of the International Chamber of Commerce (*ICC*). In case the parties agree on a Dispute Adjudication Board, the dispute should not be referred to the international court of arbitration until at least one of the parties to the contract has refused to accept the decision of the Dispute Adjudication Board. In principle, given the faster and less

complex procedure, preference should be given to the Dispute Adjudication Board over an international court of arbitration or an ordinary court for the final settlement of a dispute.

Annexes

Information and Review Requirements of KfW

Prior to publication or invitation to pre-qualify or tender in procurement processes without pre-qualification, the following documents are to be submitted to KfW for comment:

- Invitation to tender
- Selection criteria for qualification (in detailed form)
- Tender documents, including specimen contract
- Draft notice specifying the fees for the purchase of the tender documents and their utilization, as well as list of the media in which the notice is to be published

In processes with **pre-qualification**, the following documents have to be submitted to KfW for comment prior to the **invitation to tender**:

- The *evaluation report* of the qualification, including the certificate or opinion of the consultant
- The recommendation on the list of bidders to be invited to tender

In processes with **post-qualification**, the following documents have to be submitted to KfW for comment prior to the **opening of the bids**:

- The *evaluation report* of the qualification, including the certificate or opinion of the consultant
- The recommendation on the list of bidders whose financial bids are to be opened.

Prior to the **award** of the contract, the following documents are to be submitted to KfW for comment:

- The signed record of the bid opening
- The *evaluation report*
- The recommendation on the award
- The certificate or opinion of the consultant on the recommendation of the award
- If applicable, an explanation why the *binding period* could not be observed
- At the request of KfW, if applicable, all or specific bids.

If a **suspension of the procurement process** is recommended instead of an award, KfW's no objection on the suspension and on the further steps must be obtained prior to suspension of the procurement process.

During the bidding process and *award*, **contacts between bidders and KfW** are undesirable unless KfW is the contracting agency in exceptional cases. Inquiries for clarifications are to be sent directly to the *contracting agency* or its representative.

If after notification of the result of the qualification or the award of contract a bidder files an **objection** or **protest**, KfW must be informed accordingly and on the subsequent decisions immediately.

Standard Form of a Bid Bond

Address of guarantor bank:

.....
.....
.....

Address of beneficiary (contracting agency):

.....
.....
.....

We, the undersigned (Guarantor), in order to enable to bid for (project, object of contract), hereby irrevocably and independently guarantee to pay to you an amount up to a total of

.....

waiving all objections and defences.

We shall effect payments under this guarantee on your first written demand, which must be accompanied by your confirmation that you have accepted the above-mentioned bid and that the firm is no longer prepared to abide by this bid.

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded telecommunication.

It is understood that you will return this guarantee to us on expiry or after payment of the total amount to be claimed hereunder.

This guarantee is governed by the laws of

.....

Date

.....

Guarantor

Standard Form of an Advance Payment Bond

Address of guarantor bank:

.....
.....
.....

Address of beneficiary (contracting agency):

.....
.....
.....

On you concluded with ("Contractor")
a contract for (project, object of contract) at a price
of

In accordance with the provisions of the contract the Contractor receives an advance pay-
ment in the amount of, which represents % of the order
value.

We, the undersigned (Guarantor), waiving all objections and defences
under the aforementioned contract, hereby irrevocably and independently guarantee to pay
on your first written demand any amount advanced to the Contractor up to a total of
..... (in words:
.....) against your written declaration that the
Contractor has failed to duly perform the aforementioned contract.

This guarantee shall come into force and effect as soon as the advance payment has been
credited to the account of the Contractor.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main (BIC: KFWIDEFF, BLZ 500 204 00), account no. 38 000 000 00 (IBAN:
DE53 5002 0400 3800 0000 00) for account of (contracting
agency/project-executing agency).

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded telecommu-
nication.

It is understood that you will return this guarantee to us on expiry or after payment of the total
amount to be claimed hereunder.

This guarantee is governed by the laws of

.....

Place, date

.....

Guarantor

Standard Form of a Performance Bond

Address of guarantor bank:

.....
.....
.....

Address of beneficiary (contracting agency):

.....
.....
.....

On you concluded with ("Contractor")
a contract for (project, object of contract) at a price
of

In accordance with the provisions of the contract the Contractor is obligated to provide a per-
formance bond for ... % of the contract price.

We, the undersigned (Guarantor), waiving all objections and defences
under the aforementioned contract, hereby irrevocably and independently guarantee to pay
on your first written demand an amount up to a total of
..... (in words:
.....)

against your written declaration that the Contractor has failed to duly perform the aforemen-
tioned contract.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main (BIC: KFWIDEFF, BLZ 500 204 00), account no. 38 000 000 00 (IBAN:
DE53 5002 0400 3800 0000 00) for account of (project-
executing agency/purchaser).

This guarantee shall expire no later than

By this date we must have received any claims for payment by letter or encoded telecommu-
nication.

It is understood that you will return this guarantee to us on expiry or after payment of the total
amount to be claimed hereunder.

This guarantee is governed by the laws of

.....

Place, date

.....

Guarantor

Declaration of Undertaking

We underscore the importance of a free, fair and competitive procurement process that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present procurement process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists in the meaning of the kind described in the corresponding Guidelines⁶.

We also underscore the importance of adhering to minimum social standards ("Core Labour Standards") in the implementation of the project. We undertake to comply with the Core Labour Standards ratified by the country of @ (name of country).

We will inform our staff about their respective obligations and about their obligation to fulfil this declaration of undertaking and to obey the laws of the country of @ (name of country).

We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations, nor of the EU, nor of the German Government, nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the client and KfW if this situation should occur at a later stage.

We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding on the client and/or KfW, the client is entitled to exclude our company/the consortium from the procurement procedure and, if the contract is awarded to our company/the consortium, to terminate the contract immediately if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion occurs after the Declaration of Undertaking has been issued.

.....
(Place)

.....
(Date)

.....
(Name of company)

.....
(Signature(s))

⁶ See "Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries" and "Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries"

Abbreviations and Glossary

Bidding period	Period between the date of issue of the bidding documents and the date of submission of bids
BOT	Build-Operate-Transfer; here the term is used synonymously with other terms like BOOT, BOO.
Contracting agency	See definition in the introduction
Core Labour Standards	The core labour standards define internationally agreed minimum standards for worker rights. They concern forced child labour and other forms of child exploitation, freedom of assembly and non-discrimination. They are established by the International Labour Organisation (ILO). Details on the Core Labour Standards and a list showing what countries have ratified which standards can be found in the Internet at http://www.ilo.org
Development Gateway	A list of ongoing procurement processes can be found at http://www.dgmarket.com .
Discretionary Award	The term is synonymous with "direct award"
Evaluation report	See definitions in para 2.12 and 2.32
FIDIC	Fédération Internationale des Ingénieurs-Conseils (http://www.fidic.org). Civil works projects are covered by the so-called "Red Book", electronic and engineering equipment and design-build projects by the "Yellow Book" and small, e.g. locally awarded projects by the "Green Book". The "Silver Book" for turnkey plant and equipment is only of limited importance as it does not provide for an independent consultant for FC financed projects.
Financial Cooperation (FC)	See definition in the introduction (box)
GTAI	Foreign Trade and inward investment agency of the Federal Republic of Germany Address: Germany Trade and Invest GmbH ⁷ , Villemombler Str. 76, D-53123 Bonn, Telephone: +49 (228) 24993-374 or -377, Telefax: +49 (228) 24993-446, Email: kfw-tender@gtai.de , Internet: www.gtai.de
Guidelines for the Assignment of Consultants in German Financial Cooperation with Partner Countries.	Available in five languages at http://www.kfw-entwicklungs-bank.de/ebank/DE_Home/Download_Center/Ueberblickspublikationen/Richtlinien.jsp
ICC	International Chamber of Commerce Internet address http://www.icc-deutschland.de and others

⁷ Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH

IFI	International financing institutions such as the World Bank, Asian Development Bank, African Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, Caribbean Development Bank.
Leaflet for the Disbursement of Funds	Available in five languages at http://www.kfw-entwicklungs-bank.de/ebank/DE_Home//Download_Center/Ueberblickspublikationen/Richtlinien.jsp
Project executing agency	Agency in the recipient country which is responsible for the implementation of the project, usually also <i>contracting agency</i> .
Procurement	Procedure to award a contract and its result. Procurement comprises preliminary information, qualification, preparation and evaluation of bids, contracting and information to unsuccessful bidders.
Recipient country	Country which is the recipient of the FC loan or grant or country in which the non-governmental recipient has its domicile.
Standard conditions of the German Insurance Association	http://www.tis-qdv.de/tis/bedingungen/inhalt2.htm
Standard documents	("Standard Bidding Documents") of the <i>IFIs</i> for tender, awarding and contractual documents are standardised specimen procurement documents of the <i>IFIs</i> . They are available in English, for instance, at http://www.worldbank.org/ or http://www.adb.org/ .
Validity period	Period within which the bids are binding; the binding period is identical to the term of the bid bond.

Operational Manual



Technical Note no. FI050

Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries

SUBJECT AREA	Budget Funds
SCOPE OF APPLICATION	KfW Development Bank
RESPONSIBLE UNIT	LGb5
PERSON RESPONSIBLE FOR DOCUMENT	Albrecht Wald
EFFECTIVE FROM	September 2013
REPLACES VERSION DATED	Version June 2008, last update on 16 April 2012

Published by:

KfW Bankengruppe, Communication Department
Palmengartenstrasse 5-9, 60325 Frankfurt am Main, Germany
Phone +49 69 7431-0, Fax +49 69 7431-2944
www.kfw.de

Edited by:

KfW Development Bank, Promotional Instruments and Procedures

Please direct any queries concerning these Guidelines to:

LGb5 – Quality Assurance and Processes
Phone +49 69 7431-2371
Fax +49 69 7431-3363

Version: September 2013

Contents

INTRODUCTION	- 3 -
1 BASIC PRINCIPLES.....	- 4 -
1.1 Validity of the Guidelines	- 4 -
1.2 Responsibility for the assignment of Consultants	- 4 -
1.3 The role of KfW	- 5 -
1.4 Public, fair and transparent invitation to tender	- 6 -
1.5 Confidentiality.....	- 6 -
1.6 Bidders entitled to take part in the procedure	- 7 -
1.7 Independence of the Consultant.....	- 8 -
1.8 Cooperation between bidders.....	- 8 -
1.9 The contract.....	- 9 -
2 PROCEDURE FOR INTERNATIONAL PUBLIC INVITATION TO TENDER.....	- 9 -
2.1 Basic principle, publication and deadlines	- 9 -
2.2 Prequalification.....	- 10 -
2.3 The tendering phase	- 11 -
2.4 Evaluating the bids	- 12 -
2.5 Rejection of bids.....	- 13 -
2.6 Cancellation of the invitation to tender.....	- 14 -
2.7 Negotiating the contract.....	- 15 -
2.8 Notification of the bidders and complaints	- 15 -
3 OTHER FORMS OF PROCUREMENT	- 16 -
3.1 Deviations from the principle of international public invitation to tender	- 16 -
3.3 Solicitation of offers.....	- 16 -
3.4 Direct award	- 17 -
4 PROJECTS INVOLVING FINANCIAL INTERMEDIARIES AND PRIVATE SECTOR PROJECTS	- 18 -
4.1 Projects involving financial intermediaries	- 18 -
4.2 Private sector projects.....	- 18 -

Annexes

Areas of Work for Consulting Services	Annex 1
KfW's Rights of Information and Approval	Annex 2
Essential Items in the Prequalification Notice	Annex 3
Declaration of Undertaking	Annex 4
Information on the Prequalification Process	Annex 5
Essential Components of the Request for Tenders	Annex 6
Remarks on the Assessment of the Bids	Annex 7
General Conditions of Contract / Essential Components of the Consulting Contract	Annex 8
Information on Lump Sum Contracts	Annex 9
List of Acronyms and Abbreviations, and Glossary	Annex 10

Introduction

The nature and scope of the projects supported by KfW normally mean that the Project Executing Agency avails itself of support from local or international Consultants in order to prepare, execute and where appropriate operate the projects concerned (for details on the areas of work for Consultants see Annex 1). Consultants may also be assigned independently of ongoing measures, e.g. to identify or evaluate projects, or conduct training measures.

These Guidelines provide information on the minimum requirements when contracting Consultants¹ in projects or programmes supported by KfW Development Bank using funds of German Financial Cooperation (FC), other German budget funds, KfW's own funds or funds of other donors. These Guidelines are based on standard international procedures and norms.

KfW has a responsibility for all of society and regards sustainability in the projects and programmes it supports as an overarching objective of its mission. The design, implementation and subsequent operation of the projects and programmes supported by the regional departments of KfW should take reasonable account of economic efficiency as well as ecological and social aspects. Within the possibilities of the partner systems, these aspects can be considered in different ways in the selection of firms and/or in the evaluation of tenders.

The frameworks for the delivery of services to support projects or programmes and for the selection of Consultants are agreed in the loan financing agreement or other agreements between the Project Executing Agency and KfW. Details of the invitation to tender procedure are then laid down in the respective prequalification notice and request for tenders. This provides sufficient flexibility to take due account of the specific circumstances in each individual project. The rights and obligations of the Project Executing Agency and the Consultant are stated in the consulting contract to be concluded between the Project Executing Agency and the Consultant. To this end KfW will provide a model contract based on standard international model contracts.

Contracts for consulting services are usually awarded by the institution responsible for project implementation (**Client** or **Project Executing Agency**)².

¹ The term "Consultant" refers to an individual consultant or consultancy firms; in these Guidelines it is also synonymous with a consultant engineer.

² The Project Executing Agency is usually also the Client. The terms are used synonymously here.

What is Financial Cooperation?

Financial Cooperation (FC) is a component of German Development Cooperation. Its function is to finance investments in economic and social infrastructure, poverty alleviation, environmental protection and the conservation of natural resources in partner countries by providing loans on favourable terms and grants, using federal budget funds. These funds may be supplemented with market funds raised by KfW. It also seeks to enable the partners to independently and sustainably operate the facilities through complementary basic and advanced training measures (capacity development). FC is carried out by KfW on behalf of the German Government and its Ministries, especially the Federal Ministry for Economic Cooperation and Development (BMZ). FC funds help inter alia to increase supplies of water and electricity, to improve health care and education systems, to expand transport networks and to promote agricultural production. They also finance loan programmes for small and medium-sized enterprises support, economic reforms and promote programmes for climate change and energy efficiency.

1 Basic Principles

1.1 Validity of the Guidelines

1.01 These Guidelines apply to the procurement of all advisory and consulting services that are financed in full or in part by KfW Development Bank using funds of German Financial Cooperation (FC), other German budget funds or KfW's own funds. They are also used when assuming delegated cooperation, except where otherwise agreed with the mandator. The Guidelines also apply in cases where KfW awards contracts in its own name³, unless German law provides otherwise.

1.02 Unless otherwise stipulated in individual cases, consulting services under Financial Cooperation are contracted in accordance with these Guidelines. If the law of the Client's country prohibits the application of these Guidelines in full or in part, the Client and KfW may agree to exceptions. Financing is only possible if the procedures and law on which the contracting is based do not infringe the basic principles of fairness, transparency, economic efficiency and equality of opportunity described in these Guidelines. The Client must make such arrangements with KfW in due course.

1.03 KfW supports the harmonisation of the principles and procedures that apply in international development cooperation. Therefore, in the interests of standardisation, in some cases the procedures of other competent bilateral and multilateral development organisations are used, provided that the Client is familiar with the application of these procedures and KfW has given its prior approval.

1.2 Responsibility for the assignment of Consultants

1.04 Responsibility for the preparation, execution and operation of all projects financed by KfW rests with the respective Client in the partner country – except where KfW has awarded the contract in its own name. The Client normally conducts the entire contracting procedure,

³ This also includes contracting procedures in which KfW acts as part of a consortium.

concludes the contract and supervises the Consultant's contractual performance independently. Responsibility also rests with the Client in those cases where by way of exception KfW under agency principles conducts the selection procedure in the Client's name and on the Client's behalf (See Paragraph 1.10).

1.05 The Client may, with KfW's approval, when implementing the contracting procedure be supported by a tender agent, and may delegate parts of the procedure (preparation of the tender documents, publication, assessment of bids, contractual negotiations) or the entire process to this agent. The tender agent is obliged to maintain confidentiality. This shall not affect the responsibility of the Client pursuant to Paragraph 1.04 or KfW's obligations to give its approval pursuant to Paragraph 1.08.

1.3 The role of KfW

1.06 KfW plays an active part in the preparation and implementation of the projects it finances. Its obligation to exercise due diligence requires it to influence the project in a manner that is appropriate to the case in hand, in order to avoid adverse developments that may arise during the planning, implementation or operation phases. This influence shall be exerted in the form of cooperative dialogue with the Client.

1.07 KfW shall ensure that the funds provided are spent as economically as possible. It will ensure that the contracts are awarded on the basis of fair and transparent competition that offers equal opportunities to all participating bidders. This is designed to identify the most suitable bidder according to performance and price. In addition, KfW will examine the tender documents, Assessment Reports, proposals for the award of contracts and draft contracts, which must all be presented to it as part of the contracting procedure, to ensure that they conform with the agreements made with the Project Executing Agency and with international practices, especially in regard to the description of the services, payment conditions, liabilities and guarantees, and to ensure that the drafts are free of serious defects and contradictions. Finally, KfW will appraise the Client's supervision of the fulfilment of the contracts by the contractor during the implementation phase.

1.08 All documents to be published for the Declaration of Interest and the Invitation to Tender⁴, the selection of the Consultant and the draft consulting contract shall require the prior approval of KfW⁵. Similarly, any amendments to the contract and the acceptance of consulting services by the Client must be presented to KfW for prior approval. A list of the procedures to be followed and the documents to be presented to KfW is included in Annex 2.

1.09 KfW may refuse to finance consulting services and even the entire FC project if a Consultant has not been selected in accordance with the agreed procedures, if the qualifications of the Consultant do not meet the tender specifications, if the terms of the consulting contract do not meet KfW's minimum requirements, if the selection procedure has

⁴ If several invitations to tender of the same kind are planned using uniform documents previously agreed with KfW, separate examination of the documents can be replaced by one-time examination of the standard tender documents.

⁵ If a large number of highly detailed contracting procedures are envisaged prior approval may be waived, provided that the contracting rules, documentation obligations and where appropriate subsequent review by KfW or a representative have been agreed on with KfW in advance (e.g. in the case of disposition funds and local invitations to tender).

been influenced by illegal payments, the granting or promise of other advantages, or if circumstances suggest that such influence has been exercised.

1.10 At the request of the Client KfW may, in individual cases, carry out part or all of the selection procedure and commission the Consultant on behalf and in the name of the Client. For this purpose KfW will sign an agency contract with the Client stating the extent and details of the services to be performed by KfW. This work is free of charge. It generally ends when the consulting contract is signed by KfW on behalf of and in the name of the Client. In such cases these Guidelines shall also apply.

1.11 Furthermore, in appropriate cases KfW may also award contracts for consulting services in its own name. In these cases these Guidelines shall apply, except where German public procurement law provisions preclude this.

1.4 Public, fair and transparent invitation to tender

1.12 Usually the Client will publish an international invitation to tender for consulting services. In this case, unless warranted restrictions exist in specific cases or unless the reasons for exclusion specified in Sections 1.6 and 1.7 apply, there shall be no restriction with regard to the bidder's country of origin.

1.13 Restrictions on the principle of international public invitation to tender described in Section 2.1 are only possible after KfW's prior approval in warranted cases or in the forms of procurement dealt with in Sections 3 and 4.

1.14 All participants in an invitation to tender for services to be financed in full or in part by KfW are required to ensure fair and transparent competition, and to comply with, at a minimum those ILO core labour standards that have been ratified by the partner country. This is to be documented through a corresponding Declaration of Undertaking (see Annex 4) by all participants in the tender process. The Declaration of Undertaking must be signed with legal effect by sufficiently authorised representatives of the bidder, and in the case of joint bids by all partners. Failure to submit this Declaration of Undertaking or to comply with the requirements contained in it shall lead to exclusion from the tender process.

1.5 Confidentiality

1.15 The selection procedure is confidential. Therefore, while the procedure is ongoing neither the Client nor KfW will release any information on the assessment of the bids or the recommendations on the award of contracts to bidders or to any other persons who are not officially involved in the selection procedure. Should confidentiality be infringed KfW may demand that the invitation to tender be terminated.

1.16 Discussions with bidders on their bids are not permitted between publication of the invitation to tender and award of the contract. Exceptions are on-site visits to obtain information, participation in a meeting of pre-selected bidders or inspection of the available documents. These contacts are exclusively intended to familiarise bidders with the local conditions and the available working documents. Beyond this only written enquiries

requesting clarification are permitted. Such enquiries will be answered by the Client in writing, and a copy will be sent to all the bidders. Any other enquiries or interventions are prohibited and will lead to the exclusion of the bidder (see Section 2.8 concerning notification of the bidders after completion of the procedure).

1.6 Bidders entitled to take part in the procedure

1.17 Tenders from bidders will be admitted to the procedure provided that none of the following reasons for exclusion or conflicts of interest apply:

- a) Sanctions or embargoes of the Security Council of the United Nations, the EU⁶ or the German government preclude the participation of a bidder.
- b) The bidder is excluded from the tendering process with legal effect in the Client's country on the grounds of punishable offences, especially fraud, corruption or other economic crimes.
- c) The bidder or a subcontractor to be subcontracted for significant parts of the contract has economic links to the Client and/or is a state-controlled company in the partner country that is not legally or economically independent.
- d) The bidder or individual members of the bidder's staff or a subcontractor has economic links or family ties with personnel of the Client who are involved in preparing the tender documents, awarding the contract or supervising the execution of the contract, insofar as the conflict of interests could not be resolved to KfW's satisfaction in advance of the contract award and execution phase.
- e) The bidder or individual members of the bidder's staff were directly involved in drawing up the terms of reference and/or other information for the tendering procedure. This shall not apply to Consultants who have produced preparatory studies for the contract or who were involved in a preceding phase, insofar as the information they prepared in this connection, especially feasibility studies, was made available to all bidders and the preparation of the terms of reference for the invitation to tender was not part of the activity.
- f) The bidder is not or was not during the last 12 months prior to publication of the invitation to tender indirectly or directly linked to the project in question through employment as a staff member or advisor to the Client, and is not or was not able in this connection to influence the award of the contract for services, or the bidder is not or was not otherwise able to influence the award of the contract for services.

By signing the Declaration of Undertaking (see Annex 4), the bidder attests that none of these reasons for exclusion or conflicts of interest apply. In case of doubt, when tendering the bidder in question shall furnish proof to the satisfaction of the Client and KfW that the aforementioned reasons do not apply.

⁶ This does not automatically apply to exclusions in the Central Exclusion Database of the EU.

1.7 Independence of the Consultant

1.18 The Consultant must always be neutral and independent vis-à-vis potential suppliers for the project in question. Members of associated firms may participate in a project only as either Consultant or manufacturer/supplier/construction firm. When submitting proposals, Consultants must disclose any links with other firms and give a binding declaration that should they be awarded the contract, the firms with which they are associated do not intend to take part in the project in any other form. In a joint venture, this also applies to participating professionals and other consultancy firms. These regulations do not apply to Build-Operate-Transfer (BOT) projects or operator models.

1.19 Consultancy firms that belong to the same group, or are linked in another way financially, organisationally or through personnel, can participate in the competitive tendering procedure individually only if none of the other consultancy firms with which they are associated participate.

1.8 Cooperation between bidders

1.20 Consultants can participate in the competitive tendering procedure as companies in any legal form, and in conjunction with other Consultants. After the completion of the prequalification procedure, cooperation between the prequalified Consultants is permitted only with the approval of the Client and KfW, and only if sufficient competition continues to be guaranteed.

1.21 In projects financed by KfW, major importance is attached to cooperation with experts or companies with a background of local experience and those with international experience. Such cooperation can be made binding in the prequalification notification or in the request for tenders. The listing and selection of the experts and consultancy firms concerned is solely at the discretion of the bidder. The Client may not prescribe cooperation with specific local experts, firms or groups of firms.

1.22 Should such cooperation be proposed the documents submitted for the prequalification process must contain the necessary information on all the intended partners. In particular, they must include a binding description of their competences, fields of work, and the form the cooperation will take. The documents must include a declaration of intent signed by all the partners and naming the consultancy firm that will direct the work. If they are awarded the contract, the partners undertake to take all the steps necessary to perform the work described in the documents as stated and in the form of cooperation as stated. Groups of bidders⁷ are required to enter into an agreement with joint and several liability. In particular cases (e.g. large projects), the request for tenders may require presentation of a detailed and binding agreement between the partners in a group (e. g. in the form of a preliminary contract).

⁷ Consortia, joint ventures etc.

1.9 The contract

1.23 KfW will provide a model contract⁸ which standardises the contents and formal requirements for consulting contracts, and which should be used wherever possible. Insofar as the parties to the contract deviate from this, the contract for consulting services shall be prepared on the basis of internationally recognised practices and standards. It shall include at least the provisions described in Annex 8. If no draft contract is enclosed with the tender documents, the main contractual arrangements that govern or affect costs shall be listed separately in the text of the invitation to tender.

1.24 The Client may, in concert with KfW, agree with the Consultant on remuneration based either on actual work performed or on a lump-sum basis. Remuneration based on actual work performed is recommended if the work to be carried out by the Consultant has not been conclusively defined by the time of the contractual negotiations, for instance construction management tasks. Lump-sum remuneration should be agreed on if the services to be rendered and the time frame within which they are to be rendered are clearly defined. Preference should be given to lump-sum remuneration for studies, detailed plans and other services that can be defined with a similar degree of clarity. For lump sum contracts, it is sufficient to contractually agree only on the key personnel (for further details on lump sum contracts see Annex 9).

2 Procedure for International Public Invitation to Tender

2.1 Basic principle, publication and deadlines

2.01 The procedure for procuring consulting services usually comprises an international, public and unrestricted invitation to tender conducted in two stages, namely prequalification and competitive tendering pursuant to Sections 2.2 and 2.3. In the first stage of the procedure the general suitability of the bidders⁹ is examined; in the second stage a competition among the prequalified bidders is held to select the bidder who has submitted the best bid in terms of the quality of services offered and the price for those services.

2.02 Deviation from this two-stage procedure is possible only with KfW's approval, especially in those cases specified in Paragraph 2.13. International publication of the invitation to tender may be waived in those cases specified in Section 3.

2.03 The international, public and unrestricted invitation to tender shall be published through media with an international reach, and in the partner country. Publication will be initiated by the Client. International publication of the invitation to tender shall include at least the channels of Germany Trade and Invest¹⁰ (GTAI). This publication will be free of charge. The Client shall supply GTAI with the text of the notice, plus one complete set of the tender documents free of charge. Publication in the partner country shall take place in accordance with the local regulations applicable to the Client. The invitation to tender may not be

⁸ The model contract is available in the download center on KfW's website (www.kfw.de).

⁹ The term "bidder" is used synonymously with the term "applicant".

¹⁰ Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH; website: www.gtai.de, for full address details see Annex 3

published in the partner country or elsewhere earlier than it is published through GTAI. The Client will send KfW the text of the notice and the description of the services required (the terms of reference) for approval in due time before publication. The deadlines for preparation of the prequalification documents and for preparation of the bids must take due account of the particular circumstances of the project, its size and complexity, and ensure sufficient and transparent competition. Deadlines shall be at least 30 calendar days for prequalification procedures and 45 calendar days for bids.

2.04 The deadlines may only be extended under special circumstances. All bidders must be notified of such an extension in writing after KfW has received advance notification, in good time prior to expiry of the deadline originally specified.

2.05 All bidders shall be notified in writing, simultaneously and in good time, no later than 14 calendar days prior to expiry of the deadline for submission of bids, of the Client's responses to queries raised by individual bidders prior to expiry of the deadline for submission of bids.

2.06 Prequalification documents and bids are to be submitted on paper and in electronic form as PDF files on standard electronic media. The storage media have to be packed into the respective separated envelopes (see 2.12). The electronic files must not permit further manipulation of the content stored. The submission of written offers may be waived with the prior approval of KfW. In this case safeguarding of confidentiality via an e-tendering platform is required.

2.2 Prequalification

2.07 The prequalification procedure involves reviewing, on the basis of the prequalification documents submitted in an informative, clear and concise form, whether the bidders are able to duly perform the required consulting services. The following basic criteria will be examined:

- a) absence of criteria for exclusion pursuant to Sections 1.6 and 1.7;
- b) experience with implementing comparable projects in the sector concerned, usually over no less than the last five years;
- c) experience in the partner country or similar countries, usually over no less than the last five years;
- d) financial and economic resources and expertise (in relation to the size of contract in question);
- e) human resources and capacities, including backstopping capacities, if necessary supplemented with external resources for the envisaged activities;
- f) submission of a Declaration of Undertaking by the bidder signed with legal effect pursuant to Annex 4.

2.08 The minimum requirements for prequalification and the prequalification template (for further details and explanations see Annexes 3 and 5) will be specified in the prequalification notice.

2.09 Only those bidders will be selected who achieve at least 70% of the points to be allocated. If more than five bidders achieve that total the five with the highest number of points will be selected. The prequalification requires the approval of KfW. For this purpose, the Client will send KfW the Assessment Report on the prequalification and all the documents requested in connection with this in due time.

2.10 Once KfW has confirmed the prequalification result, the Client will inform the bidders of the results of the prequalification. Upon request by a bidder, the Client can briefly state the main reasons for the exclusion of the bid. However, no details on the evaluation procedure or information on competing offers will be disclosed. There is no right of appeal for the bidders beyond the rights provided for in the laws of the partner country. The selected bidders will also be informed of the other prequalified consulting firms.

2.3 The tendering phase

2.11 The Client will ask the prequalified Consultants to tender. The Client will send them a list of the services to be performed (terms of reference), further documentation on the project which the bidders will need to prepare their technical proposals and price quotations, including those elements affecting costs that are to be included in the contract (details on the invitation to tender are given in Annex 6). The terms of reference will state whether remuneration will be paid according to actual work performed or on a lump-sum basis. In the case of lump sum remuneration, the terms of reference will define which positions are considered key personnel and are to be described in detail in the technical proposal. The Client will present the documents necessary to prepare a tender to KfW for approval in due time before dispatching them.

2.12 The bid for services and the price quotation must be submitted in separate sealed envelopes. One original of each must be sent to the Client or to a representative designated by it, and one copy of each sent to KfW, to the addresses specified and by the deadline given in the request for tenders. After that date no amendments or additions may be made to the bids. Any attempt to do this will result in the bidder concerned being excluded from the remainder of the selection process. The bids for services will be opened immediately after expiry of the deadline for submission of bids. The envelopes containing the price quotations will remain sealed, and will only be opened with KfW's approval for those bidders who have achieved at least 75% of the points to be awarded in the assessment of the bids for services.

2.13 The two-stage procedure can be waived subject to approval by KfW, especially in the following cases:

- a) if the estimated net value of the contract does not exceed EUR 200,000, or
- b) if due to a slack market no more than five bids are to be expected, or
- c) due to time constraints, if application of the two-stage procedure is likely to adversely affect the project.

In this single-stage procedure (post-qualification) the qualification documents, the technical proposal and the price quotation are submitted simultaneously. The suitability of the bidders is assessed in accordance with the project-specific criteria specified in Section 2.2, while the technical proposal and price quotation are assessed in accordance with Section 2.4. Where the value of the contract is low and/or knowledge of the market is good, it is appropriate to confine the examination of the bidders' suitability to a few clearly defined exclusion criteria (e. g. minimum of project experience/references and minimum turnover) and to conduct this examination before assessing the technical proposal. The price quotation which is to be submitted in a separate envelope is opened and examined after KfW has given its consent to the assessment of the suitability and the technical proposal.

2.4 Evaluating the bids

2.14 Once opened the bids will be formally examined to establish whether they are complete, whether they meet the conditions of the invitation to tender, and whether the securities/guarantees and declarations provided by the bidder match the tender documents. The opening of the bids must take place in the presence of at least two people, and must be documented in writing to be signed by the individuals present.

2.15 Evaluation of the bids not rejected pursuant to Paragraph 2.14 and Section 2.5 is normally performed by the Client, possibly supported by a tender agent. For contracts advertised by KfW in its own name, the bids will be evaluated by KfW. The objective of the evaluation is to identify the most advantageous bid by assessing the relevant factors in each of the bids and comparing them with the other bids.

2.16 The bids for services will be assessed on the basis of a list of criteria established in advance (details and explanations are given in Annexes 6 and 7). To enable KfW to exercise its right of approval, the Client must send the Assessment Report on the bids for services to KfW in due time, together with all the documents requested by KfW.

2.17 In principle the price quotations will be assessed using the total price (not including customs and excise duties, taxes and levies in the Client's country), after correcting any arithmetical errors. Incidental costs and additional services that are paid for separately against proof in accordance with the terms of the invitation to tender can be adjusted for the purposes of the assessment or excluded from the assessment, if this is the only way to make price quotations comparable. Optional offers of services will only be included in the assessment of price quotations if all bidders were requested to submit such offers in accordance with the terms of the invitation to tender.

2.18 If in the course of the assessment discrepancies between the technical proposal and the price quotation become evident, this should be clarified together with the bidder, though this must not lead to any amendment or improvement of the original bid. Cost items that according to the wording of the invitation to tender are to be offered separately but are not shown separately in the bid will be assessed at the highest price of the corresponding cost item of the other bidders.

The steps taken to calculate the total adjusted price will be explained in detail by the Client in the Assessment Report.

2.19 The price quotation will generally account for 30% of the overall rating. A different weighting shall require the approval of KfW (e.g. a higher weighting in the case of construction supervision or a lower weighting in case of announcement of the available budget in the tender documents).

2.20 The price quotation with the lowest, possibly adjusted, total value will receive the maximum possible number of points (generally 30). The number of points awarded to the other price quotations opened is reached by dividing the total adjusted price in the lowest bid by the total adjusted price of each other bid and then multiplying by the maximum possible number of points.

2.21 The bid for services with the highest rating will receive the maximum possible number of points (generally 70). The number of points awarded to the other bids for services is reached by dividing the rating of each by the rating of the top bid for services, and then multiplying by the maximum possible number of points. The number of points given for the price quotation will be added to the number awarded for the services bid. The order of the bidders will be determined by the total number of points awarded. The bid with the highest total number of points will be the best received.

2.22 After completion of the assessment KfW will receive from the Client a detailed, transparent report on the assessment and comparison of the bids ("Assessment Report") together with a reasoned proposal for the award of the contract that may have been discussed and agreed on with the government agencies of the partner country involved. This Assessment Report shall list in detail the important points for possible contractual negotiations at least for the three top placed bidders. If the Client is being supported by a tender agent (Paragraph 1.05), the Assessment Report shall be co-signed by the agent, or the agent's separate comments on the report shall be attached to it. The proposal for award of the contract will be presented to KfW for approval.

2.23 If an extension of the period of validity for the bids was necessary, the underlying reasons should be explained in the Assessment Report. An extension of the period of validity may not lead to any change in the prices quoted in the bids. KfW reserves the right to decline funding in case of inappropriate delay of the contracting procedure.

2.5 Rejection of bids

2.24 Bids will be in principle rejected if:

- a) the Consultant has influenced or attempted to influence the selection procedure with illegal payments or by granting or promising other advantages, or if circumstances suggest that such influence has been exercised;
- b) the bid has been received at the location specified in the announcement after expiry of the deadline for submission of bids, unless the bidder can prove that it is not responsible for the delay, which is due to force majeure (delays in delivery by courier services do not constitute force majeure);

- c) the bid does not fulfil the criteria in the invitation to tender in essential points, such as the prescribed conditions of contract or key specifications;
- d) the bid contains significant provisos or restrictions;
- e) the statement by the bidder that it is associated with other companies does not clearly show that the former or the latter will not apply to participate in the same project as manufacturers, suppliers or construction firms;
- f) the bidder has not submitted a Declaration of Undertaking signed with legal effect pursuant to Annex 4, insofar as this was not already obtained as part of the prequalification process.

2.6 Cancellation of the invitation to tender

2.25 The invitation to tender may be cancelled if:

- a) there was no adequate competition;
- b) none of the bids for services achieved the required minimum number of points;
- c) fundamental technical or financial aspects on which the invitation to tender was based have changed significantly prior to award of the contract; or
- d) the price quotations are obviously and clearly excessive. In that case the alternative is either to hold a new tender procedure, with or without prequalification, or to commence negotiations on the price with the bidder who came first.

2.26 Competition will normally be deemed to have been insufficient if significantly fewer bids reach the evaluation phase than would have been expected given the breadth of the market, or the prices quoted appear clearly excessive, or price-fixing arrangements have obviously been made. Where price quotes are clearly excessive it is possible to enter into price negotiations with the bidder who came first after cancelling the invitation to tender.

2.27 If no bid for services has reached the required minimum number of points, a further pre-qualification procedure may be waived and a further tender procedure conducted among the bidders originally prequalified. This procedure is only appropriate if amending the conditions or the terms of reference is likely to enable the original bidders to submit suitable bids for services, and the original objectives of the invitation to tender are not called into question as a result of the amendment.

2.28 Cancellation of the invitation to tender and the further procedure shall require KfW's approval. The Client shall notify all bidders in writing that the invitation to tender has been cancelled, without explaining the reasons. If the invitation to tender is cancelled, where the options mentioned in 2.26 and 2.27 above are not available a further invitation to tender normally shall be published on different terms that guarantee greater competition, e.g. by amending the subject or the conditions of the invitation to tender.

2.7 Negotiating the contract

2.29 Once KfW has approved the proposal for award of the contract, the Client will promptly and efficiently negotiate the contract with the bidder who has topped the list. If these negotiations are not successful, the bidder who came second will be asked to negotiate, after KfW has given its approval. The resumption of negotiations with a bidder after negotiations have been broken off is not permissible.

2.30 The Client will carry out negotiations promptly and efficiently and generally limit them to the following points:

- a) clarifying the work and the methods to be used, where necessary adjusting the staffing schedule;
- b) any counterpart services to be provided by the Client and the level of customs and excise duties, taxes and levies in the Client's country, and the contractual obligation to pay these;
- c) contractual stipulations on other cost items that were not included in the assessment of the price quotation.

2.31 Fees and unit prices for incidental costs and services that were to be offered on a lump-sum basis pursuant to the invitation to tender, are in principle not subject to negotiation, as they were already taken into account in assessing the price quotation.

2.32 Insofar as lump sum remuneration was agreed, the payment schedule is to be fixed in accordance with the planned services to be rendered. As soon as 70% of the contract fee has been disbursed, the remaining instalments are to be disbursed against submission of documents linked to specific project milestones.

2.33 Once the bid has been submitted, the personnel or key personnel who form an integral part of the bid cannot be substituted without the approval of the Client and KfW. The substitution of personnel will lead to a reassessment of the entire bid, if the personnel subsequently offered are less qualified than the original personnel.

2.34 The result of the contract negotiations and the draft consulting contract require the approval of KfW.

2.8 Notification of the bidders and complaints

2.35 After conclusion of the contractual negotiations and after KfW has given its consent, the Client will notify all bidders of the award decision. On request by the bidders, the Client may inform them of the main weaknesses of their bids. No details on the award decision will be disclosed. The bidders who were not included in the assessment of the price quotations will have their price quotations returned unopened. There is no right of appeal for the bidders beyond the rights provided for in the laws of the partner country.

2.36 Complaints by individual bidders concerning the contracting procedure must always be submitted in writing to the Client/the responsible complaints authority in the partner country, and copies sent to KfW.

3 Other Forms of Procurement

3.1 Deviations from the principle of international public invitation to tender

3.01 With KfW's prior approval, the principle of international, public and unrestricted invitation to tender may be waived in the cases described below. The exceptions described in Section 3.2 (national invitations to tender) and Section 3.3 (solicitation of offers) are applicable up to a net contract value of EUR 200,000¹¹, provided that no other threshold values have been agreed with KfW. A division of contracts into several parts in order to fall below the threshold values is not permissible.

3.2 National invitations to tender

3.02 A publication of the invitation to tender that is confined to the partner country is possible below the aforementioned threshold, if the following conditions are met:

- a) for the envisaged tasks, sufficiently qualified bidders for a competitive bidding procedure are available on the local market, and
- b) given the nature and scope of the activity, international bidders are not likely to be interested.

In case of national publication of the invitation to tender, international bidders may not be prevented from participating in or be excluded from the procedure. The implementation of the invitation to tender as a single- or two-stage procedure will be determined by the circumstances of the project in question and the national regulations. The provisions governing international invitations to tender apply analogously.

3.3 Solicitation of offers¹²

3.03 If the conditions for a national publication of the invitation to tender pursuant to Paragraph 3.02 are not met, offers may instead be solicited from at least three qualified bidders.

3.04 Only qualified bidders may be requested to submit offers. To this end, the Client will present to KfW a list of the proposed bidders from whom offers will be solicited plus a cost estimate, and will explain their general suitability for the envisaged activity (background experience, human resources, financial resources and expertise in relation to the subject of the contract). When selecting the proposed bidders, importance must be attached to a balanced blend of local and international experience in the relevant area of activity.

¹¹ Contract value excluding VAT, but including all other integral parts of the contract, and where applicable options.

¹² If KfW is the client, the valid EU threshold shall apply, value as at 2012: EUR 200,000.

3.05 If the general suitability of all proposed bidders has been sufficiently demonstrated, no detailed examination of their suitability need be carried out in the course of obtaining the offers. Where insufficient information is available, this must be obtained from all bidders together with the offers solicited. Where appropriate the number of invited bidders should be increased, so that if bidders are excluded on the grounds of unsuitability a sufficient number of bids will remain for assessment.

3.06 Assessment of the documents submitted and the further contracting procedure will follow, insofar as applicable, the provisions laid down in Section 2 for tendering, subject to the following exceptions:

- a) the deadline for submission of offers may be reduced appropriately, but as a rule should be no less than 20 calendar days; and
- b) for offers that require only a minor amount of work to prepare, the submission of written offers may be waived with the prior approval of KfW. In this case the offers shall be submitted in electronic form as PDF that do not permit further manipulation of the content stored. The bidder risks exclusion should the files prove unreadable.

3.4 Direct award

3.07 With direct award only one offer is obtained, and the contract is awarded without a competitive procedure. Direct award is possible only in warranted exceptions, in particular

- a) when extending existing contracts, in cases where the nature and scope of the consulting services being contracted do not warrant a new invitation to tender;
- b) in follow-on phases in programme activities where the terms of reference are largely identical, provided that the first contract was awarded on a competitive basis, attention was drawn to this option in the invitation to tender, the Consultant's performance is satisfactory, and the technical proposal and price quotation are appropriate;
- c) following the cancellation of an invitation to tender pursuant to Section 2.6, insofar as a further competitive procedure is unlikely to produce appropriate results;
- d) where projects are especially urgent in cases of natural disaster, crisis or conflict;
- e) if only one bidder can be considered for implementing the activities for reasons of confidentiality, or the technical, systemic or context-sensitive knowledge required;
- f) for small contracts worth a maximum of EUR 20,000 (not including VAT but including all other contractual components and possibly options), provided that the particular or exclusive suitability of the Consultant to be contracted has been credibly demonstrated by the Client, and an invitation to tender would not bring any economic benefits.

3.08 In cases of direct award the Client will always verify the appropriateness of the technical proposal and price quotation, and any other components of the offer. The outcome of this verification procedure must be documented in writing, and shall require KfW's approval prior to the conclusion of the contract.

4 Projects Involving Financial Intermediaries and Private Sector Projects

4.1 Projects involving financial intermediaries

4.01 When funds are delivered through financial intermediaries, and these funds are used to finance several individual projects e.g. in the infrastructure sector, it is usually not possible to specify in advance the details of implementation of the projects in question. KfW will ensure that the financial intermediary requires the ultimate borrowers to apply procurement procedures that are in accordance with the principles of these Guidelines and that contracts are awarded on the basis of economic principles, are transparent and justifiable. Unless otherwise agreed, the financial intermediary will supervise the award of the contracts and subsequently report to KfW as part of its usual reporting procedures. The provisions under 4.02 and 4.03 below apply to private sector borrowers who implement major individual projects.

4.2 Private sector projects

4.02 Private sector projects are projects implemented by Clients that do not discharge a public mandate, are not under majority state control, and are normally not obliged to issue a public invitation to tender. These private sector Clients usually have their own procurement procedures. KfW will satisfy itself in advance that the procurement procedures applied by the respective Client ensures that the funds are used efficiently and that contract awards are transparent and justifiable.

4.03 For some projects such as public-private partnerships (PPP), a competition often takes place on a different level before the actual procurement, e.g. a minimum grant element (least-cost subsidy) determined in competition or maximum remunerations for the provision of infrastructure services (e.g. water price). Procurements made subsequently and to be financed by KfW may be made under the responsibility of and according to the regulations of the Client if the Client can demonstrate to KfW in advance that the decisions on contract awards are based on economic principles, are transparent and justifiable and if these procurements are part of the preceding competition.

4.04 KfW's involvement in the application of the relevant procurement procedures mentioned under 4.02 and 4.03 above will be agreed on a project-specific basis.

The first part of the report is devoted to a general description of the project and its objectives. It also includes a brief overview of the methodology used in the study.

Annexes

The second part of the report contains the detailed results of the study. This section is divided into several sub-sections, each dealing with a different aspect of the project.

The third part of the report discusses the conclusions drawn from the study and provides recommendations for future research. It also includes a list of references and a list of figures and tables.

Annexes

The fourth part of the report contains the detailed results of the study. This section is divided into several sub-sections, each dealing with a different aspect of the project. The fifth part of the report discusses the conclusions drawn from the study and provides recommendations for future research.

Annexes

Annexes

The sixth part of the report contains the detailed results of the study. This section is divided into several sub-sections, each dealing with a different aspect of the project. The seventh part of the report discusses the conclusions drawn from the study and provides recommendations for future research.

Annexes

The eighth part of the report contains the detailed results of the study. This section is divided into several sub-sections, each dealing with a different aspect of the project. The ninth part of the report discusses the conclusions drawn from the study and provides recommendations for future research.

Areas of Work for Consulting Services

In Financial Cooperation, the project executing agencies use the support and advisory services of Consultants primarily in the following areas. Which of these consulting services is used in a specific project will be determined by the Client and KfW on a case-by-case basis.

a) Preparation

- Sectoral and preliminary studies conducted before the decision is taken to proceed with the further preparations for a project. The purpose of such studies is to make an initial selection, at justifiable effort, from the existing options and work out the scope for proposals that are suitable in regard to technical, economic, institutional, socio-economic, socio-cultural and ecological considerations.
- Feasibility studies prepared as a basis for decision-making on a project to be properly prepared with regard to technical, economic, institutional, and socio-economic, socio-cultural and ecological aspects.

b) Execution

Support for the Project Executing Agency in the detailed design of the project as a basis for the tender (including the technical specifications and the draft contracts for supplies and services), carrying out the tender, assessing the bids and proposing a bidder to be awarded the contract, drafting the contract, drawing up the final design, including the architectural plans, supervising the execution of the project and monitoring its development. The Consultant's services also include examining and approving invoices and supporting the Project Executing Agency in foresighted cost and financial management of the project, in dealing with contractual issues, in accepting the project and in drawing up reports on the development of the project.

c) Operation

Support for the Project Executing Agency in developing operation and maintenance concepts, in advising and training skilled personnel to operate and maintain the facilities constructed under the project, and in carrying out flanking measures (e.g. hygiene advisory campaigns in connection with drinking water supply projects).

d) Other support and advisory measures

Support for the Project Executing Agency with advice on sector policy (e.g. tariff reform), on institutional reforms, on improving the organisational and management structures and/or in carrying out environmental audits.

KfW's Rights of Information and Approval

1. Planning the contracting procedure

The Client will present the following documents to KfW for approval in due time before starting the contracting procedure for the consulting services:

- description of any particular local features and statement of any local regulations that are applicable to contracting procedures
- draft list of services required (terms of reference)
- timetable for the contracting procedure
- cost estimate for the consulting services
- estimated timetable for the performance of consulting services
- draft consulting contract, covering *inter alia*
 - local specifics and binding law relating to the execution and performance of consulting contracts¹³
 - counterpart services offered free of charge by the Client (e.g. provision of office premises, vehicles, equipment and personnel)
 - possibility of and conditions for the exemption of consulting services from customs and excise duties, taxes and levies in the Client's country
 - type of contract (lump sum remuneration or based on work performed).

The Client will promptly inform KfW at all times of any delay and other changes in the course of the contracting procedure that could jeopardise the successful completion of the project in accordance with the timetable, and will agree steps to remedy this situation with KfW.

2. Implementing the contracting procedure

To enable KfW to exercise its right of approval, the Client will send KfW the following documents in due time for examination and comment. KfW's approval is required before each of the following activities commences:

- *before publication*: the draft of the prequalification notice (main components, see Annex 3) and any supplementary information for the Consultants interested;
- *before informing the bidders*: the Assessment Report on the prequalification and the draft list of prequalified bidders, with all the documents related to this as requested by KfW;
- *before dispatch to the prequalified bidders* previously approved by KfW: the draft documents for the tender (invitation to submit a bid, terms of reference, the tender conditions and the conditions of contract for the bidders; for details see Annex 6);
- *before opening the price quotations*: the Assessment Report on the services offered, which must state the reasons for any exclusions, and all the documents related to this as requested by KfW;
- *before a possible cancellation of the tender*: the proposal by the Client that the tender should be cancelled, with reasons. This must follow the criteria in these Guidelines for cancellation and must be sent with all the relevant documents requested by KfW;

¹³ Wherever possible KfW's model contract should be used.

- *before commencing negotiations on the contract with the bidder who came first:* the proposal for the award of the contract together with the Assessment Report on the price quotations and on the final choice, and all the relevant documents requested by KfW;
- *before commencing negotiations on the contract with the bidder who came second:* the proposal to commence negotiations with this bidder, which must state the reasons why the negotiations with the first bidder failed;
- *before deciding on a proposal by the selected Consultant to substitute personnel:* the personnel proposal by the Consultant including full CV, the resultant reassessment of his bid and the statement of the Client's position on this proposal, with reasons;
- *before signing the consulting contract:* the result of the negotiations on the contract and the draft contract, with reference to any and every substitution of personnel and any and every amendment to the services or the draft contract;
- *before the first disbursement:* a copy of the signed version of the consulting contract.

3. Supervision of consulting services and amendments to the consulting contract

The Client is responsible for supervising the fulfilment of the contract and acceptance of the consulting services. The Client shall procure that the Consultant shall:

- send KfW on time the agreed number of progress reports and the other reports on performed work;
- inform KfW without delay of any unusual circumstances that occur during the performance of the services, and on all matters that require approval by KfW;
- permit KfW and its representatives to inspect the books which must be kept by the Consultant, and the documents on the services it has performed, and to make copies of these.
- in case of supervision of construction work, permit KfW and its representatives to examine the guarantees and securities submitted by entrepreneurs, to monitor the period of validity thereof, and where appropriate to call for extension of the same in good time.

Any prolongation, major addition or amendment to the contract or the description of the services which it contains, any annulment of a clause in the contract and any substitution of key personnel require the prior approval of KfW. For this purpose, the Client will inform KfW in reasonable time of the intended amendments, stating the reasons and enclosing a copy of the amendment to the contract.

Essential Items in the Prequalification Notice

The prequalification notice is designed to inform interested consultancy firms of the envisaged FC project and the consulting services that will be required. The publication must be brief and informative. Further information is to be made available. These documents must also state the weightings that will be attached to the individual sub-criteria. The prequalification must be advertised in local and international media, but at a minimum through the foreign trade and inward investment agency of the Federal Republic of Germany, Germany Trade and Invest (GTAI).

Address: Germany Trade and Invest, Villemombler Strasse 76, 53123 Bonn, Germany
 Telephone +49 (228) 24933 - 374 or -377,
 Fax +49 (228) 24933 - 446
 Email kfw-tender@gtai.de

The prequalification notice must contain at least the following items:

- Reference to the prequalification
- Name of the Client and the country
- Sector(s) to be supported
- Brief description of the project
- Brief description of the consulting services required (with reference to phases of their performance if applicable)
- Type of bidder required (independent, qualified Consultants)
- Where appropriate, provisions concerning cooperation with international and local Consultants with local experience
- Finance for consulting services (source[s] and state of preparation)
- Reference to any further information available and where these documents can be obtained
- Application details (number of original/copies, language, address(es), stating communication links)
- Deadline for receipt (at least 30 calendar days after publication of notice)
- Documents to be submitted: corporate profile and status, evidence of financial resources and expertise in relation to the size of the contract (*inter alia* confirmation of guarantee line given by company's principal bank; legally binding signed Declaration of Undertaking from the bidder pursuant to Annex 4. Other evidence required will depend on the scope of services to be performed (e.g. balance sheets and profit and loss accounts for the last three years), relevant references to prove technical qualifications and experience abroad, in the region or country, details on the Consultant's own personnel who will provide monitoring and back-up services from the head office, details of personnel structure (number and qualifications), declaration of intent regarding cooperation (name of lead company), declaration on associated firms, if appropriate specification of further documents to be submitted.
- Declaration of Undertaking pursuant to Annex 4.

Declaration of Undertaking

We underscore the importance of a free, fair and competitive contracting procedure that precludes abusive practices. In this respect we have neither offered nor granted directly or indirectly any inadmissible advantages to any public servant or other person nor accepted such advantages in connection with our bid, nor will we offer or grant or accept any such incentives or conditions in the present tendering process or, in the event that we are awarded the contract, in the subsequent execution of the contract. We also declare that no conflict of interest exists in the meaning of the kind described in the corresponding Guidelines¹⁴.

We also underscore the importance of adhering to minimum social standards (core labour standards) in the implementation of the project. We undertake to comply with the core labour standards ratified by the country of [•] (name of country).

We will inform our staff of their respective obligations and of their obligation to fulfil this declaration of undertaking and to obey the laws of the country of [•] (name of country).

We also declare that our company/all members of the consortium has/have not been included in the list of sanctions of the United Nations, nor of the EU, nor of the German Government, nor in any other list of sanctions and affirm that our company/all members of the consortium will immediately inform the Client and KfW if this situation occurs at a later stage.

We acknowledge that, in the event that our company (or a member of the consortium) is added to a list of sanctions that is legally binding on the Client and/or KfW, the Client shall be entitled to exclude us/the consortium or, if the contract is awarded to our company/the consortium, to immediately cancel such contract if the statements made in the Declaration of Undertaking were objectively false or the reason for exclusion from the tender procedure occurs after the Declaration of Undertaking has been issued.

.....
(Place)

.....
(Date)

.....
(Name of company)

.....
(Signature(s))

¹⁴ See "Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries" and "Guidelines for Procurement of Goods, Works and associated Services in Financial Cooperation with Partner Countries"

Information on the Prequalification Process

1. The following notes, explanations and criteria for prequalification serve as a basis for the prequalification of suitable applicants in the two-stage selection procedure. They are also used in the single-stage, or so-called post-qualification process, in which applicants submit their prequalification documents, technical proposals and price quotations simultaneously. Information and data on the qualifications of bidders who have already been assessed in the prequalification phase may not be assessed again during the tendering phase, unless a prequalified bidder has since been affected by economic, organisational, or staffing structure changes that require its qualifications to be reconsidered.
2. The requirements concerning the documents to be submitted and their scope should be adjusted to the specific project. As well as the volume of work to be performed, the nature of the services being requested should also be taken into account in the specific prequalification procedure (e.g. financial resources play a lesser role for studies of short duration and scope than for deployment of a team of long-term experts). The prequalification notice should indicate the weighting attached to project references. The minimum number of references required to qualify, if necessary also broken down into several areas of experience, should be stated in advance, as should the maximum number of references required to achieve full points.
3. When offers are solicited from a limited number of previously selected candidates, the review of these candidates' suitability may be waived entirely or partially only if sufficient information is available on the proposed candidates. If this is not the case, when soliciting offers the same procedure should be followed as with the post-qualification procedure, i.e. the suitability of the bidders should be assessed.
4. The application documents must give proof of the applicant's financial resources, experience and general ability to perform the services required, and of its sector and regional knowledge. They must also provide evidence of adequate personnel. The documents should be brief and comprehensible, covering the main areas of activity of the firm and the main services performed during the last five years that are relevant to the project, and summarising the availability of the required expertise.
5. If firms are bidding jointly, applicants must provide a binding declaration of which is the lead manager and what form the cooperation will take (joint venture, sub-contracting, other forms), including the envisaged division of labour. At this stage, unless any other provisions have been made (e.g. a preliminary contract), at least a declaration of intent shall be enclosed. Before the contract is awarded to a joint venture, such applicants will be required to enter into an agreement with joint and several liability.
6. If the bidder intends to use subcontractors, then where such are subcontracted it shall bear full responsibility for the services they perform. The assignment of all activities to one or several subcontractors is not permissible.
7. In the prequalified process only those applicants will be considered whose financial resources and expertise are judged by the Client and KfW to be appropriate for the volume of work to be performed. The assessment of these financial resources will be based on the applicant's liquidity and annual turnover in relation to the envisaged value of the contract. The applicant can prove its liquidity by presenting confirmation of a guarantee limit from

its bank, which must not be more than six months old, and which is appropriate to the project (in case of doubt, the Client reserves the right to verify this). Annual turnover is usually confirmed by presenting certified balance sheets or profit and loss accounts for the last three years; for applicants who are not obliged to produce balance sheets, by presenting net income statements. Unless the prequalification notice stipulates any other project-specific figure, the bidder is required to demonstrate an annual turnover (calculated as the mean value for the last three years) that is equivalent to at least three times the envisaged maximum annual turnover arising from this contract. For joint ventures, unless otherwise stipulated in the notice, the cumulative annual turnover of the partners will be taken into consideration; for turnover generated by joint ventures only those portions that the bidder itself has generated will be included. Applicants who submit no documentation or largely incomplete documentation, on this will not be included in the prequalification.

8. In the case of new consultancy firms or firms wishing to add new sectors of operation and/or regions to their range of services, the experience of the key personnel available without restriction for the FC project will be used for the assessment, as otherwise the firm would be disadvantaged in competition with other applicants owing to the lack of reference projects.

9. Applicants that are part of a group of firms, and as such submit project or personnel references from other sections of the firm or sister companies, can only be recognised if they can convincingly demonstrate that if awarded the contract they would have unrestricted access to these resources (e.g. joint venture, subcontractors, secondments). This also applies to the proof of financial resources. In this case the bidder must demonstrate that the parent company or holding company is liable for it with legal effect (e.g. guarantee or a "hard" letter of comfort).

Criteria <i>(the weighting of the sub items provides only a rough indication and should be adjusted to suit the specific project)</i>	Points
1. Proof of experience	40
1.1 <i>Experience in handling similar projects:</i>	<i>about 25</i>
1.2 <i>Experience of the various working conditions in developing, transition or emerging countries</i>	<i>about 10</i>
1.3 <i>Experience in the region or country, preferably in the same sector</i>	<i>about 5</i>
2. Suitability for this specific project	60
2.1 <i>Assessment of available expertise specific to this project for implementation of the activities</i>	<i>about 25</i>
2.2 <i>Assessment of the bidder's own staffing levels with respect to the services required</i>	<i>about 20</i>
2.3 <i>Assessment of the key personnel permanently available to monitor and support the project team from the head office</i>	<i>about 10</i>
2.4 <i>Do the application documents meet the formal criteria, are they complete and are they specific to the project?</i>	<i>about 5</i>
Total	100

Notes on the criteria

1.1 *Experience in handling similar projects*

The main concern is to obtain evidence of the Consultant's experience in handling similar projects, normally over the last 5 years at least. The applicant must produce relevant project references proving that it has acquired sufficient experience in similar projects during the period specified. The presentation of the project references should indicate the full scope of each project (financial, human resources), what role the bidder performed in the project, how it was contractually integrated into the project (main contractor, subcontractor, partner etc.), and if appropriate what share of the total it was responsible for producing. If so requested, the bidder should specify contact persons working for the relevant Clients who can deal with queries concerning the project references.

Any existing negative experiences with a bidder from previous projects can only be included in the assessment if the bidder has been notified of them in writing, if the experiences are conclusive and if they do not predate the period over which proof of suitability must be provided.

1.2 *Experience of the various working conditions in developing, transitional or emerging countries*

This criterion covers experience both under comparable and under different working conditions in similar countries (range of experience), with the main emphasis being on comparable working conditions. The statements must make broad references to appropriate evidence.

1.3 *Experience in the region or country, preferably in the same sector*

The term "region" refers primarily to the country in which the project is located, but experience in comparable neighbouring countries or a large geographical region will be considered in the assessment. Knowledge of the sector (if appropriate several sectors¹⁵) should be shown in the form of brief project descriptions¹⁶, including a description of the services the Consultant has performed in each case.

¹⁵ If the services cover several sectors the descriptions of the project must be grouped by sector; if a reference project is listed several times under different sectors only the services relevant to the sector in question and performed by the firm should be given. Not more than ten cases should be given as evidence per sector.

¹⁶ The project page should be brief. It should give the following information: the firm (personnel as well in the case of young firms), country, name of project, client, Project Executing Agency, finance, brief outline of the project, services performed by the firm, brief description of the service(s), extent of the services (number of expert months and fee).

2.1 Assessment of available expertise specific to this project for implementation of the activities

This criterion is designed to assess the bidder's professional expertise for performance of the planned tasks. The bidder must show that it can provide the requisite expertise in the specialist areas required for implementation of the activities, without restriction. The bidder is not required to name a team, but merely to present the existing expertise and experience in relation to the professional demands and thematic areas in the terms of reference that form part of the prequalification documents. If a firm does not have the necessary know-how and knowledge in all the fields required it can increase its potential by cooperating with other firms or skilled personnel, and provide proof or evidence of their technical knowledge. The Consultant should present its project-specific expertise and experience concisely and back this up with project descriptions, where appropriate supplemented with a brief description of the qualifications of its own staff members¹⁷ who were deployed for that purpose and remain available.

2.2 Assessment of the bidder's own staffing levels with respect to the services required

The assessment covers whether the bidder's in-house personnel is narrowly or broadly based in relation to the services required (total personnel, skilled areas, subject areas, special qualifications). Depending on the services to be performed, the ability to deal with topics that arise unexpectedly can be of particular importance. Here the assessment focuses on the scope of the available specialised human resources on the bidder's own staff.

2.3 Assessment of the key personnel permanently available to monitor and support the project team from the head office

This criterion is about assessing the bidder's capacity for project steering and quality assurance. The bidder is required at this stage not to present a team for the task, but to demonstrate that the firm has its own qualified staff who are able to guarantee leadership, coordination and steering of the works performed by a project team. If key monitoring and steering functions are not covered by the bidder's own staff, points will be deducted in the assessment; this may lead to the bidder being excluded if these resources are entirely lacking. Detailed CVs are not required for the prequalification. It is sufficient to submit a table showing an overview of the human resources available for these functions¹⁸.

2.4 Do the application documents meet the formal criteria, are they complete and are they specific to the project?

¹⁷ Freelance personnel who do not hold a permanent position of employment with the consultant but have worked with him for many years can be counted as permanent staff if this is clearly proven.

¹⁸ Brief information consisting of: name, professional qualification, years of professional experience, with firm since, position in firm, technical field and area of specialisation, languages, experience abroad.

Basically, the documents should be compiled and presented in a way that is specific to the project (not as a brochure), and that is clear and comprehensible. Very extensive and imprecise documentation may cost points.

Essential Components of the Request for Tenders

The request for tenders should give the prequalified consultancy firms detailed information on the envisaged project and the consulting services required. The documents should be informative and they must provide all the data needed for the efficient compilation of bids for services and price quotations. This includes fixing the details of the assessment of the bids.

The request for tenders consists of the following documents in a language usual in international transactions¹⁹:

1. Letter of invitation to tender
2. Conditions of tender and conditions of contract (if no draft consulting contract is included, all information that is important for preparing the bid and that affects costs should be listed separately)
3. The terms of reference

Formats²⁰ may also be prescribed for the presentation of the bid for services and the price quotation. If no formats are prescribed, the presentation of the bid for services and the price quotation should follow the presentation in the terms of reference and the information for bidders.

The essential components of the conditions of tender and the conditions of contract are listed briefly below. This list is not comprehensive. The tender documents should be adapted, elaborated in more detail and where appropriate supplemented in line with the requirements of the project.

1. General items

- Name of Client, and of Project Executing Agency if different
- Two-envelope procedure: the bid for services and the price quotations are to be sent separately, in two sealed envelopes
- The language of the bid
- On-site information visit (at the bidder's own expense and risk)
- Enquiries only permitted in writing, answers will be sent to all bidders, simultaneously and in good time, but no later than fourteen calendar days prior to the deadline for submission
- Prequalified bidders may form joint ventures only with the approval of the Client and KfW, provided that this does not prevent competition
- Reasons must be given for any amendments to the composition of prequalified joint ventures or mergers and these must be approved, otherwise the bidders will be excluded from the contracting procedure

¹⁹ If national regulations require publication in a national language that is not customarily used internationally, the documents should be prepared in two languages (international language, national language), preferably formatted in two columns alongside each other. In national invitations to tender this can be waived, provided that the key documents are presented to KfW in a language used internationally. The costs of translation shall be met by the client.

²⁰ For example, formats for references, for comments by the bidder on the terms of reference and counterpart services provided by the client, for the personnel plan and the programme of work, for the CVs of the key personnel and to structure the price quotation.

- Names of preselected Consultants.

2. Submission of bids

- Bids to be submitted to the Client and KfW
- Submission date and time (in UTC/GMT); the bidders must be allowed at least 45 days to make their bids, and considerably longer if the work is complex
- Bids to be submitted to the Client and KfW
- Place where submission must be received by deadline is
- Address of the Client/body issuing the invitation to tender for receipt of bids, in one original and specified number of copies
- Address of KfW, specified number of copies
- Public submission meeting
- Binding deadline for bids for services and price quotations; no performance bond.

3. Contents of the bid for services

- Critical analysis of the terms of reference
- Concept and methods
- Organisation and logistics
- Timetable and staffing schedule
- Composition and CVs of project team including back-up personnel and for lump sum contracts only key personnel
- Explanation of the task of each member of the team
- Account of envisaged back-up services from head office
- Services to be performed by sub-contractors
- Declaration on associated firms
- Statement of other services or supplies provided by the Client (e.g. office premises, transport, equipment etc.).

Where the prequalification procedure has been held, neither the references nor the Declaration of Undertaking (see Annex 4) need be resubmitted.

4. Contents of the price quotation

- Structure of the price quotation (where appropriate, prescribed format)
- Currency to be used (foreign exchange costs in foreign currency, local costs in national currency)
- Fees (shown separately according to expert personnel monthly rates²¹, foreign allowance, subsistence and accommodation costs at place of service)
- Transport costs between the home country and the country of service
- Local transport costs
- Office costs in the country of service

²¹ For example, the rate for a skilled staff member in the head office: basic salary, social insurance, general costs, personnel administration, holidays and sick leave, office services, communications costs for commission, back-up services and monitoring, data processing, insurance taken out by the firm, profit and loss. This covers the general back-up and monitoring tasks performed by management staff in the head office. The services of management staff or other employees from the head office can be charged separately only if they are performing tasks that are distinguished by subject area and in time from the agreed list of individual services.

- Acquisitions
- Drawing up reports
- Other costs (generally these can only be costs for sub-contracting, leasing equipment, laboratory tests, drilling etc); reasons must be given for any other costs.

5. Payment terms

- Type of contract (lump sum remuneration or based on work performed).
- Currency
- Fixed prices/escalating prices; where appropriate, statement of formula for price escalation (price changes only on the basis of official statistics)
- Arrangements for the payment of customs and excise duties and taxes; it must be stated whether the Consultant is exempt from taxes, customs and excise duties, fees and levies in the Client's country (where appropriate, statement of any taxes and levies from which exemption cannot be given) or assurance that this expenditure will be reimbursed by the Client
- Method of payment; advance payment bond (see Appendix 1 to Annex 8); where appropriate, retention bond (see Appendix 2 to Annex 8), criteria for disbursement of intermediate/final payments
- If the Consultant requests a different method of payment he **must** give reasons for this.

6. Organisation of performance of services

- Expected total duration; expected date to start work; where appropriate, division into phases
- Designated contact person in Client's organisation
- If applicable, recommendation/requirement for cooperation with Consultant/experts with local experience
- Place where work is to be carried out; country of service/head office
- Request for presentation of Consultant's envisaged logistics for this work.

7. Binding statement of services to be provided by the Client

- The Client will provide the Consultant with all the information, maps, aerial photographs in its possession, free of charge, for the duration of the commission.
- The Client will ensure that the Consultant has all the necessary permits to obtain further documents, maps and aerial photographs.
- The Client will support the Consultant in obtaining all the necessary working permits, residence permits and import licences.
- The Client will provide some items free of charge, e.g. office premises and equipment (furniture, air-conditioning, electricity, water, telephone, cleaning, security etc.), skilled personnel (type, number, qualifications, subordinate or assigned, duration), assistants, other back-up services.
- The Client will bear the taxes, customs and excise duties and other charges incurred in connection with the implementation of the project in the country of service.

8. Assessing the bids for services and the price quotations

- Criteria for bids for services: statements in accordance with Annex 5 of these Guidelines (and any agreed sub-criteria) with a fixed rating system of points and weightings
- Statement as to whether customs and excise duties, taxes and levies in the Client's country are to be included in the price comparison (the assessment normally does not include taxes or levies)
- Minimum quality of bids for services that will be taken into account in evaluating the price quotations and the overall rating (minimum score of 75% of the points to be awarded)
- Weighting of the bid for services (generally 70%) and weighting of the price quotation (generally 30%) in the total rating
- Reminder that contract negotiations serve only to clarify unclear items

9. Reports

- Reports by the Consultant (type of report, content, frequency of reporting, recipient, number of copies), including final report covering the contractual period after completion of the commission
- Prescribed contents and breakdown (main section, annex(es), type and length of any summary required)
- Form prescribed for reports (double-sided, maximum number of pages required).

Remarks on the Assessment of the Bids

1. The bid for services should show that the terms of reference and their objective have been fully comprehended, and that the methods and resources proposed are suitable and will be employed appropriately to fulfil the tasks required. In drawing up the bid for services the bidders should observe the terms of reference, any particular requirements in the request for tenders and the following assessment criteria.
2. When assessing the bids for services value will be attached to the brevity and precision of the bidder's statements. As the assessment is performed by professionals, bidders should refrain from textbook-like explanations. The documents should be complete, clear and arranged in a comprehensible way. Particularly in the case of more complex terms of reference, the presentation should include diagrams, tables and graphics.
3. Only the bidders who receive not less than the minimum number of points laid down in the request for tenders will be considered in the assessment of the price quotations.
4. The weighting of the criteria will be fixed in the request for tenders in accordance with the requirements of the project. The weighting for "concept and methods" will generally be 55%-60% in the study phase, and 40%-45% for construction supervision. The weighting for "critical analysis of the project objective and the terms of reference" can be reduced by up to half for terms of reference that involve little or no critical analysis of the terms of reference (e.g. construction supervision). Where sub-criteria have been agreed between the Client and KfW, these and their weighting will be indicated in the request for tenders.
5. The assessment of the bids for services will be based on the following criteria:

Criteria	Points
1. Concept and methods	40 - 60
1.1 Clarity and completeness of the bid	about 10 points
1.2 Critical analysis of the project objective and the terms of reference	about 30 points
1.3 Proposed concept and method, including the programme of work, the staffing schedule and monitoring and coordination mechanisms	about 60 points
2. Qualifications of definitely assigned personnel	60 - 40
2.1 Qualifications of key personnel to be employed on the project, especially the project manager	about 90 points
2.2 Qualifications of the personnel in the head office who will control and monitor the team, and provide back-up services	about 10 points
Total	100

Notes on the criteria

1.1 *Clarity and completeness of the bid*

The bid for services **must** take full account, in content and form, of the terms of reference and the conditions of the bid for services in the request for tenders. All the components of the bid for services that are required must be presented. Clarity in the bid means a clear structure, text statements supported with appropriate tables, lists and other editorial aids in accordance with the complexity of the terms of reference, and a balanced use of annexes to keep the main text clear and precise. If there are minor omissions in relation to the terms of reference, points will be deducted. Omissions that considerably restrict comparison with other bids can cause the bidder to be excluded.

1.2 *Critical analysis of the project objective and the terms of reference*

The bid for services must show that the Consultant has considered the project objectively and the terms of reference derived from it critically and in depth. Any doubts about the suitability, consistency and feasibility of individual aspects and the concept as a whole must be expressed. The methodological section must take constructive account of these while avoiding inadmissible restrictions.

1.3 *Proposed concept and method, including the programme of work, the staffing schedule and monitoring and coordination mechanisms*

The bid for services must present the methodological approach and the programme of work in such a way that their suitability in regard to the terms of reference can be assessed and they can be compared with other qualified bids. This includes a statement of the work organisation planned and the logistics. If in the professional judgement of the assessors and of KfW there is an evident and considerable discrepancy between the terms of reference and the quantities given the bid will not be considered. The text should state clearly how the task is to be solved and the resources used, how the work is to be divided between the team members, how the coordination with those involved and those affected is to be organised and how the quality of the work is to be assured. It must be supplemented with diagrams, tables and, in the case of complex work, appropriate graphics²².

²² At least as follows:

- summary of planned programme (bar graph: interdependent work stages, persons handling each stage, deadlines for meetings, decisions and submission of reports, etc.)
- staffing schedule (bar chart: times and places of assignment for each professional, continuous/ intermittent assignment, activity; including a table stating the precise periods of duty for each expert, by places of assignment)
- summary of quantities for all remaining items that affect costs (services, procurements, subcontracts, rentals, e.g. ancillary personnel, vehicles, flights, offices, equipment, additional studies) and are reflected in the price quotation.

2.1 *Qualifications of key personnel to be employed on the project, especially the project manager*

The curricula vitae of the expert personnel - for lump sum contracts the key personnel - should have a cover sheet containing a summary²³ and include, here or in the text, a brief statement by the bidder on their suitability for the envisaged work and function under this particular project (in more detail for local experts). For lump sum contracts, the bidder must also state the composition of the entire project team – without listing any names – and the planned periods of assignment of the experts. These personal qualifications will not be assessed in absolute terms but in relation to the tasks to be performed, in accordance with the functions and technical fields required, and by comparison with the experience and requirements profile. The assessment of the formal criteria (training, professional experience, regional experience, language skills, management and training experience) will vary according to the terms of reference and the function.

The assessors will also consider whether all the necessary technical and functional areas are covered in accordance with project requirements. Particular weight will be attached to the project manager's qualifications, as he bears operational responsibility for the performance of the services. In his case management experience, language skills, knowledge of planning methods and experience in moderation will generally carry greater weight than for other skilled personnel.

2.2 *Qualifications of the personnel in the head office who will control and monitor the team, and provide back-up services*

The Consultant must show that it (alone or in conjunction with partner firms) can provide competent back-up services for the team working locally on all the technical questions that could arise, using experienced in-house personnel, and that it can control and monitor the work. Generally professional expertise and management experience carry greater weight here than a knowledge of languages or the region. In the case of long-term service and detailed studies, the support from the head office will carry greater weight than in the case of short studies, as here more responsibility has to be shifted to the project manager.

²³ The curricula vitae must be up to date and signed by the expert and an authorised representative of the bidder. The cover sheet (one page) should contain: name of the firm, name of the person, professional qualifications and year in which these were obtained, technical specialisation and experience, nature of the experience (e.g. studies, project implementation, industry, research, administration etc.), management experience (e.g. team leader, department manager, business manager etc.), regional experience (country, nature of the activity, duration), mother tongue, foreign languages, relationship to the bidder (since...), brief timeline of professional work and employers (time, employer, activity, country of service), remarks.

General Conditions of Contract / Essential Components of the Consulting Contract

1 The contract

Where possible, the model contract developed by KfW should be used. If not, the contract should be worded on the basis of internationally accepted practices. The following contractual stipulations should be included at a minimum.

2 Services to be provided by the Consultant

2.1 Description

In signing the consulting contract, the Consultant undertakes to fulfil the task assigned to it. The detailed services agreed for this purpose, and the working methods to be used, result from the terms of reference, supplemented by the bid for services submitted by the Consultant. This detailed bid for services, on which the decision to award the contract was based, is an essential part of the consulting contract, with any additions or amendments resulting from the contract negotiations.

Generally the description of the services will include

- a statement of the objective of the consulting assignment, and the resultant terms of reference for the Consultant
- a detailed list of the minimum individual services needed to achieve that objective
- a list of the documents (studies, reports, plans) to be presented by the Consultant to show the progress and results of its work. The scope, frequency and quality requirements for the reports must be laid down in detail and are binding. Penalties may be imposed, to a maximum amount, for delays or defects in the reports.

2.2 Timetable

The timetable should document the chronological order in which the services will be performed and their contents, and will be binding. It should also show the main events in the project ("milestones") connected with the consulting services. Penalties may be imposed, up to a maximum amount, for delays.

2.3 Staffing schedule

The staffing schedule fixes the number and project-specific qualifications of the personnel to be employed in the various areas of service and the duration of their service, and clearly assigns them to the plan of activities. It should also document the cooperation with the Client's staff assigned to the project.

3 Services to be provided by the Project Executing Agency (as Client)²⁴

3.1 Obligation to provide information

The Client will provide the Consultant, for the duration of the service and free of charge, with all the data, documents and information to which it has access and that are necessary for the performance of the consulting contract.

3.2 Counterpart services

The Client undertakes to provide the Consultant, in due time and in full, with all the services necessary for the fulfilment of its obligations and that are detailed in the tender documents.

3.3 General obligation to provide support

The Client undertakes to obtain in due time the official permits needed by the Consultant for its work (visas, work permits etc.).

4 Remuneration

The Consultant's remuneration (fees and other incidental expenses) will be agreed on the basis of its detailed price quotation, where appropriate modified during the contract negotiations. Payment will be made for local and foreign currency components separately. The fee is calculated for the input of personnel proposed in the bid and appropriate for the services agreed, at the expert-month rates for the qualifications required. Payment will also be made for necessary expenditure on materials and travel costs and other incidental expenses. These costs are to be paid in a lump sum. The contract states whether the payment for the services will be made as a lump sum, against services performed or in instalments upon achievement of agreed objectives. In the case of studies preference will be given to a lump sum. An agreement on fees as a percentage of the project costs is not generally accepted by KfW.

5 Payment terms

The Client is responsible for executing the project and thus for making the payments under the consulting contract. In particular, the Client is responsible for ensuring that all the payments are made without delay and in accordance with the contractual stipulations. If the payments are not received at the proper time, for reasons for which the Client is responsible, the Consultant may require reimbursement of the costs incurred by the delay.

The Consultant has no rights of recourse, and in particular, no claim to payment against KfW under the loan or financing agreement concluded for the project. KfW makes payment under a loan or financing agreement only upon request by a person authorised under this contract.

²⁴ If by way of exception the executing agency is not the client, the principles below shall apply analogously to the actual client.

5.1 Advance payment

The advance payment is a preliminary service by the Client to cover the Consultant's mobilisation costs. It is made when the contract is signed or immediately thereafter against submission of an invoice. As a rule it should not exceed 15% of the total value of the contract or EUR 150,000 or the equivalent in other currency. The provision of an advance payment guarantee [Model Advance Payment Guarantee] is required if the advance payment exceeds 15 % of the Order Value, and in any case if it exceeds EUR 150,000 (or the equivalent value in another currency).²⁵

5.2 Interim payments

Further payments (instalments) will be made in accordance with the expected progress of the services, with not more than one payment made in each quarter against submission of an invoice. After disbursement of 70% of the contract fee any further interim payments will be made only against documents linked to specific project milestones (e.g. progress reports).

If by agreement part of the fee depends on results or success, this part of the fee must be invoiced separately. The payments will be made only against the agreed evidence of the results or the success.

5.3 Final payment

The final payment will be made after conclusion of the services and their acceptance by the Client and KfW. This will be at least 5% of the contracted fee (e.g. for final design and construction supervision). In the case of studies it is usually 10% (for work contracts 20%) of the contracted fee. In the case of final design and construction supervision the payment due on final acceptance can be disbursed already upon provisional acceptance against a bank guarantee for the appropriate amount that is valid until the date of final acceptance. This guarantee must be made payable to KfW²⁶.

5.4 Price escalation clause

Contracts for more than one year may include a price escalation clause. It must generally be oriented to the official wage and price level in the Consultant's country (foreign exchange costs) or the Client's country (local currency costs). The contract must state the price escalation formula and the basis for calculation in the form of indices based on the official statistics.

6 Disbursement procedure

One of the two following procedures for disbursement can be agreed:

- The Client may have the amounts invoiced by the Consultant paid directly to the Consultant by KfW upon the due date (direct payment method).
- The Client may make the payments for the consulting services rendered and be reimbursed by KfW (reimbursement procedure).

²⁵ A model advance payment bond is given in Appendix 1.

²⁶ A model retention guarantee is given in Appendix 2.

7 Further provisions

7.1 Independence of the Consultant

The Consultant and the firms with which it is associated undertake not to apply as manufacturers, suppliers or construction firms to the same project for which they are acting as Consultants. Infringement of this provision can result in immediate termination of the consulting contract and reimbursement of all the expenditure incurred by the Client to that date, and all the losses and damage incurred by the Client through termination of the contract.

7.2 Liability

The Consultant undertakes to the Client to perform the services agreed, in full, in accordance with the agreed time schedule and in accordance with recognised professional standards. Within this scope it is liable for any infringement of the contract attributable to him.

In cases of minor negligence the Consultant's liability is limited to the value of the contract or the corresponding insured sum, whichever is greater. Liability for deliberate and gross negligence is not affected by this.

The liability ends when the services agreed in the contract are accepted by the Client or upon expiry of the warranty period. Normally liability for consequential damage is excluded.

7.3 Force majeure

Force majeure is extraordinary events beyond the control of the parties to the contract and which prevent either or both of them from fulfilling the contract. They include crises which cause the Consultant to withdraw its personnel at the demand of the Government of the Federal Republic of Germany. Liability for damage during the absence of the Consultant caused by this is excluded. As long as such a case continues the party affected shall be released from his obligations under the contract. In principle, the Consultant has a claim to appropriate continuation of the contract and - generally - reimbursement for the losses and damage he suffers. If the force majeure continues without interruption for a longer period (e.g. 180 calendar days) either party may terminate the contract.

7.4 Termination of the contract

The Client may normally terminate the consulting contract at any time, giving at least 30 calendar days notice – with KfW's prior consent. The Consultant may also terminate the contract if payments due to it are not received within 60 calendar days of the due date. Termination is permitted only if the Consultant has submitted a written reminder within 30 days after the above deadline has expired and if the amounts owed are not paid within a further 30 days.

If the contract is terminated through no fault of the Consultant, it shall be entitled to its fee up to the date of termination. The Consultant may demand reimbursement of all costs incurred up to that date and compensation for all losses and damage incurred through the termination. If the contract is terminated through the fault of the Consultant the Client shall be entitled to claim damages. After termination the consulting services must be concluded

speedily and with due care and diligence. The reports, drafts and other documents completed by that date must be handed over to the Client without delay.

7.5 Prevailing law and settlement of disputes

The consulting contract must state which law applies to the contract. It must also contain a clause on the settlement of disputes. If a dispute cannot be settled amicably the parties shall seek mediation before instituting arbitration proceedings. Such proceedings shall follow the rules of international arbitration courts.

7.6 Contract language

Consulting contracts may be drawn up in German, English, French, Spanish or Portuguese.

7.7 Insurance

The consulting contract must provide for the adequate insurance of the personnel and equipment used. The Consultant is normally required to take out adequate professional indemnity insurance, personal liability insurance and insurance against damage caused to equipment and machines procured under the project, and liability and comprehensive insurance for the vehicles acquired under the project.

7.8 Taxation of consulting services

The consulting contract must state whether the Consultant and the personnel employed by it are exempt from taxes, customs and other official charges in the Client's country. Generally the Consultant's fee is exempt from these taxes and charges, as are the salaries of the personnel employed by it. Equipment imported by the Consultant, and household goods and objects for personal use imported by his personnel (basic equipment) are usually exempt from customs duties. If exemption from taxes, customs duties and other official charges is not granted it must be agreed that the Client will reimburse the Consultant for all amounts paid out for these items.

7.9 Declaration of undertaking

The Declaration of Undertaking (see Annex 4) presented during the prequalification process or upon submission of the proposal by the successful bidder shall become an integral part of the consulting contract. In this Declaration the Consultant declares that it, its employees and any subcontractors have abstained and will abstain from any form of corruptive behaviour, that they will all comply with the minimum social standards ("core labour standards") adopted by the country and are not included in any sanctions list and that he will immediately report any such occurrence to the Client and KfW. If the declaration of undertaking is breached during execution of the agreement, KfW shall be authorised to initiate the consequences stated in Paragraph 1.09.

Model Advance Payment Bond

Address of guarantor bank: ...

.....
.....
.....

Address of beneficiary (Client):

.....
.....
.....

On you concluded with (name and full address)

.....
.....

("Contractor") a Contract for
(project, object of the Contract) at a price of

.....

According to the provisions of the contract, the Contractor receives an advance
payment in the amount of

.....equalling %
of the contract value, as an advance payment.

We, the undersigned
(bank), waiving all objections and defences under the aforementioned Contract, hereby
irrevocably and independently guarantee to pay on your first written demand any amount
advanced to the Contractor up to a total of

.....

(in words)

against your written declaration that the Contractor has failed to perform the aforementioned
Contract.

This guarantee shall come into force as soon as the advance payment has been credited
to the account of the Contractor. This guarantee shall be automatically reduced pro rata in
accordance with the payments performed.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main (BIC: KFWIDEFF, BLZ 500 204 00), account No. 38 000 000 00 (IBAN: DE53 5002
0400 3800 0000 00), for account of (Client/Project Executing Agency/purchaser).

This guarantee shall expire not later than

by which date we must have received any claims by letter or coded telecommunication.

It is understood that you will return this guarantee to us on expiry or after settlement of the
total amount to be claimed hereunder.

.....

Place, date

.....

Guarantor

Model Retention Guarantee

Address of guarantor bank: ...
.....
.....
.....

Address of beneficiary (Client):
.....
.....
.....

On you concluded with (name and full address)
.....
..... ("Contractor") a Contract for
..... (project, object of the
Contract) at a price of
.....

According to the provisions of the Contract, the Contractor receives the amount of
.....
equalling % of the Contract value, as a final payment.

We, the undersigned
(bank), waiving all objections and defences under the aforementioned contract, hereby
irrevocably and independently guarantee to pay on your first written demand an amount up to
a total of

.....
(in words)

against your written declaration that the Contractor has failed to perform the aforementioned
contract.

In the event of any claim under this guarantee, payment shall be effected to KfW, Frankfurt
am Main (BIC: KFWIDEFF, BLZ 500 204 00), account No. 38 000 000 00 (IBAN: DE53 5002
0400 3800 0000 00), for account of (Client/Project Executing Agency/purchaser).

This guarantee shall expire not later than

by which date we must have received any claims by letter or coded telecommunication.

It is understood that you will return this guarantee to us on expiry or after settlement of the
total amount to be claimed hereunder.

.....
Place, date Guarantor

Information on Lump Sum Contracts

General items

1. The Client may, in concert with KfW, agree with the Consultant on remuneration based either on actual work performed or on a lump-sum basis. Remuneration based on actual work performed is recommended if the work to be carried out by the Consultant has not been conclusively defined by the time of the contractual negotiations, for instance construction management tasks. Lump sum remuneration should be agreed on if the services to be rendered and the time frame within which they are to be rendered are clearly defined.
2. The bidders should be notified in good time as to how the services will be remunerated, and no later than with the request for tenders.

Advantages of lump sum remuneration

3. Under a lump sum contract, remuneration and material expenses are settled in one lump sum. Separate vouchers verifying the term of assignment of the experts are no longer necessary. In addition to simplifying the settlement procedure, this stipulation is designed to offer the Consultants wider scope for carrying out the assignment, thereby encouraging their sense of responsibility and innovative creativity as well as underscoring the results-orientation of the contract.
4. The lump sum method should be applied if the service to be performed is clearly definable and the Consultant can decide largely on his own how to fulfil these tasks. The lump sum method is primarily suited for studies, detail planning and similar clearly definable tasks. The economic risk to the Consultant that is entailed by the lump sum method must not lead to inappropriately high risk premiums.

Particularities regarding the preparation of lump sum contracts

5. Under lump sum contracts it is no longer necessary to recommend personnel for every position and supply their curricula vitae; it is sufficient to require the curricula vitae of the key personnel in the technical proposal. Only these are assessed. Which key personnel are needed to carry out the assignment is to be specified in the terms of reference. Only the substitution of key personnel requires the approval of the Client and KfW. Changes in the assignment schedule do not require approval as long as they do not reduce the period of assignment of key personnel. The Consultant is responsible for keeping to the deadline and for performing the contractually agreed work.
6. Payments under the consulting contract should be made on the basis of the progress of the services; as soon as 70% of the contracted fee has been reached they should be made on the basis of documented services linked to specific project milestones.
7. The conclusion of a lump sum contract does not exclude payment of reimbursables for some ancillary work (such as geotechnical drilling), the scope of which is not known at the time of conclusion of the contract, against submission of a corresponding voucher.

List of Acronyms and Abbreviations, and Glossary

Assessment Report	See definitions in Paragraphs 2.12 and 2.32.
BOT	Build-Operate-Transfer; the term is used synonymously here with BOOT and BOO.
Client	See definition in Introduction.
Contracting	The procedures for awarding a contract and their outcome. The procedures encompass initial publication, qualification, preparation and assessment of bids, award of the contract and notification of the unsuccessful bidders.
Core labour standards	The core labour standards define internationally agreed minimum standards for workers' rights. They cover among other things forced labour and exploitative child labour, and seek to protect workers' freedom of association and freedom from discrimination. The lead agency is the International Labour Organization (ILO). For further details on core labour standards, and a list showing which countries have ratified which standards, go to http://www.ilo.org .
Deadline for submission of bids	Number of calendar days between the date of issue of the tender documents and the date by which bids must be submitted.
Development gateway	A list of current invitations to tender is available at http://www.dgmarket.com .
Direct award	Contracts are awarded directly, without competitive bidding.
FIDIC	Fédération Internationale des Ingénieurs-Conseils (http://www.fidic.org). The "red book" relates to building works, the "yellow book" covers electrical and mechanical plant and design-build projects, and the "green book" is used for small, e.g. locally advertised projects. The "silver book" for turnkey plants is of only minor significance for FC-financed projects due to the absence of an independent consultant.
Financial Cooperation (FC)	See definition in the Introduction (box)
GTAI	The Germany Government's agency to promote trade and investment. Address: Germany Trade and Invest ²⁷ Villemombler Strasse 76 53123 Bonn Germany Phone: +49 (228) 24993 - 374 or 377 Fax: +49 (228) 24993 - 446 Email: kfw-tender@gtai.de Internet: www.gtai.de

²⁷ Full name: Germany Trade and Invest – Gesellschaft für Außenwirtschaft und Standortmarketing mbH.

Guidelines for the Assignment of Consultants in Financial Cooperation with Partner Countries	Available in five languages at: http://www.kfw-entwicklungsbank.de/ebank/EN_Home/Download_Center/Overview_Publications/Guidelines/index.jsp
ICC	International Chamber of Commerce website: http://www.icc-deutschland.de
IFIs	International Financial Institutions, e.g. World Bank, Asian Development Bank, African Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, Caribbean Development Bank.
Leaflet for the Disbursement of Funds of Financial Cooperation with Developing Countries	Available in five languages at: http://www.kfw-entwicklungsbank.de/ebank/EN_Home/Download_Center/Overview_Publications/Guidelines/index.jsp
Partner country	State that is the recipient of the FC loan or grant, or state in which the non-governmental partner is domiciled.
Period of validity	Period during which bids remain binding; this covers the same period as the performance bond.
Project Executing Agency	Organisation in the partner country that is responsible for implementing the project; this organisation is usually also the Client.
Standard bidding documents	Standard bidding documents of the IFIs for publication of invitation to tender, contracting procedures and contracts. To download the documents go to http://www.worldbank.org/ or http://www.adb.org/

Content and Form of Reporting

Reporting: Programme "Biodiversity and Adaptation to Climate Change"

Done by: PIU; semi-annually

Where possible, show development by statistical time series. Explain any particular developments.

Assess impacts on the sustainable success of the project

A. General Programme Environment

1. Sectoral information: Protected Area Network and Biodiversity

Please report on changes and new developments in the sector concerning:

- Policies and strategies
- institutional environment (Actors and Institutions in Environmental/ Biodiversity Policy)
- legal environment
- rangeland and forest management
- Protected Area Network (newly designated PA, changes in classification and boundaries)
- mining operations in protected areas
- donor activities and cooperation with other institutions; coordination activities

2. Information concerning the Programme Executing Agency

- Institutional changes within MEGD
- Changes in the cooperation between MoF, MED and MEGD
- Changes with the PA Administrations and the Department of PA Management
- Update on staffing and budget development

	2012	2013	2014	2015	2016	2017
Staff in the Department of PA Management						
Staff in the PA Administrations (No of Rangers)						
MEGD annual budget (in billion MNT)	110.2					
Annual Budget of the PA-Department (in billion MNT)	3.544					

3. Information concerning the Target Group

- Population development and trends in the protected areas
- Poverty trends
- Other developments

B. Programme development in the reporting period

1. Progress and achievements

Results from Steering Committee and Biodiversity Board Meetings

Implementation status of approved projects (structured along the components)

2. Challenges and proposed solutions

3. Cost & Financing; disbursements and counterpart contributions

Update of status; report on developments in reporting period

4. Time schedule

5. Objectives and Indicators; Impacts

- based on Impact Matrix

D. Project Operation and Project Performance

Concerning completed particular projects

E. Additional information - just report on if applicable, determining and/or new development

- new information regarding the impact of Climate Change

- Gender aspects

Annex:

- Impact Matrix (updated)
- List of Goods and Services and Implementation Monitoring (as electronic version - Excel file).

Note: The exact format will be developed during the Inception Phase.

**Annex 6
to the Separate Agreement**

Officer in Charge: Maria Kaliner
phone: +49 69 7431-3341
email: maria.kaliner@kfw.de

Disbursement Procedure

**German Financial Cooperation with MONGOLIA
Loan/Financing/Project/Programme Agreement of KfW
EUR 11,5 million
Project/Programme name: Programme on Biodiversity and Adaption to Climate
Change
KfW-Reference No.: 2012 65 511**

1 INTRODUCTION

This annex stipulates the disbursement procedure for the above-mentioned project/programme. The Separate Agreement including this Annex shall be made available to all staff of the borrower, recipient, or project/programme-executing agency ("**Authorized Party**") and any other party involved with disbursements.

KfW disburses loans and non-repayable financial contributions ("**Funds**") upon request of the **Authorized Party** in accordance with the progress of the projects/programme financed. KfW supervises the contractual use of the Funds which it has reserved for specific goods and services on the basis of the "Separate Agreement" pertaining to the Loan/Financing/Project/Programme Agreement. The List of Goods and Services as well as the corresponding Funds reserved thus form the framework within which the Authorized Party may request disbursement from KfW once all contractual prerequisites for disbursement have been fulfilled.

2 GENERAL PROVISIONS

- 2.1 All withdrawal applications shall
- indicate the **KfW Reference Number**,
 - be **numbered consecutively** and
 - be signed by representatives of the Authorized Party who have been designated as authorized towards KfW and of whom KfW has received **specimen signatures** (example see **Attachment A**).
- 2.2 In general, KfW accepts only **original** withdrawal applications. If, in exceptional cases, a withdrawal application has been transmitted by fax, the original is to be sent by mail immediately afterwards marked as fax confirmation. KfW is released by the Authorized Party from liability for any damage resulting from false transmissions, due in particular to transmission errors, abuse, misunderstanding, or mistakes.
- 2.3 For payments made in a currency other than that committed ("**Foreign Currency**"), KfW will debit the borrower or recipient with such amount as was expended by KfW for the procurement of the foreign currency, inclusive of incidental expenses.

- 2.4 KfW will not be liable for delays caused by transferring banking institutions in the disbursement or remittance of Funds. If any delay is caused by KfW, its liability will be limited to the payment of interest accrued.

3 SPECIAL PROVISIONS

- 3.1 Authorized Party is the Ministry of Environment and Green Development (MEGD).

- 3.2 Procedure to be applied

The Funds assigned to goods and services specified in the Separate Agreement I.1. + I.3. for consulting services shall be disbursed according to the **Direct Disbursement Procedure**.

All other funds assigned to goods and services as specified in the Separate Agreement I.1. + I.3. shall be disbursed (up to EUR 0.3 million) according to the **Disposition Fund Procedure (Special Account)**. Individual contract/measures to be financed out of the disposition fund shall not exceed EUR 350,000 or equivalent. Contracts of more than EUR 350.000 each shall be disbursed according to **Simplified Direct Disbursement**.

3.3 Direct Disbursement Procedure (Consultant)

The Authorized Party will send KfW a duly signed Withdrawal Application (see Attachment D), indicating the beneficiary's name and payment instructions (full bank details).

- 3.3.1 Documents supporting the Withdrawal Application, whenever applicable:

- Copy of consultant's invoice
- Evidence of the contractually agreed bases for price computation in case of price escalation
- List of expenditures for reimbursable costs showing date, description, price, exchange rate of the expenditure, duly signed by the consultant stating that the information given is true and correct.

- 3.3.2 Documents

All original evidence of expenditures corresponding to the invoices is to be kept until at least five years after completion of the financed measures and will have to be accessible at all times for inspection by KfW or third parties so instructed by KfW (e.g. auditors).

3.4 Operation of the Disposition Fund (Special Account/s)

For the purpose of the Disposition Fund a Special Account will be opened in the name of MEGD. Details are contained in item 1 of the enclosed **Supplementary Conditions of KfW for Payments under the Disposition Fund Procedure "Supplementary Conditions" (Attachment B)**. The prerequisites for disbursements are defined in item 2 of the "Supplementary Conditions".

The account is to be kept in EUR and shall bear interest.

In case it will be more efficient to make local payments from a local account, such account shall be held in addition as Special Local Account. To avoid losses in currency devaluation, only a one-month need of expenditures planned is allowed to be transferred from the above special account to the local currency special account.

3.4.1 The Authorized Party herewith instructs KfW to remit an **initial deposit (advance)** to the account holding party agreed, up to an amount covering the expenditures for four months. The actual amount to be disbursed is subject to the presentation of a forecast by the Authorized Party, countersigned by the Consultant, of the expenditures planned for the following four months. For replenishments of the special account the Authorized Party, countersigned by the Consultant, will present evidences together with the Request for replenishment after expenditures of at least 50 % of the initial deposit can be substantiated. (Request for replenishment see specimen in Attachment B/Annex 3 "Supplementary Conditions"). The amount to be replenished is subject to the presentation of a new forecast of expenditures for the following four months.

In any case evidence of the use of funds is to be presented at the latest four months after the preceding payment irrespective of whether the aforementioned minimum sum of expenditures has been reached. If this deadline cannot be met, KfW will be informed immediately of the state of affairs (see item 8 "Supplementary Conditions").

In case the amount for which evidence of the use of funds has been provided will not be sufficient for replenishment or no replenishment is requested, such an amount will be set off against the amount of the initial deposit.

The Authorized Party shall assign an **external auditor** to examine annually (in compliance with KfW Terms of Reference for Auditors, Attachment C) whether the Disposition Fund has been managed properly. The audit costs will be paid out of the disposition fund (please refer to Annex 3 of the Separate Agreement). The final audit will be executed six months after the last disbursement out of the Special Account. A copy of each auditor's report will be sent to KfW in due course after the end of the period under review.

3.5 **In case** of deviations between the supplementary conditions and these "special provisions" the latter will be valid.

3.6 Simplified Direct Disbursement Procedure

The Authorized Party will send KfW a duly signed withdrawal application certified by the Consultant (see Attachment E), indicating the beneficiary's name and payment instructions (full bank details) and will enclose a copy of the contractor's invoice.

KfW disburses Funds for account of the Authorized Party directly to the contractors of goods and services to be financed by KfW.

As agreed in the Consulting Contract, the Consultant will confirm the Authorized Party that all prerequisites for the disbursement have been met and all documents presented (incl. guarantees) are in accordance with contract conditions and KfW regulations/standards.

3.6.1 Documents

All original evidence of expenditures corresponding to the invoices is to be kept until at least five years after completion of the financed measures and will have to be accessible at all times for inspection by KfW or third parties so instructed by KfW (e.g. auditors). Such evidence includes invoices, shipping documents, acceptance protocols and all relevant documents necessary to evidence payment.

3.7 **Debit advices** will be automatically distributed monthly by mail to the addressees of the Separate Agreement and to other parties involved as communicated to KfW by the Authorized Party. In the event the Authorized Party has communicated an e-mail address to KfW, the debit advices will be sent daily.

Please contact the KfW-official mentioned above if you have any questions about the disbursement procedure, quoting the KfW-reference number.

Attachments

- A) Example of a Letter Designating Authorized Signatories
- B) Supplementary Conditions of KfW for Disbursements under the Disposition Fund Procedure (including Form for withdrawal application)
- C) Terms of Reference for Auditors
- D) Withdrawal Application Form Direct Disbursement Procedure Consultants
- E) Withdrawal Application Form Simplified Direct Disbursement Procedure

EXAMPLE OF A LETTER DESIGNATING AUTHORIZED SIGNATORIES

From: _____
Party of the Authorized Representative according to the Loan/Financing/Project/Programme Agreement)

To:
KfW Bankengruppe
Attn: LEC4
Postfach 11 11 41
60046 Frankfurt am Main

German Financial Cooperation with MONGOLIA
Loan/Financing/Project/Programme Agreement of KfW
EUR 11,5 million
Project/Programme name: Programme on Biodiversity and Adaption to Climate Change
KfW-Reference No.: 2012 65 511

Dear Sir/Madam,

With reference to the Loan/Financing/Project/Programme Agreement for the project/programme mentioned above, we would like to inform you that any one of the persons whose authenticated specimen signatures appear in this letter is authorized to sign withdrawal applications on behalf of the Borrower/Recipient/Project/Programme Executing Agency

- a) Name: _____
Function: _____
Specimen Signature: _____

- b) Name: _____
Function: _____
Specimen Signature: _____

- c) Name: _____
Function: _____
Specimen Signature: _____

All previous notices (if any) providing signatures of officials authorized to sign applications for withdrawal under this loan/financial contribution are hereby revoked.

In compliance with KfW's identification requirements we hereby enclose readable copies of the passport of each person authorized to sign withdrawal applications in connection with this loan/financial contribution.

Yours sincerely,

Signature of the Authorized Representative of the Loan/Financing/Project/Programme Agreement *Date*

Note: In the event that each application is to be signed by more than one official, the authorization must state this clearly. If authorized signatories are divided into two groups, and joint signature is required, this must also be clearly stated.

**Supplementary Conditions of KfW
for Payments under the Disposition Fund Procedure ("Supplementary Conditions")**

The following conditions are applicable to payments under the agreed Disposition Fund Procedure:

1. After **prior agreement with KfW** the Authorized Party ¹⁾ will arrange for a **Special Account to be opened** (Special Account) with a renowned bank (bank in charge of the account), which will be kept in its own name or in the name of a third party authorized by the Authorized Party and, specifically, to handle
 - a) expenditures in foreign exchange:
with a commercial bank in Germany or in another country from which the majority of procurements is to be made.
 - b) expenditures in local currency:
with a commercial bank/central bank in the country of the Authorized Party. As far as possible, this account is to be kept as a foreign currency account in the country of the Authorized Party in order to avoid losses from currency devaluation and to allow retransfer at all times; in appropriate cases expenditures in foreign currency can also be effected from this account.

The Special Account must be kept exclusively for payment transactions under the Disposition Fund on a credit basis. KfW has the right to obtain information on this account at all times.

2. Unless expressly agreed otherwise, KfW will make an initial deposit at the request of the Authorized Party up an amount covering the planned expenditures for four months as soon as
 - a) it has been notified of the name and place of the bank in charge of the special account and of the account holder, as well as of the account number and designation (project/programme/measure, nature of account, e.g. trust account) of the Special Account; and has received a **Confirmation of the Bank in charge of the Account** in the form required by KfW (see Annex No. 1);
 - b) a forecast of expenditures for the relevant period has been presented
 - c) all remaining contractual prerequisites are fulfilled;
 - d) KfW also expects the funds to be used without delay.

If the **account holder is an Authorized Third Party** ¹⁾

¹⁾ Definition:
Authorized Party : Borrower, Recipient, Project-Executing Agency
Authorized Third Party : for example Consultant

- e) a **Declaration of Assignment** must be submitted as well (see Annex No. 2).

In case the Authorized Party applies for an increase of the initial deposit (advance) an updated forecast of expenditures accompanied by a duly signed withdrawal application shall be presented.

3. Payments may be made only for the **agreed purpose** and only for measures approved by KfW in writing (for instance, on the basis of concluded supply and service contracts, cost and time schedules for the implementation of force-account work, procurement lists agreed with KfW, etc.).
4. KfW will replenish the Disposition Fund at the request of the Authorized Party / Authorized Third Party within the agreed ceiling as soon as it has received within the agreed period and accepted **appropriate evidence of expenditures in simplified form** (see Annex No. 3, specimen request for replenishment) and upon presentation of a forecast of expenditures planned for the following four months which is satisfactory to KfW. Taxes and other public charges that have to be paid by the Borrower/Project/Programme Executing Agency/Recipient of the financial contribution as well as import duties and, in the case of force-account work, general administrative expenses of the Borrower/Project/Programme Executing Agency/Recipient of the financial contribution cannot be financed.
5. Unless expressly agreed otherwise, the Authorized Party/Authorized Third Party will keep all **original evidence of expenditures** corresponding to the disbursements made through the Disposition Fund (including statements of accounts, bank confirmations of exchange rates applied, bank guarantees, any other bank vouchers and any other documents evidencing that supplies and services have been duly delivered and performed, i.e. commercial invoices, shipping documents, payment and acceptance certificates etc.) until at least five years after completion of the financed measures, and will have them accessible at all times for inspection by KfW or third parties so instructed by KfW (e.g. auditors) or will send them on request to KfW or third parties commissioned by KfW.
6. The Authorized Party/Authorized Third Party will ensure that **down payments** made will be set off against goods supplied/services rendered and that available discounts will be used.
7. Any credit interest shall be used for measures according to item 3 above.
8. If the amount available in the Disposition Fund is not needed in full, contrary to plan (i.e. expenditures for 4 months), the Authorized Party/Authorized Third Party will of its own accord refund and advise to KfW any funds not required unless a different arrangement has been reached.
9. The Authorized Party/Authorized Third Party will ensure that **all agreed evidence of expenditures** is completely at KfW's disposal within six months after conclusion of the measures/completion of the project/programme or after disbursement in full of the funds intended for the Disposition Fund.
Any amounts that cannot be adequately proven to have been expended for the agreed purpose will be refunded to KfW immediately by the Authorized Party/Authorized Third Party.
10. KfW is no longer obligated to replenish the Disposition Fund and is entitled to recall any credit still in the Fund if it is entitled towards the Borrower/Recipient of the

loan/financial contribution to suspend disbursements under the Loan/Financing Agreement.

11. KfW has the right at any time
 - a) to reduce the volume of the Disposition Fund and
 - b) to demand the refund of amounts that have not been adequately proven to have been properly used.
12. All **repayments** in favour of the relevant account of the Loan/Financing/Project/Programme Agreement are to be made via Deutsche Bundesbank (MARKDEFF) to **KfW, Frankfurt am Main (BIC: KFWIDEFF; BLZ 500 204 00 account no. 38 000 000 00 (IBAN DE53 5002 0400 38 000 000 00),** quoting KfW's reference number.

- Annex No. 1: Specimen for "Confirmation of the Bank in charge of the Account" according to item 2.a.
- Annex No. 2: Specimen for "Declaration of Assignment" according to item 2.e.(only applicable, if the special account is maintained in the name of an Authorized Third Party)
- Annex No. 3: Specimen for "Withdrawal application for Replenishment and submission of evidence of use of funds"

Annex No. 1 to the "Supplementary Conditions" of KfW

Name and Address of the bank:.....

Confirmation of the Bank in charge of the account

KfW Bankengruppe
TM a
Palmengartenstrasse 5-9
60325 Frankfurt am Main
Federal Republic of Germany

**German Financial Cooperation with MONGOLIA
Loan/Financing/Project/Programme Agreement of KfW
Project/Programme name: Programme on Biodiversity and Adaption to Climate
Change
KfW-Reference No.: 2012 65 511**

(The Authorized Party or Authorized Third Party)..... has requested us by letter dated to open a special account to be maintained exclusively on a credit basis for payments to be made from funds of German Financial Cooperation or comparable programmes of KfW.

We therefore have opened a special account no. for payments from the above Loan/Financial Contribution in the name of held in the currency of(ISO Code).

We have taken notice that the above account will be funded and replenished with purpose-tied funds from the above Loan/Financial Contribution and we herewith waive the assertion of our right to offset and retention as well as our right of lien in respect of these balances to which we are entitled under our general bank conditions or to which we may be entitled for any other reasons. We will inform you without delay of any garnishments imposed by third parties on the above Special Account.

The party/ies/persons authorized to draw on the account is/are

We shall not modify the authority to draw on the above account unless and until we have received the consent of KfW.

We are authorized by the Account Holder/Party authorized to draw on the account, to inform you at any time of the account and the payment transactions effected via the account. The Account Holder/Party authorized to draw on the account, has irrevocably instructed us to transfer the balances existing on the above account and on any related sub-accounts on your first demand. The transfer is to be made made via Deutsche Bundesbank (MARKDEFF) to **KfW, Frankfurt am Main (BIC: KFWIDEFF; BLZ 500 204 00 account no. 38 000 000 00 (IBAN DE53 5002 0400 3800 0000 00), quoting KfW's reference number.**

This confirmation of the Bank applies equally to any sub-accounts.

Date

Stamp and legally binding Signature of Bank in charge of the account

Annex No. 2 to the "Supplementary Conditions" of KfW

Name and Address of the Third Party:.....

**Declaration of Assignment of the Authorized Third Party
if account is opened in its own name as trust account**

KfW Bankengruppe
TM a
Palmengartenstraße 5-9
60325 Frankfurt am Main
Federal Republic of Germany

German Financial Cooperation with MONGOLIA
Loan/Financing/Project/Programme Agreement of KfW
Project/Programme name: Programme on Biodiversity and Adaption to Climate Change
KfW-Reference No.: 2012 65 511

Project/Programme measure:
Special Account No./Currency.....
Bank in charge of the account:

On we opened account No. in our own name with (Name of bank in charge of the account) to which you will remit payments in connection with the implementation of the project/programme (designation of measure) financed by yourselves, in conformity with the Disposition Fund Procedure established by yourselves and known to us. We shall use these funds exclusively to pay for supplies and services (except our own remunerated services) intended for the above project/programme.

We herewith assign to you any and all balances on the above-mentioned account.

This declaration applies equally to any sub-accounts.

.....
Date Signature Account Holder/Party Authorized to Draw

.....
Confirmation of signature by bank in charge of the account

If the account is kept with a bank in Germany in the name of a national, in order to avoid the risk of advance deduction of capital yield tax it is necessary for the Account Holder to prove to the bank when opening the account that it is a trust account and that the beneficiary of this account has neither a head office nor a seat in Germany.

Annex No. 3 to the "Supplementary Conditions" of KfW

..... **Date**

Name and Address of Party/Third Party authorized to request replenishment)

KfW Bankengruppe
Attn. TM a
Palmengartenstraße 5-9
60325 Frankfurt am Main
Federal Republic of Germany

German Financial Cooperation with MONGOLIA
Loan/Financing/Project/Programme Agreement of KfW
Project/Programme name: Programme on Biodiversity and Adaption to Climate
Change
KfW-Reference No.: 2012 65 511

Name of Project/Programme/measure:
Special Account No. / Currency:
Bank in charge of the account:

Withdrawal Application No.:
Request for replenishment and submission of evidence of use of funds under the Disposition
Fund Procedure for the period of:

Dear Sir/Madam,

In accordance with the agreed Disposition Fund Procedure we enclose documentary evidence on the use of funds in simplified form substantiating the use of EUR-/other currency(ISO-Code). This evidence is composed of:

1. Reconciliation Statement for special account/s, along with bank statements of account for entire period, Sub-Annex No. 1
2. Statement of expenditures for supplies/services provided on the basis of the Separate Agreement, Annex "Total Cost and Financing", agreed with KfW, for each specific kind of measure, Sub-Annex No 2.

We confirm that the expenditures from the Special Account and its sub-accounts were made and accounted for in conformity with the provisions on the Disposition Fund Procedure and were not financed from any other sources. The original documentary evidence is kept at our office in and is available for inspection by you or by any third party instructed by KfW at any time.

Under consideration of the **attached forecast schedule** covering expenditures planned for the next four months, we request replenishment of the Disposition Fund in the amount of EUR/other currency(ISO Code)..... Special Account No.....maintained in the name of withBank.....(name and place of bank in charge of the account *¹⁾)

.....
Signature of Party authorized to request replenishment

.....
Signature of the Consultant

Sub-Annex No. 1: Reconciliation statement
Sub-Annex No. 2: Statement of expenditure

¹ In addition, if the payee's bank is not located in the country of the currency of payment, the name and address of the bank's correspondent in that country should be provided

Sub-Annex No. 1 to the withdrawal application No.....

KfW Ref. No.:.....

Reconciliation of special account/s for the accounting period to

Special Account No.....at(Name of Bank)

		EUR
1.	Balance of account at beginning of accounting period (according to statement of account)	
2. Amounts credited		
	a) Amounts received from K f W	
	b) Credit interest	
	Total Credited	
3. Amounts debited		
	a) Payments effected in current period, as per column 4 of Sub-Annex 2 (Statement of Expenditures - SOE)	
	b) Bank charges	
	c) Transfers to local currency account (if applicable)	
	Total debited	
4.	Balance of account at end of accounting period (according to statement of account)	
5.	Expenditures planned for the following four months (according to attached forecast)	
6.	Amount to be replenished (5 minus 4)	

If applicable, also for:

Local-Special Account No.....at(Name of Bank)

		Local Currency
1.	Balance of account at beginning of accounting period (according to statement of account)	
2. Amounts credited		
	a) Transfer from account No.....(EUR Special Account)	
	b) Credit interest	
	Total Credited	
3. Amounts debited		
	a) Payments effected in current period, as per column 4 of Sub-Annex 2 (Statement of Expenditures - SOE)	
	b) Bank charges	
	Total debited	
4.	Balance of account at end of accounting period (according to statement of account)	
5.	Expenditures planned for the following four months (according to attached forecast)	
6.	Amount to be replenished (5 minus 4)	

Date..... Signature..... Authorized Party / Authorized Third Party

Signature..... Consultant

Sub-Annex 2 to Withdrawal application No:.....(Replenishment) dated.....
Statement of Expenditures (SOE)

KfW-Reference No:		Project/Programme Name:		Accounting Period: From.....to.....	
Column 1*	2	3	4	5	6
Consecutive No. and description of individual measures	Amount of measure (as agreed)/ Currency:	Expenditure in preceding accounting period Currency:	Expenditure in current accounting period Currency:	Total expenditures Currency:	Still to be disbursed (column 2 less column 5) Currency:
TOTAL					

We confirm that the goods and services have not already been financed from grants or long-term loans.

Date..... Date.....
Signature of Authorized Party if applicable Signature of the Consultant
**please list the items according to those indicated in the Annex to the Separate Agreement, "Total Cost and Financing."*

Terms of Reference: Audit of "Disposition Fund(s)"

Objective

1. The objective of the audit of the Disposition Fund(s), including the Special Account opened with ... [*name of Bank*], is to permit the auditor to express an opinion on the financial reports (i.e. status of accounts and cumulated statement as defined in the Annex "Disbursement Procedure" to the Separate Agreement) and statements of expenditures based on the withdrawal applications for the Disposition Fund(s). Such expenditures have been made under the financial position of KfW-loan/grant no. ... [*KfW reference no.*] for financing of ... [*(part of) name of project/programme*].
2. The audit will be effected annually ("Audit Period") and the respective report(s) should be presented not later than 3 months after the end of the period covered. During the Audit Period total disbursements amounting to ... were transferred to the Disposition Fund(s).

Scope

3. The audit will be conducted in accordance with International Standards on Auditing as published by the International Auditing and Assurance Standards Board of the International Federation of Accountants, with special reference to ISA 800 (Auditor's Report on Special Purpose Audit Engagements) and will include such tests and controls as the auditor considers necessary as well as on-site visits if also deemed necessary. The auditor must bear in mind that, for the establishment of the audit opinion, he has to carry out a compliance audit and not a normal statutory audit.

The preparation of the financial reports and the statements of expenditures on the cash receipts and disbursements basis of accounting is the responsibility of the Project Executing Agency. The financial information has to be established in accordance with consistently applied accounting standards and the underlying Loan / Financing Agreement including the corresponding Separate Agreement.

The auditor's opinion, established in the audit opinion report, will explicitly state whether:

- (a) The payments out of the Disposition Fund(s) have been made in accordance with the conditions of the relevant (Loan/Financing) Agreement(s) and the corresponding Separate Agreement. Where ineligible expenditures are identified, these should be noted separately.
- (b) The Disposition Fund(s) has (have) been maintained in accordance with the provisions of the (Loan/Financing) Agreement and Separate Agreement (including the Supplementary Conditions of KfW for payments under the Disposition Fund procedure). This also comprises interest earned from balances.
- (c) Expenditures are supported by relevant and reliable evidence. All supporting documents and records with respect to the statements of

expenditure submitted as the basis for withdrawal applications have been made available

- (d) The audited statements of expenditures can be relied upon to support the related withdrawal applications. Clear linkage should exist between the statements of expenditures, the withdrawal applications presented to KfW and accounting records.
- (e) Goods and services financed have been procured in accordance with the relevant (Loan/Financing) Agreement and Separate Agreement.
- (f) Specific deficiencies and areas of weakness have been identified in the internal systems and controls of the Project Executing Agency. Where deficiencies are identified, these should be noted separately.

Reports

- 4. The **audit report(s)** will
 - (a) be issued by the auditor in English language
 - (b) include all aspects specified in the preceding paragraph ("Scope")
 - (c) contain these Terms of Reference as integral part
 - (d) provide a schedule showing receipts and disbursements during the Audit Period
 - (e) include the balance of the Special Account(s) and all sub-accounts (if any) at the beginning and the end of the Audit Period.
 - (f) comprise the auditor's statement to appraise and quantify the consequences of specific deficiencies, if any.
- 5. If considered pertinent, the auditor will also prepare a "**management letter**" in which the auditor will:
 - (a) give comments and observations on the accounting records, systems and controls examined during the course of the audit (as far as necessary for the understanding of the financial reports and the statements of expenditures);
 - (b) identify specific deficiencies and areas of weakness in systems and controls of the Project Executing Agency that have come to the auditor's attention, especially with regard to withdrawal, procurement, storage and payment transactions, and make recommendations for their improvement;
 - (c) report on actions taken by the management of the Project Executing Agency to make improvements with respect to deficiencies and areas of weakness reported in the past;
 - (d) bring to the Project Executing Agency's attention any other matters that the auditor considers pertinent.

From:

(Address Authorized Party)

(date).

KfW Bankengruppe
TM a
Postfach 11 11 41
60046 Frankfurt am Main
Federal Republic of Germany

**Re.: TM a – German Financial Cooperation with MONGOLIA
Loan/Financing/Project/Programme Agreement of KfW
EUR 11,5 million
Project/Programme name: Programme on Biodiversity and Adaption to Climate
Change
KfW-Reference No.: 2012 65 511**

Withdrawal Application No.
Direct Disbursement Procedure (Consultant)

In conformity with the contracts specified below, copies of which were forwarded to you, the following services were duly supplied and are to be paid:

Item No.*	Consulting Contract dated with	Consultant Invoice No. dated	Currency/Amount)

* Item of the "List of Goods and Services"

According to the "List of Goods and Services", the following amounts of the payment due shall be paid from the Loan/Financial Contribution, which we ask you to disburse as follows:

Currency/Amount

.....

Beneficiary (name and address of the company)

.....

Account no:.....IBAN (if applicable)

Bank name:.....BIC code:

Correspondent bank:*).....BIC code:

As supporting evidence a copy of the respective invoice is enclosed, if applicable, together with evidence of the contractually agreed bases for price escalation, list of expenditures for reimbursables.

We await your debit advices for the disbursements made by you.

.....
(Signature of Authorized Party)

*) In addition, if the payee's bank is not located in the country of the currency of payment, the name and address of the bank's correspondent in that country should be provided. Separate applications are required for each currency requested

From:

(Address Authorized Party)

(date)

KfW Bankengruppe
TM a
Postfach 11 11 41
60046 Frankfurt am Main
Federal Republic of Germany

Re.: TM a – **German Financial Cooperation with MONGOLIA**
Loan/Financing/Project/Programme Agreement of KfW
EUR 11,5 million
Project/Programme name: Programme on Biodiversity and Adaption to Climate
Change
KfW-Reference No.: 2012 65 511

Withdrawal Application No.
Simplified Direct Disbursement Procedure

In conformity with the contracts specified below, copies of which were forwarded to you, the following goods/services were duly supplied and are to be paid:

Item No.*	Contract for goods/services dated with	Invoice No. dated	Currency/Amount)

* Item of the "List of Goods and Services"

According to the "List of Goods and Services", the following amounts of the payment due shall be paid from the Loan/Financial Contribution, which we ask you to disburse as follows:

Currency/Amount

.....

Beneficiary (name and address of the company)

.....

Account no:.....IBAN (if applicable)

Bank name:.....BIC code:

Correspondent bank:*).....BIC code:

As supporting evidence a copy of the respective invoice is enclosed.

The Consultant herewith declares that payment has fallen due, and all necessary documents have been presented and are in line with KfW's regulations/standards.

.....
(Signature of the Consultant's representative and name of the company)

We await your debit advices for the disbursements made by you.

.....
(Signature of the Authorized Party)

*) In addition, if the payee's bank is not located in the country of the currency of payment, the name and address of the bank's correspondent in that country should be provided. Separate applications are required for each currency requested

Mongolian-German Financial Cooperation

Biodiversity and

Adaptation to Climate Change

KfW Appraisal Mission

December 2 - December 9, 2012

Minutes of Meeting

From 2nd December to 9th December 2012 a KfW Mission, including Mr Matthias Hahl (Project Manager), Mr Günther Haase (Senior Forestry Expert), Ms Julia Kubny and Ms Lena Hauck (all KfW Development Bank) held discussions with responsible departments of the Ministry of Environment and Green Development (MEGD), of the Ministry of Economic Development and of the Ministry of Finance concerning the appraisal of a Mongolian-German programme on “**Biodiversity and Adaptation to Climate Change**”. Discussions were based on the Fact Finding study report by B. Steinhauer-Burkart, G. Gansukh and S. Tuvdendorj from March 2012, and on the Feasibility Study by ECO Consulting Group from November 2012.

The Mission team intensively discussed the programme concept with Ms Sanjaasuren Oyun, Minister of MEGD, senior staff of MEGD, notably the Director-General of the Department for Protected Area Management (PA Dpt.), Ms Erdenechimeg Tegshjargal, and the Ministry of Economic Development. Furthermore, the mission met representatives from GIZ, DAAD, UNDP, the TNC, the Mongolian Academy of Science (MAS) and the National University of Mongolia (NUM).

The KfW Mission has pointed out that all statements and remarks given by the Mission represent only the Mission's opinion and all understandings reached are subject to approval by KfW management and the approval by the German Government. Likewise the understandings reached are also subject to the approval of the Minister for Environment and Green Development.

The Mission expresses its appreciation for the excellent, highly efficient working atmosphere during the discussions as well as for the outstanding hospitality and support received by all officials and other persons met.

Following the discussions agreement was reached between MEGD and KfW Mission regarding the appraisal mission, as follows:

1. Background

Mongolia is endowed with rich biological diversity. It hosts various eco-regions, which in turn are comprised of unique landscapes, ecosystems and habitats with distinct compositions of species. Amongst them rare and endangered birds, mammals, reptiles, insects and flowering plants which constitute an important heritage of global importance.

Like in other parts of the world, also in Mongolia the biodiversity is endangered. The survival of many species is at risk and the degradation and destruction of unique ecosystems is dramatic. Factors contributing to the threat to biodiversity include unsustainable use of natural resources, notably mining, overgrazing, poaching and illegal timber cutting, forest fire, inadequate management of protected areas and protection practices and the effects of climate change.

By ratifying the Convention on Biological Diversity (CBD), Mongolia has taken on the responsibility of safeguarding its biological diversity and protecting the species that belong to and thrive in the Mongolian landscapes. Mongolia has taken action to put political commitment into practise. The Mongolian Government has set aside large areas to establish a Protected Area (PA) network and has created a legal and institutional framework for preserving biodiversity.

A Gap Analysis (2010) conducted by the WWF Mongolia has revealed that despite all efforts and achievements, there are several challenges and constraints for improved biodiversity conservation which require further and immediate attention.

Compared to the size of the PA-network and the pressing investment needs in the protected areas the budget allocations are dramatically insufficient. The Mission would like to present the following recommendations to the Government of Mongolia:

- to significantly increase the budget allocations for the network in order to provide adequate staffing and professional training for the PA department and the PA-Administrations;
- to allocate the annual budgets to the PA-administrations based on the actual needs as calculated in the approved business plans;
- to authorise the PA-Administrations to retain their generated income/revenues and utilise it for the purposes outlined in the approved business plans.
- to effectively use the income generating potentials (e.g. increased entry fees, issuance of hunting and eco-tourism licenses, concessions, payment for ecosystem services).

During the Mongolian-German Governmental Negotiations in March 2012, both sides agreed to focus on biodiversity conservation as a focal sector for cooperation. The German Government committed grant funds in the amount of up to EUR 11.5 million under the framework of German Financial Cooperation (FC). The FC activities will form a complementary German Development Programme with technical assistance initiative "Climate Change and Biodiversity" implemented by GIZ.

2. Project Goals and Target Groups

The programme is intended to align with national structures and procedures in conserving nature and biodiversity in Mongolia. Performance based allocation and disbursement mechanism shall contribute to improving the governance structures in biodiversity conservation for the management of protected areas and buffer zones. High degrees of participation in decision making and implementation on national as well as on local level shall guarantee the effectiveness of the programme and ensure that the needs and livelihoods of the people living in and adjacent to the conservation areas are reflected in the management and protection strategies.

The overall development-policy objective is the conservation of biodiversity and improvement of livelihoods, with special consideration of the effects of climate change.

The objective of the German Financial Cooperation Programme is proposed as follows: MEGD/PA-Department, State PA-Administrations, Local Administrations, and communities sustainably and effectively manage a PA network (comprising State- and Local PAs) representing Mongolia's significant ecosystems, sustaining critical ecosystem services, and supporting local livelihoods.

The Mission informs the PA-Department about the overall development-policy objective with respective indicators set by the BMZ for the focal area for development cooperation "Biodiversity":

1. Annual evaluations confirm a sustained improvement of PA management effectiveness
2. The UNDP Roadmap on implementation of the REDD+ Strategy in Mongolia is implemented in accordance with time plan and set milestones (from March 2012 onwards).
3. Mongolia stabilises or increases the annual budget of the Ministry of Environment (annually from 2013 onwards)
4. Mongolia increases its budget allocations by at least 20% in the period 2012 – 2015 (baseline: Budget 2012).

Regarding the achievement of the programme objective the indicators agreed are:

1. **Management effectiveness** significantly improved (Adaptation of METT to Mongolian conditions - provisionally referred to as MoMETT, to be developed and deployed),
2. **Increase in area used in a sustainable manner** in buffer zones and limited use zones (pasture management, forest management) in the areas supported by the Programme according to the targets in the management plans, as evidenced by gradually improved vegetation cover.
3. In supported PA etc., populations of **threatened species (flora, fauna)** as identified in Mongolia's Red Lists and as specified in the respective PA management plan, increase to stable and sustainable levels.
4. **Living conditions of the local population** improved through measures for sustainable management of natural resources (BZ management and business planning) and additional, supporting socio-economic measures.

Base values and target values of overall and programme objectives will be specified during the inception phase of the Programme.

The main target group is the rural population in the protected areas and their buffer zones where project measures will be concentrated. These groups will participate in the planning and implementation of activities and directly benefit from the sustainably managed natural resources and job opportunities in the PA-network and the emerging tourism sector.

The staff of the Department of Protected Areas and their subordinated protected area administrations as well as other relevant implementation partners dealing with biodiversity conservation and bufferzone development will act as intermediaries.

3. Responsibilities

Ministry of Environment and Green Development

The Ministry of Environment and Green Development (MEGD) is the project executing agency (PEA). MEGD is responsible for the overall implementation, supervision and monitoring of the Programme.

Programme Implementation Unit

Within MEGD the Department for Protected Area Management (PA-Department) will be in charge of the implementation and operation of the Programme. To this effect, the Department will set up a Programme Implementation Unit (PIU), which will be supported by an Implementation Consultant. The PIU is charged with the technical, administrative and financial implementation of the Programme and executes the decisions of the Steering Committee and the Biodiversity Board (see below). The responsibility of the PIU is the day-to-day work of Programme implementation. The full-time PIU staff shall be employed by the MEGD and include:

- Programme Coordinator (Head of the PIU, conservation/NRM specialist, in charge of the day-to-day operations)
- Accounting & financial management officer
- Procurement Officer
- Officer for Administration and Office Management
- Driver

In order to bridge possible funding gaps in financing the mentioned positions, the German FC Contingencies can be drawn upon.

The PIU shall be supported by regular PA-department staff on a part-time basis as per assessed requirements for specific projects and measures. The basis for deployment will be quarterly work plans of the PIU; the minimum notice period shall be 3 weeks.

MEGD will provide offices for the PIU and the Implementation Consultant's team in close distance to the offices of the PA-Department.

Apart from the services of the Implementation Consultant the PIU shall tender and contract procurements of all kinds of works, supplies and services which are required to implement the different components of the programme.

Implementation Consultant

An Implementation Consultant (IC) shall support the PIU in its operations. The Technical Assistance Team (TAT) of the IC will include:

- Chief Technical Advisor (CTA, international programme management and conservation/NRM specialist, 40 pm),
- Deputy Chief Technical Advisor (DCTA, bufferzone development / NRM specialist, long-term, 48 pm),
- Research Coordinator (long-term, national),
- Interpreter and driver (both national, long-term),
- Short-term expertise and backstopping, national and international levels (including some unallocated expert months to respond to emerging needs during implementation).

Short-term expertise will be required in the following technical areas: financial/project management guideline preparation, sustainable financing of PAs, feasibility assessment for leveraging compensation funds for biodiversity offsets; training needs assessment / capacity development programme development; M&E development; environmental education; sustainable pasture and forest management including fire protection; participatory bufferzone development; implementation of project completion study (to support KfW's final inspection mission) and Mid-term review of the Programme.

Apart from the specific areas of work mentioned above the duties of the consultant shall focus on the following areas of support:

- Project management (including preparation of project management manual, strategic and detailed project planning / operational planning, financial management, procurement, Project M&E, reporting, preparation of concept for sustainable operation of project assets);
- Training needs assessment/ capacity development;
- Quality control and guidance for Management and business planning for protected areas and their bufferzones;
- Support in evaluating the project proposals submitted by protected areas etc.;
- Co-sign the contracts for implementation of Particular Projects
- Support to monitoring and supervision of implementation of sanctioned projects
- support tendering of goods of and services required for the Programme

The Consultant team will be located in the PIU Office in Ulaanbaatar.

In total, a consulting input of up to 60 expert months international expertise (40 months long-term and 20 months short-term and up to 116 expert months of national expertise are required to provide these services. In addition the Consultant will provide the services of the driver and interpreter (up to 60 pm each).

National Programme Director

The Head of the PA-Department will be appointed by the Minister MEGD as the National Programme Director.

He/she would oversee the general implementation of the Programme on behalf of the Minister and the Steering Committee. Specific tasks include:

- Co-sign the contracts for implementation of Particular Projects (a. Preliminary agreement upon authorisation by the SC, b. Implementation contract upon clearance by the Biodiversity Conservation Board),
- Charge the Ministry's service for internal audit on behalf of the Minister,
- Initiate the annual external audits,
- Co-sign the disbursement requests to KfW,
- Submit semi-annual technical and financial Programme Progress Reports to the Minister and KfW,
- Co-sign cooperation agreements with other projects or organisations,
- Initiate appropriate measures in case of difficulties in Programme implementation, which cannot be handled at the operational level.

The above mentioned co-signatures require a complementary signature by the CTA.

Steering Committee

The Steering Committee (SC) is charged with the orientation and supervision of Programme implementation, in compliance with the guidelines provided by the Ministry of Finance.

The SC consists of:

- MEGD representative (chair) – appointed by the Minister
- the National Programme Director (with the right of veto)
- KfW (with the right of veto)
- representative of a PA-Administration
- representative of an NGO
- CTA.

The members of the SC are at the same time *ex-officio* members of the Biodiversity Conservation Board.

The Programme Coordinator (PIU) shall be part of the SC as non-voting member. The PIU Coordinator would serve as Secretary to the Committee and be in charge of other administrative tasks of running the SC.

The SC will decide on financing proposals above MNT 20 million. For component 2, the SC will evaluate the Project proposals at the Profile stage, and thus decide on the way ahead for the preparation of a detailed and comprehensive Project proposal (decision making body is the Biodiversity Board). In this process the PIU is charged with the task to screen and evaluate the submitted proposals against the defined minimum standards and scoring criteria. The results shall be documented in a short evaluation report and submitted to the SC for consideration.

The SC should meet approximately every 2 months to ensure close guidance and supervision of the Programme and timely decisions on received Project Profiles (the minimum requirement shall be quarterly meetings).

Biodiversity Conservation Board

- The Biodiversity Conservation Board (BC Board) is the decision making body for financing proposals of component two (see below) and serves as a consultative and advisory panel.
- It further reviews the Programme's annual work plan, annual reports, and the external audit reports and proposes actions to be taken by the SC (by law, such matters are decided by the SC),
- It facilitates coordination among members and the Programme,
- It is a forum involving a wide range of stakeholders to advance new strategies, projects or policy orientations; one particular topic would involve "sustainable financing of SPA and conservation" which would build on and complement the UNDP-supported inter institutional dialogue on financial sustainability of the environmental sector.

The BC Board should meet at least every 6 months, but if required more frequently for timely sanctioning of financing proposals.

The BC Board shall comprise members as follows:

- Ministry of Environment and Green Development (3)
- Ministry of Finance (1)
- Ministry of Economic Development (1)
- Ministry for Manufacturing and Agriculture, Department for Agriculture (1)
- Environment, Food and Agriculture Standing Committee, Standing Committee of the Parliament of Mongolia (1)
- Ministry for Culture, Sports and Tourism, Department for Tourism (1)

- State Environmental Inspection Agency
- KfW (1)
- GIZ (1)
- Mongolian Academy of Science (MAS) and / or National University of Mongolia (NUM) (1)
- UNDP (1)
- WWF (1)
- WCS (1)
- TNC (1)
- Association of Environmental NGOs (1)
- Deutscher Akademischer Austauschdienst, DAAD (1)

Thematic Working Groups

The Mission proposes to establish Thematic Working Groups, which would meet and deliberate on identified priority topics for improved biodiversity conservation in Mongolia. These working groups will be mandated to discuss and evaluate implementation experiences in their respective thematic areas with the aim to identify and promote best practices, exchange experiences and to prepare policy and strategic recommendations. The thematic working groups shall involve all relevant stakeholders e.g. ministries / government agencies, donors, NGOs, researchers. Relevant thematic areas could include eco-tourism development, sustainable financing of PA-network, buffer-zone development covering sustainable pasture and forestry management, harmonisation of biodiversity conservation and mining.

4. Project Outputs and Measures

The project will focus on the following four components and main measures:

Output 1: Management Plans and Business Plans are prepared and approved, co-management agreements with the surrounding communities and local governments are concluded; buffer zone councils are operational, and Basic Equipment of PA and Buffer Zone Administrations is in place:

Management Plans (incl. business plans and other topical plans) of State PA, their respective buffer zones, important nature reserves and natural monuments, as well as significant Local PA will be prepared in compliance with current MEGD standards. To become eligible for this support at least a minimum of staff and equipment have to be available at the applicant PA to ensure that critical management activities can be realised. The following measures are eligible for financing under this output:

1. Preparation / updating of Management-, Business-, Buffer zone development- and other relevant plans for State managed PA, using a participatory, inclusive and scientific approach according to MEGD standards; and for facilitating the negotiations for co-

management agreements between the PA-Administration, the surrounding communities and the respective local governments.¹

2. Participatory preparation of Management Plans and Business Plans (if applicable) for important Nature Reserves, Natural Monuments, and Local PA, according to simplified standards.
3. Socio-economic and biodiversity baseline studies for setting up a solid monitoring system.
4. Procurement of basic equipment for eligible PA administrations, buffer zone councils, and local PA management bodies to allow critical operation, management and supervision activities
5. Financing of quick win measures in the buffer zone as proposed in the buffer zone management plan after conclusion of co-management agreements.

All measures will be tendered and contracted to competent service providers (measures 1 to 3) or suppliers (4 and 5, if applicable).

Output 2: Implementation of approved management Plans (protected areas including buffer zones, local protected areas, eco-corridors); PA administrations, BZ councils etc. are adequately equipped and supported to implement measures as foreseen by their management plans and business plans etc.), socio-economic development measures support the conservation measures.

Eligible measures are:

- Develop and rehabilitate/upgrade key infrastructure,
- Procure required equipment,
- Set up a comprehensive M&E and reporting system,
- Measures for protection and sustainable forest and pasture management (e.g. access control / fencing, active rehabilitation / planting, enforceable local agreements),
- Measures for fire and pest prevention and control in forest zones,
- Establish buffer zone self-help funds (BZ fund) for accompanying co-management agreements. The BZ funds will be managed jointly by the BZ Council and the PA Administration, under the supervision of the respective Soum Administration. Funds should include a sinking and a revolving fund component. Measures emphasising sustainable management of natural resources may be financed preferably via the BZ fund.

The financial volume of a single funding proposal (PA including buffer zone) shall be limited to MNT 900 million over a period of three years. The implementation shall be divided into separate

¹ Review of PA management plans also includes a review and, if deemed fit, revision of outer PA boundaries and of internal zones based on available scientific data.

phases. For each phase, milestones shall be defined, which are to be met in order to receive the funding for the next phase.

With regard to the size of the country, the accessibility of PAs and the limited capacity of the PIU, a regional focus of the programme is necessary. Funding for component 2 shall be limited to the Northern, Eastern and Central region of Mongolia for the first three years.

Output 3: Investments for Biodiversity Conservation that are benefiting the overall PA-network are tendered and implemented (National and Regional Levels):

The PA-Department in cooperation with the PIU and TAT shall identify investment needs and prepare respective proposals. The SC shall decide on the proposals. The proposals shall focus on investments without binding intensive management capacity of the PA-Department, the PIU and TAT e.g. tendering of special studies, procurement of software, centrally prepare material for PA-Administrations. Examples for possible proposals are a) developing a PR strategy, PR communication kit with PR modules for the PA-Administrations (templates for PR material and websites, and others); b) developing a "national sustainable tourism strategy" to provide guidance and steer respective investments in the PA network; c) purchase required software, e.g. to establish a Management Information System.

Output 4: The capacities of staffs and relevant stakeholders are strengthened through training, workshops and cooperation with researchers; policy dialog is facilitated.

Training

Support the PA department in developing and implementing a comprehensive concept for vocational training in conservation and PA management, and recognised professional training of rangers, (in cooperation with target groups, Ministry of Education, GIZ, NGOs, researchers and other stakeholders). The following measures are eligible for financing under this component:

- Financing of business plan development, construction measures and equipment for the five regional training centres established by the PA-Department
- Financing of training modules
- Financing of the production and distribution of course materials

Training courses should be provided for PA-Department and PA administration staff, rangers, BZ councils and for community leaders (as local communities will be responsible for the management of the local protected areas). The TAT together with the PIU shall monitor the implementation of courses and the application by the trainees in their practical work.

Research Cooperation

The continuous exchange between research institutions and practitioners is facilitated by the following measures:

1. One member of the Biodiversity Conservation Board shall be a Professor from a renowned Mongolian research institution (preferably from NUM or MAS). Furthermore, the DAAD coordinator is also a designated member of the Biodiversity Board as representative of Mongolian-German research cooperation.
2. A research coordinator will be a staff member of the TAT. He/she shall closely cooperate with and support the staff of the PA-Department in charge of research and training for the PA network.
3. In order to improve knowledge transfer and exchange between German and Mongolian research institutions and the PAs, PAs can apply for travel grants.

Applications for funding can be made by PAs in collaboration with Mongolian or German research partners. A quarter of the funds available for research cooperation (EUR 50,000) shall be used to facilitate exchange between Mongolian and German researchers for supporting the PA management.

4. In order to use the expertise of researchers for training purposes, trainings provided by researchers can be funded. This refers to
 - a. Training provided within courses at one of the training centres (upon application by training centre)
 - b. Training provided at a specific PA (upon application by PA)

In this component, travel costs, per diems as well as fees for conducting the training can be funded from the training budget.

5. Conferences/workshops and publications/PR activities can be funded. This includes
 - a. the organisation of conferences/workshops including costs for venue and catering, materials and travel costs
 - b. publications that spread research findings to PAs or the general public, including guidebooks.

All PAs can apply for funding.

To finance costs that arise in Euro currency, a disposition fund will be set up within the consultancy contract. After approval for funding is granted, money can be transferred in Euro directly to the recipient. The disposition fund will be restocked by settlement of accounts by the consultant. Costs that arise in Mongolian currency will be financed within the framework of the disposition fund set up at the Ministry of Finance.

Policy Dialog

Policy Dialog will be facilitated by the planned conferences, workshops, and the working group on research cooperation and training (see above). An annual conference on Biodiversity Conservation and related topics shall be organised including the publication and distribution of conference proceedings.

5. Selection of particular Projects

Funding of PAs and Buffer Zones proposals for the components one and two will be determined by a competitive selection process with a set of requirements and criteria taking into consideration aspects of biodiversity value, administrative and managerial capacities, financial sustainability, performance and governance and appropriateness of the proposals to achieve the overall goal of increasing the effectiveness of biodiversity conservation.

The feasibility study will elaborate a detailed catalogue of requirements and criteria which is to be defined during the inception phase of the programme. The Biodiversity Board will approve the final list of requirements and criteria for the competitive selection process.

6. Total Cost & Financing, Disbursement Procedures

The total cost of the programme is estimated at EUR 15.3 million / MNT 26.775 billion. The German FC contribution amounts to EUR 11.5 million (MNT 20.125 billion). The Mongolian site is expected to support the joint programme with a Mongolian Financial Contribution of about 1/3rd of the German Financial Contribution in the amount of not less than MNT 6.65 billion to be allocated over five years. This contribution is to be additional to the regular PA-budget. The PA-Department informs the Mission that a formal decision by the Cabinet of the Mongolian Government is required for this commitment. MEGD is requested to timely integrate the required contribution in the budget application process for the budget years 2014 to 2018.

A tentative cost and financing plan is attached as Annex 1.

Disbursement

It is agreed that German FC funds will be disbursed by means of a disposition fund. The MEGD / MoF will open a Special Account in foreign and local currencies for the management of the "disposition fund". The day-to-day management and responsibility of the Disposition Fund will be done by the qualified accounting & financial management of the PIU. The Project Coordinator and the CTA will supervise the management of the disposition fund and sign requests for replenishment. KfW will conduct disbursements to the disposition fund on the basis of an agreed four months financial planning. The disposition fund shall be subject to annual audit by an independent and certified auditor.

In order for this procedure to be applicable the MEGD must have an adequate financial management and controlling system. The parties reached agreement that an assessment and appraisal of the internal control systems of the MEGD will be conducted prior to first disbursements on the basis of KfW regulations (financed from the "German Special Funds").

Payments under the Consultant Contract will be disbursed directly via direct disbursement procedure.

7. Programme Implementation

a) Programme Implementation Plan

The Plan of Operation, including detailed description of project activities, time, cost, and financing schedule, for the proper technical and financial implementation of the Programme, shall be prepared by the PIU in cooperation with the consultant during the inception phase and submitted to KfW for non-objection. Such schedule is to show, by deadlines and amounts, the intended chronological interrelation of the programme activities and the resulting financial requirements. If any deviation from such schedule becomes necessary during the implementation of the Programme, KfW shall be furnished with a revised schedule.

Any major changes in the project design shall require KfW's prior consent. The Project Management Unit PIU shall inform KfW thereof immediately, stating the reasons, the planned measures and the consequences of the change (including on Total Cost). Execution of such measures may commence only on the basis of revised planning and upon KfW's consent.

b) Programme Duration

The programme is conceived for an implementation period of five years and will be divided into three phases:

- Start-up/inception phase of 6 months: Implementing procedures and inviting proposals, launching of training programmes and organising for improvement of PA plans.
- Implementation phase of 48 months.
- Consolidation phase of 6 months: Completion of activities, evaluation of experiences, final accounting of expenditures.

c) Assignment of an Implementation Consultant

It is agreed that the MEGD will contract consulting services to assist with the planning, implementation and monitoring of the project with respect to technical, financial and organizational aspects (refer to chapter 3). Terms of Reference for the consultant will be drafted by a tender agent and sent to MEGD and KfW for comments or approval.

Selection of Implementation Consultant: Following pre-selection and international public competitive bidding, the contract shall be awarded to an independent qualified consultant. The

contract awarding procedure shall be governed by the "Guidelines for the Assignment of Consultants in Financial Cooperation with Developing Countries" of KfW. The Implementation Consultant will be tendered with support of a tender agent.

d) Award of Contracts for Goods and Services

For the procurement of goods and services in general, the respective procurement KfW guidelines shall apply. Procurement of goods and services will follow KfW guidelines and Perpres 54/2010 on Procurement of Government Goods and Services. Further details will be agreed in the Separate Agreement

e) Project Monitoring and Evaluation

All Programme activities and impacts need to be monitored in order to determine whether the management objectives are met. In addition to annual field-based monitoring at the selected project sites, a comprehensive impact monitoring will be conducted at the end of the implementation of each project. The M&E system should be devised in a manner that collection of regular monitoring data will be carried out to the extent possible by the supported protected areas themselves (e.g. data on wildlife populations, on illicit activities, etc).

At the beginning of the Programme, socio-economic and ecological baseline surveys will be designed and carried out in all areas where projects will be implemented both within and outside of protected areas.

A mid-term review should be foreseen in the period between 24 and 36 months.

A end-of-project evaluation should be carried out close to the end of Programme implementation. It will serve as an input for KfW's final inspection mission.

f) Financial Monitoring

A Financial Monitoring Guideline shall be prepared with support of the Consultant during the initial phase of the project. The Disbursement Fund will be monitored by an external auditor once a year.

8. Special Implementation Agreements

- Until end of April 2013, MEGD shall inform KfW about the Government decision regarding the provision of the Mongolian financial contribution for the Programme. Before the mobilisation of the consultant and the actual start of the programme, MEGD shall confirm to KfW by official writing that the Mongolian Financial Contribution for 2014 has been integrated and approved.
- Budget allocations for all State Protected Areas supported through particular projects under component two of the Programme shall be commensurate with calculated needs for sustainable operations as per developed business plans. The same applies for the training centres.

- Staff establishment of supported PAs shall be in line with defined needs as per approved management plans.

9. Next Steps

After approval of the Programme by the BMZ, KfW will submit to MEGD the draft Financing and Separate Agreement (planned for April 2013). The tendering of Consulting Services will be started in parallel to the ratification of the financing agreement in the Mongolian parliament.

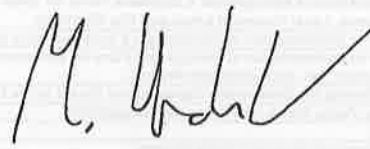
Enclosures:

- Cost & Financing Plan

Signed in two copies.



For the Ministry of Environment
and Green Development
Ms. Erdenechimeg Tegshjargal
Director-General, Protected Areas Management Dept.



For the KfW Mission Team
Mr. Matthias Hahl
Project Manager

Signed in Ulaanbaatar on December 8, 2012

	Total Costs		Financing					
			German FC		Mongolian CC			
			EUR	MNT (1.000)	EUR	MNT (1.000)	EUR	MNT (1.000)
Budget Plan Mongolian-German Biodiversity Conservation Programme								
Improved Protected Area and Buffer Zone Management Planning (Incl. Businessplanning, Basic Equipment, Baseline Studies, So-management agreements and quick win measures	3.000.000	5.250.000	2.200.000	3.850.000	800.000	1.400.000		
1.1 For State Protected Areas incl. Bufferzones	2.100.000	3.675.000	1.300.000	2.275.000	800.000	1.400.000		
1.2 For Local Protected Areas, Natural Reserves (Aimag) and Eco-Corridors	900.000	1.575.000	900.000	1.575.000				0
Implementation of Management & Business Plans for State Protected Areas, 2 Bufferzones, Local Protected Areas and Eco-Corridors	7.900.000	13.825.000	6.070.000	10.622.500	1.830.000	3.202.500		
2.1 Projects for Implementation of Management & Business Plans for SPA	4.900.000	8.575.000	3.070.000	5.372.500	1.830.000	3.202.500		
Projects for Implementation of Management Plans for Bufferzones, LPA and 2.2 Eco-Corridors, inkl. Socio-Economic Projects	3.000.000	5.250.000	3.000.000	5.250.000				0
3 Strengthening the Biodiversity Conservation Sector at the National Level	550.000	962.500	550.000	962.500				0
4 Training, Policy Dialog and Research Cooperation	1.250.000	2.187.500	850.000	1.487.500	400.000	700.000		
4.1 Training	300.000	525.000	200.000	350.000	100.000	175.000		
4.2 Establishment of Regional Training Centers	600.000	1.050.000	300.000	525.000	300.000	525.000		
4.3 Workshops & Conferences	200.000	350.000	200.000	350.000				
4.4 Research Cooperation & Coordination	150.000	262.500	150.000	262.500				0
4.5 Mongolian-German Research Cooperation	50.000	87.500	50.000	87.500				0
5 Project Management Unit (PMU, CTA)	400.000	700.000	130.000	227.500	270.000	472.500		
5.1 Staffing	60.000	105.000		0	60.000	105.000		
5.2 Office Infrastructure	100.000	175.000		0	100.000	175.000		
5.3 Office Equipment	60.000	105.000	60.000	105.000				
5.4 Transport	70.000	122.500	70.000	122.500				0
5.5 Management Costs	60.000	105.000		0	60.000	105.000		
5.6 Auditing	50.000	87.500		0	50.000	87.500		
6. Implementation Consultancy	1.200.000	2.100.000	1.200.000	2.100.000				0
6.1 Consultants incl. International Travel	1.130.000	1.977.500	1.130.000	1.977.500				
6.2 Office Running Cost	30.000	52.500	30.000	52.500				
6.3 Vehicle Operation / local transport costs	100.000	175.000	100.000	175.000				
7 Contingencies	1.000.000	1.750.000	500.000	875.000	500.000	875.000		
Total	15.300.000	26.775.000	11.500.000	20.125.000	3.800.000	6.650.000		
	15.300.000	26.775.000	11.500.000	20.125.000	3.800.000	6.650.000		