



FFA

REQUEST FOR PROPOSAL

TO: SUITABLY QUALIFIED AND EXPERIENCED FISHERIES IUU SPECIALISTS AND AGENCIES

RFP No. CP03_2021: THE QUANTIFICATION OF IUU FISHING IN THE PACIFIC ISLANDS REGION – A 2020 UPDATE

DATE: 31st July, 2020

SUBJECT: REQUEST FOR PROPOSAL - THE QUANTIFICATION OF IUU FISHING IN THE PACIFIC ISLANDS REGION – A 2020 UPDATE

Interested parties are invited to submit a proposal in response to the attached request for proposals to undertake a study towards an updated quantification of IUU fishing in the Pacific Islands region.

Please note that, due to an administrative error which resulted in limited promulgation of this Request for Proposal (RFP) when it was first issued in early July, the RFP is being reissued for an extended period till 17 August 2020.

To enable you to submit a proposal for this work, please find enclosed:

Annex I: Instructions to bidders

Annex II: Terms of Reference, containing a description of FFA's requirements for which these services are being sought

Annex III: FFA Standard Conditions of Contract

This letter is not to be construed in any way as an offer to contract to any specific party.

Yours sincerely

Dr Manumatavai Tupou-Roosen
DIRECTOR-GENERAL

Annex I

Instruction to Bidders
REQUEST FOR PROPOSALS No. CP03_2021
THE QUANTIFICATION OF IUU FISHING IN THE PACIFIC ISLANDS REGION –
A 2020 UPDATE

1. Submission of Proposals

1.1. All proposals submitted together with all correspondence and related documents shall be in English.

If any of the supporting documentation or printed literature is in any other language, a written translation of the document in English should also be provided. In such case the interpreted document will be used for processing and evaluation purposes.

1.2. All prices in the proposals must be presented in US Dollars (USD).

1.3. The deadline for submission of proposals is 5.00pm on Monday 17th August 2020. Any proposal received after this date will not be considered. FFA may, at its discretion, extend the deadline for the submission of proposals by notifying all prospective bidders in writing. The extension of the deadline may accompany a modification of the solicitation documents prepared by FFA on its own initiative or in response to a clarification requested by a prospective bidder.

1.4. In submitting a proposal, interested parties should demonstrate a clear understanding of the Terms of Reference (TOR) as set out, with appropriate explanatory comments, proposed timelines for implementation and delivery of the required work.

1.5 The successful bidder will be required to sign an FFA standard contract for the delivery of services. The FFA Standard Conditions for Contract are not negotiable.

1.5. The proposal should also include:

- i. A cover letter outlining proposed methodology and timelines for undertaking the assignment as per the Terms of Reference (Annex II);
- ii. A maximum of 10 pages of information on the CVs of the personnel proposed to complete the work, the background and relevant experience of the consultants or agency proposed to complete the work as well as a summary of any similar or related audit work; and
- iii. A separately enclosed financial proposed providing a detailed cost summary for the implementation of the work.

2. Period of validity of proposals

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

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

3. Outputs required

The following outputs are required from the proposal:

- An outline plan as to how this work can be effectively carried out as a desktop study.
- A clear statement of the proposed methodology used to undertake the quantification process.

The requirements of the study are:

- A detailed analysis of the application of the methodology in considering the nature and extent of IUU fishing in the WCPFC Convention Area. This should include consideration of the context of populating the newly developed Performance Indicators for the Regional MCS Strategy (2019 – 2023) and mechanisms for benchmarking IUU mitigation against FFA operational MCS activities under major donor projects.
- An updated estimation of volumes of IUU fishing and a valuation of the estimated costs to the WCPFC region..
- A review of the currently available IUU detection toolbox applications and consideration of further refinements.
- Consideration of risk profiles for the key areas of IUU offending and options for the further refinement of mitigation strategies.

The consultants will be required to submit a draft report for comment and review, and take account of comments before compiling the final report.

4. Evaluation Criteria

A two-stage procedure will be used in evaluating the proposals, with evaluation of the technical proposal being completed prior to any price proposal reviewed and compared. The financial

proposal will only be reviewed for submissions that have passed the minimum technical score of 70% of the total obtainable score in the evaluation of the technical proposals.

The technical proposal is evaluated on the basis of its responsiveness to the competency requirements as detailed in the evaluation criteria matrix.

Competency Requirements	Score Weight (%)	
Cited examples of relevant similar or related experience.	25	
The methodology proposed to undertake the quantification analysis and to complete the assigned tasks.	30	
The qualifications and experience of the personnel proposed to undertake the assignment.	30	
The timeline proposed for the completion of the job and submission of the final report	15	
Total Score	100%	
Qualification Score	70%	

In the Second Stage, the financial proposal of all bidders, who have attained a minimum of 70% score in the technical evaluation, will be compared. The contract will be awarded to the bidder(s) offering the best value for money taking in account the accumulative scores of technical and financial evaluations.

5. Financial Proposals

The financial proposal should be submitted as a separate document and not included as part of the technical proposal. Financial proposals should provide a budget for the project including professional fees, travel and accommodation and any other costs associated with the completion of this work.

6. Requests for further information

Queries or questions are to be emailed to FFA contacts, Ana Taholo ana.taholo@ffa.int or Hugh Walton hugh.walton@ffa.int

7. Award of Contract

FFA 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 Bidder(s) or any obligation to inform the affected bidder(s) of the grounds for such action.

7. FFA's right to vary requirements at time of award.

FFA 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 unit price or other terms and conditions.

8. Closing date for proposals

Tenders must be received by 5.00pm (Solomon Island time) on the 17th August 2020.

Tenders should be addressed to:

Director General

FFA Tender Committee Forum Fisheries Agency (FFA)

RFP 20/06 – The Quantification of IUU Fishing in the Pacific Islands Region – a 2020 Update

PO Box 629 Honiara

All proposals should be emailed to: procurement@ffa.int with IUU Quantification 2020 noted in the heading.

The FFA Standard Conditions of Contract are not negotiable.

Annex II

Terms of Reference

RFP CP03_2021

THE QUANTIFICATION OF IUU FISHING IN THE PACIFIC ISLANDS REGION – A 2020 UPDATE

A. Title

THE QUANTIFICATION OF IUU FISHING IN THE PACIFIC ISLANDS REGION – A 2020 UPDATE

B. Background

Illegal, unreported and unregulated (IUU) fishing is a major contributor to declining fish stocks and marine habitat destruction. Globally, IUU fishing takes many forms both within nationally-controlled waters and on the high seas. While it is not known for sure how much IUU fishing is taking place, some previous global estimates have suggested that IUU fishing accounts for about 30 per cent of all fishing activity worldwide.

Strong governance of the high seas through regional fisheries management organizations (RFMOs) is integral to reducing illegal fishing activities. An increasing number of RFMOs are using port and trade measures to discourage IUU fishing activity. Measures include not allowing vessels suspected of fishing illegally to dock or unload in a country's port, developing IUU lists of vessels taking part in illegal fishing activities.

Up until 2016, previously published 2009 IUU loss estimates for the WCPFC region are somewhere in the region of 750,000 million to 1.5 Billion US dollars a year. In 2016, FFA supported the preparation of a detailed study undertaken by MRAG Asia, Pacific (Towards the Quantification of Illegal, Unreported and Unregulated (IUU) Fishing in the Pacific Islands Region) ¹.

This study provided the following summary:

- Our simulations suggest the best estimate total volume of product either harvested or transhipped involving IUU activity in Pacific tuna fisheries is 306,440t, with 90%

¹ The Pacific Islands region is considered to comprise the EEZs of FFA island member countries, French territories and adjacent high seas areas

confidence that the actual figure lies within a range of 276,546t to 338,475t. Based on the expected species composition and markets, the ex-vessel value of the best estimate figure is \$616.11m. The 90% confidence range is between \$517.91m and \$740.17m. That is, there is a 95% chance the figure is greater than \$517.91m and a 5% chance the figure is greater than \$740.17m.

- Of the three main sectors assessed, estimated volume of IUU product was highest in the purse seine fishery, accounting for 70% of overall volume. Estimated IUU volumes in this sector were largely driven by reporting violations and illegal FAD fishing during the closure period. The TLL and SLL sectors accounted for 19% and 11% of the overall volume respectively. In the TLL sector, IUU volumes were largely driven by misreporting (49% of total TLL volume) and post-harvest risks (39%), principally illegal transshipping. Estimates of both misreporting and illegal transshipping were, in turn, influenced by high levels of uncertainty. Similar results were achieved in the SLL sector, with misreporting and post-harvest risks accounting for 57% and 36% of overall estimated IUU volume respectively.
- By contrast, the TLL sector accounted for the highest ex-vessel value of IUU product (\$272.55m) given the higher market value of its target species. This sector accounted for around 44% of overall estimated IUU value, while the purse seine sector accounted for 37%. The SLL sector had the lowest overall estimates of IUU product value (19%).
- Of the four main IUU risk categories assessed, reporting violations and noncompliance with other license conditions (e.g. illegal FAD fishing; use of non-prescribed gear) accounted for 54% and 29% of the total estimated IUU volume respectively. Post-harvest risks (mainly illegal transshipping) accounted for 13% of the estimated volume but 27% of the estimated value. This was driven by higher estimates of illegal transshipping in the longline sectors which receive proportionally higher prices for product. Unlicensed fishing accounted for only 4% of the estimated overall volume.
- Amongst the main target species, skipjack accounted for the largest proportion of total estimated IUU volume (33%), but a lesser proportion of the total estimated ex-vessel value (18%). The total estimated IUU volume of SKJ (100,730t) equated to around 5.1% of estimated total SKJ catch in the WCP-CA in 2014. Yellowfin accounted for the next highest volume (96,126t), making up 31% of the total estimated IUU volume, and 27% of the ex-vessel value. The total estimated IUU volume of YFT equated to around 15.8% of the estimated total catch of YFT in the WCP-CA during 2014. Much of this is driven by estimates of misreporting in the purse seine fishery which is subject to 100% observer coverage, and therefore may result in little unaccounted for catch. Bigeye also accounted for 19% of the overall estimated IUU volume, but 28% of the ex-vessel value. The total estimated IUU volume of BET equates to around 35% of the estimated total catch of BET in the WCP-CA in 2014. Importantly, this does not necessarily mean that 35% of additional BET have been taken in addition to reported figures. For example, a substantial proportion of the overall IUU BET

estimates come from estimates of illegal transshipping, the product for which may still be reported in logsheets. ALB accounted for 4% of the overall estimated IUU volume and 6% of the total ex-vessel IUU value. The total estimated ALB IUU volume equates to around 9.4% of the estimated total ALB catch in the WCP-CA in 2014, although a substantial proportion of this related to post-harvest offences for which information was uncertain.

ANALYSIS AND MAIN MESSAGES

- Apart from the headline volume and value figures, there are a number of key messages arising from the analysis: The estimates of IUU volume and value generated here are lower than most commonly quoted estimate of IUU fishing in the WCPO region (\$707m – \$1.557b), although these studies are not ‘apples Vs apples’ comparisons. The previous study (Agnew et al, 2009) used a ‘top down’ approach that looked at IUU fishing across a suite of species wider than tuna (e.g. demersal fish, shrimp) as well as including parts of Indonesia and the Philippines (across FAO Area 71). Relatively high levels of IUU fishing in coastal states on the western Pacific seaboard influenced the overall results;
- Estimates of IUU are dominated by the licensed fleet - assuming catch transhipped illegally is taken by licensed vessels, IUU fishing by the licensed fleet accounts for over 95% of the total volume and value of IUU activity estimated here. This proportion rises to 97% if unlicensed fishing by vessels that are otherwise authorised to fish in the Pacific Islands region (i.e. they are on the FFA RR or WCPFC RFV) are considered part of the ‘licensed’ fleet. This is consistent with previous studies and has important implications for MCS planning and investment;
- Ex-vessel value is not a good indicator of actual loss to FFA members – this is because the full value of the catch is not returned to coastal states under normal circumstances (only a proportion of total revenue is, typically through access fees) and because of their nature, some risks may not necessarily result in direct losses. In general, a better measure of the actual impact on coastal states is likely to be the economic rent lost as a result of IUU activity.
- Based on the most recent estimates of profitability in the WCPO purse seine and longline sectors, we estimate **the rent associated with IUU product estimated here is around \$152.67m**. Nevertheless, because of the nature of access arrangements in Pacific tuna fisheries, it is possible that much of the rent associated with IUU activity is captured anyway, and this estimate either overstates, or is at least at the upper end of, actual impacts on the real economy. For example, in the purse seine fishery, there is a good argument that the competitive nature of the bidding process under the VDS means that rents generated through IUU activity would be captured in the prices that fishing companies are prepared to pay for fishing days and are therefore not lost to Pacific Island countries. This is perhaps less the case for the longline sectors where current access arrangements are probably less efficient at capturing rent;

- Stronger catch monitoring arrangements are required in the longline sector – mechanisms to independently verify catch in the longline sectors are limited for many fleets. Additional measures are required to strengthen confidence in catch reporting and compliance with catch-based CMMs and generate better estimates of IUU activity;
- ‘IUU’ is not straightforward – while the IPOA-IUU definition of IUU is clear in theory, applying it for the purposes of quantification is not always straightforward. Interpretations on what is, and is not, considered IUU for the purposes of quantification can substantially influence results; More accurate estimates of IUU activity require stronger monitoring and coordination of relevant statistics – the information available to support quantification of many risks was relatively limited and largely confined to expert judgement. Achieving more accurate estimates of IUU activity will require stronger monitoring and analysis, and the coordination of relevant statistics. While in some cases, this may require ‘new’ initiatives, in many cases it will simply require more effective use of existing facilities;
- Strong in zone MCS arrangements must be mirrored on the high seas – the outcomes of this study argue for stronger monitoring of catch and transshipment activity across all sectors, and in particular the longline sectors. Given the shared nature of stocks in the region, stronger MCS arrangements in zone should be mirrored on the high seas;
- Future IUU risks – the nature of IUU fishing is dynamic and influenced by the mix of incentives and disincentives, as well as changes in the regulatory environment. Future iterations of the IUU model developed here will need to take changes in the nature of IUU fishing into account.

FFA and SPC have a team of personnel associated with aspects of this work (including information management, data streaming and comparative analysis, VMS, Observers and catch certification). The current study proposes the recruitment of an IUU quantification specialist team to work with the designated FFA personnel on an agreed methodology to provide a detailed updated report towards the improved quantification of IUU fishing. This would examine both the volume and landed value of IUU catches, as well as general estimates of the impact on Pacific Island countries, and the economic costs to them, of different components of the IUU catch.

C. The Regional Monitoring Control and Surveillance Strategy (RMCSS) – 2018 – 2023 and Performance Indicators

The RMCSS was formally endorsed by the Forum Fisheries Committee in 2018. The Strategy provides a clear policy focus for FFA’s MCS activities until 2023. The RMCSS contains four priority objectives, each of which has direct relevance to the development and maintenance of FFA’s existing regional MCS framework:

- i. Regional standards are in place for effective and efficient MCS systems;

- ii. Quality information is available and accessible to national and regional officials to assess IUU risks and plan MCS activities;
- iii. Procedures established and operationalised to conduct effective MCS activities; and
- iv. Effective compliance and enforcement through efficient use of available information, analyses and intelligence, achieved through whole of government engagement.

Each priority objective contains corresponding activities requiring implementation by FFA Members and the FFA Secretariat, as well as seeking support from other partners (e.g. PNAO and SPC). In addition, the priority objectives are underpinned by Members' commitment to develop or review their national MCS plans, encompassing the broader suite of MCS tools and activities required at the national level.

Monitoring, evaluation and learning (M&E) is a critical component of the RMCSS, requiring constant and detailed attention from both Members and the FFA Secretariat alike. This M&E contains two broad components:

- a) Activity monitoring (national and regional); and
- b) Strategic monitoring (regional performance against RMCSS' goal to reduce IUU fishing).

A framework of RMCSS performance indicators has been developed in 2019 and is now available for application.

D. General Scope

Proposals should clearly outline the preferred technical methodology for addressing the quantification question. It is envisaged that this will reflect the methodology developed for the 2015 – 16 study. It is also assumed that the context of the new RMCSS performance indicators will be taken in to account. However, FFA is not prescriptive of the methodology and is open to suggestions from proposers.

Proposals should clearly address a preferred methodology for addressing the work. This should include providing a work plan as to how this work can be fully undertaken electronically.

It is envisaged that the consulting team will work closely with an appointed FFA/SPC technical team and at least two workshops with this team should be included in the proposed program.

Proposals should also summarise other similar or related work that has been completed by members of the proposed team as well as their detailed CVs.

A separate financial proposal should be provided. This should provide daily fee rates for the consultancy team and estimates for the cost of travel and allowances. FFA is open to suggestion on the project duration but estimate that up to 70 days of combined consultancy input may be required.

E. Terms of Reference

1. Provide a summary of previous IUU quantification work undertaken in the WCPFC region and review the methodology applied to this work.
2. Review the information available through SPC and FFA to support comparative data analysis (including log sheets, observer reports, VMS, AIS, landing inspections, catch certification, MCS operations, Regional Information Management Systems(RIMF) and national Information Management Systems (IMS); and develop a robust and statistically sound methodology that makes best use of this information to quantify the volume and landed value of IUU catches, identifying clearly the different components of illegal, unreported and unregulated fishing catches.
3. Review the information available on the context of populating the RMCSS performance indicators and give consideration to the current status of implementation of the Regional Monitoring, Control and Surveillance strategy (RMCSS) and the regional capacity to effectively manage IUU fishing.
4. Use all available information to provide a model for the nature and extent of IUU fishing in Pacific Island tuna fisheries and estimate the volume and gross landed value of catches involved. Take account of SPC data sources and data streaming (either through work directly at SPC or from remote sourcing) and areas of potential data gaps in preparing the proposed methodology and conducting the analysis.
5. Examine the impacts of IUU fishing on Pacific Island countries, and develop estimates of the economic losses that they incur as a result of this level of IUU fishing (for example potential access fee revenue lost, impacts on the profitability of domestic fishing operations, etc.).
6. Give consideration to the costs and benefits of further improvements to IUU monitoring, detection and elimination.
7. Work in close consultation with a nominated team of FFA/SPC staff and advisers so as to ensure all available relevant information is utilised in the preparation of the study findings and report.

F. Anticipated Outputs

The summary report should include:

- A clear statement of the methodology used to undertake the quantification process.
- An outline plan summary as to how this work has been effectively carried out as a desktop study.

- A detailed analysis of the application of the methodology in considering the nature and extent of IUU fishing in the WCPFC. This should include consideration of the context of the newly developed Performance Indicators for the Regional MCS Strategy (2018 – 2023) and mechanisms for benchmarking IUU mitigation against FFA operation MCS activities under major donor projects.
- An updated estimation of volumes of IUU fishing and a valuation of the estimated costs to the WCPFC region from IUU fishing.
- A review of the currently available IUU detection toolbox applications and consideration of further refinements.
- Consideration of risk profiles for the key areas of IUU offending and options for the further refinement of mitigation strategies.

The principal output from the study will be a detailed technical report and associated appendices that comprehensively address the terms of reference and provide a solid methodology for the estimation of IUU quantification.

The report should also provide recommendations to the Secretariat as to what additional activities or actions could be taken for ongoing estimates of IUU quantification and the increased eradication of IUU activity in Pacific Islands region.

The consultants will be required to submit a draft report for comment and review, and take account of comments before compiling the final report.

G. Institutional Arrangement

All communications and consultations for the preparation of proposals should be directed to Ana Taholo ana.taholo@ffa.int or Hugh Walton hugh.walton@ffa.int

In implementing the work, the successful bidder will be accountable to the FFA Director of Operations.

ANNEX III

FFA STANDARD CONDITIONS OF CONTRACT

1. Definitions

1.1 In this Contract:

- (a) “Consultancy Services” means the Consultancy Services described in Schedule A;
- (b) “Memorandum of Agreement” means the agreement executed by and between FFA and the Institution in which these Conditions have been incorporated by reference;
- (c) “FFA” means the Pacific Islands Forum Fisheries Agency, based in Honiara, Solomon Islands;
- (d) “Contract” means the Memorandum of Agreement together with these Conditions and all other schedules and documents, if any, annexed to the Memorandum of Agreement or incorporated therein and intended to form part of the contractual relationship between the parties;
- (e) “Confidential Information” means information that:
 - (i) is by its nature confidential;
 - (ii) is designated by FFA as confidential;
 - (iii) the Institution knows or ought to know is confidential;but does not include information which:
 - is or becomes public knowledge other than by breach of this Contract;
 - is in the possession of the Institution without restriction in relation to disclosure before the date of receipt from FFA;
 - has been independently developed or acquired by the Institution
- (f) “Usual Place of Residence” means the place of residence of the Institutions during the duration of the consultancy, as designated in the Memorandum of Agreement;
- (g) “Term of Engagement” means the entire period during which the Institutions will be expected to perform the Consultancy Services.

1.2 Words importing a gender include any other gender.

1.3 Words in the singular number include the plural and words in the plural number include the singular.

1.4 Clause headings in this Contract are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.

1.5 A reference to a Schedule is a reference to a Schedule to this Contract and includes such Schedule as amended or replaced from time to time by agreement in writing between the parties.

2. Fees

2.1 FFA shall pay fees to the Institutions in respect of the Consultancy Services at the rate and in the currency specified in Schedule B to the Memorandum of Agreement on the basis of time spent by the Institutions in performing the Consultancy Services. For the purpose of determining the amount of such fees:

(a) Where the fees are expressed in terms of a daily rate the time spent in performing the Consultancy Services shall be determined solely on the basis of the number of days actually worked by the Institution in performing the Consultancy Services, including travel time.

2.2 Except as otherwise agreed between FFA and the Institution, no fees will be paid in respect of work performed other than during the Term of Engagement.

3. Expenses

3.1 In addition to the fees specified in clause 2 and subject to Schedule A and Schedule B, FFA shall pay to or reimburse the Institution for the following:

(a) A daily subsistence allowance (DSA) at standard FFA rates for every day during the term of engagement during which the Institution shall be absent from the Usual Place of Residence for the purpose of performing the Consultancy Services; provided that DSA will be paid for the day of departure from the Usual Place of Residence but not for the day of return thereto. The DSA covers all accommodation charges, including government taxes (where applicable), meals, laundry and incidental expenses.

(b) All transportation costs properly and reasonably incurred by the Institution in travelling for the purposes of the Consultancy Services whether within the Country of Assignment or elsewhere, including the cost of transportation by an appropriate means of public transport between the Usual Place of Residence and the nearest convenient international airport and the cost of economy class air travel.

(c) All other reasonable out-of-pocket expenses of the Institution arising directly out of the performance of the Consultancy Services, including communications charges, airport and departure taxes, visa fees, taxi fares, and photocopying charges.

4. Payment of Fees, Costs and Expenses

4.1 Consultancy fees payable under the Contract will be paid in accordance with Schedule B and to the satisfaction of the FFA.

4.2 Where the Consultancy Services have not been performed to the satisfaction of FFA, FFA may withhold the balance of the fees in whole or in part and may:

- (a) require the Institution to carry out whatever additional work is required to complete the Consultancy Services to the satisfaction of FFA; or
 - (b) terminate the Contract forthwith without prejudice to any right of action or remedy which has accrued or which may accrue in favour of FFA.
- 4.3 Printing and distribution costs and reimbursable costs and expenses referred to in clause 3 shall be paid by FFA upon written application made by the Institution to FFA, supported by such receipts or other evidence as FFA may reasonably require to establish that that the expenditure was incurred in the amount and currency and in the manner claimed.
- 4.5 Unless otherwise agreed between the Institution and FFA, the fees shall be paid in the currency specified in Schedule B. All out-of-pocket expenses shall be paid either in the currency in which the same were incurred or in Solomon Island dollars or partly in one currency and partly in the other, as FFA shall reasonably determine in consultation with the Institution.
- 4.6 Whenever it shall be necessary to determine the equivalent of an amount in one currency in terms of another, the conversion shall be made at the rate which FFA shall determine was applicable at the time and place when the Institution incurred the expenditure or converted currency into the currency of expenditure, whichever first occurred.
- 5. Medical and Insurance**
- All medical and insurance costs shall be borne by the Institutions and FFA shall be under no liability in respect of medical expenses of the Institutions.
- 6. Indemnity**
- 6.1 Subject to the provisions of this Contract, the Institutions shall at all times indemnify and hold harmless FFA, its officers, employees and agents (in this clause referred to as “those indemnified”) from and against any loss (including legal costs and expenses on a solicitor/own client basis), or liability, reasonably incurred or suffered by any of those indemnified arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such loss or liability was caused by any wilful, unlawful or negligent act or omission of the Institution in connection with this Contract.
- 6.2 The Institutions’ liability to indemnify FFA under clause 6.1 shall be reduced proportionately to the extent that any act or omission of FFA or its officers, employees or agents contributed to the loss or liability.
- 6.3 The indemnity referred to in clause 6.1 shall survive the expiration or termination of this Contract.
- 7. General Covenants**
- 7.1 The Institutions covenant and agree that:

- (a) During the Term of Engagement they shall devote the whole of their time and attention to the performance of the Consultancy Services and shall at all times act with due diligence and efficiency and in accordance with the Terms of Reference. They shall make or assist in making all such reports and recommendations as may be contemplated by the Terms of Reference and shall at all times cooperate with FFA, its employees and agents. After the termination of the engagement they shall continue to cooperate with FFA to such reasonable extent as may be necessary to clarify or explain any reports or recommendations made by them.
- (b) At all times they shall act with appropriate propriety and in particular, refrain from making any public statement concerning the Consultancy Services without the prior approval of FFA.
- (c) They shall have no authority to commit FFA in any way whatsoever and shall make this clear as circumstances warrant.
- (d) They shall report immediately to FFA any circumstances or events which might reasonably be expected to hinder or prejudice the performance of the Consultancy Services, including circumstances and events relating to his transportation and accommodation.
- (e) All reports, notes, drawings, specifications, statistics, plans and other documents and data compiled or made by the Institution while performing the Consultancy Services shall be the property of FFA and upon termination of the engagement shall be disposed of as FFA may direct. The Institution may retain copies of such documents and data but shall not use the same for purposes unrelated to the Consultancy Services without the prior approval of FFA.

8. Conflict of Interest

- 8.1 The Institutions warrants that, to the best of their knowledge, at the date of signing this Contract, no conflict of interest exists or is likely to arise in the performance of his obligations under this Contract.
- 8.2 If during the Term of Engagement a conflict of interest arises, or appears likely to arise, the Institutions undertake to notify FFA immediately in writing and to take such steps as FFA may reasonably require to resolve or otherwise deal with the conflict. If the Institutions fail to notify FFA or are unable or unwilling to resolve or deal with the conflict as required, FFA may terminate this Contract in accordance with the provisions of clause 10.
- 8.3 The Institutions shall not engage in any activity or obtain any interest during the Term of Engagement that is likely to conflict with or restrict the Institution in providing the Consultancy Services to FFA fairly and independently.

9. Disclosure of Information

- 9.1 The Institutions shall not, without the prior written approval of FFA, disclose to any person other than FFA, any Confidential Information. In giving written approval, FFA may impose such terms and conditions as it thinks fit.
- 9.2 FFA may at any time require the Institutions to give a written undertaking, in a form required by FFA, relating to the non-disclosure of Confidential Information. The Institutions shall promptly arrange for all such undertakings to be given.
- 9.3 The obligation on the Institutions under this clause shall not be taken to have been breached where the information referred to is legally required to be disclosed.

10. Termination

- 10.1 FFA may, at any time by written notice, terminate this Contract in whole or in part. If this Contract is so terminated, FFA shall be liable only for:
- (a) payment under the payment provisions of this Contract for Consultancy Services rendered before the effective date of termination; and
 - (b) subject to clauses 10.3 and 10.4, any reasonable costs incurred by the Institutions and directly attributable to the termination or partial termination of this Contract.
- 10.2 Upon receipt of a notice of termination the Institutions shall:
- (a) stop work as specified in the notice;
 - (b) take all available steps to minimize loss resulting from that termination;
 - (c) continue work on any part of the Consultancy Services not affected by the notice.
- 10.3 In the event of partial termination FFA's liability to pay fees under Schedule B shall, in the absence of agreement to the contrary, abate proportionately to the reduction in the Consultancy Services.
- 10.4 FFA shall not be liable to pay compensation in an amount which would, in addition to any amounts paid or due, or becoming due, to the Institutions under this Contract, together exceed the total fees set out in Schedule B.

11. Default

- 11.1 If either party is in default under this Contract on account of the failure to perform or observe any obligation or undertaking to be performed or observed on its part under this Contract, the party not in default may terminate this Contract in whole or in part without prejudice to any right of action or remedy which has accrued or which may accrue in favour of either party.

12. Waiver

- 12.1 A waiver by either party in respect of any breach of a condition or provision of this Contract shall not be deemed to be a waiver in respect of any continuing or subsequent breach of that provision, or breach of any other provision. The failure of either party to

enforce at any time any of the provisions of this Contract shall in no way be interpreted as a waiver of such provision.

13. Notices

13.1 Any notice, request or other communication to be given or served pursuant to this Contract shall be in writing and dealt with as follows:

- (a) if given by the Institutions to FFA, addressed and forwarded to the Director-General, Forum Fisheries Agency, P.O. Box 629, Honiara, Solomon Islands. Fax: (+677) 23995.
- (b) if given by FFA to the Institutions, signed by the Director-General or Deputy Director-General and forwarded to the Institution at the Usual Place of Residence.

13.2 Any such notice, request or other communication shall be delivered by hand or sent by pre-paid registered post, facsimile or telex to the address of the party to which it is sent.

13.3 Any notice, request or other communication will be deemed to be received:

- (a) if delivered personally, on the date of delivery;
- (b) if sent by pre-paid registered post, on the day that the acknowledgment of delivery is completed by the recipient; and
- (c) if sent by facsimile, on the business day next following the day of despatch providing that the sender receives an "OK" code in respect of the transmission and is not notified by the recipient by close of business of the next business day following the day of despatch that the transmission was illegible.

14. Entire Agreement and Variation

14.1 This Contract contains the entire agreement between the parties and supersedes all communications, negotiations, arrangements and agreements, whether oral or written, between the parties with respect to the subject matter of this Contract.

14.2 No agreement or understanding varying or extending this Contract, including in particular the scope of the Consultancy Services in Schedule A shall be legally binding upon either party unless in writing and signed by both parties.

15. Severability

15.1 Each provision of this Contract and each part thereof shall, unless the context otherwise necessarily requires it, be read and construed as a separate and severable provision or part. If any provision or part thereof is void or otherwise unenforceable for any reason then that provision or part (as the case may be) shall be severed and the remainder shall be read and construed as if the severable provision or part had never existed.

16. Applicable Law



- 16.1 This Contract shall be governed by and construed in accordance with the laws of the Solomon Islands and the parties agree, subject to the Contract, that the courts of the Solomon Islands shall have jurisdiction to entertain any action in respect of, or arising out of, this Contract.