

## REQUEST FOR PROPOSAL

<b>Date of issue:</b>	March 8 <sup>th</sup> , 2023
<b>Reference no.:</b>	1788
<b>Contract title:</b>	Audit of the US Government resources managed by DCA
<b>Closing date:</b>	March 27 <sup>th</sup> , 2023
<b>Contracting Authority:</b>	DanChurchAid Meldahlsgade 3 DK-1613 København V Denmark  Contact person: Hans Erik Hermann Tel: +45 50 90 04 90 Email: hehe@dca.dk

### DANCHURCHAID INVITES CANDIDATES TO SUBMIT A PROPOSAL FOR THE AUDIT OF THE US GOVERNMENT RESOURCES MANAGED BY DCA

Dear Sir/Madam,

The Service is required for annual audit of US Government funds an intervention supported by USAID, DRL, PMWRA and BPRM. Enclosed please find the following documents which constitute the Request for Proposal:

**A – Instructions**

**B – Draft Contract including annexes**

**Annex 1: Terms of Reference**

**Annex 2: Organisation and Methodology Form** (to be completed by the Candidate))

**Annex 3: Proposal Submission Form** (to be completed by the Candidate)

**Annex 4: General Terms and Conditions for Service Contracts – Ver3 2020**

**Annex 5: Code of Conduct for Contractors**

If this document is a PDF format, upon request, a complete copy of the above documents can be forwarded in a WORD format for electronic completion. It is forbidden to make alterations to the text.

We would be grateful if you inform us by email of your intention to submit a proposal.

## A. INSTRUCTIONS

In submitting a proposal, the Candidate accepts in full and without restriction the special and general conditions including annexes governing this Contract as the sole basis of this procedure, whatever his own conditions of services may be, which the Candidate hereby waives. The Candidates are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this Request for Proposal.

### A.1. Scope of services

The Services required by the Contracting Authority are described in the Terms of Reference in Annex 1.

The Candidate shall offer the totality of the Services described in the Terms of Reference. Candidates offering only part of the required Services will be rejected.

### A.2. Cost of proposal

The Candidate shall bear all costs associated with the preparation and submission of his proposal and the Contracting Authority is not responsible or liable for these costs, regardless of the conduct or outcome of the process.

### A.3. Eligibility and qualification requirements

Candidates are not eligible to participate in this procedure if they are in one of the situations listed in article 33 of the General Terms and Conditions for Service Contracts – Ver3 2020.

Candidates shall in the Proposal Submission Form attest that they meet the above eligibility criteria. If required by the Contracting Authority, the Candidate whose proposal is accepted shall further provide evidence satisfactory to the Contracting Authority of its eligibility.

As a rule, the timely arrival of a proposal with the Contracting Authority is the Candidate's responsibility. Irrespective of the reason, proposals arriving after the deadline for the submission of proposals, will be considered late and thus rejected.

Candidates are also requested to certify that they comply with the Code of Conduct for Contractors.

### A.4. Exclusion from award of contracts

Contracts may not be awarded to Candidates who, during this procedure:

- (a) are subject to conflict of interest
- (b) are guilty of misrepresentation in supplying the information required by the Contracting Authority as a condition of participation in the Contract procedure or fail to supply this information

### A.5. Documents comprising the Request for Proposal

The Candidate shall complete and submit the following documents with this proposal:

- a. Proposal Submission Form (Annex 3) duly completed and signed by the Candidate
- b. Organisation and Methodology using the structure in Annex 2
- c. CV. highlighting the Candidate's experience in the specific field of the Services and his/her specific experience in the country/region where the Services are to be performed.
- d. Certified Public Accountant license (including certification by The United States Agency for International Development) and company registration

The proposal and all correspondence and documents related to the Request for Proposal exchanged by the Candidate and the Contracting Authority must be written in the language of the procedure, which is English.

#### **A.6. Financial proposal**

The Financial Proposal shall be presented as an amount in USD in the Proposal Submission Form in Annex 3. The remuneration of the Candidate under the Contract shall be determined as follows:

**Global price:** The Candidate shall indicate in his/her proposal his/her proposed global remuneration for the performance of the Services. The Candidate shall be deemed to have satisfied himself as to the sufficiency of his/her proposed global remuneration, to cover both his/her fee rate, including overhead, profit, all his/her obligations, sick leave, overtime and holiday pay, taxes, social charges, etc. and all expenses (such as transport, accommodation, food, office, etc.) to be incurred for the performance of the Contract. The proposed global remuneration shall cover all obligations of the successful Candidate under the Contract (without depending on actual time spent on the assignment) and all matters and things necessary for the proper execution and completion of the Services and the remedying of any deficiencies therein.

VAT and/or any sales tax applicable to the purchase of services shall be indicated separately in the proposal.

#### **A.7. Candidate's proposed personnel**

In the Organisation and Methodology Form, Annex 2, the Candidate shall include a detailed description of the role and duties of each of the key experts or other non-key experts, which the Candidate proposes to use for the performance of the Services. The key experts are those whose involvement is considered instrumental in the achievement of the contract objectives. The CV of each key expert shall be provided highlighting his/her experience in the specific field of the Services and his/her specific experience in the country/region where the Services are to be performed. The Candidate whose proposal is accepted shall provide, if so requested by the Contracting Authority, copies of diplomas and employers' certificates or references proving the key experts' education, professional experience and language proficiency.

In the Proposal Submission Form, Annex 3, the Candidate shall provide detailed information about key experts' actual availability for the performance of the Contract.

If, before the signing of the Contract, a key expert proposed in the proposal is no longer available the Candidate shall inform the Contracting Authority immediately and the proposal will in such case be considered invalid.

#### **A.8. Validity**

Proposals shall remain valid and open for acceptance for 30 days after the closing date.

#### **A.9. Submission of proposals and closing date**

Proposals must be received at the address mentioned on the front page by email not later than the closing date and time specified on the front page.

#### **A.10. Evaluation of Proposals**

The evaluation method will be the quality and cost-based selection. A two-stage procedure shall be utilised in evaluating the Proposals - a technical evaluation and a financial evaluation.

Proposals will be ranked according to their combined technical (*St*) and financial (*Sf*) scores using the weights of 80% for the Technical Proposal; and 20% for the offered price. Each proposal's overall score shall therefore be:  $St \times 80\% + Sf \times 20\%$ .

#### **Technical evaluation**

For the evaluation of the technical proposals, the Contracting Authority shall take the below criteria and weights into consideration.

The Contracting Authority reserves the right to discard offers below a technical score of 80 points.

Technical evaluation		Maximum Points	Candidate				
			A	B	C	D	E
<b>Expertise of the Candidate submitting proposal</b>							
1	Organisation's specialised knowledge and experience of US annual audits and the reporting requirements according to US donors' rules and regulations	40					
2	Candidate's relevant experience with auditing international non-governmental organisation receiving USG funds	20					
3	Candidate's experience in the selected regions	10					
<b>Sub-total Candidate and/or Organisation</b>		<b>70</b>					
<b>Proposed Organisation and Methodology)</b>							
1	To what degree does the proposal show understanding of the task?	15					
2	Candidate's relevant academic qualifications	5					
3	Is the work plan adequate in responding to the Terms of Reference	10					
<b>Sub-total Organisation and Methodology</b>		<b>30</b>					
<b>Total Technical Score</b>		<b>100</b>					

### Interviews

The Contracting Authority reserves the right to call to interview the Candidates having submitted proposals determined to be substantially responsive.

### Financial evaluation

Each proposal shall be given a financial score. The lowest Financial Proposal (Fm) will be given a financial score (Sf) of 100 points. The formula for determining the financial scores shall be the following:

$$Sf = 100 \times Fm/F, \text{ in which}$$

Sf is the financial score

Fm is the lowest price and

F is the price of the proposal under evaluation

### Negotiations

The Contracting Authority reserves the right to contact the Candidates having submitted proposals determined to be substantially and technically responsive, to propose a negotiation of the terms of such proposals. Negotiations will not entail any substantial deviation to the terms and conditions of the Request for Proposal, but shall have the purpose of obtaining from the Candidates better conditions in terms of technical quality, implementation periods, payment conditions, etc.

Negotiations may however have the purpose of reducing the scope of the services or revising other terms of the Contract to reduce the proposed remuneration when the proposed remunerations exceed the available budget.

**A.11. Award criteria**

The Contracting Authority will award the Contract to the Candidate whose proposal has been determined to be substantially responsive to the documents of the Request for Proposal and which has obtained the highest overall score.

**A.12. Signature and entry into force of the Contract**

Prior to the expiration of the period of the validity of the proposal, the Contracting Authority will inform the successful Candidate in writing that its proposal has been accepted and inform the unsuccessful Candidates in writing about the result of the evaluation process.

Within 5 days of receipt of the Contract, not yet signed by the Contracting Authority, the successful Candidate must sign and date the Contract and return it to the Contracting Authority. On signing the Contract, the successful Candidate will become the Contractor and the Contract will enter into force once signed by the Contracting Authority.

If the successful Candidate fails to sign and return the Contract within the days stipulated, the Contracting Authority may consider the acceptance of the proposal to be cancelled without prejudice to the Contracting Authority's right to claim compensation or pursue any other remedy in respect of such failure, and the successful Candidate will have no claim whatsoever on the Contracting Authority.

**A.13. Cancellation for convenience**

The Contracting Authority may for its own convenience and without charge or liability cancel the procedure at any stage.

## B. DRAFT CONTRACT

**CONTRACT TITLE: Audit of the US Government resources managed by DCA**

**Reference no.: 1788**

**Instructions to candidates: At this stage of the Request for Proposals this document is for your information and intended to make you aware of the contractual provisions. The information missing in this document will be filled in when a Contractor has been selected, and the “draft” Contract will then become the “final” Contract” between the Contracting Authority and the successful Contractor.**

DanChurchAid  
Meldahlsgade 3  
DK-1613 Copenhagen V.  
Denmark  
("The Contracting Authority"),

of the one part,

and

<Name and address of candidate>

("The Contractor")

of the other part,

have agreed as stipulated in the attached document:

The Contract is done in English in three originals, two originals being for the Contracting Authority and one original being for the Contractor.

### **For the Contractor**

Name:

Title:

Signature:

Date:

### **For the Contracting Authority**

Name:

Title:

Signature:

Date:

This Contract shall be signed and stamped by the Contractor and returned to the Contracting Authority, Hans Erik Hermann, mail hehe@dca.dk latest within five working days from date of receipt.

## Special conditions

### **B.1. Scope of services**

The subject of the Contract is annual audit of USG supported DCA projects at Copenhagen. The “Services” are described in the Terms of Reference and further specified in the Organisation and Methodology, Annex 2.

### **B.2. Commencement Date**

The Contract shall commence May 1<sup>st</sup>, 2023, after signature on the contract by both parties.

### **B.3. Period of implementation**

From May 1<sup>st</sup>, 2023, until September 28<sup>th</sup>, 2023.

### **B.4. Delivery of Services**

The Contractor agrees to deliver Services to the Contracting Authority pursuant to the Contract, which shall conform with the Terms of References, Annex 1, Organisation and Methodology, Annex 2 and the price specified in this Contract.

In the event of the Contracting Authority placing a contract, which the Contractor considers it cannot substantially meet because of unavailability of staff or inability to meet the Terms of References, before proceeding to make a partial delivery of the services, the Contractor shall seek further written instructions from the Contracting Authority.

The Contractor shall cover all costs related to the remedy of an unacceptable Service.

The Contractor shall be responsible for providing all the necessary personnel, equipment, materials, and supplies and for making all necessary arrangement for the performance of its obligations under this Contract.

### **B.5. Remuneration**

#### **Global Price**

In consideration for his/her services, the Contractor shall receive a global remuneration of USD **< amount >**. This global remuneration covers the Contractor's fee rate, including overhead, profit, all his/her obligations, leave, sick leave, overtime and holiday pay, taxes, social charges, etc. and all expenses (such as transport, accommodation, food, office expenses, etc) to be incurred for the performance of the Contract. The global remuneration covers all obligations of the Contractor under the Contract (without depending on actual time spent on the assignment) and all matters and things necessary for the proper execution and completion of the services and the remedying of any deficiencies therein.

### **B.6. Reporting**

A draft of the final audit report must be forwarded to DCA (att. Augustin Allard, mail: [aall@dca.dk](mailto:aall@dca.dk)) not later than September 20th, 2023

The finalised and signed audit report must be forwarded to DCA (att. Augustin Allard, mail: [aall@dca.dk](mailto:aall@dca.dk)) not later than September 28th, 2023.

The Contractor shall keep the Contracting Authority updated on contract progress on a regular basis.

### **B.7. Payment**

Payments shall be made in USD by bank transfer to the following account:

Account Number:  
Name of Bank:  
Address of Bank:  
Account name:  
Swift Code:

Payment will be made by the Contracting Authority within 30 days from approval by the Contracting Authority and receipt of the Contractor's invoice.

### **B.8. Tax and social contributions**

The Contracting Authority shall have no obligation or responsibility in connection with taxes or levies payable by the Contractor in its country of establishment or in the beneficiary country in connection with its performance of this Contract.

### **B.9. Order of precedence of contract documents**

The Contract is made up of the following documents, in order of precedence:

1. This Contract
2. Terms of Reference (Annex 1)
3. Organisation and Methodology (Annex 2)
4. CV of Contractor and/or key expert(s)
5. Proposal Submission Form (Annex 3)
6. General Terms and Conditions for Service Contracts - Ver3 2020 (Annex 4)
7. Code of Conduct for Contractors Annex 5

The various documents making up the Contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

### **B.10. Language**

The language of this Contract, and of all written communications between the Contractor and the Contracting Authority shall be English.

### **B.11. Entry into force and duration**

The Contract shall enter into force and effect after signature by both parties of this Contract. The Contract shall remain into force and effect until the end of the liability period as defined in the General Terms and Conditions for Service Contracts - Ver3 2020.

### **B.12. Notices**

Any written communication relating to this contract between the Contracting Authority and the Contractor must state the Contract title and Contract number and must be sent by email or by hand to the addresses identified in this Contract.

### **B.13. Data Protection**

If DanChurchAid CVR No. 36980214 is recording and processing personal data (such as names, addresses, emails, telephone number and CVs), the data will be processed solely for the purposes of the management and monitoring of the Quotation and the Contract by the Contracting Authority without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law. In addition, as and when the contract relates to the Contracting Authority's work outside the EU, transmission of personal data may occur to countries outside of the EU, solely for the purpose of implementing the procurement procedure and the Contract. According to the EU data protection regulation the Candidate has rights related to the information the Contracting Authority processes. Details concerning processing of the Contractor's personal data and rights are available in the Privacy Policy on <https://www.danchurchaid.org/privacy-policy>



## ANNEX 1: TERMS OF REFERENCE

### Standard Statement of Work for Financial Audits of Foreign Organizations

#### I. BACKGROUND

DanChurchAid assists the world's poorest to lead a life in dignity. Aid is given regardless of race, creed, political or religious affiliation. DanChurchAid is based in Denmark, has 20 Country Offices and is a member of the ACT Alliance together with 134 churches and faith-based organizations. The 2022 turnover was approximately DKK1,000,000,000.

For the year 2022 DanChurchAid implemented 13 projects financed by US Government agencies (USAID, BPRM, DRL, WRA) across 7 countries in Africa, Asia and the Middle East (DR Congo, South Sudan, Lebanon, Cambodia, Syria, Libya and Ethiopia). The total budgeted amount for the projects in question totals USD 47,023,267 across the respective contract periods, whereas the actual incurred expenditure for 2022 amounts to DKK 141,978,162 [of which DKK 24,195,355 was implemented by local partners via sub-grant agreements]. DanChurchAid doesn't have a NICRA rate and applies the de minimis 10% rate.

Country	DCA-held expenses (DKK)	Grant no.	Start date	End date
Cambodia	4 325 968	72044220CA00001	2020.07.01	2024.06.30
Cambodia	400 161	SLMAQM20GR2136	2020.08.18	2023.09.30
Congo	8 061 568	720BHA21GR00249	2021.08.01	2022.07.31
Congo	8 989 599	SPMWRA22GR0004	2022.01.01	2024.12.31
Congo	5 897 096	720BHA22CA00058	2022.08.01	2023.07.31
Ethiopia	1 283 711	SPRMCO22CA0140	2022.09.22	2023.09.21
Ethiopia	16 345 285	SPRMCO21CA3130	2021.09.22	2022.09.21
Lebanon	6 265 082	SPMWRA20GR0067	2020.09.01	2023.08.31
Libya	3 373 307	SPMWRA19GR0056	2019.11.01	2023.10.31
S. Sudan	2 045 589	720BHA21GR00379	2021.07.01	2022.03.31
S. Sudan	29 445 671	720BHA22GR00042	2022.01.01	2022.12.31
Syria	10 571 885	720BHA22GR00181	2022.08.01	2023.07.31
Syria	20 777 885	720BHA21GR00144	2021.08.01	2022.07.31
<b>Total</b>	<b>117 782 807</b>			

#### II. TITLE

Audit of The Fund Accountability Statement of the US Government Resources Managed By DanChurchAid for the period January – December 2022

Closeout audit of the 4 awards closed during FY 2022.

#### III. OBJECTIVES

The objective of this engagement is to conduct a financial audit of the USAID resources managed by the recipient/subrecipient under programs listed in the above section I. Background in accordance with:

- USAID Financial Audit Guide for Foreign Organizations (hereafter Guide);

- U.S. Generally Accepted Government Auditing Standards<sup>2</sup> (GAGAS or the Yellow Book); hereafter referred to as GAGAS, issued by the Comptroller General of the United States Government Accountability Office; and, as applicable;
- International Standards on Auditing (ISA) issued by the International Auditing and Assurance Standards Board (IAASB), in conjunction with GAGAS; and
- The International Standards of Supreme Audit Institutions (ISSAIs) issued by the International Organization of Supreme Audit Institutions (INTOSAI) for public-sector audits, in conjunction with GAGAS.

The financial audit must include a specific audit of all the recipient's USAID-funded programs. The schedule of expenditures of USAID awards is the financial schedule to be audited in case of de minimis 10% rate. All amounts in the financial audit report must be stated in U.S. dollars. The auditors should indicate the exchange rate(s) used in the notes to the schedule of expenditures of USAID awards.

## A. AUDIT OF USAID FUNDS

Auditors must design steps and procedures in accordance with GAGAS. A financial audit of the funds provided by USAID must be performed in accordance with GAGAS, or other approved standards where applicable, and accordingly includes such tests of the accounting records as deemed necessary under the circumstances. The specific objectives of the audit of the USAID funds are to:

- Express an opinion on whether the schedule of expenditures of USAID awards presents fairly in all material respects in relation to the recipient's financial statements as a whole, in accordance with the terms of the agreements and generally accepted accounting principles.
- Evaluate and obtain a sufficient understanding of the recipient's internal controls related to the USAID-funded programs, assess control risk, and identify reportable conditions, including material weaknesses. This evaluation must include the internal controls related to required cost-sharing contributions, perform tests to determine whether the recipient complied, in all material respects, with agreement terms (including cost-sharing/matching contributions, if applicable) and applicable laws and regulations related to USAID-funded programs. All material instances of noncompliance and all illegal acts that have occurred or are likely to have occurred must be identified. Such tests must include the compliance requirements related to any required cost-sharing contributions.

In addition, if applicable:

- Determine if the recipient has taken adequate corrective action on prior audit report recommendations.

The audit of the general-purpose financial statements must be performed in accordance with GAGAS if the recipient has been authorized to charge indirect costs to USAID using provisional rates. The objective of this audit is to express an opinion on whether the general-purpose financial statements

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<sup>2</sup> GAGAS incorporates the American Institute of Certified Public Accountants (AICPA), Professional Standards that include Statements on Auditing Standards (SASs). The SASs include an "AU-C" identifier which represents section(s) in the Codification of SASs. The Codification was designed for clarity and converged the standards with the International Standards on Auditing (ISAs). See [AICPA Clarified Statements on Auditing Standards](https://www.aicpa.org/research/standards/auditattest/clarifiedsas.html) (<https://www.aicpa.org/research/standards/auditattest/clarifiedsas.html>)

present fairly, in all material respects, the results of its operations for the year then ended, in conformity with generally accepted accounting principles.

## IV. AUDIT SCOPE

The auditor must use the following steps as the basis for preparing audit programs. They are not all-inclusive or restrictive in nature and do not relieve the auditor from exercising due professional care and judgment. The steps must be modified to fit local conditions and specific program design, implementation procedures, and agreement provisions, which may vary from program to program. Any limitations in the scope of work must be communicated as soon as possible to the USAID cognizant Operating Unit.

### A. PRE-AUDIT DOCUMENT REVIEW

Following is a list of documents applicable to different USAID programs. The auditor must review the applicable documents considered necessary to perform the audit:

1. The agreement between USAID and the recipient.
2. The sub-agreements between the recipient and other implementing entities, as applicable.
3. Contracts and subcontracts with third parties, if any.
4. The budgets, implementation letters, and written procedures approved by USAID.
5. USAID Automated Directives System [Chapter 636, Program Funded Advances](#).
6. [2 CFR 200 Subpart F](#) Audit Requirements, [2 CFR 200 Subpart E](#) Cost Principles, and [2 CFR 700](#) on Cost Principles.
7. Federal Acquisition Regulation (FAR), Part 31, Contract Cost Principles and Procedures.
8. [USAID Acquisition Regulation \(AIDAR\)](#), which supplements the FAR.
9. Mandatory Standard Provisions for Non-U.S. Nongovernmental Grantees ([ADS Chapter 303, Grants and Cooperative Agreements to Non-Governmental Organizations](#)).
10. Standard Provisions Annex for Agreements with Foreign Governments ([ADS Chapter 350, Grants to Foreign Governments](#)).
11. All program financial and progress reports; charts of accounts, organizational charts; accounting systems descriptions; procurement policies and procedures; and receipt, warehousing, and distribution procedures for materials, as necessary to successfully complete the required work.
12. Any previous audits, financial reviews, etc., that directly relate to the objectives of the audit.

## B. SCHEDULE OF EXPENDITURES OF USAID AWARDS

The auditor must examine the schedule of expenditures of USAID awards <sup>3</sup> for USAID programs including the budgeted amounts by category and major items; the revenues received from USAID for the period covered by the audit; the costs reported by the recipient as incurred during that period; and the commodities and technical assistance directly procured by USAID for the recipient's use. The schedule of expenditures of USAID awards must include all USAID funds identified by each specific program or agreement. The revenues received from USAID less the costs incurred, after considering any reconciling items, must reconcile with the balance of cash-on-hand or in bank accounts.<sup>4</sup> The schedule of expenditures of USAID awards must not include cost-sharing/matching contributions provided from the recipient's own funds or in-kind, which is to be provided in a separate schedule; see Section C.

The audit firm may not prepare or assist the recipient in preparing the schedule of expenditures of USAID awards when the same audit firm will then perform an audit. If a third party prepares or assists the recipient in preparing the schedule of expenditures of USAID awards from the books and records maintained by the recipient, then the recipient must accept the responsibility for the statement's accuracy before the audit commences.

The schedule of expenditures of USAID awards must separately identify those revenues and costs applicable to each specific USAID agreement. The audit must evaluate program implementation actions and accomplishments to determine whether specific costs incurred are allowable, allocable, and reasonable under the agreement terms and applicable cost principles, and to identify areas where fraud and illegal acts have occurred or are likely to have occurred as a result of inadequate internal control. At a minimum, the auditors must:

1. Review direct and indirect costs billed to and reimbursed by USAID and costs incurred but pending reimbursement by USAID, identifying, and quantifying any questioned costs. All costs that are not supported with adequate documentation or are not in accordance with the agreement terms must be reported as questioned. Questioned costs that are pending reimbursement by USAID must be identified in the notes to the schedule of expenditures of USAID awards as not (yet) reimbursed by USAID.
2. Questioned costs must be presented in the schedule of expenditures of USAID awards in two separate categories: ineligible and unsupported costs. Ineligible costs are costs that are explicitly questioned because they are unreasonable, prohibited by the agreements or applicable laws and regulations, or not program related. In addition, if a recipient was required to place USAID funds in an interest-bearing account but did not, then the imputed interest that would have been earned is also classified as an ineligible cost. Unsupported costs are not supported with adequate documentation or did not have required prior approvals or authorizations. All questioned costs resulting from instances of noncompliance with agreement terms and applicable laws and regulations must be included as findings in the report on compliance. Also, the notes to the schedule of expenditures of USAID awards must briefly

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<sup>3</sup> Schedule of Expenditures of USAID awards is a financial schedule that presents USAID recipient's revenues, costs incurred, cash balance of funds (after considering reconciling items), and commodities directly procured by USAID that were provided by USAID agreements. The opinion on the Schedule of Expenditures of USAID awards must comply with Statement on Auditing Standard SAS No. 62 (AU623).

<sup>4</sup> If the recipient does not receive any advances from USAID, *i.e.*, it operates on a reimbursement basis, then the recipient will not hold any balances of USAID funds.

describe the questioned costs and must be cross-referenced to any corresponding findings in the report on compliance.

3. Review general and program ledgers to determine whether costs incurred were properly recorded. Reconcile direct costs billed to, and reimbursed by, USAID to the program and general ledgers.
4. Review the procedures used to control the funds, including their channeling to contracted financial institutions or other implementing entities. Review the bank accounts and the controls on those bank accounts. Perform positive confirmation of balances, as necessary.
5. Determine whether advances of funds were justified with documentation, including reconciliations of funds advanced, disbursed, and available. The auditors must ensure that all funding received by the recipient from USAID was appropriately recorded in the recipient's accounting records and that those records were periodically reconciled with information provided by USAID.
6. Determine whether program income was added to funds used to further eligible project or program objectives, to finance the non-Federal share of the project or program, or deducted from program costs, in accordance with USAID regulations, other implementing guidance, or the terms and conditions of the award.
7. Review procurement procedures to determine whether sound commercial practices including competition were used, reasonable prices were obtained, and adequate controls were in place over the qualities and quantities received.
8. Review direct salary charges to determine whether salary rates are reasonable for that position, in accordance with those approved by USAID when USAID approval is required and supported by appropriate payroll records. Determine if overtime is charged to the program and whether it is allowable under the terms of the agreements. Determine whether allowances and fringe benefits received by employees are in accordance with the agreements and applicable laws and regulations. The auditors must question unallowable salary charges in the schedule of expenditures of USAID awards.
9. Review travel and transportation charges to determine whether they are adequately supported and approved. Travel charges that are not supported with adequate documentation or not in accordance with agreements and regulations must be questioned in the schedule of expenditures of USAID awards.
10. Review commodities (e.g., supplies, materials, vehicles, equipment, food products, tools, etc.) procured by the recipient as well as those directly procured by USAID for the recipient's use. The auditors must determine whether commodities exist or were used for their intended purposes in accordance with the terms of the agreements, and whether internal control procedures exist and have been placed in operation to adequately safeguard the commodities. As part of the procedures to determine if commodities were used for intended purposes, the auditors must perform end-use reviews for an appropriate sample of all commodities based on the internal control risk assessment (see section **IV.D.**

**“Internal Controls”** of this Statement of Work). End-use reviews would normally include site visits to verify that commodities exist or were used for their intended purposes in accordance with the terms of the agreements. When conducting end-use reviews, the auditors must ensure that commodities are marked in accordance with grant or contract requirements. The cost of all commodities whose existence or proper use in accordance with the terms of the agreements cannot be verified and must be questioned in the schedule of expenditures of USAID awards

(the auditor should determine the cost of commodities based on supporting documentation available from the recipient or USAID, as appropriate).

- 11.** Review technical assistance and services procured by the recipient. The auditors must determine whether technical assistance and services were used for their intended purposes in accordance with the terms of the agreements. The cost of technical assistance and services not properly used in accordance with the terms of the agreements must be questioned in the schedule of expenditures of USAID awards.

If the recipient contracted the technical assistance and services through a U.S. contractor, the auditors are still responsible for determining whether technical assistance and services were used for their intended purposes in accordance with the terms of the agreements. However, the auditors are not responsible for performing additional audit steps for the costs incurred under the technical assistance and services agreements if either USAID or a cognizant U.S.

Government agency is responsible for contracting for audits of these costs.

- 12.** For final closeout audits, review unliquidated advances to the recipient and pending reimbursements by USAID. Ensure that the recipient has returned any excess cash to USAID. Also, ensure that all assets (inventories, fixed assets, commodities, etc.) procured with program funds were disposed of in accordance with the terms of the agreements. The auditors must determine whether an annex to the schedule of expenditures of USAID awards showing the balances and details of final inventories of nonexpendable property acquired under the agreements is presented accurately in all material respects in relation to the financial statements. This inventory must indicate which items were titled to the U.S. Government and which were titled to other entities. These closeout audit procedures must be performed for any award that expires during the period audited.

The schedule of expenditures of USAID awards must separately disclose the financial information (revenues, costs, commodities, and technical assistance) for each agreement, and must identify the USAID Operating Unit that provided funding for each agreement. Questioned costs and internal control and compliance findings of any audits of subrecipients must be reported in the recipient's financial audit using the same treatment and procedures as the recipient's own questioned costs and findings.

The auditors must express a single opinion on the schedule of expenditures of USAID awards that includes more than one agreement with USAID. Auditors must not express separate opinions on the schedule of expenditures of USAID awards of each agreement or program unless specifically requested to do so by the USAID Operating Unit.

### **C. COST-SHARING/MATCHING CONTRIBUTION SCHEDULE**

USAID awards may require contributions by the recipient. USAID and recipient awards may establish a life-of-project budget or an annual budget for the cost-sharing/matching contributions. In either case, the review consists principally of inquiries of recipient personnel and analytical procedures applied to financial data supporting the costsharing/matching contribution table.

For an agreement with a life-of-project budget for cost-sharing/matching contributions, it is not possible to determine whether the contributions have been made as required until the agreement ends. Nonetheless, USAID and the recipient need reliable information to monitor actual cost-sharing/matching contributions throughout the life of the agreement.

The auditors will review the cost-sharing/matching contributions schedule to determine if the schedule is fairly presented in accordance with the basis of accounting used by the recipient to prepare the schedule. The auditors must question all cost-sharing/matching contributions that are either ineligible or unsupported costs. An ineligible cost is unreasonable, prohibited by the agreements or applicable laws and regulations, or not program related. An unsupported cost lacks adequate documentation or does

not have required prior approvals or authorizations. All questioned costs must be briefly described in the notes to the cost sharing/matching contributions. In addition, material questioned costs must be included as findings in the report on compliance. Notes to the cost-sharing/matching contributions schedule must be cross-referenced to the corresponding findings in the report on compliance. Also, significant deficiencies in internal controls related to cost-sharing/matching contributions must be set forth as findings in the report on internal control. In addition, for closeout audits, the auditors will review the cost-sharing/matching contributions schedule to determine if the recipients provided such contributions in accordance with the terms of the agreement. If actual contributions were less than budgeted contributions, the shortfall will be identified in the appropriate column of the cost sharing/matching contributions schedule.

## D. INTERNAL CONTROLS

The auditors must review and evaluate the recipient's internal controls related to USAID programs to obtain a sufficient understanding of the design of relevant control policies and procedures and whether those policies and procedures have been placed in operation. The auditor's understanding of the internal controls must be documented in the audit documentation files.

Auditors must prepare the report required by the Guide (**Appendix 2**), identifying any significant deficiencies or material weaknesses in the design or operation of internal control. A material weakness is a deficiency, or combination of deficiencies, in internal controls, such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented or detected and corrected on a timely basis. A significant deficiency is a deficiency, or combination of deficiencies, in internal controls that is less severe than a material weakness but that is important enough to merit attention by those charged with governance. Any significant deficiencies or material weaknesses must be set forth in the report as "findings". Any other matters related to internal controls – such as suggestions for improving operational or administrative efficiency, effectiveness, or control deficiencies that are not significant deficiencies or material weaknesses – may be reported in a separate management letter to the recipient and referred to in the report on internal control. A copy of the management letter should be provided to the cognizant USAID Operating Unit along with the audit report.

The major internal control components to be studied and evaluated include, but are not limited to, the controls related to each revenue and expense account on the schedule of expenditures of USAID awards. The auditors must:

1. Obtain an understanding of the design of the internal controls related to USAID programs and determine whether they have been placed in operation.
2. Assess inherent risk, control risk, and determine the detection risk. Inherent risk is the susceptibility of an assertion, such as an account balance, to a misstatement that could be material, either individually or when aggregated with other misstatements, assuming that there are no related controls. Control risk is the risk that a material misstatement (either individually or when aggregated with other misstatements) could occur in a relevant assertion and will not be prevented or detected on a timely basis by the entity's internal controls. Detection risk is the risk that the auditor will not detect a material misstatement that exists in an assertion. Detection risk is based upon the effectiveness of an auditing procedure and the auditor's application of that procedure.
3. Summarize the risk assessments for each assertion in the audit documentation file. The risk assessments must consider the following broad categories under which each assertion should be classified: (a) existence or occurrence; (b) completeness; (c) rights and obligations; (d) valuation or allocation; and (e) presentation and disclosure. At a minimum, the audit documentation files must identify the name of the account or assertion, the account balance or the amount represented by the assertion, the assessed level of inherent risk (high, moderate, or low), the assessed level of control risk (high, moderate, or low), the combined risk (high,

moderate, or low), and a description of the nature, extent, and timing of the tests performed based on the combined risk. These summary audit documentation files must be cross-indexed to the supporting audit documentation files that contain the detailed analysis of the fieldwork. If control risk is evaluated at less than the maximum level (high), then the basis for the auditor's conclusion must be documented in the audit documentation files.

4. Evaluate the control environment, the adequacy of the accounting systems, and control procedures. Emphasis must be placed on the policies and procedures that pertain to the recipient's ability to record, process, summarize, and report financial data consistent with the assertions embodied in each account of the schedule of expenditures of USAID awards. This evaluation must include, but not be limited to, the internal control systems for:
  - a. Ensuring that charges to the program are proper and supported;
  - b. Managing cash on hand and in bank accounts;
  - c. Procuring goods and services;
  - d. Managing inventory and receiving functions;
  - e. Managing personnel functions such as timekeeping, salaries, and benefits;
  - f. Managing and disposing of commodities (such as vehicles, equipment, and tools, as well as other commodities) purchased either by the program or directly by USAID; and
  - g. Ensuring compliance with agreement terms and applicable laws and regulations that collectively have a material impact on the schedule of expenditures of USAID awards. The results of this evaluation must be contained in the audit documentation section described in section **IV.E.** of this Statement of Work and presented in the compliance report.
5. Evaluate internal controls established to ensure compliance with cost sharing/matching contribution requirements, if applicable, including both provision and management of the contributions.
6. Include in the study and evaluation other policies and procedures that may be relevant if they pertain to data the auditors use in applying auditing procedures. This may include, for example, policies and procedures that pertain to nonfinancial data that the auditor uses in analytical procedures.

## **E. COMPLIANCE WITH AGREEMENT TERMS AND APPLICABLE LAWS AND REGULATIONS**

In fulfilling the audit requirement to determine compliance with agreement terms and applicable laws and regulations related to USAID programs, the auditors must follow the reporting standards contained in GAGAS for reporting on compliance which incorporate the AICPA Professional Standards. The auditor's report on compliance must set forth as findings all material instances of noncompliance, defined as instances that could have a direct and material effect on the schedule of expenditures of USAID awards, and/or the financial statements, as applicable. Nonmaterial instances of noncompliance must be included in a separate management letter to the recipient and referred to in the report on compliance. A copy of the management letter should be provided to the cognizant USAID Operating Unit along with the audit report.



The auditor's report must include relevant information about identified or suspected fraud based on sufficient, appropriate evidence obtained that a fraud or illegal act either has occurred or is likely to have occurred. In reporting material fraud, illegal acts, and abuse or other noncompliance, the auditors must place their findings in proper perspective. In presenting material irregularities, illegal acts, or other noncompliance, auditors must follow the reporting standards contained in GAGAS. If the auditors conclude that sufficient evidence of any known or likely fraud or illegal acts exists, regardless of whether it is material to the financial statements, they must contact the USAID cognizant Operating Unit or OIG and exercise due professional care in pursuing indications of possible fraud and illegal acts to avoid interfering with potential future investigations or legal proceedings.

In planning and conducting the tests of compliance the auditors must:

- 1.** Identify the agreement terms and pertinent laws and regulations and determine which of those, if not observed, could have a direct and material effect on the schedule of expenditures of USAID awards. The auditors must:
  - a.** List all standard and program-specific provisions contained in the agreements that cumulatively, if not observed, could have a direct and material effect on the schedule of expenditures of USAID awards;
  - b.** Assess the inherent and control risk that material noncompliance could occur for each of the compliance requirements;
  - c.** Determine the nature, timing and extent of audit steps and procedures to test for errors, fraud, and illegal acts that provide reasonable assurance of detecting both intentional and unintentional instances of noncompliance with agreement terms and applicable laws and regulations that could have a material effect on the schedule of expenditures of USAID awards; and
  - d.** Prepare a summary audit documentation file that adequately identifies each of the specific compliance requirements included in the review, the results of the inherent, control and (detection) risk assessments for each compliance requirement, the audit steps used to test for compliance with each of the requirements based on the risk assessment, and the results of the compliance testing for each requirement. The summary document should be cross-indexed to detail audit documentation that support the facts and conclusions contained in the summary document.
- 2.** Determine if payments have been made in accordance with agreement terms and applicable laws and regulations.
- 3.** Determine if funds have been expended for purposes not authorized or not in accordance with applicable agreement terms. If so, the auditor must identify these costs as questioned in the schedule of expenditures of USAID awards.
- 4.** Identify any costs not considered appropriate, classifying and explaining why these costs are questioned.
- 5.** Determine whether commodities, whether directly procured by the recipient or directly procured by USAID for the recipient's use, exist or were used for their intended purposes in accordance with the agreements. Ensure that commodities are marked in accordance with grant or contract requirements. If not, the cost of such commodities must be questioned.

6. Determine whether any technical assistance and services, whether procured by the recipient or directly procured by USAID for the recipient's use, were used for their intended purposes in accordance with the agreements. If not, the cost of such technical assistance and services must be questioned.
7. Determine if the amount of cost-sharing/matching funds was calculated and accounted for as required by the agreements or applicable cost principles.
8. Determine if the cost-sharing/matching funds were provided according to the terms of the agreements and quantify any shortfalls.
9. Determine whether those who received services and benefits were eligible to receive them.
10. Determine whether the recipient's financial reports (including those on the status of cost-sharing contributions) and claims for advances and reimbursement contain information that is supported by the books and records.
11. Determine whether the recipient held advances of USAID funds in interest bearing accounts, and whether the recipient remitted to USAID any interest earned on those advances, with the exception of up to \$500 a year that the recipient may retain for administrative expenses. If the recipient was required to place USAID funds in an interest-bearing bank account but did not, then the auditor should determine the amount of interest that was foregone by the recipient, and this amount should be classified as ineligible costs.

## F. FOLLOW-UP ON PRIOR AUDIT FINDINGS

The auditors must review the status of actions taken on audit findings reported in prior audits of USAID-funded programs. Auditors should evaluate whether the audited entity has taken appropriate corrective action and prepared a Summary Schedule of Prior Audit Findings (SSPAF) to address audit findings from previous audit engagements as per [2 CFR 200.511](#). The corrective action plan and SSPAF must include findings which are required to be reported in accordance with GAGAS. When planning the audit, auditors should ask management of the audited entity to identify previous audit findings, including whether related recommendations have been implemented. Auditors should use this information in assessing risk and determining the nature, timing, and extent of current audit work, including determining the extent to which testing the implementation of the corrective actions is applicable to the current audit objectives.

The auditors must describe the scope of their work on prior audit findings in the summary section of the audit report. The auditors should refer to the most recent recipient audit report for the same award (for a follow-up audit) or other USAID awards (for an initial audit). When corrective action has not been taken and the deficiency remains unresolved for the current audit period, the auditors need to briefly describe the prior finding and status and show the page reference to where it is included in the current report. If there were no prior findings, the auditors must include a note to that effect in this section of the audit report.

## G. INDIRECT COST RATES

The auditors must determine the actual indirect cost rates for the year if the recipient has used provisional rates to charge indirect costs to USAID. The audit of the indirect cost rates must include tests to determine whether the:

1. Distribution or allocation base includes all costs that benefited from indirect activities,
2. Distribution or allocation base is in compliance with the governing USAID NICRA, if applicable,

3. Indirect cost pool includes only costs authorized by the USAID agreements and applicable cost principles,
4. Indirect cost rates obtained by dividing the indirect cost pool by the base are accurately calculated, or
5. Costs included in this calculation reconcile with the total expenses shown in the recipient's audited general purpose financial statements.

The results of the audit of the indirect cost rate must be presented in a schedule of computation of indirect cost rate. This schedule should contain: a listing of costs included in each indirect cost pool, a list of cost exclusions based on cost principles, the distribution base, and the calculation and the resultant indirect cost rate calculation. The costs in the schedule should reconcile with the total expenses shown in the recipient's general purpose financial statement as per guidance from [2 CFR 200](#).

## H. GENERAL PURPOSE FINANCIAL STATEMENTS

Where provisional indirect costs are authorized, an audit of the general-purpose financial statements is needed, in addition to the audit of SEFA, to ensure sound financial management and provide reasonable assurance that all costs have been correctly included in the indirect cost rate calculation. Auditors should examine the recipient's general purpose income statement on an organization-wide basis, balance sheet, and if applicable, the statement of cash flows. The objective of this audit is to express an opinion on whether those statements are presented fairly in all material respects in accordance with generally accepted accounting principles.

## I. OTHER AUDIT RESPONSIBILITIES

The auditors must perform the following steps:

1. Hold entrance and exit conferences with the recipient. The cognizant USAID Operating Unit must be notified of these conferences in order that USAID representatives may attend, if deemed necessary.
2. During the planning stages of an audit, communicate information to the auditee regarding the nature and extent of planned testing and reporting on compliance with laws and regulations and internal controls over financial reporting. Such communication should state whether the auditors plan to provide opinions on compliance with laws and regulations and internal controls over financial reporting. This communication should be in the form of an engagement letter.
3. Institute quality control procedures to ensure that sufficient appropriate evidence is obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the agreement(s) under audit. While auditors may use their standard procedures for ensuring quality control, those procedures must, at a minimum, ensure that:
  - a. Audit reports and audit documentation are reviewed by an auditor, preferably at the partner level, who was not involved in the audit. This review must be documented.
  - b. All quantities and monetary amounts involving calculations are footed and cross-footed.
  - c. All factual statements, numbers, conclusions, and monetary amounts are cross-indexed to supporting audit documentation.

4. The auditor must ascertain, before preparing its proposal for the audit engagement (or if this is not possible, at the earliest opportunity during the engagement itself), whether the recipient ensured that audits of its subrecipients were performed to ensure accountability for USAID funds passed through to subrecipients. If subrecipient audit requirements were not met, the auditors should immediately notify the cognizant USAID Operating Unit and consider whether they can audit the subrecipient costs themselves. If, after consultation with the cognizant USAID Operating Unit, the auditors conclude that a restriction on the scope of the audit exists and the restriction cannot be removed, then the auditors should consider modifying their opinion and any costs that have not been audited as required must be questioned as unsupported costs.
5. Obtain a management representation letter. See **Appendix 4** of the Guide for an illustrative management representation letter.

## V. AUDIT REPORTS

The recipient should submit to the cognizant USAID Operating Unit a portable document format (PDF) copy of the audit report in English and, if considered appropriate, a PDF copy of the report in the recipient country's official language. The format and content of the audit reports should closely follow this Statement of Work and the illustrative reports in **Appendix 2** of the Guide. The audit report must specify the correct award number(s) of each award covered by the audit.

The report must contain:

1. Title page (close-out audits must be clearly titled),
2. Table of contents,
3. Transmittal letter, and
4. Summary, which includes:
  - a. Background section with:
    - i. A general description of the USAID programs audited, ii. Period covered, iii. Program objectives, iv. Clear identification of all entities mentioned in the report,
    - v. Follow-up of prior audit recommendation section, vi. Cost-sharing/matching contributions explanation, and vii. Indirect cost rate details;
  - b. Objectives and scope of the financial audit and clear explanation of the procedures performed and any scope limitations;
  - c. Brief summary of audit results on the:
    - i. Schedule of expenditures of USAID awards,
    - ii. Questionable costs,

- iii. Internal control,
  - iv. Compliance with agreement terms and applicable laws,
  - v. Indirect cost rates,
  - vi. Status of prior audit recommendations, and if applicable,
  - vii. General purpose financial statements on an organization-wide basis;
- d. A brief summary of the results of the review of cost-sharing/matching contributions; and
- e. A brief summary of the recipient's management comments regarding its view on the audit and results and findings.

5. The auditor's report includes the following:

- a. The auditor's report on the schedule of expenditures of USAID awards, identifying any material questioned costs not fully supported with adequate records or not eligible under the terms of the agreements (see **Appendix 2** of the Guide). The report must be in conformance with the standards for reporting in GAGAS and must include the auditor's opinion on whether the schedule of expenditures of USAID awards presents fairly, in all material respects, in accordance with the terms of the agreements and in conformity with generally accepted accounting principles or other basis of accounting.
- b. A report on internal control including significant deficiencies and material weaknesses in the recipient's internal control. Deficiencies related to improving operational or administrative efficiency or internal control, or control deficiencies that are not significant deficiencies or material weaknesses – may be communicated through a separate management letter that should be sent with the audit report (see **Appendix 2** of the Guide).
- c. A report on the recipient's compliance with agreement terms and applicable laws and regulations related to USAID-funded programs. Nonmaterial instances of noncompliance should be communicated to the recipient in a separate management letter that should be sent with the audit report. All questioned costs resulting from instances of noncompliance must be included as findings in the report on compliance (see **Appendix 2** of the Guide).
- d. A report and a table on the cost-sharing/matching contributions identifying the budgeted amounts required by the agreements; any cost-sharing/matching contribution shortfalls; and notes to the costsharing/matching contributions providing an explanation on the basis for questioned costs and shortfalls, if applicable. The notes must be cross-referenced to the corresponding findings, if the questioned costs are material, in the report on compliance (see **Appendix 2** of the Guide).
- e. A report on the audit of the indirect cost rate(s), if the recipient has been authorized to charge indirect costs to USAID using provisional rates and USAID has not yet negotiated final rates (**Appendix 2**) with the recipient, along with a report on the audit of the general-purpose financial statements (see **Appendix 2** of the Guide).

The audit firms are expected to exercise independent professional judgment throughout the audit engagement, including in reporting on questioned costs. Findings that involve monetary effect must:

1. Be quantified and included as questioned costs in the schedule of expenditures of USAID awards, the Auditor's Report on Compliance, and cost sharing/matching contributions schedule (cross-referenced) if applicable.
2. Be reported without regard to whether the conditions giving rise to them were corrected.
3. Be reported whether the recipient does or does not agree with the findings or questioned costs.
4. Contain enough relevant information to expedite the audit resolution process (e.g., number of items tested, size of the universe, error rate, corresponding U.S. dollar amounts, etc.).

The reports must also contain, after each recommendation, pertinent views of responsible recipient officials concerning the auditor's findings and actions taken by the recipient to implement the recommendations. If possible, the auditor should obtain written comments. When the auditors disagree with management comments opposing the findings, conclusions, or recommendations, they must explain their reasons following the comments. Conversely, the auditors should modify their report if they find the comments valid.

Any evidence of fraud or illegal acts that have occurred, or are likely to have occurred, must be included in a separate written report if deemed necessary by USAID. This report must include an identification of all questioned costs as a result of fraud or illegal acts, without regard to whether the conditions giving rise to the questioned costs have been corrected or whether the recipient does or does not agree with the findings and questioned costs.

You may contact the cognizant USAID Operating Unit for any additional information or clarification on the Guide.

## **VI. RELATIONSHIPS AND RESPONSIBILITIES**

The client for this contract is DanChurchAid and the program coordinator is *Jakob Dyhr Zangenberg*.

The audit firm will work in coordination with the USAID cognizant Operating Unit, (for is audit it is the Partner Audit Unit (PAU)). The liaison for audit concerns will be Augustin Allard or his designee, and the liaison for information and assistance from the USAID Operating Unit will be the USAID cognizant Controller or his/her designee.

The USAID Operating Unit may meet with the independent audit firm at the beginning of the audit to explain any financial/compliance areas of concern that they want emphasized and provide any advice concerning the performance of the audit. The USAID Operating Unit should provide the following information to the auditors:

1. A list of all payments made for assets, equipment, materials, and technical assistance purchased by USAID from third parties for the period being audited with copies of vouchers with supporting documentation.
2. A list of all advances and recoveries made during the audit period.
3. A list of all disbursements made to the recipient.

The USAID Operating Unit may also provide written comments on the draft audit report concerning the facts and conclusions contained in the report in order to obtain the best possible end product. The

USAID Operating Unit should attend the exit conference for the same purpose. However, the USAID Operating Unit comments on the draft report and at the exit conference will not be binding on the audit firm.

The independent audit firm must properly maintain and store the working papers for a period of three years from the completion of the audit. During this three-year period, the audit firm must immediately provide the working papers when requested by the USAID Operating Unit or USAID OIG. Audit firms that are nonresponsive or do not provide timely responses to questions raised by the USAID Operating Unit or USAID OIG will be temporarily or permanently excluded from performing additional USAID audits.

## **VII. TERMS OF PERFORMANCE**

The audit must begin as soon as practicable after the signing of the audit contract, and from the audit start date, the audit firm must submit to USAID a draft indexed audit report in English within 90 calendar days, and a final audit report within 120 calendar days. The audit firm must submit to the USAID Operating Unit *[number]* copies of the final report in English and *[number]* copies of the report in the official language of the recipient country *[if deemed necessary by the Operating Unit]*.

It is the responsibility of the recipient to ensure that all records are available, all accounting entries and adjustments are made, and all other necessary steps are taken to make it possible for the audit firm to perform the work necessary to be able to present the final audit report within 120 calendar days.

Payment modalities should be determined by the cognizant USAID Operating Unit.

## ANNEX 2: ORGANISATION AND METHODOLOGY

To be filled in by the candidates, in compliance with the following instructions:

### Rationale

- Any comments on the Terms of Reference of importance for the successful execution of activities, its objectives and expected results, thus demonstrating the degree of understanding of the Contract. Detailed list of inputs, activities and outputs. Any comments contradicting the Terms of Reference or falling outside their scope will not form part of the final Contract.
- An opinion on the key issues related to the achievement of the Contract objectives and expected results

### Strategy

- An outline of the approach proposed for contract implementation.
- A list of the proposed activities considered to be necessary to achieve the contract objectives.
- The related inputs and outputs.

### Timetable of activities

- The timing, sequence and duration of the proposed activities considering mobilisation time.
- The identification and timing of major milestones in execution of the Contract, including an indication of how the achievement of these would be reflected in any reports particularly those stipulated in the Terms of Reference.
- Include a programme.
- DCA HQ and selected Country Office(s) remain available for any auditors' visits. You are encouraged to consider visiting HQ and Country Office(s) to perform the audits. Please note, travel costs are not expected to be included in this proposal. Travel costs will be reimbursed by DCA in due time based on a pre-approval by DCA.
- The Candidate shall include a detailed description of the role and duties of each of the key experts or other non-key experts, which the Candidate proposes to use for the performance of the services. The key experts are those whose involvement is considered instrumental in the achievement of the Contract objectives. The CV of each key expert shall be included highlighting his/her experience in the specific field of the services and his/her specific experience in the country/region where the services are to be performed. In addition, the Candidate shall include information on current participation of key experts in other contracts and or commitments to participate in future contracts, including detailed description of their tasks and period of engagement.



### ANNEX 3: PROPOSAL SUBMISSION FORM

The financial proposal for my/our services is as follows:

#### Global price

	Currency	Amount
Global price (fees and expenses)	USD	
VAT or other tax on services	USD	
<b>Total price incl. taxes</b>	<b>USD</b>	

#### CANDIDATE OR COMPANY INFORMATION

Company (legal name)	
Street name and no.	
City	
Postal code	
Country	
Phone no.	
Email	
Website	
Director (name)	

#### GENERAL COMPANY INFORMATION

Year of establishment	
Number of full-time employees	
Licensing authority	
Licence number (VAT no./TAX id)	
Countries with registered office:	
Registration Certificate – please attach	
Does the company have CSR related policies in place – e.g., Health, Safety, HR, Energy or Climate policy or is a member of Global Compact? Please state which policies.	
Does the company have a Code of Conduct?	

#### REFERENCES

Name and country of customer	Type of contract	Value	Contact name	Phone/fax and email

Include details of the experience and past performance on contracts of a similar nature within the past five years and information on other contracts in hand and/or future commitments including details of the actual and effective participation in each of such contracts, description of the Candidate's assignments and periods of engagement. Additional documents can be attached to the above form.

The proposal is valid for a period of after the closing date in accordance with the article A8. Validity.

After having read the Request for Proposal no. 1788 - Audit of the US Government resources managed by DCA dated March 7<sup>th</sup>, 2023, and after having examined the Request for Proposal, I/we hereby offer to execute and complete the services in conformity with all conditions in the Request for Proposal for the sum indicated in our financial proposal.

Further, I/we hereby:

- Accept, without restrictions, all the provisions in the Request for Proposal including the General Terms and Conditions for Service Contracts - Ver3 2020 and the draft Service Contract including all annexes.
- Certify that I/we do not support terrorists or terrorism activities, and do not condone the use of terrorism.
- Provided that a contract is issued by the Contracting Authority I/we hereby commit to perform all services described in the Terms of Reference, Annex 1 within the time frame described in our Organisation and Methodology Form, Annex 2.
- Certify and attest compliance with eligibility criteria of article 33 of the General Terms and Conditions for Service - Ver3 2020.
- Certify and attest compliance with the Code of Conduct for Contractors in Annex 5.

The above declarations will become an integrated part of the Contract and misrepresentation will be regarded as grounds for termination.

Signature and stamp:

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Date and signed by:

**The Candidate**

Name of the company

Address

Telephone no.

Email

Name of contact person

## ANNEX 4: GENERAL TERMS AND CONDITIONS FOR SERVICE CONTRACTS – VER3 2020

### 1. DEFINITIONS

In these general terms and conditions:

- a) "contract" is the agreement entered into by the Contracting Authority and the Contractor for the performance of the services described in the terms of reference, to which these general terms and conditions are made applicable; the contract is constituted of the documents listed in the Service Contract.
- b) The Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked.
- c) "personnel" is any person assigned by the Contractor to the performance of the services or any part hereof, whether through employment, sub-contracting or any other agreement; and "key experts" are those members of the personnel whose involvement is considered instrumental in the achievement of the contract objectives.
- d) "beneficiary country" is the country where the services are to be performed, or where the project to which the services relate is located.

### 2. RELATIONS BETWEEN THE PARTIES

Nothing contained in the contract shall be construed as establishing a relation of master and servant or of agent and principal as between the Contracting Authority and the Contractor. Except if otherwise provided in the contract, the Contractor shall under no circumstances act as the representative of the Contracting Authority or give the impression that the Contractor has been given such authority. The Contractor has complete charge of the personnel and shall be fully responsible for the services performed by them.

### 3. SCOPE OF SERVICES

The scope of the services including the methods and means to be used by the Contractor, the results to be achieved by him and the verifiable indicators are specified in the Terms of Reference. The Contractor shall be responsible for everything which is required for the performance of the services in accordance with what is specified in the contract, or which must otherwise be regarded as forming part of the services.

### 4. COMPLIANCE WITH LAWS AND RESPECT OF TRADITIONS

The Contractor shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement by the Contractor, its personnel and their dependants of such laws and regulations.

The Contractor, its personnel and their dependants shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country.

### 5. CODE OF CONDUCT

The Contractor shall at all times act loyally and impartially and as a faithful adviser to the Contracting Authority and shall perform the services with due care, efficiency and diligence, in accordance with the best professional practice.

### 6. DISCRETION AND CONFIDENTIALITY

The Contractor shall treat all documents and information received in connection with the contract as private and confidential, and shall not, save in so far as may be necessary for the purposes of the performance thereof, publish or disclose any particulars of the contract without the prior consent in writing of the Contracting Authority. It shall, in particular, refrain from making any public statements concerning the project or the services without the prior approval of the Contracting Authority.

### 7. CONFLICT OF INTEREST

The Contractor shall refrain from engaging in any activity which conflicts with his obligations towards the Contracting Authority under the contract.

The Contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. Any conflict of interests

which could arise during performance of the Contract must be notified in writing to the Contracting Authority without delay. The Contractor shall replace, immediately and without compensation from the Contracting Authority, any member of its personnel exposed to such a situation.

### 8. CORRUPT PRACTICES

The Contractor and the personnel shall refrain from performing, condoning, or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the contract or any other contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the contract or any other contract with the Contracting Authority.

The payments to the Contractor under the contract shall constitute the only income or benefit it may derive in connection with the contract and neither it nor its personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the contract.

The execution of the contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the contract or not stemming from a properly concluded contract referring to the contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

The Contractor further warrants that no official of the Contracting Authority and/or their partner has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract.

### 9. JOINT VENTURE OR CONSORTIUM

If the Contractor is a joint venture or a consortium of two or more legal persons, all such persons shall be jointly and severally bound to fulfil the terms of the contract. The person designated by the joint venture or consortium to act on its behalf for the purposes of this contract shall have the authority to bind the joint venture or consortium.

For the purposes of performance of the contract, the joint venture or consortium shall act as, and be considered, a single person and in particular, shall have bank account opened in its name, shall submit to the Contracting Authority single guarantees if required, and shall submit single invoices and single reports.

The composition of the joint venture or a consortium shall not be altered without the prior written consent of the Contracting Authority.

### 10. SPECIFICATIONS AND DESIGNS

The Contractor shall prepare all specifications and designs using accepted and generally recognised systems acceptable to the Contracting Authority and taking into account the latest design criteria.

### 11. INFORMATION

The Contractor shall furnish the Contracting Authority, or any person authorised by the Contracting Authority with any information relating to the services and the project as the Contracting Authority may at any time request.

### 12. REPORTS

The frequency, deadlines, format and contents of the reports to be drawn up by the Contractor in relation to the performance of the contract shall be described in the Terms of Reference.

### 13. CONTRACTOR'S PERSONNEL

13.1. The Contractor shall employ and provide such qualified and experienced personnel as are required to carry out the services, and the Contractor shall be responsible for the quality of the personnel.

The names, outputs, duties and CVs of key experts and the titles, job descriptions, minimum qualifications, estimated periods of engagement in the carrying out of the services of each of the personnel and key experts are described in the Organisation and Methodology part of the contract. The Contractor must inform the Contracting Authority of all non-expert personnel it intends to use for the implementation of the contract. The Contracting Authority shall have the right to oppose the Contractor's choice of personnel.

13.2. No changes shall be made in the personnel without the prior consent of the Contracting Authority. The Contractor shall provide a replacement with at least equivalent qualifications and experience and acceptable to the Contracting Authority if:

- a) on account of death, sickness or accident, a member of the Personnel is unable to continue providing his services,
- b) any member of the personnel is found by the Contracting Authority to be incompetent in discharging or unsuitable for the performance of his duties under the Contract,
- c) for any reasons beyond the control of the Contractor, it becomes necessary to replace any member of the Personnel.

The request for replacement must be made in writing and state the reason therefore. The Contractor shall proceed swiftly with the request and propose a replacement with at least equivalent qualifications and experience. The remuneration to be paid to the replacement cannot exceed that received by the replaced member of the personnel.

Failure by the Contractor to propose a replacement for a key expert satisfactory to the Contracting Authority, shall give the right to the Contracting Authority to terminate the contract.

Additional costs arising out of a replacement shall be borne by the Contractor.

### 13.3. Working hours

The days and hours of work of the Contractor or/and its personnel in the beneficiary country shall be fixed on the basis of the laws, regulations and customs of the beneficiary country and the requirements of the services.

### 13.4. Leave entitlement

Any taking of holiday leave by the personnel during the period of implementation of the contract must be at a time approved by the Contracting Authority.

Overtime, sick leave, pay and holidays leave pay are deemed to be covered by the Contractor's remuneration.

## 14. SUB-CONTRACTING

Except from the subcontractors listed in the contract, the Consultant shall not subcontract to nor engage another independent contractor to perform any part of the services without the prior written consent of the Contracting Authority. Subcontractors must satisfy the eligibility criteria applicable for the award of the contract.

The Contracting Authority shall have no contractual relations with the subcontractors. The provisions of the contract, including these general terms and conditions, and in particular article 13.2 shall, where practicable, apply to the subcontractors and their personnel.

## 15. LIABILITY

At its own expense, the Contractor shall indemnify, protect and defend, the Contracting Authority, its agents and employees, from and against all actions, claims, losses or damages arising from any act or omission by the Contractor in the performance of the services, including any violation of any legal provisions, or rights of third parties, in respect of patents, trademarks and other forms of intellectual property such as copyrights.

Approval by the Contracting Authority of the Contractor's reports and issue of Completion Certificate shall not relieve the Contractor of its liability and shall not prevent the Contracting Authority from claiming damages.

The Contractor shall remain liable for any breach of its obligations under the contract for such period after the services have been performed as may be determined by the law governing the contract (the "liability period"). This time limit does not however apply when the damage arises from gross negligence or wilful misconduct of the Contractor.

During the liability period, or as soon as practicable after its expiration, the Contractor shall, at its expense, upon instruction of the Contracting Authority, remedy any deficiencies in the performance of the services. In case of default on the part of the Contractor to carry out such instructions, the Contracting Authority shall be entitled to hire another contractor to carry out the same, at the Contractor's expense.

## 16. INSURANCE

Within 20 days of signing the contract, the Contractor shall take out and maintain, at its own cost, a full indemnity insurance policy covering its professional liability under the contract and article 15 above, from the commencement date and until the end of the liability period.

Within 20 days of signing the contract, the Contractor shall take out and maintain a full indemnity insurance policy for a sum up to the higher of the maximum amount foreseen by the legislation of the country of the Contracting Authority and the amount foreseen by the legislation of the country in which the Contractor has its headquarters and covering, during the period of implementation of the contract, the following risks:

- a) loss of or damage to property purchased with funds provided under the contract, or produced by the Contractor;
- b) loss or damage to equipment, material and office facilities made available to the Contractor by the Contracting Authority;
- c) civil liability for accidents caused to third parties arising out of acts performed by the Contractor, its personnel and their dependents;
- d) employer's liability and workers' compensation in respect of the personnel as well as sickness, accident or death affecting the personnel and their dependents, including the cost of repatriation on health grounds;
- e) such other insurance as required by the laws in force in the beneficiary country.

Prior to the commencement date, the Contractor shall provide evidence to the Contracting Authority that the above insurances have been effectuated. During execution of the contract, the Contractor shall, when required, provide the Contracting Authority with copies of the insurance policies and the receipts for payment of premiums.

## 17. INTELLECTUAL AND INDUSTRIAL PROPERTY RIGHTS

All reports and data such as maps, diagrams, drawings, specifications, plans, statistics, calculations, databases, software and supporting records or materials acquired, compiled or prepared by the Contractor in the performance of the contract shall, with the copyright thereto, be the absolute property of the Contracting Authority. The Contractor shall, upon completion of the contract, deliver all such documents and data to the Contracting Authority. The Contractor may not retain copies of such documents and data and shall not use them for purposes unrelated to the contract without the prior written consent of the Contracting Authority.

The Contractor shall not publish articles relating to the services or refer to them when carrying out any services for others, or divulge information obtained from the Contracting Authority, without the prior written consent of the Contracting Authority.

## 18. RECORDS

The Contractor shall keep separate, accurate and systematic records and accounts in respect of the services in such form and detail as is customary in the profession and sufficient to establish accurately that the number of working days and the actual reimbursable expenditure identified in the Contractor's invoice(s) have been duly incurred for the performance of the services.

For a fee-based contract, timesheets recording the days worked by the Contractor's personnel must be maintained by the Contractor. The timesheets must be approved by the Contracting Authority or any person authorised by the Contracting Authority or the Contracting Authority itself on a monthly basis. The amounts invoiced by the Contractor must correspond to these timesheets. In the case of long-term experts, these timesheets must record the number of days worked. In the case of short-term experts, these timesheets must record the number of hours worked. Time spent travelling exclusively and necessarily for the purpose of the Contract may be included in the numbers of days or hours, as appropriate, recorded in these timesheets.

Such records must be kept for a 7-year period after the final payment made under the contract. These documents comprise any documentation concerning income and expenditure and any inventory, necessary for the checking of supporting documents, including timesheets, plane and transport tickets, pay slips for the remuneration paid to the experts and invoices or receipts for reimbursable expenditure. Failure to maintain such records constitutes a breach of contract and will result in the termination of the contract.

## 19. OBLIGATIONS OF CONTRACTING AUTHORITY

19.1. The Contracting Authority shall provide the Contractor as soon as possible with any information and/or documentation at its disposal which may be relevant to the performance of the contract.

On all matters properly referred to it in writing by the Contractor, the Contracting Authority shall give its decisions so as not to delay the services, and within a reasonable time.

19.2. The contract shall specify whether the Contracting Authority is to provide the Contractor with equipment, facilities, counterpart personnel or specific assistance, and shall detail under which conditions. If the provision of such agreed counterpart personnel, equipment, facilities and assistance is delayed or not forthcoming, the Contractor shall endeavour to perform the Services as far as is possible. The parties shall agree on how the affected parts of the services shall be carried out, and the additional payments, if any is due, to be made by the Contracting Authority to the Contractor as a result of additional expenditures.

## 20. CONTRACT PRICE AND PAYMENTS

Contracts are either "global price" or "fee-based".

### 20.1. Fee-based contract

In consideration of the services performed by the Contractor under the contract, the Contracting Authority shall make to the Contractor such payments of fees and such reimbursement of costs as provided in the contract.

Fees shall be determined based on time actually spent by the key experts in the performance of services at the fee rates specified in the contract. Fee rates are deemed to remunerate all the activities of the Contractor in the performance of the services and to cover all expenses and costs incurred by the Contractor which are not included in the agreed reimbursable costs.

The Contracting Authority shall reimburse to the Contractor the reimbursable costs and expenses specified in the contract, actually and reasonably incurred in the performance of the services.

Costs and expenses which are not mentioned in the contract shall be deemed covered by the overhead of profit included in the fees.

The currency of payments of fees and reimbursable costs and applicable exchange rates are set out in the contract.

### 20.2. Global price contract

The global price covers both the Contractor's and its personnel's fees and all expenses to be incurred for the performance of the contract. The global price is in consideration for all obligations of the Contractor under the contract and all matters and things necessary for the proper execution and completion of the services and the remedying of any deficiencies therein.

### 20.3. Revision

Unless otherwise stipulated in the contract, the global price of a global price contract and the fee rates of a fee-based contract shall not be revised.

### 20.4. Guarantees

In the case an advance payment for fees and for reimbursable costs (fee-based contract) or a pre-financing payment (global price contract) is agreed in the contract, its payment by the Contracting Authority shall be subject to the prior presentation by the Contractor to the Contracting Authority of an approved performance security, advance payment or pre-financing guarantee, if so agreed and under the conditions specified in the Service Contract.

### 20.5. Conditions of Payment

Payments will be made by the Contracting Authority with the frequency, instalments, time limits, amounts and currencies, and under the conditions, in particular on the contents of invoices, specified in the special conditions of the contract. Payment of the final balance shall be subject to performance by the Contractor of all its obligations under the contract and the issue by

the Contracting Authority of the completion certificate described in article 25.

### 20.6. Late payment

If the time periods laid down for payments by the Contracting Authority have been exceeded by more than two months and where the Contracting Authority cannot invoke a case of suspension or withholding of payments provided for in these terms and conditions, the Contractor may claim interest calculated on any amount due, prorata on the number of days of delay at the official bank rate of the beneficiary country (if amounts due are in the currency of that country), or at the rate applied by the European central bank (where amounts due are in Euro), plus 2% per year.

## 21. DELAYS IN PERFORMANCE

If the Contractor does not perform the services within the period of implementation specified in the contract, the Contracting Authority shall, without formal notice and without prejudice to its other remedies under the contract, be entitled to liquidated damages for every day, or part thereof, which shall elapse between the end of the period of implementation specified in the contract and the actual end of the period of implementation.

The daily rate for liquidated damages is calculated by dividing the contract value by the number of days of the period of implementation.

If these liquidated damages exceed more than 15% of the contract value, the Contracting Authority may, after giving notice to the Contractor:

- a) terminate the contract; and
- b) complete the services at the Contractor's own expense

## 22. BREACH OF CONTRACT

Either party commits a breach of contract where it fails to discharge any of its obligations under the contract.

Where a breach of contract occurs, the party injured by the breach shall be entitled to the following remedies:

- a) liquidated damages; and/or
- b) termination of the contract.

In any case where the Contracting Authority is entitled to damages, it may deduct such damages from any sums due to the Contractor or call on the appropriate guarantee.

The Contracting Authority shall be entitled to compensation for any damage which comes to light after the contract is completed in accordance with the law governing the contract.

## 23. SUSPENSION OF PERFORMANCE

The Contractor shall, on the request of the Contracting Authority, suspend the performance of the services or any part thereof for such time and in such manner as the Contracting Authority may consider necessary.

In such event of suspension, the Contractor shall take immediate action to reduce the costs incident to the suspension to a minimum. During the period of suspension, and except where the suspension is due to any default of the Contractor, the Contractor shall be reimbursed for additional costs reasonably and necessarily incurred by it as a result of the suspension.

## 24. AMENDMENT OF THE CONTRACT

Substantial modifications to the contract, including modifications to the total contract amount, must be made by means of an addendum.

## 25. Completion Certificate

Upon completion of the services, and once (a) the Contracting Authority has approved the Contractor's completion report, (b) the Contracting Authority has approved the Contractor's final invoice and final audited statement, the Contracting Authority shall deliver a completion certificate to the Contractor.

## 26. TERMINATION BY THE CONTRACTING AUTHORITY

26.1 The Contracting Authority may terminate the contract after giving a 7 days' notice to the Contractor in any of the following cases:

- a) the Contractor is in breach of its obligations under the contract and/or fails to carry out the services substantially in accordance with the contract;
- b) the Contractor fails to comply within a reasonable time with the notice given by the Contracting Authority requiring it to make good the neglect or failure to perform its obligations under the contract

- which seriously affects the proper and timely performance of the services;
- c) the Contractor refuses or neglects to carry out instructions given by the Contracting Authority;
  - d) the Contractor's declarations in respect of its eligibility (article 33) and/or in respect of article 31 and article 32, appear to have been untrue, or cease to be true;
  - e) the Contractor takes some action without requesting or obtaining the prior consent of the Contracting Authority in any case where such consent is required under the contract;
  - f) any of the key experts is no longer available, and the Contractor fails to propose a replacement satisfactory to the Contracting Authority;
  - g) any organisational modification occurs involving a change in the legal personality, nature or control of the Contractor or the joint venture or consortium, unless such modification is recorded in an addendum to the contract;
  - h) the Contractor fails to provide the required guarantees or insurance, or the person providing the underlying guarantee or insurance is not able to abide by its commitments.

#### 26.2 Termination by Contracting Authority for convenience

The Contracting Authority may terminate the contract in whole or in part for its convenience, upon not less than 14 days' notice. The Contracting Authority shall not use this right of termination in order to arrange for the services to be executed by another contractor, or to avoid a termination of the contract by the Contractor.

#### 27. TERMINATION BY THE CONTRACTOR

The Contractor may terminate the contract after giving a 7 days' notice to the Contracting Authority in any of the following cases:

- a) the Contractor has not received payment of that part of any invoice which is not contested by the Contracting Authority, within 90 days of the due payment date,
- b) the period of suspension of the performance of the contract under article 23 has exceeded six months;
- c) the Contracting Authority is in material breach of its obligations under the Contract and has not taken any actions to remedy the same within 30 days following the receipt by the Contracting Authority of the Contractor's notice specifying such breach.

If the Contractor is a natural person, the contract shall be automatically terminated if that person dies.

#### 28. RIGHTS AND OBLIGATIONS UPON TERMINATION

28.1. Upon termination of the contract by notice of either party to the other, the Contractor shall take immediate steps to bring the services to a close in a prompt and orderly manner and in such a way as to keep costs to a minimum.

28.2. If the Contracting Authority terminates the contract in accordance with article 26.1 it may, thereafter, complete the services itself, or conclude any other contract with a third party, at the Contractor's expense.

The Contracting Authority shall, as soon as is possible after termination, certify the value of the services and all sums due to the Contractor as at the date of termination. It shall, subject to article 28.1 and 28.3, make the following payments to the Contractor:

- (a) remuneration pursuant to the contract for services satisfactorily performed prior to the effective date of termination;
- (b) reimbursable costs (if fee-based contract) for costs actually incurred prior to the effective date of termination;
- (c) except in the case of termination pursuant to article 26.1 reimbursement of any reasonable cost incident to the prompt and orderly termination of the contract;
- (d) in case of termination under article 26.2 and 27, reimbursement for the actual and reasonable costs incurred by the Contractor as a direct result of such termination and which could not be avoided or reduced by appropriate mitigation measures.  
The Contractor shall not be entitled to claim, in addition to the above sums, compensation for any loss or injury suffered.

28.3. In case of termination of the contract for any reason whatsoever, any pre-financing guarantee which might have been granted to the Contracting Authority under article 20.4, may be invoked forthwith by the Contracting

Authority in order to repay any balance still owed to the Contracting Authority by the Contractor, and the guarantor shall not delay payment or raise objection for any reason whatever.

28.4. If the Contracting Authority terminates the contract under article 26.1, it shall be entitled to recover from the Contractor any loss it has suffered up to that part of the contract value which corresponds to that part of the services which has not, by reason of the Contractor's default, been satisfactorily completed.

#### 29. FORCE MAJEURE

Neither party shall be considered to be in breach of its obligations under the contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of signature of the contract by both parties.

The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.

A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Contracting Authority in writing, the Contractor shall continue to perform its obligations under the contract as far as is reasonably practicable and shall seek all reasonable alternative means for performance of its obligations which are not prevented by the force majeure event. The Contractor shall not put into effect such alternative means unless directed so to do by the Contracting Authority.

#### 30. APPLICABLE LAW AND DISPUTES

The contract is governed by and shall be construed in accordance with the laws of the Contracting Authority's country.

Any dispute or breach of contract arising under this contract shall be solved amicably if at all possible. If not possible and unless provided in the Service Contract, it shall be settled finally by court decision, which shall be held under the law of the Contracting Authority's country. Any ruling by the court will be final and directly executable in the country of the Contractor.

#### 31. HUMAN RIGHTS AND LABOUR RIGHTS

The Contractor warrants that it, and its affiliates, respect and uphold Human- and Labour Rights defined in national law and in the UN Universal Declaration of Human Rights (1948) and the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998). Furthermore, the Contractor (and each member of a joint venture or a consortium) warrants that it and its affiliates comply with the UN Convention on the Rights of the Child - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the Forced Labour Convention C29 and in the Abolition of Forced Labour Convention C105 of the International Labour Organization. Furthermore, the Contractor warrants that it, and its affiliates, respect and uphold basic social rights and working conditions for its employees. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

#### 32. MINES AND OTHER WEAPONS

The Contractor (and each member of the joint venture or a consortium) warrants that it and its affiliates is NOT engaged in any development, sale, manufacture or transport of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs. Furthermore, the Contractor warrants that it and its affiliates are NOT involved in the sale and/or production of weapons which feed into violations of International Humanitarian Law covered by the Geneva Conventions I-IV and Additional Protocols; and the UN Convention on Certain Conventional Weapons (1980). Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this contract immediately upon notice.

### 33. INELIGIBILITY

By signing the purchase order, the Contractor (or, if a joint venture or a consortium, any member thereof) certifies that they are NOT in one of the situations listed below:

- (a) They are bankrupt or being wound up, are having their affairs administrated by courts, have entered into an agreement with creditors, have suspended business activities, are the subject of proceedings concerning house matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) They have been convicted of an offence concerning their professional conduct by a judgement that has the force of *res judicata*;
- (c) They have been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- (d) They have not fulfilled obligations relating to the payment of social security contributions or payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the contract is to be performed;
- (e) They have been the subject of a judgement that has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity detrimental to the Contracting Authority or the European Communities' financial interests;
- (f) Following another procurement procedure or grant award procedure financed by the European Community budget or following another procurement procedure carried out by the Contracting Authority or one of their partners, they have been declared to be in serious breach of contract for failure to comply with their contractual obligations.
- (g) He has been guilty of creating an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of his registered office, central administration or principal place of business.
- (h) They are involved in terrorism activities, providing support to individuals or organizations that support terrorism activities, condone the use of terrorism or involved in the provision of arms to individuals or organizations involved in terrorism.
- (i) They are on a list of sanctioned parties issued by United States government, UN, EU or other government issued terrorism and sanction lists.

### 34. CHECKS AND AUDITS

The Contractor shall permit the Contracting Authority or its representative to inspect, at any time, records including financial and accounting documents and to make copies thereof and shall permit the Contracting Authority or any person authorized by it, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the contract is financed by the European Community budget, at any time, to have access to its financial accounting documents and to audit such records and accounts both during and after the provision of the services. In particular, it may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses

### 35. LIABILITY

Under no circumstances or for no reason whatsoever will the Back donor entertain any request for indemnity or payment directly submitted by the (Contracting Authority's) Contractors.

### 36. DATA PROTECTION

If the Contracting Authority is subject to EU Directive 95/46/EC (General Data Protection Regulation) and the Contractor is processing personal data in the context of submitting an offer (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) the Contractor shall do so accordingly to EU Directive 95/46/EC (General Data Protection Regulation) and inform the data subjects of the details of the processing and communicate the Contracting Authority's Privacy Policy to them.

## ANNEX 5: CODE OF CONDUCT FOR CONTRACTORS



# CODE OF CONDUCT FOR CONTRACTORS

## ETHICAL PRINCIPLES AND STANDARDS

By this Code of Conduct, the Contracting Authority outlines the ethical principles and standards which contractors are required to follow and uphold. The Contracting Authority is a rights-based organisation that works for people's rights to a dignified life and equality and we expect our contractors to act in a socially responsible manner, with respect for human and Labour rights and the environment.

This Code of Conduct are aligned with recommendations from the Danish Ethical Trading Initiative (DIEH)<sup>4</sup>, the UN Global Compact principles<sup>5</sup> and ECHO's Humanitarian Aid Guidelines for Procurement 2011<sup>6</sup>.

### General Conditions

The Code of Conduct is applicable for all contractors who supply goods, services and works to our operations and projects. It defines the expectations to contractors to act in accordance with applicable law and to conduct themselves responsibly, ethically and with integrity. This includes taking appropriate due diligence measures towards minimising adverse impacts on human- and labour rights, environment and anti-corruption principles. By signing the Code of Conduct contractors agree to ensure due diligence and placing ethics central to their business.

The provision of the ethical standards constitutes minimum rather than maximum standards. International and national laws shall be complied with, and where the provisions of law and the Contracting Authority's standards address the same subject, the highest standard shall apply.

It is the responsibility of the contractor to assure that their contractors and subcontractors comply with the ethical requirements and standards set forth in this Code of Conduct.

The Contracting Authority acknowledge that implementing ethical standards and ensuring ethical behaviour in our supply chain is a continuous process and a long-term commitment for which we also have a responsibility. To achieve high ethical standards, we are willing to engage in dialogue and collaboration with our contractors. In addition, we expect our contractors to be open and willing to engage in dialogue.

Unwillingness to co-operate or serious violations of the Code of Conduct will lead to rejection of bids or termination of contracts.

### Human Rights and Labour Rights

Contractors must protect and promote human- and labour rights and work actively to address issues of concern as they arise. As a minimum they are required to comply with national laws and actively work to secure alignment to international Human and Labour Rights standards and frameworks:

**Respect for Human- and Labour Rights** (The International Bill of Human Rights, ILO Declaration on Fundamental Principles and Rights at Work and the UN Guiding Principles on Business and Human Rights):

The basic principles of the International Bill of Human Rights are that all human beings are born free and equal in dignity and in rights within all spheres of life. Everyone has the right to life, liberty, dignity, freedom and

security of the person. Contractors must not flaunt their responsibility to uphold and promote such rights toward employees, contractors, subcontractors and the community in which they operate.

**Non-exploitation of Child Labour** (UN Child Convention on the Rights of the Child, and ILO C138 & C182):

Contractors must not engage in the exploitation of child labour<sup>7</sup> and contractors must take the necessary steps to prevent the employment of child labour. A child is defined as a person under the age of 18 and children shall not be engaged in labour that compromise their health, safety, mental and social development, and schooling. Children under the age of 15 (in developing countries 14) may not be engaged in regular work, but children above the age of 13 (in developing countries 12) can be engaged in light work if it does not interfere with compulsory schooling and is not harmful to their health and development.

**Employment is freely chosen** (ILO C29 & C105):

Contractors must not make use of forced or bonded labour and must respect workers freedom to leave their employer.

**Freedom of association and the right to collective bargaining** (ILO C87, C98 & C154):

Contractors must recognise workers right to join or form trade unions and bargain collectively and should adopt an open attitude towards the activities of trade unions (even if this is restricted under national law).

**Living wages are paid** (ILO C131):

As a minimum, national minimum wage standards or ILO wage standards must be met by contractors. Additionally, a living wage must be provided. A living wage is contextual, but must always meet basic needs such as food, shelter, clothing, health care and schooling, and provide a discretionary income<sup>8</sup>.

**Non-discrimination in employment** (ILO C100 & C111 and the UN Convention on Discrimination against Women):

Contractors must not practice discrimination in hiring, salaries, job termination, retiring, and access to training or promotion - based on race, national origin, caste, gender, sexual orientation, political affiliation, disability, marital status, or HIV/AIDS status.

**No harsh or inhumane treatment of employees** (ILO C105):

The use of physical abuse, disciplinary punishment, sexual abuse, the threat of sexual and physical abuse, and other forms of intimidation and abuse may never be practiced by contractors.

**Working conditions are safe and hygienic** (ILO C155 & C168):

Contractors shall provide safe and hygienic working conditions for its employees and put in place adequate measure to prevent accidents and injury to health associated with or occurring in the course of work.

**Working hours are not excessive** (ILO C1, C14, C30 &, C106):

Contractors must ensure that working hours comply with national law and international standards. A working week of 7 days should not exceed 48

<sup>4</sup> <https://www.dieh.dk/om-dieh/etisk-handel/hvordan-etisk-handel/dieh-guidelines/>

<sup>5</sup> <https://www.unglobalcompact.org/what-is-gc/mission/principles>

<sup>6</sup> [http://ec.europa.eu/echo/files/partners/humanitarian\\_aid/Procurement\\_Guidelines\\_en.pdf](http://ec.europa.eu/echo/files/partners/humanitarian_aid/Procurement_Guidelines_en.pdf)

<sup>7</sup> The definition of Child Labour can be found at: <https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-5> and

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100\\_ILO\\_CODE:C138](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C138)

<sup>8</sup> Discretionary income is the amount of an individual's income that is left for spending, investing, or saving after taxes and personal necessities (such as food, shelter, and clothing) have been paid.



## ANNEX 5: CODE OF CONDUCT FOR CONTRACTORS

hours and employees must have one day off per week. Overtime shall be compensated, limited and voluntary.

### **Regular and contractual employment** (ILO C143, C183 & C132):

All work performed must be on the basis of a recognised employment relationship via written contracts, established through international conventions and national laws. Contractors shall provide leave, benefit and employment protection, and protect vulnerable group's regular employment under these laws and conventions.

### **International Humanitarian Law**

Contractors linked to armed conflicts or operating in armed conflict settings shall respect civilian's rights under International Humanitarian Law and not be engaged in activities which directly or indirectly initiate, sustain, and/or exacerbate armed conflicts and violations of International Humanitarian Law<sup>9</sup> as defined in the Geneva Conventions I-IV and Additional Protocols. Contractors are expected to take a 'do no harm' approach to people affected by armed conflict.

### **Non-Involvement in Weapon- and Criminal Activities**

The Contracting Authority advocates for the Ottawa Convention against landmines and the Convention on Cluster Munitions. Contractors shall not engage in any development, sale, manufacturing or transport of anti-personnel mines, cluster bombs or components, or any other weapon which feed into violations of International Humanitarian Law covered by the Geneva Conventions and Protocols.

Contractors shall not be engaged in any illegal or criminal activity and must never be associated with, provide support to or be involved in any terrorist activities.

### **Protection of the Environment**

The Contracting Authority wishes to minimise the environmental damages applied to nature via our procurement activities and we expect our suppliers and contractors to act in an environmentally responsible manner. This involves respecting applicable national and international environmental legislation and acting in accordance with the Rio Declaration on Environment and Development. As a minimum, contractors must never support or be involved in illegal logging and shall actively address issues related to proper waste management, ensuring recycling, conservation of scarce resources and efficient energy use.

### **Anti-Corruption**

Corruption is by the Contracting Authority defined as the misuse of entrusted power for private gain and it includes bribery, fraud, embezzlement and extortion. The Contracting Authority holds a great responsibility to avoid corruption and ensure high standards of integrity, accountability, fairness and professional conduct in our business relations. Contractors are expected to have the same approach by undertaking good and fair business ethics and practices, take action to prevent and fight corruption, and abide by international conventions as well as international and national laws.

### **Complaints**

Contractors and contractor's employees who are confronted with corrupt practices, violations of human- or labour rights, or any of the standards laid down in this Code of Conduct, are encouraged to file a complaint with the Contracting Authority<sup>10</sup>.

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<sup>9</sup> This includes pillage/looting which is the unlawful taking of private property for personal or private gain based on force, threats, intimidation, pressure and through a position of power accomplished due to the surrounding conflict.

<sup>10</sup> DCA's Complaint Handling System is accessed on our website.