



## Request for Proposal (RFP)

Ref.# RFP\_009\_09

Date: 03.11.2009

Dear Sir/Madam,

**Subject: Request for Proposal for the provision of a Baseline Assessment of Economic, Social and Environmental Costs and Benefits of Investment in Savannakhet and Saravan, Lao PDR, and elaboration of Policy and Technical briefs.**

1. You are requested to submit a proposal for **conducting a baseline assessment of economic, social and environmental costs and benefits of investments in Saravan and Savannakhet, Lao PDR, and elaborating policy and technical briefs on environment and investment**, as per enclosed Terms of Reference (TOR).
2. To enable you to submit a proposal, attached are:
  - i. Instructions to Offerors (Annex I)
  - ii. General Conditions of Contract (Annex II)
  - iii. Terms of Reference (TOR) (Annex III)
  - iv. Proposal Submission Form (Annex IV)
  - v. Price Schedule (Annex V)

Your offer comprising of technical proposal and financial proposal, in separate sealed envelopes, should reach the following address no later than **9:00 Vientiane time 3 December 2009 (Deadline was extended)**:

**United Nations Development Programme Lao PDR  
Lanexang Ave, PO BOX 345,  
Vientiane, Lao PDR  
Attention: Procurement Unit**

4. If you request additional information, we would endeavor to provide information expeditiously, but any delay in providing such information will not be considered a reason for extending the submission date of your proposal.

Yours sincerely,

**Javier Barrantes  
Deputy Resident Representative (Operations)**

## Instructions to Offerors

### A. Introduction

#### 1. General

Purpose of RFP

#### 2. Cost of proposal

The Offeror shall bear all costs associated with the preparation and submission of the Proposal, the UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

### B. Solicitation Documents

#### 3. Contents of solicitation documents

Proposals must offer services for the total requirement. Proposals offering only part of the requirement will be rejected. The Offeror is expected to examine all corresponding instructions, forms, terms and specifications contained in the Solicitation Documents. Failure to comply with these documents will be at the Offeror's risk and may affect the evaluation of the Proposal.

#### 4. Clarification of solicitation documents

A prospective Offeror requiring any clarification of the Solicitation Documents may notify the procuring UNDP entity in writing at the organisation's mailing address or fax number indicated in the RFP. The procuring UNDP entity will respond in writing to any request for clarification of the Solicitation Documents that it receives earlier than two weeks prior to the deadline for the submission of Proposals. Written copies of the organisation's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Offerors that has received the Solicitation Documents.

#### 5. Amendments of solicitation documents

At any time prior to the deadline for submission of Proposals, the procuring UNDP entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Offeror, modify the Solicitation Documents by amendment.

All prospective Offerors that have received the Solicitation Documents will be notified in writing of all amendments to the Solicitation Documents.

## UNDP Lao PDR

In order to afford prospective Offerors reasonable time in which to take the amendments into account in preparing their offers, the procuring UNDP entity may, at its discretion, extend the deadline for the submission of Proposals.

### C. Preparation of Proposals

#### 6. Language of the proposal

The Proposals prepared by the Offeror and all correspondence and documents relating to the Proposal exchanged by the Offeror and the procuring UNDP entity shall be written in the English/French/Spanish language. Any printed literature furnished by the Offeror may be written in another language so long as accompanied by an English/French/Spanish translation of its pertinent passages in which case, for purposes of interpretation of the Proposal, the English /French /Spanish translation shall govern.

#### 7. Documents comprising the proposal

The Proposal shall comprise the following components:

- (a) Proposal submission form;
- (b) Operational and technical part of the Proposal, including documentation to demonstrate that the Offeror meets all requirements; Technical proposal in hard copy and on CD in (Word format).
- (c) Price schedule, completed in accordance with clauses 8 and 9;

#### 8. Proposal form

The Offeror shall structure the operational and technical part of its Proposal as follows:

##### (a) Management plan

This section should provide corporate orientation to include the year and state/country of incorporation and a brief description of the Offeror's present activities. It should focus on services related to the Proposal.

This section should also describe the organisational unit(s) that will become responsible for the contract, and the general management approach towards a project of this kind. The Offeror should comment on its experience in similar projects and identify the person(s) representing the Offeror in any future dealing with the procuring UNDP entity.

##### (b) Resource plan

## UNDP Lao PDR

This should fully explain the Offeror's resources in terms of personnel and facilities necessary for the performance of this requirement. It should describe the Offeror's current capabilities/facilities and any plans for their expansion.

### (c) Proposed methodology

This section should demonstrate the Offeror's responsiveness to the specification by identifying the specific components proposed, addressing the requirements, as specified, point by point; providing a detailed description of the essential performance characteristics proposed warranty; and demonstrating how the proposed methodology meets or exceeds the specifications.

**The operational and technical part of the Proposal should not contain any pricing information whatsoever on the services offered. Pricing information shall be separated and only contained in the appropriate Price Schedules.**

It is mandatory that the Offeror's Proposal numbering system corresponds with the numbering system used in the body of this RFP. All references to descriptive material and brochures should be included in the appropriate response paragraph, though material/documents themselves may be provided as annexes to the Proposal/response.

Information which the Offeror considers proprietary, if any, should be clearly marked "proprietary" next to the relevant part of the text and it will then be treated as such accordingly.

### 9. Proposal prices

The Offeror shall indicate on an appropriate Price Schedule, an example of which is contained in these Solicitation Documents, the prices of services it proposes to supply under the contract.

### 10. Proposal currencies: **All prices shall be quoted in US dollars only.**

### 11. Period of validity of proposals

**Proposals shall remain valid for sixty (60) days** after the date of Proposal submission prescribed by the procuring UNDP entity, pursuant to the deadline clause. A Proposal valid for a shorter period may be rejected by the procuring UNDP entity on the grounds that it is non-responsive.

In exceptional circumstances, the procuring UNDP entity may solicit the Offeror's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. An Offeror granting the request will not be required nor permitted to modify its Proposal.

### 12. Format and signing of proposals

## UNDP Lao PDR

The Offeror shall prepare two copies of the Proposal, clearly marking each “Original Proposal” and “Copy of Proposal” as appropriate. In the event of any discrepancy between them, the original shall govern.

The two copies of the Proposal shall be typed or written in indelible ink and shall be signed by the Offeror or a person or persons duly authorised to bind the Offeror to the contract. The latter authorisation shall be indicated by written power-of-attorney accompanying the Proposal.

A Proposal shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Offeror, in which case such corrections shall be initialled by the person or persons signing the Proposal.

### 13. Payment

UNDP shall effect payments to the Contractor after acceptance by UNDP of the invoices submitted by the contractor, upon achievement of the corresponding milestones.

### D. Submission of Proposals

### 14. Sealing and marking of proposals

The Offeror shall seal the Proposal in one outer and two inner envelopes, as detailed below.

(a) The outer envelope shall be:

- addressed to –  
**Procurement Unit**  
**United Nations Development Programme Lao PDR**  
**Lanexang Ave, PO BOX 345,**  
**Vientiane, Lao PDR**  
and,
- marked with –  
**“REF/009/09 for the provision of a Baseline Assessment of Economic, Social and Environmental Costs and Benefits of Investment in Savannakhet and Saravan, Lao PDR, and elaboration of Policy and Technical briefs.”**

(b) Both inner envelopes shall indicate the name and address of the Offeror. The first inner envelope shall contain the information specified in Clause 8 (*Proposal form*) above, with the copies duly marked “**Original**” and “**Copy**”. **The second inner envelope shall include the price schedule duly identified as such.**

Note, if the inner envelopes are not sealed and marked as per the instructions in this clause, the procuring UNDP entity will not assume responsibility for the Proposal’s misplacement or premature opening.

**15. Deadline for submission of proposals**

Proposals must be received by the procuring UNDP entity at the address specified under clause *Sealing and marking of Proposals* no later than **9:00 Vientiane time, 3 December 2009 (Deadline was extended)**.

The procuring UNDP entity may, at its own discretion extend this deadline for the submission of Proposals by amending the solicitation documents in accordance with clause *Amendments of Solicitation Documents*, in which case all rights and obligations of the procuring UNDP entity and Offerors previously subject to the deadline will thereafter be subject to the deadline as extended.

**16. Late Proposals**

Any Proposal received by the procuring UNDP entity after the deadline for submission of proposals, pursuant to clause *Deadline for the submission of proposals*, will be rejected.

**17. Modification and withdrawal of Proposals**

The Offeror may withdraw its Proposal after the Proposal's submission, provided that written notice of the withdrawal is received by the procuring UNDP entity prior to the deadline prescribed for submission of Proposals.

The Offeror's withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of clause *Deadline for Submission of Proposals*. The withdrawal notice may also be sent by telex or fax but followed by a signed confirmation copy.

No Proposal may be modified subsequent to the deadline for submission of proposals.

No Proposal may be withdrawn in the Interval between the deadline for submission of proposals and the expiration of the period of proposal validity specified by the Offeror on the Proposal Submission Form.

**E. Opening and Evaluation of Proposals**

**18. Opening of proposals**

The procuring entity will open the Proposals in the presence of a Committee formed by the Head of the procuring UNDP entity.

**19. Clarification of proposals**

To assist in the examination, evaluation and comparison of Proposals, the Purchaser may at its discretion, ask the Offeror for clarification of its Proposal. The request for clarification

## UNDP Lao PDR

and the response shall be in writing and no change in price or substance of the Proposal shall be sought, offered or permitted.

### 20. Preliminary examination

The Purchaser will examine the Proposals to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the Proposals are generally in order.

Arithmetical errors will be rectified on the following basis: If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If the Offeror does not accept the correction of errors, its Proposal will be rejected. If there is a discrepancy between words and figures the amount in words will prevail.

Prior to the detailed evaluation, the Purchaser will determine the substantial responsiveness of each Proposal to the Request for Proposals (RFP). For purposes of these Clauses, a substantially responsive Proposal is one which conforms to all the terms and conditions of the RFP without material deviations. The Purchaser's determination of a Proposal's responsiveness is based on the contents of the Proposal itself without recourse to extrinsic evidence.

A Proposal determined as not substantially responsive will be rejected by the Purchaser and may not subsequently be made responsive by the Offeror by correction of the non-conformity.

### 21. Evaluation and comparison of proposals

A two-stage procedure is utilised in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal being opened and compared. The price proposal of the Proposals will be opened only for submissions that passed the minimum technical score of 70% of the obtainable score of 1000 points in the evaluation of the technical proposals.

The technical proposal is evaluated on the basis of its responsiveness to the Term of Reference (TOR).

In the Second Stage, the price proposal of all contractors, who have attained minimum 70% score in the technical evaluation will be compared.

The cumulative analysis scheme will be used. A total score is obtained upon the combination of weighted technical and financial attributes 70% for technical part and 30 % for financial part. Cost under this method of analysis is rendered as an award criterion, which should not be less than 30% of all the desirable factors of the RFP.

## UNDP Lao PDR

The maximum number of points assigned to the financial proposal is allocated to the lowest price proposal. All other price proposals receive points in inverse proportion. A suggested formula is as follows:

$$p = y (\mu/z)$$

Where:

p = points for the financial proposal being evaluated

y = maximum number of points for the financial proposal

μ = price of the lowest priced proposal

z = price of the proposal being evaluated

The proposal obtaining the overall highest score after adding the score of the technical proposal and the financial proposal is the proposal that offers best value for money.

### ***Technical Evaluation Criteria***

Summary of Technical Proposal Evaluation Forms		Score Weight	Points Obtainable	Company / Other Entity				
				A	B	C	D	E
1.	Expertise of Firm / Organisation submitting Proposal	20%	200					
2.	Proposed Work Plan and Approach	50%	500					
3.	Personnel	30%	300					
<b>Total</b>			<b>1000</b>					

Evaluation forms for technical proposals follow on the next two pages. The obtainable number of points specified for each evaluation criterion indicates the relative significance or weight of the item in the overall evaluation process. The Technical Proposal Evaluation Forms are:

**Form 1:** Expertise of Firm / Organisation Submitting Proposal

**Form 2:** Proposed Work Plan and Approach

**Form 3:** Personnel

Note: The score weights and points obtainable in the evaluation sheet are tentative and should be changed depending on the need or major attributes of technical proposal.

## UNDP Lao PDR

Technical Proposal Evaluation Form 1		Points obtainable	Company / Other Entity				
			A	B	C	D	E
Expertise of firm / organisation submitting proposal							
1.1	Reputation of Organisation and Staff (Competence / Reliability)	35					
1.2	Litigation and Arbitration history	15					
1.3	General Organisational Capability which is likely to affect implementation (i.e. loose consortium, holding company or one firm, size of the firm / organisation, strength of project management support e.g. project financing capacity and project management controls)	30					
1.4	Extent to which any work would be subcontracted (subcontracting carries additional risks which may affect project implementation, but properly done it offers a chance to access specialised skills.	15					
1.5	Quality assurance procedures, warranty	25					
1.6	Relevance of: - Specialised Knowledge - Experience on Similar Programme / Projects - Experience on Projects in the Region Work for UNDP/ major multilateral/ or bilateral programmes	80					
		200					

Technical Proposal Evaluation Form 2		Points Obtainable	Company / Other Entity				
			A	B	C	D	E
Proposed Work Plan and Approach							
2.1	To what degree does the Offeror understand the task?	45					
2.2	Have the important aspects of the task been addressed in sufficient detail?	40					
2.3	Are the different components of the project adequately weighted relative to one another?	30					
2.4	Is the proposal based on a survey of the project environment and was this data input properly used in the preparation of the proposal?	75					
2.5	Is the conceptual framework adopted appropriate for the task?	75					
2.6	Is the scope of task well defined and does it correspond to the TOR?	140					
2.7	Is the presentation clear and is the sequence of activities and the planning logical, realistic and promise efficient implementation to the project?	95					
		500					

## UNDP Lao PDR

Technical Proposal Evaluation Form 3 CVs		Points Obtainable	Company / Other Entity				
			A	B	C	D	E
3.1	5+years of experience in providing similar consultancy services to UN organizations, national government and/or other institutions.	100					
3.2	Specific relevant experience in the area of sociological, environmental and economic research	80					
3.3	With adequate human resources and/or experts and specialists in the field required for the study, preferably with related experience on costs and benefits assessment.	40					
3.4	Strong knowledge of the local socio-economic and overall development context of Lao PDR	80					
<b>Total Part 3</b>		300					

### F. Award of Contract

#### 22. Award criteria, award of contract

The procuring UNDP entity reserves the right to accept or reject any Proposal, and to annul the solicitation process and reject all Proposals at any time prior to award of contract, without thereby incurring any liability to the affected Offeror or any obligation to inform the affected Offeror or Offerors of the grounds for the Purchaser's action

Prior to expiration of the period of proposal validity, the procuring UNDP entity will award the contract to the qualified Offeror whose Proposal after being evaluated is considered to be the most responsive to the needs of the organisation and activity concerned.

#### 23. Purchaser's right to vary requirements at time of award

The Purchaser reserves the right at the time of award of contract to vary the quantity of services and goods specified in the RFP without any change in price or other terms and conditions.

#### 24. Signing of the contract

Within **5** days of receipt of the contract the successful Offeror shall sign and date the contract and return it to the Purchaser.

## General Conditions of Contract

### 1. LEGAL STATUS

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis UNDP. The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

### 2. SOURCE OF INSTRUCTIONS

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action which may adversely affect UNDP or the United Nations and shall fulfil its commitments with the fullest regard to the interests of UNDP.

### 3. CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

### 4. ASSIGNMENT

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

### 5. SUB-CONTRACTING

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform with the provisions of this Contract.

### 6. OFFICIALS NOT TO BENEFIT

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

### 7. INDEMNIFICATION

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims,

## **UNDP Lao PDR**

demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

### **8. INSURANCE AND LIABILITIES TO THIRD PARTIES**

8.1 The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

8.2 The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

8.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.

8.4 Except for the workmen's compensation insurance, the insurance policies under this Article shall:

(i) Name UNDP as additional insured;

(ii) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against UNDP;

(iii) Provide that UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

8.5 The Contractor shall, upon request, provide UNDP with satisfactory evidence of the insurance required under this Article.

### **E. 9. ENCUMBRANCES/LIENS**

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

### **10. TITLE TO EQUIPMENT**

Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the

## **UNDP Lao PDR**

Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

### **11. COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS**

UNDP shall be entitled to all intellectual property and other proprietary rights including but not limited to patents, copyrights, and trademarks, with regard to products, or documents and other materials which bear a direct relation to or are produced or prepared or collected in consequence of or in the course of the execution of this Contract. At the UNDP's request, the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring them to UNDP in compliance with the requirements of the applicable law.

### **12. USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS**

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or the United Nations, or any abbreviation of the name of UNDP or the United Nations in connection with its business or otherwise.

### **13. CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION**

13.1 All maps, drawings, photographs, mosaics, plans, reports, recommendations, estimates, documents and all other data compiled by or received by the Contractor under this Contract shall be the property of UNDP, shall be treated as confidential and shall be delivered only to UNDP authorized officials on completion of work under this Contract.

13.2 The Contractor may not communicate at any time to any other person, Government or authority external to UNDP, any information known to it by reason of its association with UNDP which has not been made public except with the authorization of UNDP; nor shall the Contractor at any time use such information to private advantage. These obligations do not lapse upon termination of this Contract.

### **14. FORCE MAJEURE; OTHER CHANGES IN CONDITIONS**

14.1 Force majeure, as used in this Article, means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force which are beyond the control of the Parties.

14.2 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify UNDP of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Contract. The notice shall include steps proposed by the Contractor to be taken including any reasonable alternative

## UNDP Lao PDR

means for performance that is not prevented by force majeure. On receipt of the notice required under this Article, UNDP shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

- 14.3 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

### 15. TERMINATION

- 15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16 "Settlement of Disputes" below shall not be deemed a termination of this Contract.

- 15.2 UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

- 15.3 In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract. The Contractor shall take immediate steps to terminate the work and services in a prompt and orderly manner and to minimize losses and further expenditures.

- 15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, UNDP may, without prejudice to any other right or remedy it may have, terminate this Contract forthwith. The Contractor shall immediately inform UNDP of the occurrence of any of the above events.

### 16. SETTLEMENT OF DISPUTES

#### 16.1. Amicable Settlement

The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of, or relating to this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

#### 16.2. Arbitration

Unless, any such dispute, controversy or claim between the Parties arising out of or relating to this Contract or the breach, termination or invalidity thereof is settled amicably under the

## **UNDP Lao PDR**

preceding paragraph of this Article within sixty (60) days after receipt by one Party of the other Party's request for such amicable settlement, such dispute, controversy or claim shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining, including its provisions on applicable law. The arbitral tribunal shall have no authority to award punitive damages. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such controversy, claim or dispute.

### **PRIVILEGES AND IMMUNITIES**

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

### **TAX EXEMPTION**

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia, that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with UNDP to determine a mutually acceptable procedure.

18.2 Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with UNDP before the payment thereof and UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

### **19 CHILD LABOUR**

19.1 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

19.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

### **MINES**

20.1 The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and

## UNDP Lao PDR

Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

20.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

### OBSERVANCE OF THE LAW

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

### AUTHORITY TO MODIFY

No modification or change in this Contract, no waiver of any of its provisions or any additional contractual relationship of any kind with the Contractor shall be valid and enforceable against UNDP unless provided by an amendment to this Contract signed by the authorized official of UNDP.

## Annex III

### Terms of Reference (TOR)

#### **Baseline assessment of economic, social and environment costs and benefits of investment in Savannakhet and Saravan, Lao PDR, and development of policy and technical briefs**

#### **Background**

The recent rapid influx of FDI has been an important source for government revenues and force for accelerating economic growth. In 2008, USD 2,807 million of FDI has been implemented with a further USD 659 million approved over a combined 146 projects. By value of investment, the top 5 sectors in Lao PDR are hydropower electricity generation, agriculture, mining, industry and handicraft and services from Thailand, China, Vietnam, France and Japan.<sup>1</sup> The increasing demand from other countries for Lao PDR's abundant natural resources is further accelerating the pace of the exploitation of these resources frequently without adequate measures to prevent or mitigate the adverse impacts. Recognizing this challenge, on 8 May 2007 Laos' Prime Minister Bouasone Bouphavanh announced a moratorium on the granting of new land concessions of over 100ha.<sup>2</sup> In 2008, an Environment and Social Impact Assessment Department in WREA was created, strengthening the Lao Government capacity in this area. As part of the Government of Lao PDR's efforts to strengthen the legal framework for investment, the new Law on Investment is currently being drafted and revised.

**Plantation agriculture:** The availability of relatively 'cheap' land and long-term concessions (30-50 years) is proving very attractive to companies from neighbouring countries wanting to establish medium

<sup>1</sup> Ministry of Planning, PEI Sub-national workshop in Oudomxay, December 2008

<sup>2</sup> Land concessions, development for the poor? Cor. H. Hanssen, 2007

## UNDP Lao PDR

to large-scale commercial production of rubber, cassava, sugar, pulpwood, maize, etc. FDI in commercial plantations is a main source of investment after mining, representing 15 per cent of FDI in 2004.<sup>3</sup> There is a surge of rapid influx of foreign investments in commercial plantations, such as plantations of rubber, sugar, cassava, maize, jatropha and eucalyptus across the country. Lao PDR government is targeting by 2020 a total area of 500,000 hectares of industrial crop plantations.<sup>4</sup>

Many of the concessions are established without sufficiently clear processes of investment appraisal, approval and monitoring. Conflicts may arise regarding land use, affecting local communities' access to and use of land for their livelihoods. It is observed that, to date, environmental impacts of these investments are not given sufficient attention in the investment management process in Lao PDR. In a growing number of instances plantations are exacerbating pre-existing (seasonal) food shortages, accelerating environmental degradation and causing adverse social impacts.

**Mining:** There is a continuing upsurge of mining projects in Laos, for precious and industrial metals and coal, with the possibility of oil and gas being discovered in the south. Private investment in the mineral sector has increased almost 34% per year over the past five years (2002-2006).<sup>5</sup> At present, the mineral sector comprises 19.5% of the output of the entire Lao PDR industrial sector, and continued growth is expected at a rate of approximately 11% per year during 2006-2010 (MINDECO 2006). As of 2007, over 200 companies of which 34 were foreign owned were engaged in exploration, development and operations of mining in the country and 55 new mines were under development.

WREA, in its 2007 country report on environmental management in the mining sector, indicates the following key threats to environment and natural resources from activities associated with the mining sector:

- Availability of flat land is an increasing issue, with only 8% of total land area suitable for agriculture. Mining is also putting increasing pressures on the availability and quality of land;
- Increased pressure on water resources due to its increasing use for mining activities;
- Hazardous chemicals, including heavy metals such as mercury, lead, cadmium, arsenic, chromium, copper, and zinc;
- Potential impacts in downstream countries from improperly managed discharges.

**Hydropower:** Lao PDR is estimated to have a theoretical hydroelectric potential of about 26,500MW excluding the mainstream Mekong. Of this, about 18,000MW is estimated to be technically exploitable. Less than 2% of the country's hydropower potential has been developed over the past 30 years. In 2007 the Lao Government said that by 2015 it was committed to supply 7,000MW to Thailand, 5,000MW to Vietnam and 1,500MW to Cambodia. In addition to international commitments, domestic energy consumption is growing at 8% to 10% annually. The Government of the Lao PDR has to date signed MOUs or is undertaking research studies on a total of more than 70 hydropower projects.<sup>6</sup> Of these 15 are either operational or under construction. The Government intends to use hydropower revenues to support poverty reduction. Hydropower's social and environmental impacts may include flooding of forested areas; changes in natural water flows; loss of high productivity agricultural land (especially bottom land rice fields); biodiversity loss (including fisheries resources) as well as social impacts such as resettlement of the rural poor living in areas that will be inundated, the loss of their access to and control over water resources and conflicts over the use of water resources for power generation and for irrigation.

**Wood and wood products:** Growing demand for wood products, together with increasing development of forest areas, has led to deforestation and forest degradation which in turn threatens habitats, watershed

<sup>3</sup> Rapid Trade and Environment Assessment, IISD, IUCN 2007

<sup>4</sup> [wwfgreatermekong.org](http://wwfgreatermekong.org), 2008

<sup>5</sup> Lao Country Report on Environmental Management in the Mining Sector, WREA, 2007

<sup>6</sup> <http://www.poweringprogress.org>, Ministry of Energy and Mines

## UNDP Lao PDR

protection, biodiversity, the tourism industry and the availability of non-timber forest products. Lao PDR's wood industry is still at an early stage of development, consisting mainly of small- and medium-sized sawmills, plywood mills and other wood processing plants. Some provinces such as Saravane have reduced exploitation of wood, as they have observed that declining forest cover has been closely associated with a decline in water quantity. In Savannakhet, there is a quota of wood for the province targeting 36 large scale wood processing factories and furniture factories. However, despite a ban in the export of raw timber, this illegal activity continues.

**Organic agricultural products:** Organic production could provide Lao PDR with a crucial competitive edge and 'green niche' vis-à-vis other agricultural producers in the region. To take advantage of these "green" market opportunities, efforts will need to focus on strengthening the investment environment and supporting certification systems and bodies.

It is in this context that the Poverty Environment Initiative (PEI) *Output 2: Investment in Lao PDR: Minimising the social and environmental impacts* seeks to enhance capacities of national and provincial authorities to plan and manage investments for poverty reduction and sound environmental management. Within the framework of this Initiative, we require a baseline assessment of economic, social and environmental costs and benefits of investments in Saravanne and Savannakhet provinces.

### **Purpose of the contract**

The overall purpose of the contract is to prepare a baseline assessment of the economic, social and environmental costs and benefits of investment in Savanaket and Saravanne provinces in order to inform the development of Provincial Investment Strategies and, more generally, PEI activities.

### **Outputs**

- A preliminary methodology and workplan must be presented after the first 10 days of signing the contract.
- Final output is one 30 page main report with executive summary for each of two provinces. Annexes are additional to the main report.
- Ten policy, technical briefs and guidance notes that apply existing analysis and research on the environmental and social costs and benefits (English and Lao).

### **Methodology**

#### **Baseline assessment of investments in Saravanne and Savannakhet Provinces**

##### **(a) Capacities of provincial and district authorities:**

- Targeting: member's of provincial Investment Approval Committee, but also PAFO, PLMA, WREO, as well as relevant district authorities such as DAFO, DLMA and DWREO
- Parameters include: number of staff, formal education level, previous training, suggested training needs, available facilities and equipment (e.g. computers, software)

##### **(b) Investment and concessions:**

- Conduct an inventory of investments occurring in each of the two provinces, including information on the nature of the investment, size of the investment, age of investment, source of the investment, type of crop, etc.

## UNDP Lao PDR

- To the extent possible, identify the location of the investments on provincial maps (as point)
- Determine the status, and if possible secure detailed information, of the status of land use authorization by the Lao Government
- Identify key economic, social and environment costs and benefits associated with each type of investment. This will encompass analysis from the macro to the micro level
- Develop a methodology to quantify economic, social and environmental impacts with government counterparts and affected households. The methodology should enable the identification of the differential impacts of investment on men and women, and should encompass both qualitative (sample) and quantitative methods.
- Collect data according to the methodology identified
- Develop case-study analysis of at least five investments in each province, which will encompass in-depth quantitative assessments

### **(c) Natural resources development and management:**

- Forest cover - natural forests separate from plantations (per province/ district)
- Area under shifting cultivation, length of rotation period (fallow period)
- Number of villages with completed LUP
- Availability of land suitability maps at district level

### **(d) Agricultural productivity:**

- Productivity (e.g. t/ ha) of agricultural production systems and different agricultural crops such as rice (paddy, irrigated, upland), maize and others as appropriate
- Abundance and productivity of animal husbandry

### **(e) Socio-economics including food security:**

- Gender specific rural incomes
- Incidences of malnutrition
- Food shortage periods (share of households)
- Percentage of poor households (poverty rate)

### **(f) Producer associations:**

- Number of financially independent producer associations
- Members of these associations

### **(g) General**

- Government counterparts should be involved in data collection and analysis, and strengthening their capacity should be considered of key importance.
- The team should seek close and cross-sectoral cooperation with relevant provincial and district authorities.
- Present and finalise report

The report must be prepared in ways that facilitates stakeholder engagement and builds capacity among key stakeholders in line with outputs identified in the PEI framework.

## UNDP Lao PDR

Executive summary to be presented in both Lao and English.

### Policy and technical briefs

- Develop two-page policy, technical briefs and guidance that apply existing analysis and research on the environmental and social costs and benefits - of which at least one includes a specific gender analysis - of investment choices. Topics to be covered include:
  - Plantation agriculture:
    - Tropical trees: rubber, eucalyptus, etc.
    - Annual crops: maize, sugar cane, etc.
    - Biofuels: jatropha, etc.
    - Coffee and tea
  - Mining
    - Small scale artisanal mining
    - Large scale mining
  - Investment and women
  - Timber extraction (in coordination with SUFORD)
  - Hydropower (in coordination with MRC)
- Technical briefs to be presented in both Lao and English, in digital format, and should be user friendly and easily readable.
- Audience: senior Government officials, National Assembly members

### Inputs and timing

Approx. 80 days of inputs with 10 days consultation in Vientiane, 25 days in each Province and 10 days of report writing and consultation at the national level. An additional 10 days to write technical and policy briefs.

### Supervision and approval

The assessment will be supervised by representatives of MPI Investment Promotion Department and the UNDP to ensure the expected quality of the final products. Reporting will be to the Deputy Director General, Investment Promotion Department, Ministry of Planning and Investment (MPI) and the Chief of the Environment Unit in UNDP.

The draft final report has to be presented to representatives of MPI-IPD, the UNDP and other relevant persons. Comments, as well as recommendations during the presentation or related to the draft final report have to be considered for the elaboration of a final version.

### Qualifications & experience required

## **UNDP Lao PDR**

- 5+ years of experience in providing similar consultancy services to UN organizations, national government and/or other institutions.
- Specific relevant experience in the area of sociological, environmental and economic research
- Experience in cost-benefit assessment.
- With adequate human resources and/or experts and specialists in the field required for the study, preferably with related experience on costs and benefits assessment.
- Strong knowledge of the local socio-economic and overall development context of Lao PDR

### **Assessment**

Proposals will be assessed according to:

- Expertise of Firm / Organisation Submitting Proposal
- Proposed Work Plan and Approach
- Personnel



**PRICE SCHEDULE**

The Contractor is asked to prepare the Price Schedule as a separate envelope from the rest of the RFP response as indicated in Section D paragraph 14 (b) of the Instruction to Offerors.

All prices/rates quoted must be exclusive of all taxes, since the UNDP is exempt from taxes as detailed in Section II, Clause 18. ’

The Price Schedule must provide a detailed cost breakdown. Provide separate figures for each functional grouping or category.

Estimates for cost-reimbursable items, if any, such as travel, and out of pocket expenses should be listed separately.

In case of an equipment component to the service provided, the Price Schedule should include figures for both purchase and lease/rent options. The UNDP reserves the option to either lease/rent or purchase outright the equipment through the Contractor.

The format shown on the following pages should be used in preparing the price schedule. The format includes specific expenditures, which may or may not be required or applicable but are indicated to serve as examples.

<b>Price Schedule:</b>				
<b>Request for Proposals for Services</b>				
<b>Description of Activity/Item</b>		<b>Number of Staff</b>	<b>Monthly Rate</b>	<b>Estimated Amount</b>
<b>1.</b>	<b>Remuneration</b>			
1.1	Services in Home office			
1.2	Services in Field			
<b>2.</b>	<b>Out of Pocket Expenses</b>			
2.1	Travel			
2.2	Per Diem Allowances			
2.3	Communications			
2.4	Reproduction and Reports			
2.5	Equipment and other items			