



## Request for Proposal (RFP)

### TPT 01/2014A - International Ship and Port Facility Security (ISPS) Code Implementation Assistance Program (ICIAP)

#### Introduction

- A The APEC Secretariat is seeking proposals for the provision of the Works described in *RFP Schedule 1 – Statement of Requirement*.
- B Each Bidder to this RFP is expected to:
  - (i) fully inform themselves on all aspects of the work required to be performed;
  - (ii) submit its proposal on the template provided at *RFP Schedule 2 – Proposal*, including the signed Declaration by Bidder at the end of *Schedule 2*; and
  - (iii) submit its proposal in accordance with *RFP Schedule 1 – Statement of Requirement* and with due note of *RFP Schedule 5 – Evaluation Criteria*.
- C Each Bidder, by submitting its proposal, agrees that the proposal is subject to the RFP Schedule 4 – Standard Conditions of Proposal, and agrees to comply with those conditions. Acceptance of a proposal will occur only when a contract is executed. Any Contract will incorporate the APEC policies and guidelines identified in RFP Schedule 3 - Special Conditions of Proposal and the contract at RFP Schedule 6 - Standard Contract Conditions.
- D Bids from contractors based in non-member economies and bids from international organisations may be considered. However, priority is given to suitably qualified tenders from member economies.

## Structure of the RFP

The RFP has six parts:

- Schedule 1: Statement of Requirement
- Schedule 2: Proposal Template
- Schedule 3: Special Conditions of Project Proposal
- Schedule 4: Standard Conditions of Request for Proposal
- Schedule 5: Evaluation Criteria
- Schedule 6: APEC Standard Contract Conditions

### RFP Schedule 1 – Statement of Requirement

#### Key Dates and Details

Event	Dates
Closing Time for submission of Proposals	<b>8 September 2014, 1700hrs Singapore Time</b>
Method to Submit Proposal	<p>Proposals must be submitted to:</p> <p>Mr Alexey Sapetko Director (Program) APEC Secretariat 35 Heng Mui Keng Terrace, Singapore 119616 Email address: as@apec.org; ltsy@apec.org</p> <p>with a copy to the Project Overseer, Prof. Thomas Kalisz at tk9427@yahoo.com</p> <p>(PROPOSAL: Project No. TPT 01/2014A)</p> <p>by the closing time specified above.</p> <p>Proposals lodged in any manner other than as detailed in this paragraph, or are submitted after the deadline shall be deemed to be invalid and may be excluded from consideration.</p>
Number of Copies to be Submitted	<p>The Bidder shall submit <b>one original</b> hard copy and one electronic version (in PDF format) of its detailed Proposal.</p> <p>Decisions will be taken on the basis of the original hard copy written Proposal. In the event of any discrepancy between the original and copy thereof, information contained in the</p>

	original hard copy shall be accepted as correct and shall prevail over any statements contained in the copies.
Contact Officer	Project Overseer Prof. Thomas Kalisz Email: tk9427@yahoo.com
Expected execution date of Contract	October 2014
Date Works are to be completed	The Works are required to be completed on or before 30 November 2015, 30 days prior to the expiration of TPT 01/2014A.

### **The Works**

The APEC Secretariat is seeking proposals for **the International Ship and Port Facility Security (ISPS) Code Implementation Assistance Program Advanced Drill and Exercise Workshops (ADEW) and Self Assessment Auditor Training Workshops (SATW).**

### **Background**

This project will support the ongoing activities of the Maritime Security Sub-Group's International Ship and Port Facility Security (ISPS) Code Implementation Assistance Program (ICIAP). The ICIAP aims to assist APEC Economies develop the capacity required to effectively implement the ISPS Code. The program scope encompasses a transfer of knowledge, lessons learned and best practices related to the implementation of the ISPS Code by subject matter experts located in APEC Economies.

Each workshop specifically seeks to improve the capacity of APEC Economies in implementing the ISPS Code as detailed in the key objectives utilizing specific project outputs and methodology tailored specifically to APEC Economies with a focus on developing Economies. Workshops target government and port managers who are in a position to directly implement the results of the ADEW and S Workshops.

The ICIAP was developed by MEG-SEC and directly responds to APEC's stated goal of creating an environment for the secure and efficient movement of goods, services and people. It was officially launched at the 12<sup>th</sup> APEC Leaders' Meeting in November 2004 in Santiago, Chile. To date, the ICIAP has received funding grants in excess of \$600,000 from the United States Trade and Development Agency, the Government of Canada and APEC itself.

Under the rubric of the ICIAP, MEG-SEC has advanced a number of notable projects, including the Port Security Visit Program and workshops on the use of the APEC Manual of Maritime Security Drills and Exercises. Both initiatives were noted in the Joint Transportation Ministerial Statement released at the conclusion of the 6<sup>th</sup> APEC Transportation Ministerial Meeting (Manila, the Philippines, 27-29 April, 2009). Transportation Ministers expressed their strong support for the ICIAP, illustrating the success of the Program to date and its level of importance in the Asia-Pacific region.

This project is directly aligned with a number of other priorities detailed by APEC Leaders and Ministers including trade facilitation, information exchange among member Economies, and counter-terrorism. These priorities are reflected in the following excerpts of the Joint Transportation Ministerial Statement 2009 and 2008 Leaders' Declaration.

## **Objectives of the project**

### Advanced Drill and Exercise Workshop (ADEW)

The key objective of the ADEW is to assist member Economies in developing comprehensive Drill and Exercise curriculum combined with functional exercise templates focused on conducting port security exercise scenarios to mitigate identified critical infrastructure risks within their ports. The ADEW imparts both theoretical knowledge and practice necessary to develop a well honed and efficient response to an external threat to a port or port facilities ability to operate. The ADEW also provides the Economy the ability to evaluate potential risk mitigation measures, determine which ones will reduce risk to an acceptable level by an Economy, and apply a level of mitigation response ensuring the uninterrupted flow of maritime commerce and continued functionality of port operations thereby reducing the economic impact and the amount of disruption to the port a crisis would cause. The selected students include port security officials and managers and is intended to provide instruction in the development and execution of a Drill and Exercise Program allowing participants to become trainers in establishing the ADEW at a national level within their Economy.

### Self Assessment Trainer Workshop (SATW)

The key objective of the SATW is to strengthen the technical capability of port security officials and managers by delivering a range of comprehensive maritime self assessment practices combined with a scoring tool that would allow port security officials and managers the ability to standardize the process of self assessing port facility implementation of Port Facility Security Plans (PSFPs) to meet government requirements and satisfy compliance of the International Maritime Organization's (IMOs), International Ship and Port Facility Security (ISPS) Code.

The PSRAT and SATW workshops were developed to address recommendations from previous PSVP Economy visits to further improve ISPS Code implementation within APEC Economies with a specific focus on developing Economies. Discussion at the most recent TPT-WG strongly endorsed offering these two programs as effective ICIAP capacity building resources demonstrated by successful results of pilot workshops self-funded by MEG-SEC member Economies.

## **Scope of Works**

### Advanced Drill and Exercise Workshop (ADEW)

The four day ADEW tabletop workshop provides students:

- Simplified planning processes for drills and exercises.
- Integration of current exercises which were too detached with only single threat scenarios into exercises with a more current and varied threat scenario to enhance realism.
- Updated pre-planned drills & exercises to address port facilities security threats inclusion of various International Maritime Organization (IMO) Maritime Safety Committee (MSC) updates since the promulgation of the first edition of APEC D/E Manual in 2008.
- New good practices suggested from previous workshops leading to execution of full-scale live exercises.
- Senior management instructions for planning and conducting maritime security drills and exercises.

A practiced and prompt response to a security incident reduces risk thereby providing the greatest return on investment, establishes security measures providing a more robust layered security regime to economies and owners and operators of the critical infrastructure, and provides an economy with data for developing port wide response plans by identifying critical infrastructure in ports that require a practiced response while creating strong multi-sector connectivity and communication among a range of stakeholders. ADEW workshops develop capacity to effectively increase maritime security within an economy and also build capacity between the world-wide maritime community to jointly address and reduce terrorism and other security threats to a country's maritime infrastructure.

#### Self Assessment Trainer Workshop (SATW)

The four day SATW employs theoretical lessons, presentations on audit processes and techniques, and a port facility visit. The identified contractor will ensure each workshop achieves its goals by:

- Achieving greater consistency in ISPS Code implementation practices and progress;
- Achieving a systematic review of a participating economies ISPS Code implementation;
- Allow an economy to implement standardized self assessment procedures for a uniform implementation of the ISPS Code;
- Promote a common understanding of maritime security issues; and
- Strengthen cooperative relationships;
- Develop and oversee a Practical Port Auditor Exercise as a course Capstone for all workshop students.

It should be noted that funding provides for one contractor to complete the Scope of Work. The identified contractor will work with the Project Overseer who will serve as a co-instructor and review all curriculums in advance. Course curriculum will be retained by APEC MEG-SEC to include all power points and workshop material.

Further, the contractor will be responsible for payment of host location, when applicable, and submit the expense for payment per applicable APEC policy.

#### **Expected Outputs and Timelines**

#	Deliverable	Format	Quantity	Due Date
1	Deadline for submission of proposal	According to RFP requirements	1 hard copy 1 electronic copy	1700 hrs, 8 September 2014
2	Proposal evaluation and selection by a panel of representatives from APEC Member Economies	Not applicable	-	12 September 2014
3	Negotiation of contract details between the APEC Secretariat and the successful Bidder	According to APEC Standard Contract Conditions	2 originals	Week of 15 September 2014
4	Conduct 4 ADEW and 2 SATW Workshops in conjunction with the PO. All course work including powerpoints and instructional material is due 2 weeks prior	<i>Electronic and paper as required</i>	1	2 weeks prior to each workshop commencement.

	to course commencement for PO approval and review. All course work will remain the property of APEC and must NOT contain any contract company logos.			
5	Submission of Workshop report and invoice for payment	<i>Electronic</i>		Within 2 weeks after completion of each workshop.
6	Final Completion Report (using Appendix H of the APEC Guidebook on APEC Projects) and submission of ALL reimbursable requests.	According to APEC Standard Contract Conditions	1 Original	30 days prior to end of Contract.

### Duties of Selected Contractor

In consultation with the MEG-SEC Workgroup the successful bidder will complete all deliverables described in the Scope of Work according to the timeline noted in the Deliverable section. The Contractor will work with the Project Overseer on all aspects of the Contract.

### Reporting and Coordination Arrangements

The selected Contractor will be required to liaise closely and work in collaboration with a Project Overseer in performing the Works in the Contract. The selected Contractor will keep the Project Overseer informed of progress of the Work, timelines and budget. The Project Overseer is identified in Schedule 1. The International Maritime Organization (IMO) is co-funding this project; accordingly, the Project Overseer will work closely with the Maritime Security Chief of the IMO to ensure alignment of the scope of work identified herein.

### Milestones and Terms of Payment

#	Milestone Deliverable	Due Date	Means of Verification	Payment Schedule (US\$ inclusive of tax)
1	Completion of each ADEW or SATW (workshops 1-5) including all receipts and Workshop completion report.	2 weeks after completion	Subject to the certification from the Project Overseer	US\$ 8,000 (per workshop for 5 workshops)
2	Completion of the final ADEW or SATW (workshop 6) and Final Project Completion Report (using Appendix H of the APEC Guidebook on APEC Projects) including ALL receipts	30 days prior to expiration of contract	Subject to the certification from the Project Overseer	US\$ 8,000
	<b>Total Value (including Tax)</b>			<b>US\$ 48,000</b>

### Qualifications of Bidder

The Bidder will need to supply evidence of ability and experience to undertake the specified objectives/duties in this Request for Proposal, and explain their approach to the Works including:

- E.g.: *evidence of a breadth and depth of knowledge of risk mitigation and port specific ISPS Code assessment and auditor experience;*
- *demonstrated experience and expertise in undertaking similar consultancy services in the Maritime sector of APEC Member Economies;*
- *evidence of the capacity to deliver high quality products on time and within budget;*
- *proven analytical, research and plain English report writing skills; and*
- *expertise to instruct PSRAT specific risk mitigation utilizing the APEC PSRAT program software.*

## Budget

<b><u>All Figures in USD</u></b>	<b># of Units</b>	<b>Unit Rate</b>	<b>APEC Funding</b>	<b>Self-Funding</b>	<b>Notes</b>
<b>Direct Labour</b>					
Translator's fees	(# of pages)	4,000 per event		24000	PO has confirmed the IMO will fund applicable translator costs.
Contractor (including Contractor's Secretarial and Researchers') fees	(# of hours)	8,000 / workshop	48,000	0	One contractor will be hired to assist the PO in implementing the project. This is a 65% cost savings by reducing the contractor from two to one persons.
<b>Travel (Speaker, Experts, Researchers)</b>					
Per diem (incl. accommodation and "75% additional payment")	(# of persons and days)				(location of event)
Airfare	(# of persons and trips)			80000	The IMO will fund the Contractor, PO, and IMO reps airfare and associated per diem.
<b>Other items</b>					
Publication/distribution of report	(# of copies)	100 / workshop	600	0	
Hosting (provide breakdown, e.g., room rental, stationery)	(units as appropriate)	4000 / workshop	24,000	0	
<b>Total:</b>			<b>72,600</b>	<b>104,000</b>	

A budget of up to **US\$ 72,600** under APEC Funding is available for a selected Contractor to complete the identified deliverables. The Bidder is required to prepare a detailed itemised budget in submitting their proposal, including:

- Contractor costs, including consultancy fees and administrative support charges, with unit cost and the number of hours/days proposed to be devoted to the project.

***The selected contractor's travel and per diem will be funded by the International Maritime Organization in line with their regulations and policies.***



## RFP Schedule 2 – Proposal Template

Instructions to assist Bidders to complete their proposal have been included as white text on a black background.

### Instruction to Bidders:

Ensure your response covers off on the evaluation criteria identified in Schedule 5 - Evaluation Criteria.

### **Bidder's Details**

Full legal name and postal address:

Business registration number (if applicable):

### ***Contact Officer***

For all matters relating to this RFP, the Bidder's Contact Officer will be:

Name/position title:

Telephone

Mobile:

Email:

### ***Contract Manager***

#### Instruction to Bidders:

Bidders should provide the requested details of the person who is the Bidder's proposed Contract Manager, responsible for general liaison and accepting and issuing any written notices under the contract, if a contract is awarded.

Name/position title:

Telephone:

Mobile:

Email:

### **Bidder's Proposal**

#### Instruction to Bidders:

Bidders should describe how they will meet the requirements set out in Schedule 1. Include Method and Work plan.

### **Proven Capacity**

#### ***Statement of Skills and Experience***

##### Instruction to Bidders:

Bidders should provide evidence of their skills and experience in providing the Works. Give evidence of why you/your company/your team members are most capable to deliver the Works. Ensure this responds to the requirements of this project, identified in Schedule 1 "the Works".

#### ***Specified Personnel***

##### Instruction to Bidders:

List who will do what. Attach CVs where appropriate. Note that any fees shown in this table form part of the pricing itemised budget below – they are not additional. If no Specified Personnel insert "Not applicable".

Name	Position/Role	Rate (\$USD, inclusive of taxes)	Anticipated Time	Total for Person
<b>Total (inclusive of tax)</b>				<b>\$USD</b>

### ***Subcontractors***

**Instruction to Bidders:**

Bidders must provide (in the form of the table below) details of any subcontractors that the Bidder proposes to engage to deliver the Works and an explanation for using subcontractors. If no subcontractors will be used insert "Not applicable".

Proposed subcontractor (full legal name)	Scope of works to be subcontracted and technical significance	Fees and associated expenses (inclusive of tax)

### **Pricing**

#### ***1. Itemised budget (all pricing must be inclusive of taxes)***

**Instruction to Bidders:**

Prepare a detailed itemised budget in your proposal, including specification of:

- Consultancy fees and administrative support charges, with unit cost and the number of hours/days proposed to be devoted to the project;

If there are reimbursable items in your proposal (if stated in the RFP Schedule 1), refer to the Guidebook on APEC Projects that sets out guidelines for reimbursable items.

### **Conflict of Interest**

**Instruction to Bidders:**

This is a mandatory field, a response is required. If there is no conflict of interest then state that. If a real or perceived conflict of interest exists with the submission of a proposal, or would exist if the Bidder entered into a contract with the APEC Secretariat for the Works in this proposal, full details should be included here. Detail a plan to manage the conflict of interest.

### **Standards and Best Practice**

**Instruction to Bidders:**

If there was a requirement in Schedule 1, you must respond here.

***Bidders must complete and sign a Declaration in the form presented below.***

### **Declaration by Bidder**

The Bidder proposes to provide the Works described in *Schedule 1* to the RFP (*Statement of Requirement*) on the following terms:

- the RFP Schedule 1 - Statement of Requirement;
- the proposal is submitted according to Schedule 2 – Proposal Template;
- the RFP Schedule 3 – Special Conditions of Proposal;
- the RFP Schedule 4 - Standard Conditions of Request for Proposal; and
- the APEC Standard Contract Conditions described at RFP Schedule 6.

These documents collectively comprise the Bidder's "**Proposal**".

### **The Proposal**

The Bidder agrees to enter into a contract to provide the Works in accordance with its Proposal in the form of the *Standard Contract* at Schedule 6 of this RFP which incorporates by reference APEC Terms and Conditions of Contract, and in accordance with APEC Guidelines referenced in RFP Schedule 3.

The Bidder agrees that the APEC Secretariat may accept or decline the Bidder's Proposal at its discretion. No commitment or contract exists until a contract in the form of the *Standard Contract* is executed by both parties.

The Bidder agrees that participation in any stage of the RFP process is at the Bidder's sole risk and cost.

### **Conflict of Interest**

At the time of submitting a proposal, the Bidder agrees there is no conflict of interest (real or perceived) unless specifically and clearly identified in their proposal (see Schedule 2, under heading Additional Information) with a recommended plan to manage the conflict of interest.

The Bidder agrees to notify the APEC Secretariat immediately if an actual or potential conflict of interest arises.

..... Signatory's printed name:	..... Signatory's signature:
..... Signatory's Position	..... Date
..... Signatory's Phone Number	..... Signatory's Email Address

<b>RFP Schedule 3 – Special Conditions of Proposal</b>
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1. APEC POLICIES

Bidders should familiarise themselves with APEC Policies, Guidebooks and Guidelines as they are all applicable to the management and delivery of APEC projects:

- (a) Guidebook on APEC Projects;
- (b) APEC Logo Guidelines; and
- (c) APEC Publications Guidelines.

These Policies describe APEC's approach to contracting activities, expectations of team members and contractors, and state specific requirements for use of APEC logo, branding and APEC nomenclature and other publishing requirements. Bidders are encouraged to access and inform themselves of this set of guidelines which are available on APEC's internet site at <http://www.apec.org/About-Us/About-APEC/Policies-and-Procedures.aspx>

## **RFP Schedule 4 – Standard Conditions of Request for Proposal**

### **1. GENERAL**

Bidders should submit proposals in the format provided at RFP Schedule 2 – Proposal Template, in response to the requirements stated in RFP Schedule 1. Proposals must be provided in English and with prices quoted in United States of America Dollars.

### **2. APEC SECRETARIAT'S RIGHT TO DECLINE**

The APEC Secretariat, at its discretion, may discontinue the RFP; decline to accept any proposal; decline to issue any contract; or satisfy its requirement separately from the RFP process.

### **3. CHANGES TO REQUEST FOR PROPOSALS**

The APEC Secretariat may, at its discretion, vary the Request for Proposals before the Closing Time. Changes will be posted on the APEC website as a Revision, beside the original RFP. The Bidder is encouraged to regularly monitor the APEC website to ensure they access any Revisions that may be released.

### **4. CONTRACT**

If the Proposal of the Bidder is accepted by the APEC Secretariat, the Bidder shall execute a contract in a standard form ("the Contract") within the time period specified by the APEC Secretariat. See Standard Contract Conditions at RFP Schedule 6, which will form part of the Contract.

### **5. LODGEMENT**

5.1 All documentation submitted as part of the Proposal must be in English.

5.2 Bidders are required to include all information specified in this RFP in their Proposal. Bidders accept that their failure to provide all information required, in the format specified may result in their Proposal being considered as a non-conforming Proposal and liable to rejection.

### **6. EVALUATION OF PROPOSALS**

6.1 The evaluation panel will evaluate proposals to determine best value for money outcome. The panel will consist of members appointed at the APEC Secretariat's discretion.

6.2 The criteria for evaluation will be assessed according to the criteria outlined at Schedule 5 - Evaluation Criteria:

### **7. FINANCIAL INFORMATION**

7.1 If requested by APEC Secretariat, the Bidder must be able to demonstrate its financial stability and its ability to remain viable as a provider of the Works over the term of any agreement.

### **8. REFERENCES**

As part of the evaluation of proposal process, the APEC Secretariat, at its discretion, may request from the Bidder information on past projects/experience claimed in the Bidder's proposal, including contact details for referees.

### **9. NO CONTRACT OR UNDERTAKING**

Nothing in this RFP will be construed to create any binding contract (express or implied) between APEC Secretariat and any Bidder until a written Contract, if any, is entered into by the parties.

## 10. BIDDERS ACKNOWLEDGEMENT

10.1.1 The Bidder acknowledges by lodging a Proposal that it accepts the terms of this RFP Standard Conditions of Request for Proposal, the Special Conditions of Proposal and the APEC Standard Contract Conditions.

10.1.2 A Proposal is submitted on the basis that the Bidder:

- (a) has examined this RFP and any other documents referenced or referred to herein, and any other information made available in writing by APEC Secretariat to Bidders for the purposes of submitting a Proposal; and
- (b) has sought and examined all necessary information which is obtainable by making reasonable enquiries relevant to the risks, contingencies and other circumstances having effect on its Proposal.

## 11. CONFLICT OF INTEREST

11.1 Conflict of interest can be defined as any situation in which an individual or organisation is in a position to exploit his/her professional or official capacity in some way for personal or corporate benefit.

11.2 Bidders must identify in their Declaration by Bidder:

- (a) any actual or potential conflict of interest; and
- (b) the procedures they intend to implement for dealing with, any actual or potential conflicts of interest,

which may arise in connection with the submission of their Proposal or the conduct of the Works in a Contract, as described in this RFP. Bidders should include details of any known circumstances that may give rise to either an actual or potential conflict of interest in relation to the project.

11.3 Bidders must notify the APEC Secretariat immediately if any actual, potential or perceived conflict of interest arises after submission of a proposal (a perceived conflict of interest is one in which a reasonable person would think that the person's judgement and/or actions are likely to be compromised).

11.4 If any actual or potential conflicts of interest arise for a Bidder, the APEC Secretariat may:

- (a) enter into discussions to seek to resolve such conflict of interest;
- (b) disregard the Proposal submitted by such a Bidder; or
- (c) take any other action that APEC considers appropriate.

## 12. INSURANCE

The Bidder must ensure that it and its subcontractors maintain insurance policies relevant to the delivery of Works identified in this RFP, in the event that the Bidder is awarded the contract.

## 13. CLARIFICATION

APEC reserves the right to seek clarification or additional information from any Bidder related to their proposal.

**EVALUATION CRITERIA**

1. The Evaluation Criteria detailed in this clause apply to this Proposal, and the Bidder's response to them:

(a) **THE ORGANISATION:**

*Demonstrated ability to provide adequate management and support to deliver the Works. Bidder's demonstrated experience in previous similar projects and quality of work. Could include experience of personnel nominated to provide the services.*

(b) **APPROACH TO THE WORKS:**

*Demonstrated appreciation of the key issues and risks to achieve the Work's objectives.  
Appropriate methodology and work plan to fulfil the objectives of the Works in the specified timeframes.*

(c) **ANALYTICAL AND RESEARCH SKILLS:**

*Proven analytical and research skills in past projects.*

(d) **EXPERIENCE WITH APEC ECONOMIES**

*Demonstrated experience working in Maritime Sector with APEC Economies focusing on ISPS Code implementation, port security, and risk modelling.*

(e) **PROPOSAL COST:**

*Appropriate qualifications, experience and skills of personnel and team balance to implement the Works.*

***Ability to provide contractors located regionally in the Americas and Asia to reduce the cost of trans-atlantic/pacific travel.***

## RFP Schedule 6 – APEC Standard Contract Conditions

THE APEC SECRETARIAT AND THE CONTRACTOR AGREE TO THE FOLLOWING:

### PART A

#### 1. PARTIES

1.1. The Parties to this contract are the APEC Secretariat and the Contractor.

#### 2. PAYMENT

- 2.1. Subject to the satisfactory completion of the Work, the APEC Secretariat will pay the Contractor up to US\$48,000 (United States Dollars Forty-Eight Thousand Dollars). Any payment is inclusive of any Goods and Services Tax (GST) and bank charges levied by the Contractor's agent and/or beneficiary banks for remittances made to the Contractor's bank account.
- 2.2. The APEC Secretariat must make payment on Consultancy Fees according to the following schedule and/or as soon as practicable after approving the milestone and receiving the appropriate invoices and accompanying supporting documentation from the Contractor:

#	Milestone Deliverable	Due Date	Means of Verification	Payment Schedule (US\$ inclusive of tax)
1	Completion of each ADEW or SATW (workshops 1-5) including all receipts and Workshop completion report.	2 weeks after completion	Subject to the certification from the Project Overseer	US\$ 8,000 (per workshop for 5 workshops)
2	Completion of the final ADEW or SATW (workshop 6) and Final Project Completion Report (using Appendix H of the APEC Guidebook on APEC Projects) including ALL receipts	30 days prior to expiration of contract	Subject to the certification from the Project Overseer	US\$ 8,000
<b>Total Value (including Tax)</b>				<b>US\$ 48,000</b>

#### 3. INVOICES

3.1. The Contractor must submit invoices to the APEC Secretariat to claim payment for Milestones and approved Reimbursement cost items. Original or electronic copies of the invoices may be submitted. The invoices must be accompanied by all supporting documentation as set forth in the Guidebook on APEC Projects (the Guidebook) as varied from time to time.

3.2. Invoices shall include the following information:

- (a) full name and number of project;
- (b) name of Contractor;



- (c) invoice date and invoice number;
- (d) description of services provided and associated dates;
- (e) charges and payments for previous invoices;
- (f) charges for billing period;
- (g) detailed banking instruction which includes the bank name, branch name, bank SWIFT code, account holder's name and number;
- (h) billing by company/organisation rather than individual requires the official letter head of the company/organization;
- (i) a signed statement by the Contractor that the services have been performed in accordance with the terms and conditions of this contract, and the costs being billed are true and correct and have not been previously paid; and
- (j) the invoice should be accompanied by an endorsement by the Project Overseer that the services have been satisfactorily completed.

#### 4. COMPLETION DATE

- 4.1. The Contractor must complete the Work by **30 days prior to project expiration..**

#### 5. AUTHORISED REPRESENTATIVE

- 5.1. The APEC Secretariat may authorise representative(s) to instruct and provide clarification to the Contractor in performing the Work.

#### 6. APEC SPECIFIC POLICIES AND PROCEDURES

- 6.1. The Contractor will complete the Works in accordance with the requirements of the APEC Publication Guidelines, APEC Logo Guidelines and the Guidebook on APEC Projects, as found at <http://www.apec.org/en/About-Us/About-APEC/Policies-and-Procedures.aspx>

#### 7. EXAMINATION OF RECORDS

- 7.1. Upon request, the Contractor must provide the APEC Secretariat or its designated representative with access to materials relevant to the Contract, including the following:
- 7.1.1. electronic documents;
  - 7.1.2. books;
  - 7.1.3. documents;
  - 7.1.4. papers; and
  - 7.1.5. other records which document transactions related to the Contract.
- 7.2. The Contractor's obligation to provide access commences from the date on which the Contract is made and continues for a period of three (3) years following the completion of the Work.

#### 8. ASSIGNMENT

- 8.1. The Contract is intended to cover a relationship between the Parties only. The Contractor must not transfer (i.e. assign) the Contract or any interest or benefit arising out of, or in connection with, the Contract to another person or company without the prior written approval of the APEC Secretariat.

## 9. CHANGES TO CONTRACT

- 9.1. The APEC Secretariat and the Contractor may change (i.e. vary) the terms of the Contract by written agreement only.

## 10. CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE

- 10.1. If the Contractor, its employees, agents or contractors cause damage during the performance of the Contract, the Contractor will bear all liability on behalf of the APEC Secretariat. If someone makes a claim against the APEC Secretariat for damage caused by the Contractor, its employees, agents or contractors, the Contractor must indemnify and reimburse the APEC Secretariat for any costs it has incurred (including actual legal costs on a full indemnity basis).

## 11. DEFAULT

- 11.1. A Default is anything the APEC Secretariat considers to be a significant breach of the Contract including:

- 11.1.1.failure to perform an obligation under the Contract within the agreed time; or
- 11.1.2.failure to deliver outputs of satisfactory capability, quality or reliability.

- 11.2. In the event of a Default by the Contractor, the APEC Secretariat may write to the Contractor setting out the Default and the time by when the Contractor must fix it. If the Contractor fails to fix the Default within the time specified, the APEC Secretariat may immediately terminate the Contract by issuing a written Notice of Termination to the Contractor.

- 11.3. Termination under this clause does not affect the rights and/or remedies either party may have accumulated up to the date of termination including the rights and/or remedies the APEC Secretariat may have in relation to the Default.

## 12. RIGHTS IN DATA

- 12.1. If intellectual property or confidential information is required to enable the Contractor to provide the Work, the Contractor shall be solely responsible for obtaining approvals for the use of any intellectual property and/or confidential information that belongs to anyone else (i.e. third parties).

- 12.2. The APEC Secretariat shall own all intellectual property and confidential information that it creates in relation to the Work. The APEC Secretariat shall own all intellectual property and confidential information that the Contractor creates as a result of performing the Work. In particular, the APEC Secretariat shall own the following:

- 12.2.1.all data resulting from performance of the Contract, regardless of its form, format, or media;
- 12.2.2.all data (other than that owned by third parties) used in performing the Contract regardless of its form, format, or media;
- 12.2.3.all data delivered under the Contract making up manuals or instructional and training materials;
- 12.2.4.all processes provided for use under the Contract; and
- 12.2.5.all any other data delivered under the Contract.

12.3. If the Contractor wishes to use the intellectual property and/or confidential information (mentioned in clause 12.2 above) for purposes that are not in relation to the performance of the Work, it must obtain prior written consent from the APEC Secretariat.

12.4. The Contractor consents to the APEC Secretariat's use of the Contractor's own intellectual property and/or confidential information if the APEC Secretariat requires the Contractor's own intellectual property and/or confidential information to use the Work.

12.5. The Contractor must protect all intellectual property and/or confidential information belonging to the APEC Secretariat vigorously to the extent permissible by law. If the Contractor has a reasonable suspicion that there has been any event that infringes the rights of the APEC Secretariat in relation to its intellectual property and/or confidential information, it will inform the APEC Secretariat immediately.

### 13. SUSPENSION OF WORK

13.1. The APEC Secretariat may, at any time, give a written order to the Contractor, suspending all, or part, of the Work. The APEC Secretariat has full and sole discretion to decide the length of the suspension. Upon receiving the order, the Contractor must immediately comply with its terms and take all steps necessary to minimize any and all costs resulting from the suspension. The APEC Secretariat and the Contractor must negotiate any adjustment to the price and/or schedule for completing the Work, which may result from the suspension.

### 14. TERMINATION BY THE APEC SECRETARIAT

14.1. The APEC Secretariat may terminate this Contract, in whole or in part, by issuing a written Notice of Termination. The APEC Secretariat may terminate this Contract without giving any reasons. If this Contract is terminated, the APEC Secretariat and the Contractor must negotiate the rights, duties, and obligations of the parties, including but not limited to compensation to the Contractor and/or the APEC Secretariat. Any compensation to the Contractor must not exceed the total value of the Contract, which is set out in clause 2.1.

14.2. Upon receiving a Notice of Termination, the Contractor must immediately stop work as specified in the notice, except if directed otherwise by the APEC Secretariat.

14.3. After termination, the Contractor must submit a final termination settlement proposal to the APEC Secretariat. The settlement proposal must include a certification from the Project Overseer of the actual costs the Contractor has incurred.

14.4. If the Contractor fails to submit the termination settlement proposal within seven (7) days from the date of the Notice of Termination, the APEC Secretariat may determine the amount, if any, due to the Contractor following the termination.

### 15. LANGUAGE AND NOMENCLATURE

15.1. All of the Work, including any drawings, documents, information, correspondence, test reports and similar items must:

- 15.1.1.be in the English language; and
- 15.1.2.comply with the nomenclature requirements set out in the APEC Publications Guidelines at <http://www.apec.org/en/About-Us/About-APEC/Policies-and-Procedures.aspx>

## 16. INTERPRETATION

- 16.1. Should a dispute about the meaning of any term in the Contract arise, the APEC Secretariat may make a written determination as to the term's meaning. A written determination made under this clause shall be final and conclusive between the Parties.

## 17. GOVERNING LAW

- 17.1. The laws of the Republic of Singapore govern this Contract. The Parties to the Contract agree to submit to the non-exclusive jurisdiction of the Courts of the Republic of Singapore.

## 18. COMMUNICATIONS

- 18.1. All communications relating to this Contract must be in writing and may be delivered:

- 18.1.1.personally;
- 18.1.1.by prepaid registered post with recorded delivery to one of the addresses listed at the beginning of this Contract (as relevant); or
- 18.1.2.by email.

## 19. ENTIRE AGREEMENT

- 19.1. This Contract is the entire agreement between the APEC Secretariat and the Contractor in relation to the matters set out in this Contract. No other terms and conditions may be included or implied. Any warranty, representation, guarantee or other term or condition not contained in this Contract has no effect.

## 20. ILLEGALITY AND SEVERABILITY

- 20.1. A term of this Contract that is, or becomes invalid, illegal or unenforceable in any way, may not in any way affect any other term of this Contract.

## 21. WAIVER

- 21.1. A Party's failure, delay or relaxation in exercising any power or right it has under this Contract does not mean that the Party has given up (i.e. waived) that power or right.

- 21.2. A Party exercising a power or right does not stop it from:

- 21.2.1.further exercising that power or right; or
- 21.2.2.exercising any other power or right under this Contract.

## 22. REASONABLENESS

- 22.1. The Contractor confirms it has had the opportunity to receive independent legal advice relating to all the matters relating to this Contract.
- 22.2. The Contractor agrees that, having considered the terms of this Contract as a whole, the terms of this Contract are fair and reasonable.

## 23. PARTNERSHIP

- 23.1. This contract does not create a partnership between the APEC Secretariat and the Contractor.

## 24. FORCE MAJEURE

- 24.1. A Force Majeure Event is any event which is beyond the reasonable control of the Contractor or the APEC Secretariat and which makes it impossible to perform an obligation under this contract, including the following:

- 24.1.1. acts of God, lightning strikes, earthquakes, volcano eruptions, floods, storms, explosions, fires, pandemics and any natural disaster;
- 24.1.2. acts of war (whether declared or not), invasion, acts of foreign enemies, mobilisation, requisition, or embargo;
- 24.1.3. acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution, military usurped power, or civil war; or
- 24.1.4. contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosion, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly.

- 24.2. A Party that does not perform an obligation under this contract shall not be in breach to the extent that a Force Majeure Event caused the non-performance.

- 24.3. Where the Contractor thinks there is likely to be a delay in performing an obligation under this Contract because of a Force Majeure Event the Contractor must:

- 24.3.1. immediately notify the APEC Secretariat in writing of:
  - 24.3.1.1. the likely delay and how long they think it will last; and
  - 24.3.1.2. details of the likely effect on the Work and the Contractor's ability to perform the Contract;
- 24.3.2. take all reasonable steps to lessen (i.e. mitigate) the effects of any delay; and
- 24.3.3. use its best efforts to continue to perform its obligations under the Contract.

- 24.4. The APEC Secretariat and the Contractor shall, as soon as practicable after receiving the notification, discuss whether the Contract can continue. If, following that discussion, the APEC Secretariat and the Contractor agree that the Contract can continue they may:

- 24.4.1. continue the Contract unchanged; or
- 24.4.2. change the Contract using the process in clause 9.

- 24.5. Nothing in this clause limits the APEC Secretariat's ability to suspend or terminate the Contract under clause 13 or clause 14.

25. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT - SINGAPORE

25.1. A person who is not a party to this Contract has no right under the Contracts (Rights of Third Parties) Act Chapter 53B to enforce any terms of this Contract.

26. PROVISION OF WORK

26.1. The Contractor must provide the Works to the APEC Secretariat on the delivery dates identified in the Contract. The Contractor must promptly notify the APEC Secretariat if the Contractor becomes aware that it will be unable to provide all or part of the Works by the relevant delivery date and advise APEC Secretariat as to when it will be able to do so.

26.2. The Works must be provided to the standard that would be expected of an experienced and professional supplier of similar Works and any other standard specified in the Contract.

26.3. The Contractor and its staff or sub-contractors shall not by virtue of this Contract be, or for any purpose be deemed to be, and must not represent itself as being, an employee, partner or agent of APEC Secretariat.