



RESPONSIBILITIES

- **MRCS Division**
 - Administration Division (AD)
 - Environmental Management Division (ED)
 - Office of CEO (OCEO)
 - Planning Division (PD)
 - Technical Support Division (TD)
- **MRC Employees**
 - Professional Staff
 - General Support Staff
 - National Staff
- **NMCS**
 - Cambodia National Mekong Committee (CNMC)
 - Lao National Mekong Committee (LNMC)
 - Thai National Mekong Committee (TNMC)
 - Viet Nam National Mekong Committee (VNMC)
- **Third Party**
 - Individual consultants
 - Firms
 - Partners
 - Service providers
- **Procurement Complaints Committee**

EFFECTIVE

- These Guidelines are effective upon the approval by the CEO.

FORMS USED

- The templates or forms for these Due Diligence Guidelines are set out in the Annexes to the Guidelines.

REFERENCE

- **FPAC Mechanism**
- **The UN's sanctions list**
- **MRCS manuals**
 - HR manual
 - Finance manual
 - Procurement manual

DUE DILIGENCE GUIDELINES

INTRODUCTION

As an important and highly visible inter-governmental organisation the Mekong River Commission Secretariat (MRCS) has a special obligation to perform its mission to the highest standards. To this end, a Fraud Prevention and Anti-Corruption (FPAC) Mechanism has been adopted, which includes a commitment to ensuring that opportunities for fraud and corruption are reduced to the lowest possible level of risk. Performing due diligence on prospective partners and suppliers is one of the important factors for efficient fraud and corruption prevention.

Due Diligence is a detailed examination of a third party, conducted by the MRC Secretariat before signing a contract with the third party or becoming in another formal way involved with it. Undertaking a Due Diligence process contributes to informed decision making in relation to stakeholders that may provide services to MRCS. It is part of the appraisal process resulting in a decision as to whether a consultant, bidder, contractor, or a grant proposal from a third party should be engaged or not by MRCS.

Further to the standards set out in the FPAC Mechanism, these Due Diligence Guidelines describe a stepwise approach to implementing due diligence that will support in mitigating risks of fraud and corruption occurring in relation to MRCS' activities. These Guidelines also include several templates and forms to be used as part of the due diligence process.

These Due Diligence Guidelines are adopted as part of MRC's commitments under the FPAC Mechanism and aim to provide a generic framework to the Procurement function of MRCS for undertaking Due Diligence on third parties that the MRC may engage in business and/or funding activities.

PURPOSE AND OBJECTIVES

There are three main reasons for the MRCS to conduct supplier due diligence:

- **Ensure value for money:** good due diligence is important because it increases the probability of engaging a high-performing, reliable, bona fide supplier that will successfully fulfil contract obligations and provide value for money;
- **Prevent fraudulent or corrupt conduct:** making appropriate due diligence inquiries will assist MRCS in reaching the conclusion that it is confident that its prospective suppliers, consultants or other service providers do not make corrupt

- Administration manual
- **MRCS Guidelines**
 - Code of Conduct Guideline
 - Fraud Prevention and Anti-Corruption Guideline

payments, and that the business relationship with those partners would be a normal and legitimate one;

- **Maintain trust in the MRCS administration:** procurement, HR and Panel decisions are fair and based on merit. Failures arising from poor due diligence would reflect badly on MRC as a whole and could diminish stakeholder trust in the probity, integrity and efficiency of how the MRC conducts business.

DEFINITIONS

Defined terms used in these Due Diligence Guidelines have the meaning as provided in the MRC Procurement, HR Manuals and/or the FPAC Mechanism.

RESPONSIBILITIES

Overall responsibility

In a manner complementary to and consistent with the processes set out in the Human Resources and Procurement Manuals of MRCS, the Procurement and HR Teams in the Administrative Division shall be responsible for ensuring that the due diligence process is appropriately conducted, recorded and that no contracts are entered into unless the process has been fully completed. The Procurement Team shall be responsible for conducting due diligence on legal entities and their authorized representatives and the HR Teams shall conduct the due diligence process for individual consultants.

Responsibility for defining elements of due diligence

The Procurement and HR Teams, as relevant, in consultation with the Division requiring the goods or services, shall put together the elements of the due diligence process for a given procurement and HR exercise and ensure that those are properly set out in the tender and recruitment documentation, including requests for relevant documentation from bidders and consultants.

Responsibility for conducting the process of due diligence and checks

The Procurement and HR teams, as relevant, shall be responsible for ensuring that all requested information from suppliers and consultants is received and for making an initial assessment. Where it requires specialist knowledge, such as for interpreting financial information, the Procurement Team and HR will draw in relevant other departments from the Administration Division.

Responsibility for assessing the ability to perform

In accordance with Chapter 7 of the MRC Procurement and section VII.8. of HR Manuals, the ability of bidders and consultants to perform the services at the proposed price will be assessed by the Evaluation Panel.

PROCESS OF DUE DILIGENCE

In a manner complementary to and consistent with processes set out in the Procurement and HR Manuals of MRCS, the Procurement or the HR Team of MRCS, as relevant, will assess the suitability of third parties in a process that consists of defining the level of due diligence up front, information gathering, assessing the risks of any concerns found, identifying any steps to be taken in response to risks such as putting in place risk-mitigation measures or deciding not to engage a counterpart. The first two aspects are described in this section while the risk assessment and any steps to be taken in response of risks identified are set out in the sections on risk assessment and mitigating risks further below in these Guidelines.

Definition of Due Diligence level and activities:

In planning the level of appropriate due diligence to be conducted prior to the procurement process being initiated, the Procurement or the HR Team, as relevant, shall decide – based on a risk assessment of the prospective contract and activities to be undertaken (see also the section below on risk assessment) – which due diligence activities shall be undertaken (see also the section on Risk Level below).

The Procurement or HR Team, as relevant, shall specify these due diligence steps in the tender documents to be circulated to potential bidders. The tender documents shall list the requirements for documentation that bidders will need to submit in relation to the Due Diligence steps identified.

Information gathering:

The Procurement or HR Team, as relevant, shall conduct the following basic checks all prospective suppliers regardless of the value or nature of the procurement exercise, i.e. all participants in MRCS tender processes. These checks will need to have been conducted and documented before a supplier can be added into the MRCS vendor master file.

These basic checks shall consist of:

- suppliers completing the Supplier Declaration Form attached as Annex 1 of these Guidelines (which includes representations in relation to the Exclusion Criteria set out above) and their submission not raising any concerns upon review by the MRCS;
- a check of an entity's financial soundness by assessing the entity's financial statements of the past three years or, in case those are not available, providing other means of assurance

that the entity has the financial viability to conduct the services to be carried out;

- a verification that the entity and the person representing it or an individual (in the case of individual consultants) do not appear on United Nations sanctions lists through the use of professional auto-screening software.

The Procurement or HR Team, as relevant, shall document and reflect the outcome of these basic checks in the appropriate entry for the entity or consultant in the MRCS vendor master file.

For those bidders that pass the technical evaluation round (see Section 8.1.7 of the Procurement Manual), the Procurement or HR Team, as relevant, shall verify whether an entity or individual:

- is who they claim to be by looking at their legal set-up,
- can be trusted – check fraud and corruption indicators,
- has the financial ability to deliver (credit checks),
- has good past performance of appropriate health and safety and employment practices,
- has the requisite good reputation and integrity,
- has good past performance of appropriate health and safety and employment practices,
- has the capacity, capability and expertise to deliver, also based on past performance,
- has the necessary capacity and capability to deliver over the life of the contract,
- has the right systems and processes to be able to deliver,
- can deliver what is needed for the price quoted – testing the assumptions in the proposal,
- understands the contract deliverables and requirements and their obligations.

As part of that assessment, suppliers may need to provide documentation or other evidence that helps the MRCS Teams conduct the due diligence process, including but not limited to:

- companies' registration office/ charities registry checks
- checking of published articles in newspapers, magazines, etc.
- case studies (Web)
- valid insurance certificate(s)
- compliance certificates/accreditations
- security or policy checks
- audit reports
- testimonials or references from current or recent customers
- interview clients

- staff or experts' CV's
- current service and contract performance reports.

In conducting the due diligence process the Procurement and HR Team, as relevant shall consider that it is best to verify information on bidders and contractors from more than one source — through conducting its own desk-research, by asking the supplier for documentation and by seeking confirmation from referees or third parties. Referees should be the supplier's current or recent customers. Third parties could be the supplier's accountant or bank manager. These tools will be utilized in a manner consistent with the level of risk identified prior to the initiation of the procurement process or based on the information provided by the supplier or otherwise coming to the knowledge of the MRCS.

The Procurement and HR Team, as relevant, shall ensure that all due diligence actions and research are well documented and joined to the final evaluation report (see Article 7.1.7 of the Procurement Manual) that is submitted to the CEO. To this end, a sample verification matrix can be found in Annex 2 of these Guidelines. The verification matrix will be adjusted to reflect those checks that are identified to be performed. Explanatory comments can also be included in the matrix attached as Annex 2.

To the extent that the due diligence research conducted raises issues of concern, the section on Risk Assessment and Mitigation below provides guidance on how to assess and address any risks found. The Procurement and HR Team, as relevant, shall be responsible for applying the steps set out in the Risk Assessment and Mitigation section below at this stage of the due diligence process and document any risks identified and mitigated in the verification matrix.

The due diligence process on suppliers shall be read and applied together with the relevant provisions in the MRC Procurement Manual, such as those on the Prequalification of Bidders (Chapter 6) and the Evaluation of Proposals (Article 7.1.7), and those from the MRC HR Manual, such as the provisions on Shortlisting (Section VII.15.3 of HR Manual).

EXCLUSION CRITERIA

The MRC exclusion criteria set out below facilitate the detection of persons and entities that pose a risk to the Mekong River Commission's financial interests. They aim at excluding certain entities or persons from receiving MRC funds or participating in procurement/recruitment procedures. Any person or entity will be excluded from participation in MRC procurement processes or receiving MRC funds and, subject to

the process set out in the relevant section below, placed on the Do-Not-Engage list if they:

- have been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings;
- are in a situation of bankruptcy, liquidation, termination or suspension of business activities, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or are subject to a procedure of the same kind;
- have received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct, including but not limited to: misrepresenting information required for the verification of the absence of grounds for exclusion or in the performance of a contract; entering into agreement with other persons or entities with the aim of distorting competition; violating intellectual property rights; attempting to influence the decision-making process of a contracting authority; or attempting to obtain confidential information;
- do not comply with their obligations as regards payment of taxes, social security contributions and dues, according to the applicable statutory provisions;
- are an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
- have been involved in mismanagement or other irregularities related to the use of MRC funds or public funds of another source;
- are or appear to be in a situation of conflict of interest in relation to the procurement process.

RISK LEVEL

A risk-based approach shall be applied to the level of due diligence to be conducted (beyond the basic checks). In determining the appropriate level of due diligence the following factors will be considered:

- **The expected amount for the goods or services to be procured:** The higher the amount of the goods or services, the more stringent the checks of the due diligence should be.
- **The Nature of the goods or services to be procured:** Their nature is defined by the expected tangible outcomes, their objectives, their proposed activities, and the extent to which the MRCS will be able to oversee the service provider.
Due diligence in this respect sometimes seems to be easy if a third party has a history of implementing similar projects successfully – at the same time, this would still require detailed due diligence investigation if the work is innovative or demands high supervision in certain aspects.
- **Criticality of the goods or services to be procured:** Some projects to be commissioned by MRCS are more critical than others. Making a wrong choice when working with a third party or when providing a grant to a partner may have unintended, unforeseeable, or undesirable consequences for MRCS in this respect.
- If the order or mandate is small and the supplier appears to be low risk the basic level of the due diligence process may be sufficient.
For more extensive orders or more important mandates and projects, other due diligence steps as set out in the section on the process above may be appropriate.

The basic checks set out above in the section on the Due Diligence process shall be performed on all bidders and suppliers in that all of them are required, at a minimum, to sign the Supplier Declaration Form. This shall not apply to purchases made by credit card or other small cash transactions.

ASSESSING AND MITIGATING THE RISKS

The due diligence process will likely generate some issues of concern with varying degrees of seriousness. Some concerns will result in the MRCS not wishing to engage the supplier (for example, if it has recently been found to have engaged in fraud or corruption or does not hold mandatory licenses), some will require the implementation of detailed mitigation measures and others might simply warrant careful oversight during contract implementation.

When assessing and mitigating the risks, the following steps are considered:

- Step 1: Identify and assess the risks.
- Step 2: Analyze their consequences.
- Step 3: Evaluate or rank potential impact for MRCS.

Step 4: Plan and record risk mitigation actions.

Step 5: Engage with the supplier as appropriate.

Step 6: Implement risk mitigation actions which could include such measures like:

- Requesting the improvement of goods or services of bidders, contractors and/or consultants .
- Inclusion of contractual obligations and warranties in the agreement.
- Removal of an individual causing concern from any activity relating to the engagement.

Step 7: Monitor the effectiveness of mitigating risk actions.

In managing concerns and risks identified through the above process steps, the MRCS shall take into account the considerations on proportionality set out in the next section as well as the following:

- a) all concerns identified, assessments of the associated risks and reasons for decisions taken shall be documented to provide reassurance that due process was followed;
- b) relevant internal subject matter experts should be consulted in assessing and mitigating risks associated with concerns identified;
- c) in situations where staff disagree about the most appropriate way to address an identified concern, the Director of Administration shall make a decision;
- d) many concerns can be resolved by providing the bidder with an opportunity to explain;
- e) any potentially “deal-breaking” concerns should be identified before a supplier has been awarded a tender or signed a contract;
- f) the manner in which a supplier engages with the MRCS due diligence process can also raise concerns. If a supplier is unreasonably uncooperative, repeatedly fails to provide information or is evasive or belligerent in its communication, the MRCS will be extra cautious.

The ultimate risk mitigation strategy is not to engage a supplier for which certain risks have been identified. However, this is a drastic step and other risk mitigating strategies may be applied for concerns identified that would not exclude the supplier. Examples of such risk mitigating measures include requesting that the supplier’s relevant policies and procedures are improved to an acceptable standard; inclusion of contractual obligations, representations and warranties in the agreement with the supplier; removal of an individual causing concern from any activity relating to the engagement.

As set out in the section on the Process of Due Diligence, the Procurement and HR Team, as relevant, shall conduct the risk assessment and develop any mitigation strategies at the time when the Evaluation Report (see Article 7.1.7 of the Procurement Manual) is generated and shall attach a written record of its findings to the Evaluation Report. Any decision not to engage a supplier will need to be made by the Director of Administration following the processes set out in the sections on Proportionality and Right of Defense.

PROPORTIONALITY

In assessing the risks posed by a supplier and identifying possible mitigation steps, the Procurement and HR Team, as relevant, shall be guided by the principle of proportionality. The principle of proportionality in this context means that the MRCS shall only **take the action it needs** to in order to **achieve its aims and no more**.

Any decision on exclusion from funding or placing a supplier on the Do-Not-Engage List shall be made in compliance with following principles of proportionality. For example, the measures to be taken when assessing the seriousness of risks identified should include:

- a) The seriousness of the situation, including the impact on the financial interests of MRCS, as well as the impact on the relation between MRCS and concerned stakeholder/s;
- b) The possible impact on the reputation of MRCS;
- c) The time which has elapsed since the relevant conduct;
- d) The duration of the conduct and its recurrence;
- e) Whether the conduct was intentional or/and the degree of negligence shown;
- f) Amounts at stake relating to payments of taxes or social security contributions, in the case of a breach of obligations;
- g) Any other damages that need mitigating circumstances.

On these grounds, MRCS may decide to exclude or debar third parties from participation in a contract should they not meet the standards set out in these Guidelines. Such decisions shall be made by the Director of Administration following the steps set out in the section on the Do-Not-Engage List.

DEROGATIONS

There may be certain situations in which certain concerns with a supplier have been identified and the available risk mitigation measures would not address the concerns, but MRCS still considers it in its best interest to proceed with that supplier.



In those situations, a derogation from the due diligence process may be considered. Such a derogation shall be recorded explaining all the reasons why it would be in MRCS' best interest to proceed with this supplier in spite of the concerns identified.

Compliance with sustainable development along the Mekong River Basin is in the interests of stakeholders living in this Region, as a failure to comply with tangible outcomes of MRCS can have a direct and adverse impact on the quality of services provided by MRCS. Such derogations can only be approved by the CEO.

DO-NOT-ENGAGE LIST AND REMEDIAL MEASURES

If it is established that a supplier, consultant or other service provider does not meet the Exclusion Criteria set out above, they shall be placed on the MRCS "Do-Not-Engage" list, which means that they are no longer eligible to be considered for future business opportunities with the MRCS (previously referred to as "Debarment"). Placement on the "Do-Not-Engage" list of a contractor, supplier, consultant or service provider may be for a period of up to five years. MRCS shall publish the "Do-Not-Engage" list on its public website.

Prior to being placed on the Do-Not-Engage list, the Procurement or HR Team, as relevant, shall provide the supplier, consultant or other service provider about whom a concern has arisen that they do not meet the Exclusion Criteria with an opportunity to explain the situation and defend their position. The supplier, consultant or other supplier shall be provided with an opportunity to take remedial measures before a final decision is taken.

The response and any remedial measures proposed shall be carefully assessed by the Procurement or HR Team, as relevant, and the decision to place a supplier, consultant or other service provider on the Do-Not-Engage List shall be taken by the Director of Administration. Such decision shall be documented, including by providing the grounds and justifications for placing the supplier on the Do-Not-Engage list, and provided to the supplier. The decision shall also address the remedial measures that have been considered and, if relevant, the reasons as to why they were deemed not to fully mitigate the identified concern. In certain circumstances, the supplier, consultant or service provider shall be afforded an opportunity to take remedial measures that would allow it to be removed from the Do-Not-Engage list.

The reasoned decision shall be communicated to the relevant supplier, consultant or service provider. A supplier, consultant or service provider that is the subject of a decision to be placed on the MRC Do-Not-Engage list can submit an appeal to the MRC Procurement

Complaints Committee. The process in front of the Committee shall be guided by the provisions set out in Article 3.5 of the MRC Procurement Committee.

In addition to the above, in managing the Do-Not-Engage list, MRCS shall take the following into account:

- decisions to place an entity or person on the Do-Not-Engage list shall be based on evidence and findings from the due diligence process, not on conjecture or a personal antipathy of a MRCS employee against a supplier;
- the MRC Do-Not-Engage list and the entities or persons on it shall not be made publicly available. This does however not prevent MRCS from providing an honest response to a request for a referee's report about the performance of an entity or person on the list;
- entities or persons on the Do-Not-Engage list will be afforded an opportunity to be re-engaged or taken off the list if they demonstrate that the necessary remedial measures have been taken.

MRCS shall put adequate measures in place to ensure that relevant staff cannot engage a supplier, consultant or service provider that is placed on the MRC Do-Not-Engage list.

RIGHT OF DEFENSE

Before MRCS takes decisive and affirmative measures against third parties (contractor, supplier, consultant, or service provider), MRCS shall provide them the opportunity to present their case and defend themselves. Five steps can be applied and followed if adversary parties do not reach a satisfactory solution for both parties:

Step 1: Submit cases to the Procurement Complaint Committee (Section 4.5 of the Procurement Manual).

Step 2: Submit to MRCS Management

Step 3: Consulting with a law firm

Step 4: Submit to MRC Joint Committee

Step 5: Submit to the court: UN law or local law if both parties agree.

Complaint of Third Party

Upon receipt of such a complaint, the Procurement Complaints Committee will perform an investigation and report to the CEO for a review and recommendation for a decision.

The third party's request for review shall:

- State the reasons for the complaint, including any alleged breach of MRCS procurement rules;
- Be made within 5 working days of notification of contract award. Requests for review submitted after this period will not be considered.

The following shall not be the subject of a complaint by the third party:

- The choice of procurement method;
- A decision by MRCS to reject all complaints, bids, proposals, or quotations as stated under section 7.1.8 or 8.21 of the MRCS Procurement manual; and
- where the complaint is frivolous.

Those involved in the review shall be:

- The person who requested the review;
- The MRCS Procurement and HR teams;
- The MRCS Division requesting the procurement package;
- Third parties who submitted bids under the procurement in review; and
- Any other persons the Committee may deem fit.

Note: The third party may withdraw the complaint in writing any time before completion of the review.

Once the Chairperson of the Procurement Complaints Committee receives the formal complaint, he/she shall communicate with the Director of Administration, CFO and Procurement Team that the procurement proceeding stands suspended until either the third party withdraws its complaint or the complaint is finally resolved in accordance with the MRCS regulation, or, until the suspension is otherwise lifted in accordance with this section.

The Committee shall complete its review within 15 working days of receipt of the complaint. On completion of the review, the Procurement Complaints Committee shall recommend in writing a *Procurement Committee Recommendation* to the CEO:

- *Annul anything that has been done including the entire procurement proceedings;*
- *Give directions to the Procurement Team with regard to anything to be done or redone in the procurement proceedings; and*
- *Substitute the decision of the Procurement Complaints Committee for any decision of the*
- *Evaluation Committee in the procurement proceedings.*

Any such decision must satisfactorily be justified by the Procurement Complaints Committee to the CEO in line with the applicable rules of

procedures and guidelines. In the event the CEO modifies the recommendation of the Committee, this should also be justified and recorded in writing.

A copy of the Procurement Complaints Committee Recommendation and the written decision made by the CEO based on the PCC Recommendation *MRCS Decision*, together with the reasons for that decision, must be made available to the third party.

The MRCS Decision shall be final and binding and shall not be subject to further review, by any person, court or authority, subject only to the decision objection procedures set out below.

If the third party is not satisfied with the decision of MRCS, the third party may file a *Notice of Objection*.

Decision Objection Procedures

In the event that a third party forms the view that the MRCS Decision either:

- *(a) was made in breach of the procurement complaints procedures or the MRCS procurement rules; or*
- *(b) was wrong or unjust;*

The third party may submit a written *Notice of Objection* to the MRCS within 5 working days of the date of the MRCS Decision. *Notices of Objection* received after this period will not be considered. The Notice of Objection must clearly state the reasons for the objection and must be supported by all available facts and evidence. No *Notice of Objection* may be lodged for any other reason other than the reasons set out at *(a) and (b) above* and, for the avoidance of doubt, no *Notice of Objection* shall be lodged simply because the MRCS Decision is inconsistent with the third party's wishes or preferences.

If a *Notice of Objection* is lodged within the aforementioned 5 working day period, the CEO shall refer the matter to the Joint Committee (or properly appointed representatives thereof) for determination for a period not exceeding 15 days from the date of the *Notice of Objection*. Decisions of the Joint Committee in respect of the *Notice of Objection* must be reached on a consensus basis and the Joint Committee may, in its sole and absolute discretion, do any one of the following:

1. *Reject the Notice of Objection* by written notice to the third party (including the reasons for such objection), in which case the MRCS Decision shall be final and binding on the third party and shall not be subject to further review by any person, court or authority; or
2. *Accept the Notice of Objection* and direct the MRCS to do one or more of the following:

- Annul anything that has been done including the entire procurement proceedings;
- Give directions to the MRCS with regard to anything to be done or redone in the procurement proceedings; and
- Substitute the decision of the Procurement Complaints Committee or the CEO; as the case
- maybe, for any decision of the Evaluation Committee in the procurement proceedings;

in which case the Joint Committee's direction in this regard shall be final and binding on the third party and shall not be subject to further review by any person, court or authority;

or

3. Refer the complaint to be resolved by mediation between the parties in the city where the MRCS office is located and where the procurement under review was initiated, in accordance with the mediation rules of the *Singapore Mediation Centre* for the time being in force, which rules are deemed to be incorporated by reference in this clause, excluding article 12, which shall be amended to provide that all fees, costs, expenses and disbursements (including all fees payable to the selected Mediation Centre) will be borne by the third party. If this option is selected, the Joint Committee may direct that the procurement proceedings may recommence, notwithstanding such mediation. In the absence of such a direction, however, the procurement proceedings shall remain suspended pending finalization of the mediation proceedings.

If no consensus decision of the MRC Joint Committee in respect of the *Notice of Objection* is reached within 15 days of the date of the *Notice of Objection*, or the complaint is not successfully resolved by *mediation* within 30 days of the commencement of such *mediation* (or such longer period as agreed by the third party and the MRCS in writing), the matter shall be deemed to have been rejected by the Joint Committee and the MRCS Decision shall be final and binding on the third party and shall not be subject to further review by any person, court or authority.

ANNEX

Annex 1: DDG-01 Supplier Declaration Form

Annex 2: DDG-02 Sample Verification Matrix

SUPPLIER DECLARATION FORM

As an important and highly visible inter-governmental organization the Mekong River Commission Secretariat (MRCS) has a special obligation to ensure that its mission is performed to the highest standards. To this end, a Fraud Prevention and Anti-Corruption (FPAC) Mechanism (as provided to bidders) has been adopted that applies to the MRCS activities and those involved in it. The FPAC Mechanism includes a commitment to ensuring that opportunities for fraud and corruption are reduced to the lowest possible level of risk.

As part of the risk mitigation and due diligence processes set out in the FPAC Mechanism, the MRCS requires all prospective service providers and their legal representatives to undertake that they shall comply with the standards set out in the FPAC Mechanism.

Full Name of Individual/Entity:	
Current Business Natures	<input type="checkbox"/> Water Resource Management (WRM) and Development Services <input type="checkbox"/> Consultancy services including Research on WRM <input type="checkbox"/> Training Services <input type="checkbox"/> Communication, PR, Advertisement <input type="checkbox"/> Research Institution or Development Studies <input type="checkbox"/> Freelancer/general consultancy <input type="checkbox"/> Others (please specify):
Key Detail of the Current Business:	
Business Structure (if applicable):	Business Type:
<input type="checkbox"/> Partnership <input type="checkbox"/> Joint Venture <input type="checkbox"/> Limited Liability <input type="checkbox"/> Company Corporation <input type="checkbox"/> None of the above	<input type="checkbox"/> For Profit <input type="checkbox"/> Non-Profit (NGO) <input type="checkbox"/> Public Entity <input type="checkbox"/> Community Based Organisation (CBO) <input type="checkbox"/> Private business
Registration or Formation of business (if applicable):	Country/State:
	Time of registration (date/month/year):
	Percentage of Ownership:
	Business license number:
<p>The entity/person identified above, hereby declares and/or confirms that the entity/person including any person having powers of representation, decision-making or control over them or a member of their administrative, management or supervisory body:</p> <ul style="list-style-type: none"> • has not been sentenced by final judgment on one or more of the following charges: participation in a criminal organisation, corruption, fraud, money laundering, terrorist financing, terrorist offences or offences linked to terrorist activities, child labour or trafficking in human beings; • is not in a situation of bankruptcy, liquidation, termination or suspension of business activities, insolvency or arrangement with creditors or any like situation arising from a procedure of the same kind, or is subject to a procedure of the same kind; • has not received a judgment with res judicata force, finding an offence that affects their professional integrity or serious professional misconduct, including but not limited to: misrepresenting information required for the verification of the absence of grounds for exclusion or in the performance of a contract; entering into agreement with other persons or 	



entities with the aim of distorting competition; violating intellectual property rights; attempting to influence the decision-making process of a contracting authority; or attempting to obtain confidential information;

- has complied and continues to comply with their obligations as regards payment of taxes, social security contributions and dues, according to the applicable statutory provisions;
- is not an entity created to circumvent tax, social or other legal obligations (empty shell company), have ever created or are in the process of creation of such an entity;
- has not been involved in mismanagement or other irregularities related to the use of MRC funds or public funds of another source;
- is not in a situation of conflict of interest in relation to the procurement process and any resulting contract;
- none of its officers, employees or subcontractors has or have been sanctioned for any offence listed in this Declaration Form;
- understands the provisions of the MRC FPAC Mechanism and has not and shall not be involved in any activities that are inconsistent with the standards of conduct set out in the FPAC Mechanism;
- if shortlisted, shall treat as confidential any information provided to it by the MRC Secretariat;
- understands that the MRC Secretariat may publish the name of shortlisted bidders in accordance with the provisions of the MRC Procurement Manual;
- understands that should circumstances pertaining to this Supplier Declaration Form change or new information emerge prior to the award of the goods or services to be procured then the entity/person is under an obligation to bring such information to the MRC Secretariat's attention forthwith.

Consent:	Agrees to the MRC rules for protection of personal data.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Agrees to the MRC publishing information regarding the bidder in accordance with its Procurement Manual.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
	Agrees to the MRC's established rules and regulations, and disciplinary measures will be undertaken as per terms and condition set in the contract should any violation occurred.	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Signature and Date:	<i>I declare, on behalf of the entity or myself, that I have the power to represent the entity in making the declarations contained in this Supplier Declaration Form, that to the best of my knowledge the statements made in this Supplier Declaration Form are complete, true and correct and undertake to provide verification for any information that the MRC Secretariat may request:</i>		

ANNEX 2

DDG-02

VERIFICATION MATRIX

(Indicative only to illustrate possible use)

Evaluation and due diligence options	Criteria		
	Fit for purpose	Ability to deliver	Value for money
Legal existence check			
Written offer / proposal documents complete			
Supplier declaration form*			
Financial statements			
Terrorism and sanctions database check •			
Reference checks			
Site visit			
Audited accounts			
Credit check			
Company's office/charities register check			
Accepts the MRCS Terms & Conditions			
Security check			
Overall comments and recommendations for the mitigation of risks of any risks found or follow up actions as required:			

Note: • Risk identified and mitigation measures described

Prepared by
(name, title, and team)

Signature

Date

Reviewed by
(name, title, and team)

Signature

Date