



**ASEAN-Australia-New Zealand Free Trade Area
(AANZFTA) Economic Cooperation Support
Programme (AECSP)**

Request for Proposal

**Comparative Study on
Genetic Resources, Traditional Knowledge, and Traditional Cultural
Expressions (GRTKTCE) (Phase 1)
[AANZ-0083-IP-13]**

Proposal Deadline: 31 January 2020

E-Submit To: AANZFTA Support Unit
The ASEAN Secretariat
Jakarta 12110, Indonesia
Email: ecwp@asean.org

Prepared by: AANZFTA Support Unit and CCIPD
Date: 24 December 2020

1 EXECUTIVE SUMMARY

The project on ‘**Comparative Study on Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions (GRTKTCE) (Phase 1)**’, is part of the ASEAN-Australia-New Zealand Free Trade Area (AANZFTA) Economic Cooperation Support Programme (AECSP), under the Intellectual Property component of the Economic Cooperation Work Program (ECWP).

The objective of the project is to enhance understanding and awareness of AANZFTA Parties (Parties) of the approaches to protection and promotion of Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions (GRTKTCE) and the policy issues that need to be considered in developing national policies and laws on IP-related aspects of GRTKTCE.

The project proposes to compare the Parties’ current legislation on GRTKTCE against approaches from outside the region, in an effort to explore possible best practices and enhance current systems. The project will take into consideration that the best policy approach to protect of GRTKTCE will be dependent on national circumstances and the Indigenous Peoples within the Parties.

2 SCOPE OF WORK

2.1 PROJECT OVERVIEW

I. BACKGROUND

In the current era of globalization and the race to innovate, Genetic Resources (GR) and Traditional Knowledge (TK) are recognized for their potential to play an important part in the development of new medicines. Traditional Cultural Expressions (TCE), on the other hand, are a source of literary and artistic cultural heritage. Another important aspect of GRTKTCE is its potential that Indigenous Peoples can harness through its use for commercial purposes, when applicable, delivering benefits to their respective communities.

Currently, there is no established international standard for intellectual property related protection, and this remains a topic of negotiations at the World Intellectual Property Organization (WIPO). Some Parties lack awareness of the intricacies and challenges in dealing with GRTKTCE, while other Parties may not be familiar with the processes of protection and promotion of traditional forms of knowledge, expression and resources in other countries.

This project aims to inform interested AANZFTA Parties (Parties) on the intellectual property-related aspects of promotion and protection of Genetic Resources, Traditional Knowledge, and Traditional Cultural Expressions (GRTKTCE). It likewise aims to encourage interested Parties, without current intellectual property-related protection and promotion mechanisms, to adopt best practices and to develop policy or enact legislation for this purpose. GRTKTCE are not only part of Indigenous Peoples’ culture and heritage, but also a potential source of revenue and economic development.

II. PURPOSE OF THE ASSIGNMENT

AECSP is seeking the services of consultants to undertake activities under the project to (1) conduct preliminary Consultative Workshop on GRTKTCE Policy Considerations; (2) develop a Comparative Study of existing GRTKTCE legislation and approaches with recommendations for best practice model national policies and laws; and (3) conduct a Regional Workshop on the Development of Relevant National Policies and Laws Related to GRTKTCE.

It is proposed that the project focus on building the understanding and awareness of interested AMC of the relevant policy considerations and how other countries have used legislation and practical measures to support effective protection. This project's approach will be guided by the 'Policy Framework Paper on IP and GRTKTCEs' which provides an ideal starting point for enacting GRTKTCE protection policies and laws.

The project will take into consideration the cultural significance and sacred nature of traditional knowledge and traditional cultural expressions; the interests of Indigenous Peoples in the protection of their knowledge and expressions; and the diversity in the Indigenous communities of Parties. To the extent practicable, Indigenous Peoples who hold the traditional knowledge and traditional cultural expressions should be consulted.

III. CONSULTANT'S SCOPE OF WORK AND ACTIVITIES

The consultants chosen through this competitive bidding process, are expected to deliver the outputs in accordance with the timeline. The consultants will work closely with the Project Management Team (PMT) and ASEAN Secretariat, including AANZFTA Support Unit (ASU), on the implementation of the project in line with this project proposal and agreed Terms of Reference.

a. **Outputs:**

The key outputs of consultants are expected to be as follows:

Output 1: Preliminary Consultative Workshop on GRTKTCE Policy Considerations conducted

Output 2: A Comparative Study of existing GRTKTCE legislation and approaches with recommendations for best practice model national policies and laws

Output 3: Regional Workshop on the Development of Relevant National Policies and Laws Related to GRTKTCE conducted

b. **Description of Activities:**

Output 1: Preliminary Consultative Workshop on GRTKTCE Policy Considerations conducted

The aim of this two-day Consultative Workshop is to gather information on existing GRTKTCE legislation and approaches, and to identify the policy needs and goals of the Parties. The first day will be for the consultants to facilitate discussions to identify the needs of Parties, through the first three stages of policy development identified in the 'Policy Framework on IP and GRTKTCEs' (document to be provided by ASEC at a later stage):

1. Identifying the problem to be addressed by policy
2. Analysing Policy Problems
3. Identifying Policy Options

The second day is planned to be used for a roundtable to understand the laws and policies adopted by other countries.

The methodology to be used by consultants for gathering information is through preliminary on-line surveys/assessments of Parties, completed prior to the workshop. The surveys will be drafted by consultants and ASEC including ASU based on AECSP template and circulated to the IPC members for their agreement. Information gathered and verified at the workshop will be used for initiating a Comparative study on GRTKTCE. The workshop will be facilitated by the consultants. Speakers/resource people will be invited as deemed necessary.

Output 2: A Comparative Study of existing GRTKTCE legislation and approaches with recommendations for best practice model national policies and laws

A comparative study will be prepared, analysing the survey results, and the wealth of existing WIPO resources and studies and a desktop review conducted by the project consultants on other countries' (e.g. Australia, New Zealand, China, Brazil and India) intellectual property laws and practical measures addressing GRTKTCE. The Study will provide analysis of how different countries have used laws or measures to respond to their national policy considerations, including consultation mechanisms with Indigenous peoples. Information from the preliminary survey will also be used for the study.

Output 3: Regional Workshop on the Development of Relevant National Policies and Laws Related to GRTKTCE conducted

The Regional Workshop will tentatively be held over two days in one of the AMS countries. The workshop will be facilitated by the consultants. Other speakers/resource people will be invited as deemed necessary. The main discussion points of the workshop are:

1. To present the findings of the comparative study;
2. Presentation on compilation of best practices; and
3. Key considerations for possible model national policies and laws on IP-related aspects of GRTKTCE (this would include the key elements such as, but not limited to, prior and informed consent, access-benefit sharing, consultation mechanisms).

The targeted participants of both workshops (output 1 and output 3) would be three per Party: one representing the IP Office, one official responsible for GR and TK (from an agency that deals with environment, natural resources, agriculture, health, science or technology), and one representative from a government body or agency responsible for the indigenous community to handle traditional knowledge and TCE issues.

The following are the activities and tentative timeframes of the project:

| | Activity Milestone | Indicative Timeframe |
|----|---|-----------------------------|
| 1. | Inception Report to include the approaches and methodologies to achieve the objective by the Consultant | 13 March 2020 |
| 2. | Consultative Workshop on GRTKTCE Policy | Third week of April |

| | Activity Milestone | Indicative Timeframe |
|----|--|---------------------------------|
| | Considerations conducted | 2020 (date tbc) |
| 3. | Comparative study of existing GRTKTCE legislation and best practices with recommendations for draft national policies and laws | 17 July 2020 |
| 4. | Regional Workshop on the Development of Relevant National Policies and Laws Related to GRTKTCE conducted and Workshop Report submitted | August 2020 (date tbc) |

IV. EXPECTED DELIVERABLES

The list of expected deliverables of the consultants are as follows:

1. Inception report;
2. Consultative Workshop on GRTKTCE Policy Considerations conducted
 - a. Lead in the facilitation of the workshop, draft its agenda, preparation of materials and workshop report including findings from survey and synthesis session
 - b. Prepare surveys/assessments of the Parties on GRTKTCE
 - c. Workshop report
3. Draft and finalize the comparative study of existing GRTKTCE legislation and best practices with recommendations for draft national policies and laws, using survey results and desk research
4. Workshop on the Development of Relevant National Policies and Laws Related to GRTKTCE conducted:
 - a. Lead in the facilitation and presentation of the Regional Workshop, draft its agenda, preparation of materials and workshop report
 - b. Workshop report
 - c. Provide inputs to the Project Completion Report (PCR).

2.2 PROJECT REQUIREMENTS

CONSULTANT'S QUALIFICATIONS

| No. | Qualification | Weight |
|--------------|--|---------------|
| 1 | The consultants should be recognized experts in providing technical assistance and capacity building solutions related to intellectual property | 35 % |
| 2 | The consultants should have a minimum of 10 years experience in working on GRTKTCE related studies | 35% |
| 3 | The consultants should have demonstrated ability and experience in effectively facilitating group discussions and engaging positively and productively with various stakeholders, including government officials | 15% |
| 4 | The consultants should have previous experience or consulting work with ASEAN / AANZFTA Parties | 15% |
| Total | | 100% |

3 RFP REQUIREMENTS

3.1 PROPOSAL SUBMISSION INSTRUCTIONS

- a) Consultant must ensure that both Technical & Financial Proposals are received via email at the following address before the tender closing date **31 January 2020**
 AANZFTA Support Unit
 The ASEAN Secretariat
 Jakarta 12110, Indonesia
 Email: ecwp@asean.org
- b) All proposals must be submitted in English.
- c) Consultant should indicate the Title of the Tender at the subject of the email.
- d) The Technical and Finance Proposals must be submitted in two separate documents.
- e) Consultant must not include any financial/cost data in the Technical Proposal, but only in the Financial Proposal.
- f) The proposal should be concisely presented and structured, and should explain in detail the Consultant's availability, experience and resources to provide the requested services.
- g) Proposals that are incomplete or do not address the required criteria may not be considered in the review process.

3.2 RFP TERMS & CONDITIONS

3.2.1 Bid Expiration Date

Received proposals shall be valid until 30 April 2020

3.2.2 Implementation/Delivery Schedule

- a. Contract award will be decided by the Selection Committee comprised of Co-Chairs of the AANZFTA Intellectual Property Committee (IPC)
- b. Terms and reference of the contract will be negotiated by the ASEAN Secretariat.
- c. In carrying out his/her assignment, the consultant or consultant team will work closely with the ASEAN Secretariat and reporting process of the Consultant to the AANZFTA IPC through the ASEAN Secretariat
- d. The timeline for hiring and initial activities of the project will be as follows:

| Action | Deliverables | Indicative Timeline |
|--|--|-------------------------------------|
| Engagement of Consultant / Contracting | Agreed Special Service Agreement by the selected Consultant | January/February 2020 |
| Submission of the Inception Report | Inception Report | 13 March 2020 |
| Consultative Workshop on GRTKTCE Policy Considerations conducted | <ul style="list-style-type: none"> • Prepare surveys/assessments of the Parties on GRTKTCE Workshop facilitation; and • Agenda of workshop | Third week of April 2020 (date tbc) |

| Action | Deliverables | Indicative Timeline |
|--|--|--|
| | <ul style="list-style-type: none"> • Workshop materials • Lead in the facilitation of the workshop • Workshop report including findings from survey and synthesis session | |
| Submission of Comparative Study of existing GRTKTCE legislation and best practices with recommendations for draft national policies and laws | Final Comparative Study | 17 July 2020 |
| Regional Workshop on the Development of Relevant National Policies and Laws Related to GRTKTCE conducted | <ul style="list-style-type: none"> • Agenda of workshop • Workshop materials • Lead in the facilitation of the workshop • Workshop report • Inputs to the PCR | August 2020 (date of tbc) Workshop Report to be submitted two weeks after completion of workshop |

4 RESPONSE FORMAT (PROPOSAL FORMAT)

In conformance to the ASEAN Secretariat’s Financial Rules and Administrative Procedures (AFARP), the Consultant shall submit the applications in **two** separate documents, i.e., technical and financial components.

4.1 TECHNICAL PROPOSAL

The technical component should contain the following information:

- a. A brief discussion indicating the prospective Consultant’s understanding of the project’s purpose;
- b. A discussion of how the prospective Consultant proposes to approach the project including but not limited to methodology to undertake the assignment, list of possible reference materials and a work plan specifying the activities to be undertaken (including draft agenda or focused topics for workshop, travels per expert for each activity), an outline of the reports to be delivered, and schedule of activities, taking into account the targets to complete the undertaking;
- c. A brief summary of the prospective Consultant’s expertise and knowledge on GRTKTCE, highlighting experience in related work relevant to the project. (*Please provide links to any publications if available, or enclose selected publications in soft-copy in the application*);
- d. Brief discussion on the consultant’s or firm’s past experience in undertaking similar work and brief summary of projects undertaken;
- e. Names and curriculum vitae of associates, subcontractors, personnel or employees who will be engaged in the performance of services.
- f. Completed the attached Appendix 1 and 1a - Company General Information and List of

- Clients; and
- g. Other information to substantiate the capacity of applicants to undertake the project.

4.2 FINANCIAL PROPOSAL

Please complete submit the financial proposal, which shall include detailed cost estimates including a summary sheet indicating the unit prices; payments schedule, following Appendix 2 to this RfP.

The financial component should specify all direct and indirect costs, inclusive of applicable taxes, for undertaking the project, including but not limited to:

- Professional services fee for completing all deliverables in unit cost and the number of hours/days;
- Miscellaneous charges, if applicable

The cost of travels to support the proposed work program, as may be required and arranged by the ASEAN Secretariat, shall be borne by the Project Fund and based on actual costs.

Appendix 1
Company General Information
*To be submitted together in the **Technical Proposal***

| | | | |
|---|--|-----------------------|--|
| Company LEGAL Name: | | | |
| Division or Subsidiary (if applicable): | | | |
| Company Address: | | | |
| City: | | | |
| Province / State: | | | |
| Country: | | | |
| Postal Code: | | | |
| Telephone: | | | |
| Business Name Registration: | | | |
| Tax Registration Number: | | | |
| Valid Business Permit: | | | |
| Company Contact: | | Telephone no.: | |
| Title / Position: | | Fax no.: | |
| E-Mail: | | | |
| Indicate number of years involved in similar business | | | |
| Are you a subsidiary of a financial institution? *If Yes, Please indicate your Holding Company | | | |

Appendix 1a.
Customer Reference

To be submitted as part of the Technical Proposal

| Customer Details | |
|------------------|--|
| Company Name | |
| Company Address | |
| Telephone Number | |
| Fax Number | |
| Contact Name | |
| Project Title | |

| Customer Details | |
|------------------|--|
| Company Name | |
| Company Address | |
| Telephone Number | |
| Fax Number | |
| Contact Name | |
| Project Title | |

| Customer Details | |
|------------------|--|
| Company Name | |
| Company Address | |
| Telephone Number | |
| Fax Number | |
| Contact Name | |
| Project Title | |

APPENDIX 2
Price and Payment Schedule
To be submitted as part of the Financial Proposal

A. PRICE

Unit: USD or AUD

| No · | Description | Unit | Price (Total estimated cost) |
|--------------|--|-------------|------------------------------------|
| 1 | Professional Services | | |
| | --- Input days for each expected output | (# of days) | |
| 2 | Other expenses | | |
| | --- Item 1 | | |
| | --- Item 2 | | |
| TOTAL | | | |

B. PROPOSED PAYMENT SCHEDULE