

**The large and varied work load involved in managing an MPA means that particular skills, experience and capacity are often lacking. Consultants and short-term experts are often need to help fill this gap. This sheet provides guidance on engaging such individuals, preparing their contracts and ensuring that the MPA cost effectively benefits from their services.**

It is often necessary to contract out important but short-term or highly skilled activities, if the MPA does not have sufficient capacity within its own staff. This can benefit the MPA in several ways. For example, consultants may provide new ideas and approaches and a broader view of issues. They are likely to bring their experience from other MPAs or projects, as well as having skills not available amongst the MPA staff.

Consultants and other short term experts are relatively expensive in comparison to full time MPA staff. In order for the MPA to get full value from them, it is essential that their role is clear, both to them and to the MPA staff. If not, there may be conflicting expectations and misunderstandings among MPA staff, other stakeholders and partner organisations involved. For this reason, a consultant must have clear and concise Terms of Reference (TOR) and an agreed contract with the MPA agency.

## PREPARING TERMS OF REFERENCE (TOR)

These should be prepared before the consultant is selected, so that the skills and type of person required is known. All those who will be affected by the work of the consultant should have an opportunity to review the TOR. The TOR should be as specific as possible yet flexible enough to allow a consultant the opportunity to exercise their experience and expertise.

The TORs should include:

- a description of the general purpose or objective of the consultancy;
- the background to the activity that the consultant is to undertake;
- the specific role of the consultant (e.g. team leader technical advisor, facilitator,) and his/her reporting lines;
- a list of the principal tasks to be undertaken, including field work, analysis, interviews, where known;
- a clear list of outputs expected from the assignment;
- a schedule of completion dates or deadlines, where relevant, and any specific requirements concerning format (whether electronic, paper, bound), quantity or content of reports;
- any particular working arrangements expected (e.g. collaboration with certain partners or stakeholders) and where the work is to be carried out;
- arrangements for consultation and collaboration with other MPA staff (e.g. meetings);
- administrative support that will (and will not) be available to the consultant, and particular activities or logistics that he/she will be responsible for providing.

## SELECTING CONSULTANTS

It is essential that a consultant has the necessary skills, appropriate sensitivity, attitude and cultural understanding, language skills if necessary, and professional competence for the required task, and also that she/he is sympathetic to the approach being taken. A selection of CV's should be obtained, and advice sought from a wide range of people and organisations familiar with appropriate individuals. Depending on the situation, a consultancy may need to be advertised or put out to tender.

Thought will need to be given as to whether international or national consultants are to be used, or a combination of both, as this may have different budgetary and contractual implications. If a consultant from overseas is used, it is advisable to team her/him up with a national counterpart, which could be a member of the MPA staff. This is advantageous to both: the international consultant will benefit from the ready source of local knowledge, and the staff member will learn from the consultant's experience. If a team of consultants is to be used, attention should be paid to gender and cultural balance and to working relationships within the team. If using an overseas consultant, an interpreter will need to be made available if the consultant does not speak the language.



Can he really understand everything after only a few days?

## PREPARATION OF A CONTRACT

Whereas the TOR provide a general description of work to be undertaken, the contract is the legally binding agreement under which consultants and employees agree to work, and the hiring agency (e.g. the MPA or other management agency) agrees to pay remuneration. Since it is a legally binding document, it is important that all issues that might result in legal action are covered and clearly explained and defined. The management agency may have a standard contract form which is adapted for individual contracts. If not, one should be developed for use by the MPA, and it is advisable to seek advice from a legal expert. Contracts should specify the following:

- Timing of the consultancy and reporting schedule, including timescale for submission of and comments on draft reports;
- Fees, payment schedules, and arrangements for other expenses incurred by the consultants or employee (such as travel, accommodation, equipment);
- Arrangements for cancellations or delays due to either party (e.g. late delivery of a report by the consultant; late reviewing of draft reports by the hiring agency);
- Any insurance arrangements;
- Any penalty clauses (e.g. for late, or non-delivery of the products);
- Intellectual property rights (i.e. subsequent ownership of data and other materials gathered during the work);
- Any *force majeure*.

Make sure any tax responsibilities are also clearly laid out in the contract and any statutory tax deductions (such as withholding taxes) to be made by the paying agency, the MPA, are clearly defined. The TOR are usually appended to the contract, and work schedules and tasks laid out in the TOR should be carefully checked against time lines and reporting requirements in the contract, to ensure that there are no contradictions. The time taken to undertake a task or piece of work can easily be underestimated. This is particularly so in WIO countries and with tasks related to MPA management, where unexpected delays may occur due to events such as equipment purchase being delayed, unsuitable weather for fieldwork and changes to the overall MPA work plan. It is therefore important to have a system whereby the final deadline can be extended subject to mutual written agreement.

The contract should be reviewed carefully by both the hiring agency and the consultant or prospective employee to ensure that both are in full agreement with the contents before signing. Normal practice is for two copies of the contract to be signed and for all pages of both the contract and TOR to be initialled by both parties, indicating that they have read, understood and agreed to what is written. The consultant retains the original and the hiring agency retains a copy.

## WORKING WITH CONSULTANTS

On starting work, the consultant should be introduced to all those with whom she/he will be working, should receive a full briefing, and be given all the necessary documentation. When the consultant needs to ask questions or obtain further information, MPA staff should

be ready and willing to assist. To get full value from a consultant, priority needs to be given to providing the necessary MPA inputs, in terms of staff time as well as other support, in a timely manner. It is important to remember, that a consultant's time costs money.

If things go wrong, as they sometimes do, there are a number of things to consider. Do not accept or pay for work that is unsatisfactory. The 'end product' of most consultant's work is their report. A consultant's report should be judged by its quality and usefulness to the MPA, rather than by its size.

A few questions to be asked before paying the consultant are:

- Has the consultant provided more answers than questions?
- Does the report clearly analyse the problem(s) rather than just describe what is already known?
- Is the report easy to read and clearly laid out?
- Are the conclusions and recommendations clear and unambiguous, and supported by analysis and evidence?
- Has the consultant met his/her overall TOR?
- Has the agreed information and support been provided by the MPA to the consultant?

If the answer to all the above questions is yes, then both the MPA and the consultant have done very well!

### KEY POINTS FOR THE MPA

- Think carefully before hiring consultants and be absolutely sure about what is expected from them; only hire consultants where in-house capacity is lacking and there are no appropriate partners to assist.
- Obtain samples of TORs and consultancy contracts from other MPAs, as a guide, before developing these documents for the first time.
- Check both TORs and contracts very carefully before the contracts are signed, and make absolutely sure that both parties fully understand, and are in agreement with the contents.
- Keep in touch with the consultant as the work progresses, so that any problems can be identified at an early stage, thus assisting the consultant and helping to ensure that the MPA receives a good product.

### Sources of further information

Gosling, L. & Edwards, M. 1995. *Toolkits: a Practical Guide to Assessment, Monitoring, Review and Evaluation*. Development Manual 5. Save the Children. London, UK. 254pp.

Parr, S. & Fielding, P.J. 2003. Communication and Public Relations. Module 5. p.149-186. In: Francis, J. et al. (eds.). *Training for the Sustainable Management of Marine Protected Areas: a Training Manual for MPA Managers*. CZMC/WIOMSA. [www.seacam.mz](http://www.seacam.mz)