



NEPAL ELECTRICITY AUTHORITY

(A Government of Nepal Undertaking)
Engineering Services Directorate

Dudhkoshi Storage Hydroelectric Project

Request for Expressions of Interest (EOI)

For

An Individual National Consultant

(Date of First Publication: 21 March 2023)

1. **Government of Nepal (GoN)** has received the grant (Grant Number 0361-NEP: PPF) from Asian Development Bank (ADB) and GoN has provided a portion of the Grant to Nepal Electricity Authority (NEA) for Feasibility Study and Detailed Design of Dudhkoshi Storage Hydroelectric Project (DKSHEP) and the part of the facility will be utilized for procurement of individual Consultant for Financial Advisor and Legal Advisor.
2. **NEA** now invites eligible **individual national consultant (Financial Advisor and Legal Advisor)** to indicate their interest in providing the services. Interested individuals must provide information indicating that they are qualified to perform the services. Expression of Interest (EOI) will be assessed based on General Qualifications (25%) and Project Related Experience (75%) based on the evaluation of submitted proposals and the Consultant will be selected.
3. The details are accessible from ADB's consulting services recruitment notice (<http://csr.n.a.d.b.o.r.g>), and interested consultants are encouraged to submit their EOI through ADB's consultant management system (registration and access through <http://csr.n.a.d.b.o.r.g> or <http://c.m.s.a.d.b.o.r.g>). The same information (Request for EOI and Terms of Reference) can be found at the address below during office hours or downloaded from the website: www.nea.org.np. The interested Consultants must provide information in the form of CV that shows experience and qualification in the related field with substantiation, description of completed similar assignments, work experience in the related area etc. to show their academic, professional and geographical competence to perform the services.
4. The application must be responsive to the requirements mentioned in (2) above and application should be in sufficient details to be verifiable.
5. An individual consultant will be selected and engaged in accordance with ADB's Procurement Policy and Procurement Regulations for ADB Borrowers (2017, as amended from time to time) using the Individual Consultant Selection (ICS) method.
6. Expressions of interest must be delivered through CMS (online) not later than 11:59 PM, 27 March 2023 (Manila Time).

NEA, Dudhkoshi Storage Hydroelectric Project
United World Trade Center, 3rd Floor
Kathmandu
Bagmati Province
Nepal
Tel: 015917088

TERMS OF REFERENCE

Project	Grant 0361-NEP: Project Preparatory Facility for Energy
Expertise	Legal Advisor
Source	National
Professional Group	
Job Level	

Objective and Purpose of the Assignment

Dudhkoshi Storage Hydroelectric Project (DKSHP) is a proposed 635MW storage hydropower project to be developed on the Dudhkoshi River in eastern Nepal between the boundaries of Okhaldhunga and Khotang Districts. Nepal Electricity Authority (NEA) had employed ELC Electroconsult S.p.A. (Italy), in association with NEWJEC Inc. (Japan), to carry out the “Updated Feasibility Study and Detailed Design of Dudhkoshi Storage Hydroelectric Project” under grant assistance from Asian Development Bank (ADB).

DKSHP is being developed through a Special Purpose Vehicle (SPV) with financing through a combination of sovereign, non-sovereign and commercial, both international and domestic, debt and equity participation of NEA, Government of Nepal (GoN) and its entities.

The Project is progressing towards readiness from technical, financial, environmental, and social, and power markets perspectives, with the aim of achieving financial close by December 2023. The Project SPV – Dudhkoshi Jalvidyut Company Ltd. (DKJCL) – has been set up with a Board and a core executive team. This SPV needs to work closely with NEA, Ministry of Energy, Water Resources, and Irrigation (MoEWRI), Ministry of Finance (MoF), Asian Development Bank (ADB) and other stakeholders towards completing these activities in time and with the quality required for development of projects of this scale.

The project aims to (i) activate SPV and recruit the key staff by March 2023, (ii) sign the PPA with NEA by August 2023, (iii) conclude its financial closure by the end of 2023 and (iv) generate power by the end of 2031. In this context, DKSHP is now looking at engaging a Legal Advisor to provide services in matters concerning legal advice and assistance.

Scope of Work

The Legal Advisor will work together with the project team and relevant experts under the overall guidance of PM/CEO DKJCL. The candidate shall extensively support the DKSHP in overall legal matters related to transfer of survey license and issue of generation license, PPA, PPA rate, various contracts, disputes, grievances, environment, and social issues including land acquisition and forest clearance and institutionalization of DKJCL. These inputs will be vital to the Chief Executive Officer (CEO) of DKJCL and his management team for finalizing the PPA, institutionalizing DKJCL and other legal issues at DKSHP and DKJCL.

The expert shall share knowledge through meetings, consultations, and field visits. The Legal Advisor shall document the results of each of its visits including the overall conclusions and recommendations. The expert shall maintain the confidentiality of all confidential information which shall not be disclosed to any third parties without the written consent of DKSHP.

Detailed Tasks and/or Expected Output

The detailed tasks and responsibilities for the Legal Advisor shall include, but will not be limited to the following:

1. Review of Company Act, ERC Act and Regulation, existing PPA bylaws and guidelines developed by ERC and NEA, Consultant's Environment and Socio-economic Survey.
2. Support the PM/CEO in preparing documents and agendas for the board meeting and the Annual General Meeting of DKJCL.
3. Provide legal assistance in transferring of survey license from NEA to DKJCL and obtaining the generation license from DOED.
4. Provide legal assistance in the preparation of Memorandums of Association (MOA) and Articles of Association (AOA) for DKJCL.
5. Provide legal advice and legal documents for land acquisition and forest clearance.
6. Provide legal inputs while drafting contracts for the procurement of goods and services including drafting of templates for various contracts.
7. Provide legal advice on PPA to be signed between DKJCL and NEA.
8. Provide legal advice on legal issues related to transmission line survey, construction of transmission towers, transmission line and substations.
9. Provide legal advice on a project's environmental and social safeguard issues that arise during the study and anticipation in construction phase of the project.
10. Provide legal advice on issues related to grievances, force measures and disputes.
11. Participate in the public hearing for finalizing the power purchase rate and agreement.
12. Participate in reviewing and finalizing project finance documents and agreements.
13. Provide legal drafting services for letters, petitions, and complaints or responses to be submitted to NEA, DOED, ERC and other government agencies.
14. Provide legal advice related to the share structure of the company, ordinary share, right share, local share issue, transfer, and related transactions.
15. Provide legal advice on labor and other issues on the project site.

16. Perform such other work of legal nature for DKSHP and DKJCL as may be entrusted by PM/CEO.

The Legal Advisor shall prepare necessary periodic reports for the activities undertaken as defined under Scope of Works and Final Report of activities performed during assignment

With particular reference to coronavirus disease (COVID-19), any need for international and/or national travel shall be assessed by ADB and the Consultant using ADB's advice at the time of travel. Subject to ADB's approval, the Consultant may use remote video technology meetings to replace face to face meetings as considered necessary.

Minimum Qualification Requirements

The Legal Advisor shall have the following minimum Qualification and Experience:

1. Master's degree or equivalent in Law (Corporate Law).
2. At least 10 years of General Experience.
3. At least 5 years of experience of Legal Advising in Hydropower Project (Project Identification, Project Development, Construction Management, Operation and Maintenance Phase).
4. Experience as Legal Advisor of at least one hydropower projects with installed capacity of 50 MW or above.
5. Experience as Legal Advisor of at least one hydropower projects under construction/ commissioned.
6. Experience in dispute settlement including arbitration and appeals, review and finalization of Project Finance Documents and Agreements of Hydropower Projects will be an added advantage.

Minimum General Experience	10 Years
Minimum Specific Experience (relevant to assignment)	5 Years
Regional/Country Experience	Required

Deliverables	Estimated Submission Date	Type
Monthly Periodic Reports for the activities as defined under the scope of work		Report
Final Report		Report

Terms of Reference for Legal Advisor- National Consultant- Dudhkoshi SHEP

Schedule and Places of Assignment (chronological and inclusive of travel)

<u>City and Country</u>	<u>Working Days</u>	<u>Est. Start Date</u>	<u>Est. End Date</u>	<u>Other Details</u>
Kathmandu, Nepal	80	03- April-2023	31-July-2023	Travel to Project Site may be required

Terms of Reference

Project	Grant 0361-NEP: Project Preparatory Facility for Energy
Expertise	Financial Advisor
Source	National
Professional Group	
Job Level	

Objective and Purpose of the Assignment

Dudhkoshi Storage Hydroelectric Project (DKSHEP) is a proposed 635MW storage hydropower project to be developed on the Dudhkoshi River in eastern Nepal between the boundaries of Okhaldhunga and Khotang Districts. Nepal Electricity Authority (NEA) had employed ELC Electroconsult S.p.A. (Italy), in association with NEWJEC Inc. (Japan), to carry out the “Updated Feasibility Study and Detailed Design of Dudhkoshi Storage Hydroelectric Project” under grant assistance from Asian Development Bank (ADB).

DKSHEP is being developed through a Special Purpose Vehicle (SPV) with financing through a combination of sovereign, non-sovereign and commercial, both international and domestic, debt and equity participation of NEA, Government of Nepal (GoN) and its entities.

The Project is progressing towards readiness from technical, financial, environmental, and social, and power markets perspectives, with the aim of achieving financial close by December 2023. The Project SPV – Dudhkoshi Jalvidyut Company Ltd. (DKJCL) – has been set up with a Board and a core executive team. This SPV needs to work closely with NEA, Ministry of Energy, Water Resources, and Irrigation (MoEWRI), Ministry of Finance (MoF), Asian Development Bank (ADB) and other stakeholders towards completing these activities in time and with the quality required for development of projects of this scale.

The project aims to (i) activate SPV and recruit key staff by March 2023, (ii) sign the PPA with NEA by August 2023, (iii) conclude its financial closure by the end of 2023 and (iv) generate power by the end of 2031. In this context, DKSHEP is now looking at engaging a Project Financial Advisor (National) to provide services for project financing, domestic debt arrangement, equity subscription, financial close and disbursements during construction.

Scope of Work

The Project Financial Advisor will work together with the project team and relevant experts under the overall guidance of Project Manager (PM) of DKSHEP or Chief Executive Officer (CEO) of DKJCL. The candidate shall support DKJCL towards securing both domestic equity and debt for the Project. Current plans are to secure domestic debt from public-sector finance organization owned by the Government of Nepal, e.g., Employee Provident Fund (EPF), Citizen Investment Trust (CIT), Hydropower Investment and Development Company Ltd (HIDCL), etc. Possibility of securing domestic debt from domestic commercial banks, financial instruments, e.g., energy bonds, etc. shall also be explored. Equity shall be fully funded by Government of Nepal agencies, NEA, and public shares. Project finance will entail all construction and supply contracts to be in place, debt and equity commitments finalized, power purchase agreement (PPA) and/or other

power sales arrangements in place. Coordination with sovereign debt providers, preparation of disbursement schedules for various debt and equity instruments shall be developed to match project funding requirements.

The expert shall share knowledge through meetings, consultations, and field visits. The Financial Advisor shall document the results of each of its visits including the overall conclusions and recommendations. The expert shall maintain the confidentiality of all confidential information which shall not be disclosed to any third parties without the written consent of DKSHEP.

Detailed Tasks and/or Expected Output

The detailed tasks and responsibilities for the Project Financial Advisor shall include, but will not be limited to the following:

1. Review the proposed funding structure for the Project to ensure its optimality.
2. Assess availability and quantity of debt funds in Government-owned financing institutions, e.g., EPF, CIT, HIDCL, etc. to provide required funds for project.
3. Explore possibility and viability of sourcing debt through domestic commercial banks and other financial instruments, e.g., energy bonds, etc., and compare expected terms and conditions with public-sector debt sources.
4. Support in negotiations of term-sheet for domestic debt instruments.
5. Assess availability and quantity of equity funds from Ministry of Finance, Ministry of Energy, Water Resources and Irrigation, NEA, and other sources of GoN.
6. Review and update financial model for Project based on agreed terms with debt providers.
7. Participate in discussions with ADB and other international sovereign debt providers for compliance with local laws and practices.
8. Support in negotiations on terms of loan agreement for domestic debt.
9. Review terms of payment for contractors, equipment suppliers, and other service providers for compliance with local laws.
10. Forecast and analyse cash flow requirements for implementation of the Project and develop monitoring mechanisms.
11. Prepare capital drawdown and disbursement schedules to various vendors.
12. Provide support to the SPV capitalization process.
13. Support in finalizing documentation for financial closure.

14. Review, negotiate and finalize guarantee requirements for domestic debt providers.
15. Review and finalize Interim Payment Certificates, drawdown documents, etc.
16. Development cash flow waterfall for the Project once operational.

Expected outputs and deliverables will be based on the work items described in the Scope of Work and as required by the CEO on an ad hoc basis to support the Project's implementation.

With particular reference to coronavirus disease (COVID-19), any need for international and/or national travel shall be assessed by ADB and the Consultant using ADB's advice at the time of travel. Subject to ADB's approval, the Consultant may use remote video technology meetings to replace face to face meetings as considered necessary.

Minimum Qualification Requirements

The Financial Advisor shall have the following minimum Qualification and Experience:

1. Master's Degree or equivalent in Finance, MBA, or Chartered Accountant.
2. At least 10 years of General Experience.
3. At least 5 years of Experience on Project Finance for Hydropower and/or infrastructure Projects.
4. Experience on Project Finance of at least one hydropower projects with installed capacity of 50 MW or above.
5. Experience on Project Finance for at least one Hydropower and/or infrastructure Projects ideally financed through Public Sector Equity and Sovereign/non-sovereign debt (Project Costs should be minimum of NPR 5 Billion).
6. Experience in financial closure of at least one hydropower Projects.
7. Experience on Non-Recourse Project Finance in hydropower projects with installed capacity of 50 MW or above will be an added advantage.

Minimum General Experience	10 Years
Minimum Specific Experience (relevant to assignment)	5 Years
Regional/Country Experience	Required

Deliverables	Estimated Submission Date	Type		
Monthly Periodic reports for the activities as defined under the scope of work		Report		
Final Report		Report		
Schedule and Places of Assignment (chronological and inclusive of travel)				
<u>City and Country</u>	<u>Working Days</u>	<u>Est. Start Date</u>	<u>Est. End Date</u>	<u>Other Details</u>
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