Australian Government

AusAID

ADDENDUM 5

Date: 9 April 2009 Pages: 1

Subject: Addendum 5 to the Request for Tender (RFT) for the **Indonesia Australia Forest Carbon Partnership Facility (IAFCP Facility)** of 27 February 2009

Tenderers are advised of the following:

Amendments to the RFT:

1. Part 1 – Project Specific Tender Conditions

    (a) Clause 1 – Tender Particulars

    Delete existing **Closing Time**, and replace with new **Closing Time** as follows:

    "2.00pm local time in Canberra, Australian Capital Territory, **Tuesday 21 April 2009**."

2. Delete existing Clause 8.10 of Part 1 and replace with new Clause 8.10 as follows:
    "8.10 " Where annual recreation leave entitlements exceed one (1) trip or a total of four (4) weeks per twelve (12) month period, a justification must also be provided along with a narrative description of how the Tenderer will ensure, during Specified Personnel absences, the continued quality of services. Tenderers should note that leave entitlements and the management strategy may be assessed by the TAP of AusAID as part of the technical assessment process.

3. Delete existing Clause 14.18 of Part 2 and replace with new Clause 14.18 as follows:
    "14.18 The cost of an audit conducted in accordance with Clauses 14.16 and 14.17 is reimbursed as a Facility Operating Expense, but the cost of any corrections of remedial work required to the Imprest Account pursuant to audit findings is to be borne by the Contractor."

4. Delete existing Clause 2.6 of Part 4, and replace with new Clause 2.6 as follows:

    "2.6 If any of the Long Term Personnel are absent for any period, aside for the periods of leave permitted in Clause 2.4 (c) and (d) of this Schedule 2, the Monthly Rate Payable will be adjusted in accordance with the following formula:

Adjustable Monthly Rate =
$\frac{\text{(Number of Days Worked + AusAID Jakarta Public Holidays)} \times \text{Monthly Rate}}{\text{Total workable days (Weekdays and AusAID Jakarta public holidays) in Month}}$

5. Delete existing Clause 3.3 of Part 4, and replace with new Clause 3.3 of Part 4 as follows:
"3.3 The Contractor will be reimbursed on the basis of the actual cost incurred for items identified as reimbursable, up to the maximum costs listed in Annex 3 to this Schedule 2 on a quarterly basis, on receipt of a correctly rendered invoice. Reimbursement is subject to:
    a) details of the items purchased or expenses incurred contained in an invoice prepared in accordance with Clause 10 (Procurement Services) of Part 6 (Standard Contract Conditions); and
    b) original receipts and invoices retained to substantiate any claim."

Additional Questions asked at Tender Briefing

1. Can AusAID provide numbers of current staff in program that AusAID wants to be novated to the Facility Contractor, and any other positions/contracts that may need to be novated? Can AusAID also provide additional detail about any of these existing contract conditions?

Answer: The current number of staff/contractsunder the program that will need to be novated is listed in Attachment 1 to this Addendum 5. See summary of the contract conditions as relevant also in Attachment 1.

Other questions on the IAFCP RFT received via email:

Question 1: It has been reported in the media that Indonesia recently applied to the World Bank Forest Carbon Partnership Fund (FCPF) and submitted a Readiness Plan Idea Note (R-PIN) through the relevant FCPF committee. This information and documentation is not currently available via the World Bank website. Given that any proposal would ideally be harmonised with the Indonesian R-PIN, can AusAID confirm for tenderers that:

a) Indonesia has submitted an application to the FCPF; and
b) Make relevant R-PIN documentation available to prospective tenderers?

Answer: The FCPF is managed by the World Bank, and it is not an activity under IAFCP.

Question 2: Re- Clause 8.10 of Part 1 (p.14): Could AusAID clarify that if the tenderer believes advisers should be entitled to 6 weeks paid annual leave then it must include justification and coverage for 6 weeks instead of 4 weeks paid annual leave in its proposal, and if accepted this would then result in Part 4 BoP Clauses 2.4 (c) and 2.5 being changed accordingly?

Answer: **Yes.**

Question 3: Re- Clause 14.4 of Part 2 (p.22): could AusAID consider 're-phrasing' Clause 14.4 to better reflect the intent of clause 14.4 as follows?

"14.4 Money in the Facility Imprest Account is the money paid by AusAID in accordance with Clause 14.13 of this Contract and is to be used by the Contractor for the purposes described in Clause 14.5 of this Contract, and is not held by the Contractor on trust for AusAID or as agent for AusAID."?

Answer: **No.**

Question 4: Re-Clause 14 of Part 2 (p20): could AusAID please clarify the situation regarding payment of any Indonesian tax on the Imprest Account being paid out of the Imprest Account with the insertion of a sub-clause under Clause 14 as follows:

"14.?? Any tax as defined in **Part B** incurred to monies provided through the Facility Imprest Account must be paid with monies from the Facility Imprest Account. The Contractor shall ensure that any taxes paid on procured goods and services is recovered from the relevant authority and returned to the Facility Imprest Account."

Answer: **No. Refer to the General Agreement on Development Cooperation (GADC) between the Government of Australia (GoA) and the Government of Indonesia (GoI) which explains the treatment of GoI taxes. A copy of the GADC can be found at:**
http://www.austlii.edu.au/au/other/dfat/treaties/1999/13.html

Question 5: Re- Clause 14.18 of Part 2 (p.24) and and Clause 5.2 of Part 4 (p.62) appear to be contradictory. Clause 14.18 (Part 2) infers that the cost of auditing the imprest account is included in the contractor fees while Clause 5.2 (Part 4) infers that the cost of auditing the imprest fund is part of the Facility Operating Costs. Could AusAID please advise which is correct?

Answer: **The costs of auditing of the imprest account will be reimbursed out of the Facility Operating Costs. See Point 1 of Amendments to RFT, above.**

Question 6: Re- Clauses 2.5 and 2.6 of Part 4 (p.58): there appears to be a typo where it references to Clauses 2.3 (c) and (d) in clauses 2.5 and 2.6 . Should these be references to Clauses 2.4 (c) and (d)?

Answer: Yes.

Question 7: Re- KFCP Design Document (First Review Draft) – Section 4.1. This section of the draft KFCP Design Document states in the second sentence that ‘ The KFCP Coordinator, who reports to the Facility Manager, manages field demonstration activities with the support of a small technical staff (the Field Management Team), the composition of which will be determined by the Managing Contractor.’
Tender Schedule C allows for personal costs associated with Administrative/Support Staff costs but not the costs of any technical personnel (aside from the KFCP Coordinator) who may constitute the KFCP Field Management team.
Could AusAID please advise whether the costs associated with technical personnel forming the KFCP Field Management Team will be funded from the Imprest Account or through the Administrative/Support Costs included in Tender Schedule C.

Answer:` Any additional personnel required through the term of the Contract will be considered to be Long Term Personnel (LTP) (covered in Annex 1 of Part 4) and will be reimbursed at actual costs.
The Tenderers’ approach to the use of additional personnel will be considered under Selection Criterion C “Program Understanding and Approach”, and will be negotiated between AusAID and the successful Facility Contractor.

Question 8: Re- Clause 2.2 of Part 4 (p.57): The requirement of this clause for reimbursement of Long Term Personnel Professional fees on a quarterly basis in arrears together with the timing of the Milestone Payments will require the Contractor to have negative cash flow for much of the duration of the Facility. Would AusAID consider reviewing these payment conditions in order to relieve the financial burden on the Contractor?

Answer: Tenderers must submit proposals conforming to the requirements of the RFT.

Question 9: Does AusAID have a preference for the location of the legal entity of the tenderer, In Indonesia, or Australia?

Answer: No.

Question 10: Can AusAID confirm that the Personnel assessment component is solely based on the 3 main positions. Will the Personnel assessment also include consideration of the support positions and expert advisors to the project?

Answer: Yes, the 3 key personnel identified in Clause 7.6, Table 1, Part 1 only will be assessed by the Selection Criterion (A) - Personnel. The

assessment of overall approach of tenderers however will be assessed in Selection Criterion (C) - Program Understanding and Approach.

Question 11: There are personnel costs in both the Facility Management Fee (FMF) and Long Term Personnel (LTP) categories. What is the difference between these? What defines where a role is costed?

Answer: Facility staff who will be covered under the Long Term Personnel Costs (Clause 2 and Annex 1, Part 4) are identified in Clause 2.3 of Part 4. The Facility Management Fee (FMF) covers the costs of Contractor administrative and head office staff – see Clause 5.2 (d) of Part 4.

Question 12: We have identified two distinctively different skill sets required to minimize the risk associated with the project's implementation and operation: one skill set for the mobilisation phase, and a different skill set for the ongoing running of the facility. We feel that the specific risks with the establishment and successful operation of the Facility are best addressed by having specialised personnel setting up the facility and then transitioning to carefully recruited and well trained long term staff. What is AusAID's view of this?

Answer: The chosen approach to the program is up to the tenderer to present in accordance with Clause 6, Part 1 – Technical Proposal and associated Annexes.

Question 13: The overall size of the Facility Management Fee (FMF) is unclear as there seems to be some overlap between what is covered in the Facility Operating Expenses, and what is covered under the Facility Management Fee. Is it possible to get some clarification of this?

Answer: Clause 5 of Part 4 details what is covered by the Facility Management Fee (FMF). Clause 3 of Part 4 details what is covered by the Facility Operating Expenses (FOE).

Question 14: In the Facility Design Document (FDD) attachment, there is a cost breakdown. Is this to be reconciled to the Facility Management Fee?

Answer: Costs identified in the FDD are indicative only.

Question 15: In the Facility Design Document, a profit margin of 8% is suggested. Is this a requirement, or are tenderers able to calculate their fixed fee for delivery of the services in the tender based on their own margin?

Answer: See answer to Question 14 above. The actual Facility Management Fee is for the tenderer to determine and propose in their bid.

Question 16: What is the preference for the location of the imprest account in Indonesia or in Australia? Is there a preference for bank credit rating or other criteria for the imprest account?

Answer: There is no preference for the location of the imprest account. Selection of the deposit-taking institution needs to be in accordance with Clause 14.2 of Part 2.

Question 17: As this is an aid project, what is the tax status of this project? Will the tendering entity be subject to the tax laws of Indonesia? Or is the tendering entity subject to the tax laws of the entity's home country?

Answer: Refer to Addendum 4, Question 50 re-taxes.

Question 18: Our interpretation is that police checks are only required for positions that are working with children. However, none of the 3 specified positions are working with children, therefore no police checks are required. Can AusAID confirm that this is the correct interpretation?

Answer: Yes this is correct.

Question 19: Re-Clause 8 of Part 1, Tender Schedule C- Financial Proposal, Table 3 – Personnel Costs: could AusAID advise whether this table needs to be completed for each of the proposed Admin/Support Staff or whether a total for all proposed Admin/Support staff without naming the individual personnel will suffice?

Answer: A total for Admin/Support without naming of individuals will be acceptable.

Question 20*:* Can tendering companies nominate additional long term and short term technical staff outside the three (3) technical positions already required or would this be considered a non-compliant bid?

Answer: For the purposes of the Request for Tender (RFT) process, no additional long term or short term technical staff can be nominated outside of the three (3) specified personnel required in accordance with Table 1:Specified Personnel, of Tender Schedule B of Part 1.

See answer to Question 7 of this Addendum 5 also.

Question 21: Is there an expectation that tendering firms should submit CVs of Administration and Support staff?

Answer: No.

Question 22: Can it please be confirmed when the IAFCP Steering Committee meetings are to be held during 2009? Information provided at the Jakarta tender pre-briefing indicated the next meeting in July-Aug 2009 but the RFT suggests that the next IAFCP SC is scheduled for mid-October (Part 4 Annex 2 – Milestone Payments).

Answer: The next steering committee meeting is expected to be held in July-August 2009, subject to availability of most members. Milestone 1 is then due in mid-October 2009 for acceptance by AusAID. Submission of the RPP to the Steering Committee can be made out of session if required.

Question 23: Can you please confirm where the IAFCP Facility and Partnership Office in Jakarta will be housed?

Answer: Refer to Clause 5.1 (a) of Part 3. It will be housed at the Jakarta World Trade Centre.

Question 24: Can you please confirm what 'systems' the tendering firms must establish to support the IAFCP Partnership office? Part 2 Clause 14.7 suggests that (as a minimum) the financial management systems must use counterpart systems – "Where appropriate the Financial Manual of Operations must be developed in consultation with counterparts using counterpart systems, forms and processes as much as possible".

Answer: This is up to the discretion of the tenderer to determine in accordance with the needs of the Facility to support the IAFCP.

Question 25: Are the Facility Operating Expenses (total reimbursable costs of A$1,864,000 outlined in RFT Part 4 page 68) to cover all project office locations, ie Jakarta, Palangka Raya and additional field office suggested by the tendering firms?

Answer: This reflects our current estimate for upper limit of expenses for Jakarta and Palangka Raya offices. It does not include additional field offices.

Question 26: There is an expectation that the tendering firm will need to develop an M&E database (Facility Design Document) including the "acquisition, processing, and delivery of this information" (KFCP Detailed Design page 24). Could you please explain how the term 'acquisition' is used (ie collection of data or purchasing of software/hardware).

If there is a cost for development of this database is this allocated under the budget line 'IT and Communication Systems' ($200,000) as outlined in the

Facility Operating Expenses (RFT Part 4 page 68) or is this cost expected budgeted by the tendering firm as part of the Facility Management Fee (FMF)?

Answer: Acquisition is collection of data.

Yes this cost for development is allocated in Annex 3 of Part 4, under the line item in budget for "IT and Communication Systems", and is reimbursable at cost. It is not to be part of the FMF.

Question 27: There is an expectation that the tendering firms will need to establish an intranet for communication between KFCP staff and satellite link to Mantangai and/or Timpah (KFCP Detailed Design Document, page 34). Again are these costs expected to come from a budget line outlined in the Facility Operating Expenses (RFT Part 4 page 68) of part of the Facility Management Fee?

Answer: Yes they will be reimbursed from the line item for "IT and Communications Systems" of Annex 3 to Part 4.

Question 28: If the Facility Operating Expenses prove to be inadequate, can this budget allocation be increased? (We are particularly concerned with the Office rental and transport budget allocations and feel that the Facility Operating Expenses may be limited).

Answer: This amount as in Annex 3 of Part 4 reflects our current estimate for upper limit of expenses for Jakarta and Palangka Raya offices. These expenses will be regularly reviewed by AusAID.

Question 29: Can you please confirm the total value of a sub-contract that can be directly implemented by an Associate firm to the lead contractor? Is this in line with Part 3, Clause 4.36 or Part 2 Clause 8.1 (a)?

- Part 3 Clause 4.36 - "The Contractor may implement activities under Component 2, where the Contractor can demonstrate to the PO that it can provide competent services acceptable to AusAID and the counterpart agency, subject to the following:…
  (c) that total specific activity costs are not more than A$250,000"
- Part 2 Clause 8.1 (a) - "the Contractor must obtain the prior written approval of AusAID to sub-contracts with any party, except Specified Personnel, to the value of A$100,000 or more"

Answer: -Subject to the conditions in Part 3, Clause 4.36, the Contractor may implement specific activities where total specific activity costs are not more than A$250,000.

Question 30: Can AusAID please confirm that firms and organizations that provide Letters of Support to indicate that they are “proposed sub-contractors, where these are reasonably known at the time of the tender and who have made known their willingness to be involved in the Project” (RFT Part 1 page 7) will in now way be excluded from bidding for sub-projects under the IAFCP Facility if aligned with the winning firm?
Could AusAID also please clearly state if there are any other restrictions (other than those set out in Clause 8 of Part 2 of the RFT) that may impact on firms and organizations aligned with the winning contractor from bidding for sub-contracts under the IAFCP Facility?

Answer: See the answer to Question 29 above, and refer to Part 2, Clause 8.1 and Parts 3, Clause 4.36.

Question 31: We have read Addendum No 4 and in particular the Questions and Answers with regard to GoI registration of the project and treatment of GoI tax. Q36 of the briefing questions from Addendum 4 was "Has Bappenas...put [KFCP] in the Blue Book?" Answer: "MoF is responsible for registering IAFCP" . Q50 was "Is the proposal to include all GoA and GoI taxes?" Answer: "Yes in accordance with GADC".)

While the expectation from the GADC is that VAT will be effectively nil ($0) ie refunded, the Ministry of Finance however has recently refused to refund unless the project has been prior included in the national budget. The evidence that the Ministry of Finance needs is that the project has been formally registered by the proponent and formally given a DIP number. Whereas I can accept this may well be a Forestry/Bappenas responsibility, if it does not happen, AusAID will end up with a large slab of money going to pay VAT. Statements of "national priority" are not sufficient evidence. Realistically we are not in a position to chase this up to confirm that a DIP number has been allocated, so:

a) Will AusAID confirm that the IAFCP Facility has a DIP number, or otherwise accept that the financial proposal should allow that VAT may not be refunded by GoI?

b) Tax exemption is not given to subcontractors of the prime contractor, irrespective of what the GADC says. It would only be fair to point out that tenderers should take Indonesian financial advice on GoI interpretation of the GADC.

Answers to (a) – (b): Refer to the GADC on taxation matters. Ministry of Forestry is working on appropriate registration process including DIP through the GOI system. At this stage the Subsidiary Arrangement has

been registered at the Ministry of Finance with No. 70728801 dated 13 November 2007

Question 32: Clause 5.8-5.11 of Part 3, page 38 describes the duties of the Contractor in carrying out Component 2. Clause 4.35 of the same part says:

"Activities under Component 2 will be implemented by sub-contractors ....funded for the Imprest Account".
The question is really about what duties of the Contractor are to be funded by the Imprest Account and what should be funded by the Facility Management Fee?

For example: Clause 5.8 includes the responsibility to "implement" activities and these are certainly Imprest funded. So Clauses 5.8 to 5.10 probably list activities that are either funded by Imprest or Management Fee.

There are two specific cases which could introduce a significant distortion to the tender and for which we would be grateful to have a ruling.

a) KFCP Design Document page 33 Clause 4.1 states that " The KFCP Coordinator, who reports to the Facility Manager, manages field demonstration activities with the support of a small technical staff (the Field Management Team)". Is this Field Management Team to be funded by the Imprest Account? (Although described as small, this supervisory team has to have a lot of skills: hydrology, engineering, survey, geotech, GIS, construction supervision, environmental, forestry)

The RFT throughout suggests that the Contractor is a manager/administrator. This very technical Field Management Team makes a large difference to the composition of the team, how tenders might be evaluated and potential cost distortion.

Answer: See answer to Question 7 of this Addendum 5.

b) Clause 5.8 (and others) say that the "Contractor shall..... DESIGN, implement and monitor". Is this design requirement, which is certainly a technical skill. Is this a subcontracted imprest resource?

Answer: Some input on the technical design of REDD demonstration activities will be expected from the Facility Contractor (refer to Addendum 4 Question 44). Approved costs relating to the delivery of approved Component 2 activities can be funded from the imprest account.

Question 33: *Re*-Accounting for sick leave. Clause 2.4 of Part 4 (page 58) is silent on how to allow for sick leave. Given that people do get ill, and that this is a personnel cost, we have two choices. Include it within the personnel cost or include it as an overhead cost. Your confirmation of which is acceptable would be appreciated, what is preferred by AusAID?

Answer: The monthly professional fee is to include all forms of leave entitlements.

Question 34: Re- Formula for absent days. BOP Clause 2.6 (page 59) Whereas the intent of the formula is understood to reduce the billing rate if a team member is absent, as written the formula is incorrect as it mixes working days (above the line) with calendar days (below the line). This is best illustrated by an example. Imagine a person was absent for 1 working day in a month. As a normal month is 22 working days, that means that the person only worked 21 days. So instead of getting 100% of an MBR, which would be the case if the person worked 22 days, the formula suggests this would be reduced to (21/30)*MBR ie only 70% of the MBR - the person loses 30% of the monthly rate for one day absent.

The RFT formula is:

$$\textit{Adjustable Monthly Rate} = \frac{\textit{Number of Days Worked x Monthly Rate}}{30}$$

We suggest the formula should be

$$\textit{Adjustable Monthly Rate} = \frac{\textit{Number of Days Worked x Monthly Rate}}{22}$$

Your confirmation would be appreciated, does AusAID agree with the change?

Answer: We agree that the current formula is not accurate and make the following change to the formula in Clause 2.6 of Part 4:

Adjustable Monthly Rate =

$$\frac{\textit{(Number of Days Worked + AusAID Jakarta Public Holidays) x Monthly Rate}}{\text{Total workable days (Weekdays and AusAID Jakarta public holidays) in Month.}}$$

See Point 4 of Amendments to the RFT of this Addendum 5, above.

Question 35: It seems Clause 8.8 of Part 1 - Project Specific Tender & Contract Conditions disagrees with Clause 3.3 of Part 4 - Facility Operating Expenses?

ie.

Clause 8.8, Part 1 states: "Reimbursable Costs will be paid quarterly in arrears based on actual costs paid by the Contractor and be inclusive of Personnel Costs and Facility Operating Expenses."

and

Clause 3.3 of Part 4 states: "The Contractor will be reimbursed on the basis of the actual cost incurred for items identified as reimbursable, up to the maximum costs listed in Annex 4 to this Schedule 2 within thirty (30) days of AusAID's receipt of a correctly rendered invoice. Reimbursement is subject to:

(a) details of the items purchased or expenses incurred contained in a monthly payment invoice prepared in accordance with Clause 10 (Procurement Services)

of Part 6 (Standard Contract Conditions); and
(b) original receipts and invoices retained to substantiate any claim."

Can AusAID please confirm which is applicable - reimbursable quarterly or monthly?

Answer: This will be reimbursed quarterly. See Amendment to Clause 3.3 (a) in Question 2 of Amendments to the RFT of this Addendum 5, above.

Question 36: Clause 3.6 of Part 4 (page 60) allows variation of line items within a "category" in Annex 4 Schedule 2. We assume that the categories are a) Establishment Costs and b) Operating Costs.

Is this correct? (We assume the reference is to Annex 3 not 4).

Answer: Yes, the categories are a) Establishment Costs and b) Operating Costs. Yes the reference is to Annex 3 not 4.

Question 37: With reference to Clause 8.10 of Part 1, 2 trips per year is permitted for annual leave. However, in Part 4 Clause 2.5 there is only 1 trip. Can AusAID claify how many trips are allowed per adviser per year?

Answer: One (1) trip is standard, and correct in accordance with Clause 2.5 of Part 4. See Amendment to Clause 8.10 of Part 1 in Question 3 of Amendments to the RFT of this Addendum 5, above.

Question 38: Will the rates for Indonesian staff novated and recontracted staff include all taxes, benefits and allowances as required under the President of Republic of Indonesia ACT Number 13 Year 2003 concerning manpower?

Answer: Yes, the rates are in accordance with Act No 13 of 2003.

Question 39: Part 4 Clause 3.2 (a) (i) and Part 4 Clause 5.2 (e) both cover security costs. To fully cost the Facility Management Fee, could AusAID explain the difference?

Answer: Part 4 Clause 3.2 (a) (i) is for actual reimbursable costs for security of offices (eg guards, fences or window protection, etc). Part 4 Clause 5.2 (e) relates to all other security costs such as security briefing, security clearance, etc, that are the Contractor's responsibility.

Question 40: Do the communications costs under Facility Operating Expenses also cover the communication costs incurred at the Contractor's offices relating to the project?

Answer: No. The communication costs under Facility Operating Expenses cover the two (2) offices in Indonesia and Palangka Raya. Any communication costs at the Contractor's head office are covered under the Facility Management Fee (FMF).

Question 41: With reference to Clauses 6.1 and 6.3 of Part 3, there are two (2) diffferent dates for end of the IAFCPF contract (30 July 2012 and 30 June 2012) - pls confirm which is correct.

Answer: The IAFCP current budget runs until 30 June 2012 and the IAFCP Contract will therefore end by 30 June 2012.

Question 42: RFT Part 3 Clause 5.15 (d) mentions that the AMC is responsible for developing an M&E database. Does this cost item come under the Facility Operation Expenses or the Facility Management Fee or the Facility Imprest Account?

Answer: See answer to question 27 above.

Question 43: Clause 12.1 (a) of Part 2 requires contractor to notify AusAID if there is any claim under insurance. The problem is that our insurance is a series of global policies. The literal interpretation is that we should advise AusAID of any claim, anywhere in the world and for any reason. Obviously that is not the intent. We suggest to add a preface to this clause as follows: " Only to the extent relevant to this contract...." , does AusAID agree to this change?

Answer: Clause 12.1 (a) of Part 2 stands.

Question 44: Clause 12.1(c) of Part 2 states "all insurance agreements.name, and operate as if there was a separate policy of insurance covering AusAID, the Contractor and sub-contractors". As a global policy, we have constraints on how we add qualifications to a policy. We propose that the means to satisfy this clause (and we suggest it is written this way) by " all insurance agreements and endorsements ..... recognise AusAID as a Principal but only in respect of the Contractor's liability arising out of its performance of the services"

Answer: If Clause 12.1 © (i) is an issue for the preferred tenderer, AusAID may be prepared to consider some re-wording of the clause during contractual negotiations provided that the intent of the clause to cover AusAID is not affected.

Question 45: Clause 12.1 (c), Part 2. No insurance company will agree to pick up risk from unknown sub-contractors without due assessment of that risk. For example, a consulting company would have extreme difficulty in insuring construction risk, for the very good reason that this is not normal consulting business, and therefore should not be doing it in the first place. What we can do is to ensure that subcontractors are insured for their work and we suggest that the clause reflect this ability. Is this acceptable to AusAID?

Answer: Not agreed.

Question 46: Re-Clause 12.1 (d), Part 2. We request deletion of this clause. Our insurer will not waive rights of subrogation and we do not have the authority to change their business practices.

Answer: Not agreed.

Question 47: Suggest new Clause 12.4 for AusAID to add to RFT. We recommend that additional insurance limits be specified in a new clause. Currently Standard Condition Clause 34 only has a limit for public liability. If there are no limits, AusAID will not receive transparent like-for-like insurance costing. Our suggestions are:

We suggest Clause 12.4: Standard Conditions of Contract Clause 34.1 to be amended as follows:

a) Clause 34.1(b) has the words added .."to a limit at least AUD2 million for each and every claim";
b) Clause 34.1 e) has the words added ..."to a limit at least AUD5 million for all claims".

Answer: AusAID's policy is not to specify limits for these insurances.

Question 48: Suggest New Clause 12.5 . This is an amendment to Clause 34.2 which requests us to provide a copy of any of our insurance policies. We see this is an unreasonable request as we are precluded by our insurer from divulging the policy document or its terms. We can certainly provide Certificates of Currency which is the recognised norm in other domains. Is this sufficient?

Answer: Clause 34.2 requires the Contractor to providea certificate of currency, a list of exclusions and the amount of excess that is payable.

Question 49: A seemingly minor change, but one that has significant implication of intent, is recommended for Clause 10.2(c)(ii), of The clause requires us" ....to provide AusAID with evidence...." It is recommended that this be changed to " ......to provide AusAID with **reasonable** evidence....."

Answer: No.

Question 50: We have two recommendations for the Deed of Confidentiality.

Either i) add: Clause 1(g) "or is required to be disclosed by law".

Or

Clause 5.1 A 'perpetual' confidential obligation is indeed onerous. It is recommended that a more reasonable time limit be stipulated, such as 6 years.

AusAID thoughts?

Answer: Noted. Laws, to the extent that they prevail over the deed, would take precedence.

Question 51: Re-Financial Issues

a) Regarding the Performance Guarantee, is there any particular party that AusAID would prefer to act as Guarantor?

b) Are there any tax exemptions that apply to this project as it is an aid project?

c) If VAT is required to be levied, is AusAID willing to accept VAT charges?

d) If financial statements are not audited, is that acceptable?

Answer:
a) Yes, in general an entity that has the capacity to guarantee performance and to complete the contract; refer to the terms of the deed.

b) Refer to Question 31 of this Addendum 5.

c) Refer to Question 31 of this Addendum 5.

d) No.

Question 52: Regarding the 3 specified positions, are there any requirements that AusAID have listed that are considered essential and some considered desirable? Does AusAID have any opinion on this?

Answer: No. Refer to the Position Descriptions at Annex 1 of Part 3.

Question 53: RFT Part 1 indicates that CVs of no more than 4 pages in length are to be submitted by tenderers. Please clarify whether the required CVs are to be submitted as part of the Annexes? If so, which Annex should include the CVs?

Answer: **CVs are required to be submitted as part of Tender Schedule B.**

Question 54: Please provide more information regarding the current and future membership of the REDD- Indonesia Forest Climate Alliance. Are the three current advisers to be novated to the MC for the Facility to form part of this alliance? Does this alliance come under Component 1 of the facility?

Answer: In 2007 the GOA provided support to IFCA. If this alliance undertakes further works in future, IAFCP will consider providing support, and this would fall within Component 1.
The 3 advisors will continue to work in PO under contracts that will be novated to MC. Their TOR are not in any way tied to IFCA.

Question 55: Para 8.7 of Part 1 requires a "comprehensive and detailed cost breakdown" of the Facility Management Fee (FMF) and refers to Table 2. Table 2 simply asks for the total fee broken down per year – are there more details required on the facility management fee not listed in Table 2?

Answer: Clause 8.7 requires Tenderers to provide a complete breakdown of the figures provided in Table 2.

Attachments to this Addendum

Attachment 1 *Existing Contracts for Novation 2 April 2009*

All other information as set out in the RFT dated 27 February 2009 remains unchanged.