



## REQUEST FOR PROPOSAL

<b>A. RFP no. and Date:</b>	<b>001/2016 – December 9, 2015</b>
<b>B. Subject:</b>	<b>Legal Advice Service for USAID/Vietnam</b>
<b>C. Issuing Office/Section:</b>	<b>USAID RDMA, Executive Office 25<sup>th</sup> Fl, Athenee Tower 63 Wireless Road, Bangkok 10330, Thailand</b>
<b>D. Closing date for receipt of questions:</b>	<b>December 18, 2015 – (5pm, Bangkok Time)</b>
<b>Closing date for receipt of proposals:</b>	<b>December 23, 2015 – (5pm, Bangkok Time)</b>
<b>E. Type of Award:</b>	<b>Fixed Price – Purchase Order</b>
<b>F. Basis for Award:</b>	<b>Soliciting competition, evaluation of quotations or offers, award and documentation (FAR Part 13.106)</b>

### Description of Requirements

The United States government, represented by the U.S. Agency for International Development (USAID), invites qualified companies/individuals to submit cost proposal of the services specified below. This is to support the operation of USAID/Vietnam.

Proposal submission and questions regarding this Request for Proposal (RFP) shall be ONLY via email to [sboomtong@usaid.gov](mailto:sboomtong@usaid.gov) by the time/date specified above.

The award of a contract hereunder is subject to the availability of funds. Issuance of this RFP does not constitute an award or commitment on the part of the U.S. Government, nor does it commit the U.S. Government to pay for costs incurred in the preparation and submission of a proposal.

# Legal Advice Service for USAID/Vietnam

## **I. Objective:**

Provide advice pertaining to a variety of issues under Vietnamese domestic law, which may include: labor/employment, taxation, foreign assistance, contracts or governmental, administrative matters. Local counsel will not be used for representing USAID in connection with local litigation or for representing USAID employees.

## **II. Statement of Work:**

Upon request of USAID/Vietnam Mission's Resident Legal Officer (RLO), acting under the Contracting authority of the Mission's Supervisory Executive Officer (S/EXO), the contracted firm (Firm) shall provide written or oral legal opinions or advice concerning any legal questions or problems within the Firm's competence, as such questions may arise from time to time from the date of this Contract until December 31, 2016 (Completion Date). At USAID's discretion, the Contract may be extended for three consecutive one year option periods following the Completion Date.

When questions or problems arise which the Firm considers outside of its field(s) of expertise, the Firm shall make its best effort to identify and recommend an alternate legal counsel, who it will retain as a sub-contractor under this Contract. Prior to retaining such sub-contractor, the Firm will obtain approval by S/EXO (through RLO). Under this prime Contract, the Firm will not be asked to represent USAID in connection with litigation in Vietnam; a separate contract would be required for such litigation service.

The scope of the services shall consist of rendering legal advice concerning a broad range of Vietnamese legal issues, including:

- General business operations
- Labor and human resources
- Assistance in connection with filing and expediting applications, registrations and correspondence with Government of Vietnam departments, offices, ministries, quasi-departments as well as third-parties.
- Reviewing and drafting of agreements and other documents subject to Vietnamese law
- Treaties to which Vietnam is a party
- Taxation of foreign assistance

- Duties, tariffs and other customs related matters
- Foreign donor project approvals by the Government of Vietnam (especially related to Decrees 38 and 93)
- Privileges and immunities
- The Firm will not be expected to opine on matters of international law or the laws of any other country, except to the extent Vietnamese law is implicated.

The mission's RLO shall be the day-to-day coordinator of the Firm's activities on USAID's behalf. The Firm shall not undertake any activity unless approved in advance by the RLO. Furthermore, if the Firm anticipates the need to provide legal advice or any service beyond the scope of the services described herein or if the Firm becomes aware of a potential claim or lawsuit against USAID or any non-routine governmental regulatory action involving USAID, the Firm will immediately notify the RLO with copy to the S/EXO. The only USAID or U.S. Government employees authorized to request services from the Firm under this Contract are the S/EXO, the RLO acting under specific authorization by the S/EXO or the USAID/Vietnam Mission Director. The Firm shall not represent another party, including an implementing partner of USAID or an entity otherwise affiliated with the U.S. Government, in any dispute with USAID. The Firm will be responsible for complying with local laws and rules in relation to its representation of USAID under this Contract.

### III. Logistics

Unless agreed to by the parties in writing, no logistics support will be provided by USAID to the Firm during the performance of the Contract.

### IV. Deliverable

- A. The Firm shall deliver to the RLO or to another officer, whom the S/EXO may designate, the following: (no later than the date or dates which may be specified by the Mission).
  1. An original (USAID may allow the original to be transmitted in electronic form) of any written legal opinion requested under the terms of this Contract, in substance satisfactory to the RLO, S/EXO or his/her designee; and
  2. Any other deliverables properly requested by the RLO or S/EXO or Mission Director in connection with any legal services described above.
- B. All deliverables shall be in the English language.

## V. Payment

The work described in paragraphs II and IV above will be performed at fixed hourly rates (provided below). Prior to the Firm's instruction for other individuals in positions not described below to perform work to be billed under this Contract, the Firm shall notify the individuals under consideration and obtain their proposed hourly rates and obtain approval from USAID.

Prior to commencement of any work to be performed or billed under this Contract, the Firm shall provide an estimate of the amount of time it expects will be required to complete the requested work. Upon approval by the RLO to a specified number of hours or dollar amount, as the case may be, the Firm shall not exceed that amount of time or dollar amount without the prior approval of the RLO, S/EXO or the Mission Director. Failure to comply with this prior-approval requirement may render the Firm ineligible for compensation for work performed above and beyond the hours authorized under the Contract. In certain instances the Firm and USAID may agree upon a fixed-price amount for specific work as requested by USAID, prior to the Firm's commencement of work.

USAID/Vietnam shall reimburse the Firm for reasonable actual out-of-pocket expenses in respect of boarding and lodging where the Firm travels in the course of its duties under this Agreement. And in such cases, USAID shall, without prejudice to anything herein contained, also pay the Firm out-of-station allowance based on U.S. Government-approved rates by location.

For the purposes of funding actions taken under this Contract, the sum of \$25,000 (557,625,000 Dong VN) is hereby obligated for use until the Completion date. Legal services provided by the Firm will be charged against this obligated reserve, and if services exceed the amount available in the reserve, the action will not be authorized until sufficient funds are committed and obligated into the Contract.

Any funds obligated that are not expended by the end of this Contract may be unilaterally de-obligated by USAID, unless this Contract is extended by mutual agreement of the parties.

USAID's obligations hereunder are subject to and contingent upon the availability of appropriated funds from which payment for Contract purposes can be made. No legal liability on the part of the U.S. Government for any payment may arise until funds are made available to the S/EXO for this Contract and until the Firm receives notice of such availability, which will be confirmed in writing by the S/EXO.

## VI. Rates

The Firm's maximum rates are set forth below:

Partner	\$xxx/hr
Associate	\$xxx/hr
Paralegal	\$xxx/hr

Admin \$xxx/hr

VII. Additional Terms and Conditions

The Firm shall, during the term of this Contract, and at all times thereafter:

- a. Preserve and cause its employees to preserve the secrecy of all document(s) and/or information handed over to, discussed with or developed by the Firm in connection with all USAID matters;
- b. In addition, the Firm shall not, for any other purpose, other than the performance of its duties to USAID,
  - Produce, copy or use any confidential information; or
  - Disclose to any third party or place at the disposal of or use on behalf of any third party or enable any third party to peruse copies or utilize any confidential information except with prior written consent of USAID.

Where the Firm represents or participates in meetings or conferences and related services on behalf of USAID, there shall be no additional cost or fees charged to USAID, except that USAID shall bear all reasonable travel expenses and hotel bills, where necessary; provided, however, that the Firm must obtain prior written approval from USAID for such expenditures.

The Firm shall at all times comply with all applicable laws and be in compliance with the U.S. Foreign Corrupt Practices Act. All attorneys and representatives of the Firm are prohibited from giving money or anything of value to any Government of Vietnam official in order to influence their decision or obtain special treatment not available to others.

VIII. Termination

This Contract may be terminated by either party at any time, upon written notice to the other party. In circumstances where USAID elects to terminate early, unless the Firm is in breach of any provision of the Contract, USAID shall pay the Firm a reasonable fee for any matter being handled at the time, based on the amount of work already performed by the Firm with respect to such matter.

In the event the Firm elects to terminate the Contract, it shall, if both parties so desire, conclude all matters being handled by it; however, where either party declines such an arrangement, the Firm shall in the case of a matter in which they have been paid in full, refund to USAID a reasonable portion of its fees having due regard to the stage to which the particular matter has been handled. Notwithstanding any other provision of this Contract, in the event of termination for any reason, the Firm shall take such steps as are reasonably practicable to protect USAID's interests in any matter the Firm is handling at the time.

## **VIII. Technical Selection Criteria**

The criteria by which the Proposal will be assessed are as follows in descending order of importance.

The list below serves as the standard against which all technical information shall be evaluated and serves to identify the significant matters, which the Offeror shall address;

1. Demonstrated legal competency, with special consideration for the following:
  - Work performed in the field of international aid
  - Work performed in relation to Vietnamese government decrees, circulars and laws.
    - Specifically, work related to advisory services to the government, compliance assistance to foreign organizations.
    - Work in relation to Decrees 38 and 93 would be particularly useful
  - Work with foreign donors, NGOs or contractors or in the area of international aid in general.
  - Tax advisory work in relation to international aid or foreign aid organizations, including aid donor governments.
  - Labor laws relating to foreign nongovernmental organizations doing work in Vietnam, Aid Agencies, and other foreign registered companies and organizations.
  - Other evidence of strong performance in areas relevant to international aid.
  
2. Client Satisfaction
  - Evidence of customer satisfaction in relation to the firm's services
  
3. Key personnel:
  - Extent to which the firm has personnel with expertise relevant to the type of work required
  - Both English and Vietnamese proficiency is preferred

## **IX. References**

The offeror shall include in the technical portion of the quotation references for at least two (2) contacts for whom similar services have been provided.

## **X. Cost Proposal**

Please submit price quotations for the firm's hourly rates broken down by the level of person(s) expected to perform the work requested. Please also include any other costs associated with related materials, services or other miscellaneous costs.

The evaluation of the offeror's price proposal shall deal with whether the price is fair and reasonable in relation with the Independent Government Cost Estimate.

The USAID Contracting Officer will determine the "Best Value to the Government" based on prices that are realistic, fair and reasonable in relation to the Independent Government Cost Estimate-The Contracting Officer may enter into negotiations with the offeror to discuss areas where the proposal could be improved and costs reduced. Upon successful negotiations with the offeror, a Blanket Purchase Agreement will be used to procure the services. Payment for individual task orders under the Agreement will be made upon acceptance of final work product and within 30 days of receipt of valid invoice.