

**KINGDOM OF CAMBODIA  
NATION RELIGION KING**

**Ministry of Land Management, Urban Planning and Construction (MLMUPC)**

**Land Allocation for Social and Economic Development Project III  
IDA Credit No 6706**

**TERMS OF REFERENCE FOR A CONSULTING FIRM**

**For Environmental and Social Assessment (ESA)  
Social, Legal and Institutional Assessment of the Indigenous Communal Land Titling  
Component**

## **ABBREVIATIONS**

CLUP	Commune Land Use Planning
EIA	Environmental Impact Assessment
ESA	Environmental and Social Assessment
ESCP	Environmental and Social Commitment Plan
ESF	Environmental and Social Framework
ESIA	Environmental and Social Impact Assessment
ESMF	Environmental and Social Management Framework
ESS	Environmental and Social Standard
FPIC	Free, Prior and Informed Consent
IC	Indigenous Community
ICLT	Indigenous Communal Land Titling
IP	Indigenous People
IPPF	Indigenous Peoples Planning Framework
LASED III	Land Allocation for Social and Economic Development Project III
MAFF	Ministry of Agriculture, Forests and Fisheries
MLMUPC	Ministry of Land Management, Urban Planning and Construction
PDO	Project Development Objective
RPF	Resettlement Policy Framework
SIA	Social Impact Assessment
SLC	Social Land Concession

## **I. Introduction**

1. The Land Allocation for Social and Economic Development Project III (LASED III) is based on a legal framework and an operational framework. The legal framework for granting Social Land Concessions (SLCs) was established in 2003 by adopting the Land Law and the sub-decree No. 19 which defines the criteria and procedures for SLC. For Indigenous Communal Land Titling (ICLT), the legal framework was developed through sub-decree 83 on the procedure of communal land title registration. In addition, Commune Land Use Planning (CLUP) was established through sub-decree 72 on the commune land use planning. The LASED III project obtained funding support from the World Bank and includes ICLT and CLUP.

2. LASED III will continue the support for the Royal Government of Cambodia's (RGC) Commune Social Land Concession (SLC) program provided by LASED and LASED II, and will also support RGC's Indigenous Community Land Titling (ICLT) program, in both cases through land titling and associated infrastructure and livelihoods activities. The executing agency for LASED III will be Ministry of Land Management, Urban Planning and Construction (MLMUPC) while implementing agencies include Ministry of Agriculture, Forests and Fisheries (MAFF) and Provincial project teams.

3. LASED III will support activities at 14 existing SLC and around 12 new SLC which are to be identified, as well as approximately 30 Indigenous People (IP) communities that have received ICLT and 15 IP communities that have applied for but not yet received ICLT.

## **II. The Project Development Objective (PDO) of LASED III and Key Impact Indicators**

4. The PDO is to provide access to land tenure security, agricultural and social services, and selected infrastructure to small scale farmers and communities in the project areas. There are three PDO level indicators that will be measured through the following indicators: (i) tenure security provided to beneficiary farmers and community groups, to be measured by the number of registered land titles and by the size of related area covered (ha). Data would be disaggregated by gender, individual, and communal land rights; (ii) Infrastructure and service provision in the project areas to be measured by the access to agriculture services, clean water, connecting roads, schools and health posts; and (iii) Sustainable, agriculture-based livelihood development for individuals and groups in the project communities to be measured by improvements in the poverty status of beneficiaries. Citizen engagement is measured through the satisfaction of beneficiaries with the land titling process and the provision of agriculture services..

5. LASED III builds on the successful implementation and experience of the previous project and good practices in the sector, and aims to address the priority needs of current and prospective beneficiaries. It would provide, in particular, improved agricultural technology and infrastructure support to make beneficiaries' lands productive and sustainable. LASED III emphasizes SLC with the addition of ICLT and CLUP, with an estimated cost of US\$107 million supported by a World Bank Credit of US\$ 93 million and a contribution from the RGC of US\$14 million.

## **III. The Project Components**

6. The project has five components as follows:

- (a) Component 1: Selection and Development Planning of Social Land Concession and Indigenous Communal Land Titling
- (b) Component 2: Community Infrastructure Development
- (c) Component 3: Agriculture and Livelihood Development
- (d) Component 4: Project Management, Coordination and M&E
- (e) Component 5: Contingent Emergency Response

## **IV. The Environmental and Social Framework (ESF)**

7. The World Bank's Environmental and Social Framework (ESF) apply to LASED III, including the following Environmental and Social Standards (ESSs):

ESS1: Assessment and Management of Environmental and Social Risks and Impacts;

ESS2: Labour and Working Conditions;  
ESS3: Resource Efficiency and Pollution Prevention and Management;  
ESS4: Community Health and Safety;  
ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement;  
ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources;  
ESS7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;  
ESS8: Cultural Heritage; and  
ESS10: Stakeholder Engagement and Information Disclosure

8. Key documents to address environmental and social (E&S) risks include an Environmental and Social Management Framework (ESMF), Indigenous Peoples Planning Framework (IPPF), Resettlement Policy Framework (RPF) and Environmental and Social Commitment Plan (ESCP). The IPPF and ESCP require that an environmental and social assessment (ESA) is undertaken before the implementation of the ICLT activities of the project building on the assessment of risks and impacts undertaken during preparation of the project and the E&S documents.

## V. Objective of the Assignment, Tasks and Deliverable

9. The objective the assignment is to carry out the ESA of the ICLT activities of LASED III at an early stage of the project. It is expected that the assignment will be undertaken by a consulting firm or research institute who have rich experiences in this area.

10. The consultanting firm/research institute will collaborate with the MLMUPC's LASED III Project Coordinator, Technical Section Director, Project Staff, Advisers, Stakeholders and Beneficiaries in the target provinces, and will regularly report to the MLMUPC's Technical Section Director. Specifically, the Consultants will undertake a social, legal and institutional assessment of the ICLT component to assess the national legal framework and guidelines concerning the ICLT process of Sub-Decree 83 and WB-ESS. This will include an assessment of experiences of a sample of Indigenous Communities (ICs) that have already gone through the ICLT process and a small sample of the ICs that would be eligible to receive support from the project. The ESA should provide a more detailed analysis and discussion of potential environmental and social risks of proposed ICLT activities in view of the ESF and the project's environmental and social instruments, particularly the ESMF and IPPF.

11. The ESA will provide recommendations for strengthening the ICLT process, including in view of ESS7 provisions. This will, *inter alia*, include recommendations to: strengthen the ICLT process, including for the free, prior and informed consent (FPIC) requirements; revise and strengthen the IPPF, SEP and ESMF of LASED III; undertake cultural profiles for all participating ICs during project implementation, including potential need for Regional Environmental and Social Assessments for areas included in the ICLT component.

12. The selected consulting firm/research institute is expected to conduct the following activities:

- Collect baseline data (profiles) for a sample of ICs on the demographic, socio-economic, social, cultural, and political characteristics of the IP community or communities, the land and territories that they have traditionally owned or customarily used or occupied along with those they currently occupy and use, and current biological and physical conditions of the immediate area and any area the project is predicted to affect on which they depend, and tangible and intangible cultural heritage (in accordance with the Cultural Heritage Protection Framework);<sup>1</sup>
- Collect and analyse the environmental profile of the sample ICs, including identification of (i) local natural resources and significant conservation areas within the boundaries of ICLT and adjacent to the project target areas; (ii) resource co-management arrangements such as forest or protected areas management plans, community forestry, or community fishery agreements; and (iii) mechanism and support for ICs to sustainably manage their natural resources;

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<sup>1</sup> Profiles / baseline collection will be undertaken for all participating ICs during project implementation. This exercise of the ESA should provide recommendation for the methodology for subsequent profiles.

- Assess existing formal and informal/customary land tenure arrangements and how they might affect or be affected by project activities;
- Assess critical constraints of the current land situation of the sample ICs compared with the land areas they previously had access to (incl. forest areas that may now have protected status and to which access and use may be curtailed);
- Assess potential impacts on indigenous peoples, including vulnerable and poor sub-groups and households that rely on forest and/or natural resources for their livelihoods;
- Assess what could in practical terms be considered adequate FPIC in the context of the beneficiary indigenous communities, and how the project approach to consultation and information dissemination could be designed to achieve this, particularly in the context of the ICLT process and the planning of both infrastructure and livelihood activities.<sup>2</sup> This would include:
  - a. The extent to which the current ICLT process has promoted equity and inclusion of women, youth, and poorer / vulnerable households in decision making and access to benefits. This should inter alia be ascertained with regard to (a) the election of the Community Commission Representative (Phase 1, Step 4); (b) the composition of the Community Representative Committee (Phase 2, Step 1); (c) the provisions of the Community By-Laws (Phase 2, Step 3); (d) the IPC internal rules (Phase 2.5, Step 1); and (e) the issuing of land rights/access to individual IC households;
  - b. The extent to which prior consultation and decision-making during the ICLT process conforms to FPIC, and if not, the measures that should be introduced to ensure this;
  - c. The timeliness of the ICLT process (pretty lengthy at present) and realistic steps that could be taken to shorten and streamline the process.
- Assess experiences regarding opportunities, risks, and design and implementation features of the ICLT titling activities already undertaken by the government and NGOs, including legal issues concerning conflicting claims regarding inclusion or exclusion of forest land (both in the sample ICs included in the ESA and from lessons learned and discussion with implementers and IC organizations and support NGOs);
- Assess the current ICLT system and procedures (legal and institutional) to identify areas for simplification and/or efficiency gains, and to include provisions to enhance the social assessment, consultation and FPIC process in view of national and ESS7 requirements; and
- Consult with relevant stakeholders on ICLT activities, potentially including experts and experiences from other countries.

13. **Main Tasks.** The consultant firm/research institute will carry out the following tasks, in close consultation with counterparts. In order to ensure efficient and effective delivery of planned activities, they need to prepare in advance the work plan for the assignment (including key meetings and workshops) to ensure the effective participation of project staffs and relevant stakeholders at all levels. In addition, the Consultants should agree with the Technical Project Director on an appropriate schedule to present the results of the assignment, to follow up on requests for clarification, and to reach timely approval of the ESA report.

- Formulate an assessment methodology in the Inception Report. This includes a sampling frame, questionnaires and survey tools, as well as guidelines (forms) of data collection and analysis/evaluation for the preparation of the ESA report. The Consultants should develop the methodology with a view on the risk analysis and implementation requirements of the IPPF and ESMF (particularly Chapter 4 Environmental and Social Risks of the Project and Chapter 5 Risk Management Framework (particularly 5.2 to 5.5, and 5.7) of the ESMF;

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<sup>2</sup> Note that the actual FPIC process for participating ICs will be conducted later.”

- Present the assessment methodology during an orientation session with project staff and key stakeholders on the methodology and objectives, noting that the focus will be on whether the approach in terms of both the the ICLT process of Sub-Decree 83 and the ESS (particularly ESS7 and the IPPF) can be strengthened to improve risk identification and management, along with good governance focusing on FPIC and inclusive consultation and decision-making processes;
- Undertake field work in a sample of potential IC beneficiaries of the ICLT component (covering the areas listed under Activities above). It is expected that at least one IC in each of the key Provinces included in the ICLT component (Kratie, Ratanakiri, Mondulhiri, Stung Treng and Preah Vihear). At least three of the sample communities should have gone through the ICLT process to identify lessons learned and areas for improvement.
- Analyze the character and level of risks and potential mitigation measures of indigenous communities that may receive project support. Analyze the level of environmental and social risks and impacts; and propose appropriate mitigation measures to mitigate such impacts to inform the revision of the ESF instruments for LASED III (particularly the ESMF and IPPF);<sup>3</sup>
- Provide recommendations on improve to the ESF documents to meet the World Bank ESF and the national EIA General Guidelines and other legislation. This includes recommendations on the ICLT process, ESF measures for livelihood activities for ICs, the scope of site-specific ESIA for ICLT ICs, and whether Regional ESIA would be required as per the ESMF and ESCP in areas with multiple ICLT sites (and SLC sites if in the same areas).<sup>4</sup>
- Facilitate consultations with key stakeholders, including indigenous organizations, donors and NGOs that have supported ICLT activities.

14. **Deliverables.** The Consultants will produce the following outputs:

- **Inception report.** Prepare an inception report (maximum 15 pages) commenting/clarifying understanding of the ToRs and including a work plan and assessment methodology for the entire assignment within 10 days after commencement of the assignment, for discussion and agreement with the Project Technical Director and Project Director;
- **Presentations.** For key meetings and workshops, presentations will be prepared in power point and with relevant supporting materials, and to ensure that such presentations and materials would be translated in Khmer;
- **Draft Assessment Report.** Prepare a draft Assessment Report. Draft Report will include recommendation for revising the ESF documents.
- **Final Assessment Report.** Prepare the final Assessment report (maximum 60 pages excluding annexes) incorporating comments and agreed revisions resulting from discussions with all stakeholders on the draft report. The report will be in English and submitted to the Project Director not later than 2 weeks following submission of comments to the draft report by the Project Technical Director and Project Director.
- **Document Compilation and Dataset.** Ensure that relevant documents and data sets used in the evaluation will be stored on a safe storage device and submitted to the Project Technical Director at the end of the assignment.

15. **Input and Timing.** This consultancy assignment covers a period of 60 working days. The End of Project's ESA Report would be completed no later than 4 months from the date of contract signing.

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<sup>3</sup> Site-specific ESIA will be undertaken subsequently for all ICs participating in the ICLT component.

<sup>4</sup> The potential need for Regional ESIA for SCL sites will be assessed separately from this ToR.

Activity	Timeframe
Inception Report	9 days
Presentation	1 day
Field Work	15 day
Data Analysis	15 day
Stakeholder / Expert Consultations	3 days
Draft Report	10 days
Stakeholder Workshop	2 days
Finalization of Report	5 days
<b>Total Timeframe</b>	<b>60 days</b>

16. **Key Experts' Qualifications and Experience requirements.** The team leader shall have:

- At least a Master's degree in anthropology, sociology or other relevant sciences;
- At least 10 years working experience in design and implementation of social assessment and related exercises;
- Experience working with indigenous communities;
- Experience working on land tenure and/or titling activities, preferably including with indigenous and / or other customary communities;
- Experience with the World Bank's safeguard policies (and Environmental and Social Framework/ESF) is an asset;
- Good knowledge of Cambodia' SIA regulation, EIA General Guidelines, and relevant environmental specifications;
- Excellent verbal and written communication in English. Ability to use and/or understand Khmer language will be added an advantage.

17. **Location, Duration and Other Matters**

- The duty station will be in the office of LASED III at the Ministry of Land Management Urban Planning and Construction (MLMUPC)
- The Consultants are expected to start the work as soon as conveniently possible, and no later than March 1, 2021.

18. **How and where to apply.** Interested consulting firm/research institute are required to submit a Letter of Expression of Interests, including the firm's qualifications and experience to the address mentioned below:

- The Ministry of Land Management, Urban Planning, and Construction (MLMUPC).
- Land Allocation for Social and Economic Development Project III (LASED III). 771,773 Preah Monivong Blvd (93), Phnom Penh, Cambodia. Email: [rcheyseth@yahoo.com](mailto:rcheyseth@yahoo.com); Phone number: (855) 17 998 333.