

Request for Proposal to provide guidance and advise to DCA and partners in technical and materials requirements for the implementation of the school infrastructure construction

TO;

Date of issue:	22-06-2022
RFP no.:	DCA/SS/PRJUBEAT 0254 Consultancy work
Contract title:	Consultancy Work to provide guidance and advise to DCA and partners in technical and materials requirements for the implementation of the school infrastructure construction and rehabilitation.
Closing date:	04-07-2022 at 3:00Pm CAT
Contracting Authority:	DCA South Sudan, Plot No. 506, Block 3K, Juba NA Bari West, Opposite Faith Nursery and Primary, Tongping Area, Juba – South Sudan. Tel : 211 921 766 562 E-mail : naku@dca.dk

DANCHURCHAID(DCA) SOUTH SUDAN INVITES YOU SUBMIT PROPOSAL TO PROVIDE GUIDANCE AND ADVISE TO DCA AND PARTNERS IN TECHNICAL AND MATERIALS REQUIREMENTS FOR THE IMPLEMENTATION OF THE SCHOOL INFRASTRUCTURE CONSTRUCTION AND REHABILITATIONS.

Sir/Madam,

The Service is required to provide guidance and advise to DCA and partners in technical and materials requirements for the implementation of the school infrastructure construction and Rehabilitation as detailed in ToRs.

Please find enclosed the following documents, which constitute the Request for Proposal:

A – Instructions

B – Draft Contract including annexes

Annex 1: Terms of Reference

Annex 2: Proposal Submission Form (to be completed by the Candidate)

Annex 3: General Terms and Conditions for Service Contracts – Ver2 2020

Annex 4: 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 should be grateful if you would inform us by email of your intention to submit or not a proposal

INSTRUCTIONS

In submitting a proposal, the construction firm or qualified individual 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/her own conditions of services may be, which the contracted firm or qualified individual hereby waives. The firm or qualified individual 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 firm or qualified individual shall offer the totality of the Services described in the Terms of Reference. The firm or qualified individual offering only part of the required Services will be rejected.

A.2. Cost of proposal

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

A.3. Contractual conditions

The terms and conditions of the Contract which will be entered into between the Contracting Authority and the selected firm or candidate will be those contained in the Contract together with the General Terms and Conditions for Works Contracts – Ver3 2020 attached as annexes to this Request for Proposal.

A.4. Contractual conditions.

Firms or individual candidates are not eligible to participate in this procedure if they are in one of the situations listed in article 59 of the General Terms and Conditions for Works Contracts – Ver3 2020.

Firms and candidates shall in the Proposal Submission Form (Annex 3) attest that they meet the above eligibility criteria. If required by the Contracting Authority, the firm or 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 firm's or individual 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 (Annex 4)

A.5. Eligibility and qualification requirements

Firms or individual candidates are not eligible to participate in this procedure if they are in one of the situations listed in article 59 of the General Terms and Conditions for Works Contracts – Ver3 2020.

Firms or individual candidates shall in the Proposal Submission Form (Annex 3) attest that they meet the above eligibility criteria. If required by the Contracting Authority, the firm or individual 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 firm's or individual candidate's responsibility. Irrespective of the reason, proposals arriving after the deadline for the submission of proposals, will be considered late and thus rejected.

Firms or individual candidates are also requested to certify that they comply with the Code of Conduct for Contractors (Annex 4)

A.6. Exclusion from award of contracts

Contracts may not be awarded to Firms or individual 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.7. Documents comprising the Request for Proposal

The firm or individual candidate shall complete and submit the following documents with his proposal:

- a. Proposal Submission Form (Annex 2) duly completed and signed by firm representatives or individual candidate
- b. CVs highlighting the qualification and experience for the firm personnel or individual candidates in the specific field of the services and experience in the country/region where such services are to be performed.

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

A.8. Financial proposal

The Financial Proposal shall be presented as an amount in USD in the Proposal Submission Form in Annex 2. The remuneration of the firm or individual candidate under the Contract shall be determined as follows:

Global price: The firm or individual candidate shall indicate in his/her proposal his/her proposed global remuneration for the performance of the Services. The firm or individual 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 DCA will support the printing of training materials designed / to be used by the consultant and transport to the field. DCA will also assist to carry out the qualitative/quantitative data collection in the designated sample areas to be incurred for the performance of the Contract. The proposed global remuneration shall cover all obligations of the successful firm or individual 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.

Please note the total consultancy fee shall be subjected to tax deductions as required by the statutory law of the country.

A.9. Candidate's proposed personnel

In the Organisation and Methodology Form, Annex 2, the firm or individual candidate shall include a detailed description of the role and duties of each of the key experts or other non-key experts, which the firm or individual 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 firm or individual candidate whose proposal is accepted shall provide, if so, requested by the Contracting Authority, copies of

credentials certificates or references proving the key expertise, education, professional experience and language proficiency.

In the Proposal Submission Form, Annex 2, 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.10. Validity

Proposals shall remain valid and open for acceptance for **7 days** after the closing date.

A.11. Submission of proposals and closing date

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

A.12. Evaluation of Technical Proposal.

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.

Proposals will be ranked according to their combined technical (*St*) and financial (*Sf*) scores using the weights of 75% for the Technical Proposal; and 25% for the offered price. Each proposal's overall score shall therefore be $St \times 75\% + Sf \times 25\%$.

Interviews

The Contracting Authority reserves the right to call to interview the firm or individual 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:

$Sf = 100 \times Fm/F$, 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 firm or individual candidates having submitted proposals determined to be substantially and technically responsive, in order 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 firm or individual candidate 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 in order to reduce the proposed remuneration when the proposed remunerations exceed the available budget.

A.13. Award Criteria

The Contracting Authority will award the Contract to the firm or individual 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.14. 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 firm or individual candidates in writing about the result of the evaluation process.

Within 2 days of receipt of the Contract, not yet signed by the Contracting Authority, the successful firm or individual 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 firm or individual 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 firm or individual candidate will have no claim whatsoever on the Contracting Authority.

A.15. 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 (SERVICE)

Instructions to bidders: 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 an firm or individual candidate has been selected, and the “draft” Contract will then become the “final” Contract” between the Contracting Authority and the successful Engineer.

<Name and address>
("The Contracting Authority"),

of the one part,

and

<Name and address of engineer>
("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.

Note! Remember to initial every page of the contract.

For the Contractor

For the Contracting Authority

Name:

Name:

Title:

Title:

Signature:

Signature:

Date:

Date:



Special conditions

B.1. Definitions

In addition to the definitions of article 1 of the General Terms and Conditions for Service Contracts – Ver3 2020, the following definitions shall apply to the Contract:

The ‘Project’ is the project named in the Terms of Reference for which the Works are to be provided.

The ‘Works’ are the works to be executed for the achievement of the Project, as preliminary defined in the Terms of Reference.

The **'Works Contract'** is the contract for works of civil engineering construction concluded between the Contracting Authority and the Contractor for the construction of the Works.

The **'Standard Documents'** are the standard documents for Works Contracts to be used by the Contracting Authority and which are included in the Procurement Manual 4th edition.

The **'Contractor'** is the person or company to be hired by the Contracting Authority for the execution of the Works, and who will enter into the Works Contract with the Contracting Authority.

The **'Drawings'** are all drawings, calculations and technical information of a like nature to be submitted by the Engineer for the implementation of the Project and the construction of the Works.

The **'Recipient'** is the legal person(s) or authority(ies) which is(are) the end recipient(s) of the Works.

B.2. Relations between the parties

Article 2 of the General Terms and Conditions for Service Contracts – Ver3 2020, shall be replaced by the following: Nothing contained in the Contract shall be construed as establishing a relation of master and servant as between the Contracting Authority and the Engineer. The Engineer shall act both as agent for the Contracting Authority in the process of obtaining for the Contracting Authority the completion of the Project and as an independent person for the administration of the Works Contract.

B.3. Scope of Services

Unless otherwise specified in the Terms of Reference, the main categories of Services to be provided by the Engineer and the main obligations resulting there from, in addition to the General Terms and Conditions for Service contracts – Ver3 2020, shall be the following:

a. Preliminary studies

These may include project identification, definition study, pre-feasibility and/or feasibility study, project execution study. The type and contents of such studies, investigations and reports are set out in the Terms of Reference.

b. Planning and design

The type and contents of statements, plans, calculations, measurement, specifications, estimates, drawings, design documents and any other documents that the Engineer is to draw up, as well the degree of accuracy they must attain are specified in the Terms of Reference.

c. Preparation of Tender Dossier and conduct of tendering procedure

In preparing and completing the tender dossier for the award of the Works Contract, the Engineer shall strictly follow guidelines for tendering procedures and use the Standard Documents included in the current edition of the DCA Procurement Manual.

The Engineer shall have special responsibility to draw the Technical Specifications, the Design Documents and Drawings, the Bill of Quantities or Breakdown of Overall Price provided for in Standard Documents. The Engineer shall ensure the consistency and adequacy of all the documents included in the procurement procedure.

In the conduct of the procurement procedure, the Engineer shall perform the duties of a member of the Procurement Committee as set out in the current edition of the DCA Procurement Manual. The Engineer shall deal with all technical queries of the tenderers and provide the necessary clarifications. For the evaluation of tenders, the Engineer shall provide the Procurement Committee with detailed recommendations.

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.1. Remuneration

In consideration for his/her services, the Contractor shall receive a global remuneration of <insert currency> <insert 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.2. Reporting

The Contractor shall submit reports as specified in the Terms of Reference, Annex 1. The Contractor shall keep the Contracting Authority updated on contract progress on a regular basis.

B.3. Payment

Payments shall be made in <currency> by bank transfer to the following account:

Account Number:

Name of Bank:

Address of Bank:

Account name:

Swift Code:

Payment will be made in two instalments.

The first instalment upon signature of the Contract and against receipt of the Contractor's invoice in one original and two copies.

The second and last instalment of <currency and amount> will be paid within 15 days after approval of the final report and issue of the Completion Certificate by the Contracting Authority in accordance with article 25 of the General Terms and Conditions for Service Contracts – Ver2 2020 and receipt of the Contractors final invoice (one original and 2 copies).

B.4. Tax and social contributions.

DCA will withhold 15 % tax of the total amount which will be payable to the local South Sudan tax authority and candidate must provide TIN

B.5. 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. CV. of Contractor and/or key expert(s)
4. Proposal Submission Form (Annex 2)
5. General Terms and Conditions for Service Contracts - Ver2 2020 (Annex 3)
6. Code of Conduct for Contractors (Annex 4)

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.6. Language

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

B.7. 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 - Ver2 2020

B.8. 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 post, fax, email or by hand to the addresses identified in this Contract.

ANNEX 1 DCA Terms of Reference for Scope of Work (SoW) for Construction and Renovation for School structures:

Summary and Background:

DCA Emergency Assistance Programme has been working to provide humanitarian assistance in remote locations in South Sudan and has worked for over 12 years. The program has focused on food security and livelihoods support, protection, emergency assistance through NFI distributions, peacebuilding, support to education and health service delivery. Recently, DCA received funding for improving access to vulnerable communities to Education, Protection and FSL. As part of the project, DCA and partners target to do rehabilitation and construction of school structures to enhance the learning environment for students in schools that have previously been damaged, abandoned or vandalized as a result of conflict.

To this effect, DCA seeks to receive quality proposals for the assessment of the targeted structures to be renovated and or constructed. Therefore, this SoW provides guidance on the preparation and submission of proposals for the construction & renovation of school structures for the 1-year Education project to be implemented by DCA and partners in remote locations in South Sudan.

A. Objectives:

The overall purpose of the consultancy is to provide guidance and advise to DCA and partners in technical and materials requirements for the implementation of the school infrastructure construction and rehabilitation. Below are the specific objectives for this Request for Proposals;

1. To develop detailed Bills of Quantities (BoQs) for all the structures planned to be renovated & or constructed in the project location
2. To develop architectural drawings and structural drawings where necessity for all the structures to be renovated and constructed
3. To provide advice, guidance on the design and situating of the structures to be constructed and or renovated based on the topography, soil structure, orientation while considering the needs of students and others with special needs in the construction design and planning through engaging them in the assessment.
4. To provide technical requirements for the quality of construction materials required based on the conditions in the project site
5. Include other critical guidance to enable skilled and semi-skilled personnel (site supervisors, masons etc) to execute the construction work
6. Develop project implementation plan for the construction work including phased requirements of materials and supplies, milestone achievement etc
7. Develop draft Environment Impact assessments for all the construction work including any mitigation measures
8. Provide any other important information for the successful execution of the construction project.
9. Involve partners and beneficiaries in safer school construction- in a community-based approach method.

Scope of the work

As part of the work, the service provider will visit all locations of the proposed construction project locations to gather required and necessary information for the report. You will be expected to engage school administrators, students including those with special needs, PTAs, local contractors and or masons as well NGO staff members, local administration technical departments, local authorities and other key stakeholders.

Detail of structures to be constructed as follows:

No	No of units	Qty (No of Units)	Comments
1	Construction of standard secondary school class building	2	Location A
	Construction of 2 stance latrines	2	
	Rehabilitation of 1 roomed school dormitories	3	
3	Rehabilitation of school building	3	Location B
	Construction of 2 stance latrines	2	
	Rehabilitation of school dormitories	2	

4	Rehabilitation of Secondary school classrooms	2	Location C
5	Construction of 2 stance latrines	2	Location D
6	Construction of rainwater harvesting (5,000 L)	6	Various Locations (TBD)

B. Expected Deliverables:

Detailed BOQs for all the structures planned to be constructed and or renovated by the project including where possible reliable sources and quality requirements

Architectural drawings and structural drawing plans for all the structures to be constructed by the project. The structures should consider students and other users of the facilities with special needs in the construction design.

Recommendations based on the quality requirements and sourcing of materials, locating of structures, orientation of the structures taking into consideration the topography, remoteness and limited serviceability, dual purposes of some of the structures etc.

Provide professional advice, recommendations, guidance on approaches and procedures for successful construction project implementation based on context understanding and project location.

An assessment report summary of all the activities undertaken during the period of engagement

Request for Proposals to be submitted including financial costing, work plan showing timeline for execution and availability

C. Required Qualifications:

The minimum requirement for individuals or firm will be presence (in the team) personnel qualified in civil engineering, construction management professionals, architects and other structural construction qualification.

Demonstration of the ability to use professional engineering software for example Autocad, ArchCad, Google maps and others.

Minimum of a bachelor's degree in any of these disciplines with at least 3 years gainful experience in construction management of related structures

Membership to national and international professional bodies such as Institute of Professional Engineers and Engineers Registration Board, Association of Architects for

Registration and or proof of legal permission to operate in South Sudan is a MUST.

Guidance to the application:

- Provide your firm's name, address, email address, phone and fax numbers; b. Provide the name of the contact person submitting the Proposal;
- Briefly describe the history of your firm;
- Provide the names and addresses of any of your firm's clients
- Individual or firm's relevant experience

- Project team members and qualifications

If interested in applying for the aforementioned consultancy, please send your CV along with a written proposal, outlining a plan and approach for executing the consultancy in line with the points mentioned in section 2, and an indicative budget to naku@dca.dk with kamm@dca.dk in cc.

The deadline for application is the 04-07-2022

ANNEX 2: PROPOSAL SUBMISSION FORM

My financial proposal for my services is as follows:

	Days	Unit price (USD)	Total amount
Global price (fees and expenses)			
Total price incl. taxes			

Note: Please include other expenses not mentioned in the RFP (add rows accordingly)

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

(CANDIDATE OR 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 your 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.	
Is your company e.g. ISO 26000/50001/14000 certified or SA8000 certified? Please state which.	



Does your company have a Code of Conduct?	
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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 <number> days after the closing date in accordance with the <Article no> Validity.

After having read your Request for Proposal no. <number> for <contract title> dated <date>, 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 - Ver2 2020 and the draft Service Contract including all annexes.
- 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 and 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 - Ver2 2020.
- Certify and attest compliance with the Code of Conduct for Contractors in Annex 4.

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

Signature and stamp:

Signed by:

The Candidate

Name of the company/

Engineer.

Address

Telephone no.

Email



DCA
actalliance

13 / 21

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Name of contact person

ANNEX 3: 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.





CODE OF CONDUCT FOR CONTRACTORS

ETHICAL PRINCIPLES AND STANDARDS



ANNEX 4: CODE OF CONDUCT FOR CONTRACTORS

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 (DIETH)¹, the UN Global Compact principles² and ECHO's Humanitarian Aid Guidelines for Procurement 2011³.

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, sub-contractors 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 labour⁴ 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 income⁵.

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

¹ <https://www.dieh.dk/om-dieh/etisk-handel/hvordan-etisk-handel/dieh-guidelines/>

² <https://www.unglobalcompact.org/what-is-gc/mission/principles>

³ http://ec.europa.eu/echo/files/partners/humanitarian_aid/Procurement_Guidelines_en.pdf

⁴ 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/?p=NORMLEXPUB:12100:0:NO::P12100_ILO_CODE:C138

⁵ 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 4: CODE OF CONDUCT FOR CONTRACTORS

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 Law⁶ 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 foresting 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 Authority⁷.

⁶ 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.

⁷ DCA's Complaint Handling System is accessed on our website.

