



## Oceana Request for Proposal: Malaysia Feasibility Study

Oceana is conducting a feasibility study to help determine if it should open an office in Malaysia. We are seeking a consultant to assist us with understanding office setup, specifically legal and operational feasibility. Oceana is seeking consultants to bid on any or all scopes of work. Oceana is also scoping the feasibility of working in Ghana and Senegal – please indicate in your proposal if you are interested in providing similar reports/research for those countries as well.

Oceana is a conservation group focused on supporting strong fisheries policy at the national or provincial government level. Oceana seeks to see specific changes over a concrete timeframe, generally three to five years. Oceana currently has offices in the United States, Europe, Brazil, Chile, Canada, Mexico, Peru, the Philippines, and Belize. Oceana's approach in these countries includes five basic elements: science, law, media, policy work, and public engagement. Oceana emphasizes improvements in national fisheries management through work to set science-based limits on fish catches, to reduce bycatch, to protect ocean habitat critical for fish, including halting destructive fishing methods, establishing marine protected areas, and reducing marine pollution.

### Contract Details

The study will take place from December– Feb 2023 and will cover the topics outlined in the Scope of Work. The deliverable will be a final report that is to be submitted electronically to Oceana. This report is due to Oceana by January 30, 2023. Oceana expects that the consultant will communicate on an on-going basis with Oceana about the progress on the analysis and answer our related questions on these topics both during the study process and after Oceana has received the final report, through April 2023.

Your Oceana point of contact during the process will be Jillian Acker, Research Associate –Science and Strategy, at [jacker@oceana.org](mailto:jacker@oceana.org). A schedule of regular updates will be discussed with finalists.

Proposals should be sent to Jillian Acker, [jacker@oceana.org](mailto:jacker@oceana.org), by Friday, November 11, 2022. Proposals will be reviewed on a rolling basis, as received.

## Timeline and Planning

### Timeframe for Project

#### *Proposal Process:*

- November 11, 2022 (on or before) – Proposals due from potential consultants
- November 18, 2022 – Consultant selected by Oceana
- December 2, 2022 – Contract awarded, and consultancy begins

#### *Approximate Consultancy Timeline:*

- Week of December 5, 2022 – Project kick-off call/meeting
- Week of December 12 – Progress report phone call/meeting
- Week of January 2 – Progress report phone call/meeting
- January 13, 2023 – First draft of report due
- Week of January 16 – Phone call/meeting to discuss draft
- Revisions and refinement of report
- January 30, 2023 – Final report due
- Feb 1 – April 30 – Consultant available for additional consultation

Consultants will remain available for follow-up phone calls on study topics through the end of April 2023.

### Contract amount

Negotiable – Please include your estimated fee for the total project in your proposal.

### Proposal Content

Please be sure to include a statement of your qualifications for this research as well as a description of your approach, in whatever form you wish.

## Scope of Work

### Office Setup: Operations and Legal Scope of Work

Oceana seeks to understand the logistics and risks involved with opening an office in Malaysia. The scope of work should include:

- A.) An overview of corporate forms available to Oceana in Malaysia, and more specifically:
  - a. Whether there is a requirement to be a separate entity or if it can be a branch office of Oceana, Inc.
    - i. The advantages and disadvantages associated with each corporate form
    - ii. Rules about independence from Oceana, Inc.

- b. Prerequisites of being considered a not-for-profit organization and registering as a charity
    - i. Regulations for NGOs using foreign capital to fund not-for-profit activities
  - c. Requirements of Controlling People
    - i. Whether they need to be local residents/citizens
    - ii. Whether Oceana can hire lawyers/agents to do so
  - d. How can we most simplify governance?
  - e. Minimizing compliance and third-party liability risks to Oceana, Inc.
  - f. Key rules concerning legal form and governance
  - g. What are the statutory audit requirements depending on what corporate form we register?
  - h. What are the visa and travel regime difficulties for local and US employees?
  - i. Difficulty of opening and managing a bank account
- B.) An overview of regulations on NGO activities and the role of NGOs and associated compliance and reporting duties, including
  - a. Whether foreign NGOs are prohibited from engaging in policy advocacy, including advocating to legislators, the government, or the public for new or amended laws or for new or amended regulations, or whether such conduct is otherwise regulated and the nature of the regulation and its likely impact on Oceana
  - b. Whether Oceana has the ability to participate in elections
  - c. Government enforcement of NGO regulations
  - d. Ability to conduct public interest litigation and citizen litigation
  - e. Are there freedom of information laws and, if so, how have they been used?
  - f. What is the role of public participation in administrative rule-making?
  - g. How much respect is afforded to NGOs in politics/policy-making?
  - h. What are press restrictions/freedoms?
  - i. Requirements of annual reports (e.g. yearly activity plan)
- C.) The tax considerations for NGOs in Malaysia, including
  - a. Taxes owed by the charity on intercompany transfers from abroad, and specifically from Oceana, Inc.
  - b. Taxes owed by the charity on external grants from abroad
  - c. Taxes owed by the charity on revenue raised in Malaysia
  - d. Taxes owed by donors or tax benefits accruing to donors from Malaysian donors
  - e. Other taxes, such as VAT, that may be assessed on the charity, including any taxes payable on the intercompany provision of services, such as administrative services
  - f. Required tax filings
- D.) Overview of important labor law provisions for Malaysian and foreign employees, including
  - a. How laws compare to the US

- b. The process for firing for cause/at will and notice period requirements
  - c. Required benefits
  - d. Vacations
  - e. National insurance
  - f. Unions
- E.) Risks to operating in Malaysia, including
- a. Overview of bribery and corruption risks and anti-corruption law
  - b. Overview of media risk and associated media risk law, including
    - i. The extent to which Oceana can be condemnatory
    - ii. Using corporate marks for parody/commentary
  - c. Overview of data protection, privacy, and e-privacy rules, including
    - i. Transfer of information
    - ii. Data protection rules
    - iii. Rules applicable to supporter and member activity
    - iv. Rules applicable to the Oceana website
  - d. Overview of Intellectual Property protection
    - i. The process of securing trademark rights and a ballpark cost estimation for trademark registration in Malaysia
    - ii. Whether there are rival marks
    - iii. If there is a need to do anything other than execute a license agreement to protect Oceana considering the use of its marks by its local affiliate (if applicable)
  - e. Other (e.g., natural disasters, terrorism, human/civil rights and freedom of expression, ethnic and religious tensions)
- F.) Technology requirements and if there is a situation that would prevent Oceana from operating as we do in other countries