



Request for Proposals (RFP) No. 2022—002

**Education Development Center, Inc.
(Hereafter referred to as “EDC”)**

**RFP for Procurement of a
Tax Opinion in South Sudan**

**Date of Issuance:
October 19, 2022**

Table of Contents

1. Purpose and Eligibility	3
1.1 Purpose	3
1.2 Eligibility	3
2. General Information	3
2.1 Original RFP Document	3
2.2 RFP Provisions	3
2.3 Schedule of Events	4
3. Proposals Submission and Selection	4
3.1 Offeror’s Understanding of the RFP	4
3.2 Communication	4
3.3 Proposal Submission	4
3.4 Eligibility of Proposals	5
3.4.1 Complete Proposals	5
3.4.2 Past Performance	5
3.5 Evaluation Criteria	5
3.6 Selection	6
4. Technical Specifications & Requirements	6
4.1.1 Statement of Work	6
4.1.2 Delivery Schedule and Location	7
5. Proposals Requirements	7
5.1 General Requirements	7
5.2 Price Proposals Requirements	7
5.3 Detailed Budget & Budget Narrative	8
6. Contract Type, Payment and Terms	9
7. Organization Overview and Offeror Certification	10
7.1 Organization Overview and Certification	10
8. Proof of Business Registration and Up to Date Tax Certification	10



Education Development Center (EDC) is a global nonprofit that advances lasting solutions to improve education, promote health, and expand economic opportunity, with a focus on vulnerable and under-served populations.

The USAID Youth Empowerment Activity (USAID YEA) will reach 25,000 South Sudanese youth in 13 counties across five States over a four-year period. This community-based intervention will establish a vibrant Youth Corps and support local organizations enhance youth-friendly service offerings. USAID YEA will tailor its intervention to meet the realities of each implementation area and to best support a diverse group of youth with varied capacities and aspirations to reach their full potential.

1. Purpose and Eligibility

1.1 Purpose

The purpose of this RFP is to invite prospective Offerors to submit Proposals to provide a tax opinion for a workforce of approximately 34 employees on the project in South Sudan. While most employees will be located in Juba, some employees will be located in sub-offices at State and County levels: Eastern Equatoria (Kapoeta North and Budi), Jonglei (Akobo, Duk, Uror, Pibor), Unity (Leer, Mayendit and Panyijar), Upper Nile (Baliet and Ulang), and Western Bahr el Ghazal (Jur River and Wau).

1.2 Eligibility

This procurement is open to offers from organizations incorporated or legally registered under the laws of the South Sudan.

2. General Information

2.1 Original RFP Document

EDC shall retain the RFP, and all related terms and conditions, exhibits and other attachments, in original form in an archival copy. Any modification of these, in the Offeror's submission or subsequent contract, is grounds for immediate disqualification.

2.2 RFP Provisions

1. All information provided by EDC in this RFP is offered in good faith. EDC makes no certification that any item is without error. EDC is not responsible or liable for any use of the information or for any claims asserted therefrom.
2. This RFP under any circumstances is will it commit EDC to pay any costs incurred by the Offeror in the submission of a Proposals. This is the Offeror's responsibility.
3. All materials submitted in response to this RFP shall become the property of EDC upon delivery to EDC.
4. Additional documentation may be required prior to selection.
5. All Proposals in response to this RFP and other communications related must be in English.

2.3 Schedule of Events

The following schedule applies to this RFP but may change in accordance with EDC’s needs or unforeseen circumstances. Any changes made to the stated timeline will be announced as formal modifications to the RFP.

LINE	TIME	DATE	STEP
A	4:00 PM, South Sudan time	October 26, 2022	Deadline for request for any clarifications from the EDC. Questions must be submitted in writing via email to YEAProcurement@edc.org
B	4:00 PM, South Sudan time	October 28, 2022	Estimated date for issuance of any clarifications by EDC. All questions will be answered in one document and sent directly to all Offerors receiving this Request for Proposal
C	4:00 PM, South Sudan time	October 31, 2022	Deadline for submission of Proposals via email to YEAProcurement@edc.org

3. Proposals Submission and Selection

3.1 Offeror’s Understanding of the RFP

In responding to this RFP, the Offeror fully understands the RFP in its entirety and in details, including making any inquiries to EDC as necessary to gain such understanding. Clarification questions must be submitted by potential Offerors—in writing— by the date and time designated in **Line A** of the Chart in Section 2.3. Responses will be published in writing. EDC reserves the right to disqualify at its sole discretion any Offeror who submits a Proposal that is not responsive or that demonstrates less than such understanding. That right extends to the cancellation of the contract if a contract has been made. Such disqualification and/or cancellation shall be at no fault, cost, or liability whatsoever to EDC.

3.2 Communication

Verbal communication shall not be effective. In no case shall verbal communication govern over written communications.

Offerors’ inquiries, questions, and requests for clarification related to this RFP are to be directed in writing in English by the date and time designated in **Line A** of the Chart in Section 2.3 to:

Education Development Center, Inc.
 Attention: Procurement Manager
 E-mail: YEAProcurement@edc.org
 Email subject: “Questions regarding RFP No. 2022-002”

3.3 Proposal Submission

Proposals must be provided on the Offerors’s letterhead or stationery and sent by email to:



Education Development Center, Inc.
 Attention: Procurement Manager
 E-mail: YEAProcurement@edc.org

Email subject: "Proposal in Response to RFP No. 2022--002"

Proposals must have the subject line of "Proposal in response to RFP No. 2022--002" and must include the number of emails (for example, Email 1 of 2, Email 2 of 2, etc.) in the subject line. The Proposal itself must include all documents required by the RFP in Word, Excel, or PDF and those documents must be attached to the email message(s); all attachments must be clearly labeled and must be numbered sequentially in order for EDC to review the Proposal. If the Proposal is sent in more than one email message, the Offeror must send all of the email messages with the Proposal submission on the same day and time the sending of the emails as closely as practicable.

It is the responsibility of the Offeror to ensure timely delivery of the Proposals to EDC by the date and time designated in **Line C** of the Chart in Section 2.3.

3.4 Eligibility of Proposals

3.4.1 Complete Proposals

Offerors must submit all components required by this RFP, including its annexes, in order for their Proposals to be complete. Before evaluating Proposals, EDC will determine which Proposals include the components required by the RFP, see Annex B, to be considered complete Proposals. Please note that although EDC will determine certain Proposals to be complete, this determination does not signify that an award will be made to one or any of the Offerors with complete Proposals. Only complete Proposals will be evaluated and considered for an award.

3.4.2 Past Performance

Offerors may be disqualified if a check of past performance demonstrates that the Offeror has not been able to deliver similar services on time and in a satisfactory manner.

3.5 Evaluation Criteria

EDC shall evaluate all eligible Proposals based on price. To be considered eligible, Offerors must meet **and demonstrate** the following minimum requirements:

Tax Opinion

I. Technical Evaluation/Requirement

	Evaluation Criteria	Max.Points
1.	Experience of the firm including No. of years in Business provide tax services (Minimum 5 years)	25
2.	Past Performance and References	25

3.	Audit Team Qualifications	25
4.	Proposed Completion Schedule	20
	TOTAL POINTS:	100

Financial Evaluation: to be considered for the Financial Evaluation, offeror must score 60 or above in the Technical Evaluation. The weight of the financial evaluation will include a determination of cost realism. Cost realism is defined as the offeror’s ability to project costs which are realistic for the work to be performed; reflect a clear understanding of the requirements; and are consistent with the offeror’s technical capacity

3.6 Selection

EDC may award a contract without discussions with Offerors. As such, Offerors are strongly encouraged to submit their best Proposals with their original submissions. EDC reserves the right to site visits and/or to conduct discussions, which may result in revisions to Proposals, with one or more than one or all Offeror(s) if EDC determines, at its sole discretion, discussions to be necessary. Discussions may include oral presentations provided by the Offeror.

4. Technical Specifications & Requirements

4.1.1 Statement of Work

The objective of this engagement is to:

Tax Opinion

- (1) provide EDC with an analysis/overview report of the tax implications of being registered as a non-governmental organization (NGO) in South Sudan. The analysis/overview report will help us ensure we are in compliance with any tax reporting at any time during registration and even what might be required as part of deregistration. The report should also detail what, if any, tax filings/reports are due, when they are due, and the cost to provide this service.
- (2) provide EDC with an analysis of value added tax (VAT) requirements or sales tax requirements, exemptions and refunds so that we are in compliance with USAID regulations. This analysis should include a step-by-step process and the timeline for carrying out this process.
- (3) provide EDC with an analysis/overview report of the tax implications/withholdings for U.S. expatriate staff working in South Sudan.

4.1.2 Delivery Schedule and Location

The Proposals must be based on the following delivery schedule, taking into account the delivery location specified below.

Deliverables	Delivery Schedule	Location
Tax Analysis and Report	November 25, 2022	EDC Office located at AFEX Rivercamp in Juba

5. Proposals Requirements

5.1 General Requirements

Offeror must submit:

1. A detailed technical proposal explaining the services the Offeror proposes to meet the needs of EDC as described in Section 4.
2. A detailed price Proposal in accordance with Section 5.2.
3. A detailed policy regarding the tax services the Offeror intends to provide EDC in response to this RFP.
4. The forms and certifications specified in Section 7.

5.2 Price Proposals Requirements in United States Dollars

Please provide a price summary in United States Dollars as displayed below, as well as a narrative describing how the price was calculated. The price summary must be submitted in Microsoft Excel format and show all formulas.

The price summary, detailed budget, and all discussion of costs, including the budget notes, shall be organized consistent with the cost categories specified below. If there is no proposed cost in a particular category, include 0 for that category.

Price Summary	Amount
Direct Labor	
Salary and Wages	
Fringe Benefits	
Consultants	
Other Direct Costs	

Travel, Transportation, Per Diem and Miscellaneous Travel Costs (Visas, inoculations, etc.)	
Allowances	
Equipment and supplies	
Subcontracts	
Training Costs	
Any Other Direct Cost	
Indirect Costs	
Total Cost (Direct Labor Plus Other Direct Costs Plus Indirect Costs)	
Fee/Profit	
<i>Total Price (Total Cost Plus Fee/Profit)</i>	

5.3 Detailed Budget & Budget Narrative

The detailed budget must be submitted in Microsoft Excel format and show:

- Each cost within a budget category (e.g., within the direct labor category, there must be a separate line in the budget for each staff position; within the equipment category, there must be a line for each type of equipment, etc.);
- For each line item, the estimated cost per unit, the unit type (e.g. per month, per trip, per person, etc.), the number of units, and the total cost (i.e. the estimated cost per unit multiplied by the number of units); and all formulas.

The budget narrative must include information about how the amounts for each estimated cost were determined.

The following definitions of types of costs should be utilized in preparing the cost proposal.

Salary and Wages: Direct salary and wages should be proposed in accordance with the offeror’s personnel policies. For example, costs of long-term and short-term personnel should be broken down by person years, months, days or hours.

Fringe Benefits: If fringe benefits are provided for as part of an organization's indirect cost rate structure, a copy of the organization's Negotiated Indirect Cost Rate Agreement must be included in the cost proposal. If fringe benefits rates are not included in the organization's Negotiated Indirect Cost Rate Agreement, a detailed cost breakdown by benefits types must be provided.

Consultants: This category is for services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the offeror. Costs of consultants should be broken down by person years, months, days or hours.

Travel, Transportation, and Per Diem: This category is for costs for transportation, lodging, meals and incidental expenses. Costs must be broken down by the number of trips, domestic and international, cost per trip, per diem and other related travel costs.

Equipment and Supplies: This category is for supplies and equipment. Costs must be broken down by types and units.

Subcontracts: For any proposed subcontract, a budget for the proposed subcontract must be included and the budget must include the budget categories noted above.

Allowances: Allowances should be broken down by specific type and by person, and should be in accordance with offeror's policies and US Government regulations.

Training: For all types of training, costs should be broken down by types of training, participants and types of costs (e.g. transportation, materials, facilities, etc.).

Other Direct Costs: Costs must be broken down by types and units.

Indirect Costs: If the offeror has a Negotiated Indirect Cost Rate Agreement, indirect costs must be proposed in accordance with the offeror's Negotiated Indirect Cost Rate Agreement and a copy of the Negotiated Indirect Cost Rate Agreement must be included in the cost proposal. If indirect costs rates have not been previously established with the US Government, a breakdown of bases, pools, method of determining the rates and description of costs, and two years of financial statement, preferably audited by an independent auditor must be submitted.

Fee/Profit: The proposed fee/profit must be supported with rationale based on associated risk factors

6. Contract Type, Payment and Terms

EDC anticipates issuing a fixed price contract with payments made upon submission of agreed-upon deliverables. The selected organization must agree to abide by the price submitted for the duration of the contract

EDC reserves the right, at its sole discretion, to revise the payment schedule before issuance of a contract.

The anticipated contract terms and conditions for any resultant contract are provided in Annex C.

7. Organization Overview and Offeror Certification

7.1 Organization Overview and Certification

In order for their Proposals to be considered, the Offeror must complete and submit the organizational information form included in Annex A to this RFP and submit all the attachments required by Annex A to this RFP.

8. Proof of Business Registration and Up to Date Tax Certification

In order for the Proposals to be considered, the Offeror must complete and submit the proof of their Business Registration and up to date Tax Certification as an attachment to this RFP.



Annex A—Organizational Information and Certification Form

The Offeror must ensure that this form is duly completed and correctly executed by an authorized officer of the Offeror's company.

A1. Organizational Information

Full legal name of the Offeror's company: _____

Year the Offeror's company was established: _____

Contact information regarding the proposal:

- (a) Individual's full name and title: _____
- (b) Full office address: _____
- (c) Telephone number: _____
- (d) Fax number: _____
- (e) Email address: _____

Offeror's Unique Entity Identifier (UEI) Code¹: _____

The Offeror certifies, by checking the applicable box(es), that:

- The Offeror is a **non-U.S. entity** and it operates as:
 - a corporation organized under the laws of _____(country name),
 - an individual,
 - a partnership,
 - a nongovernmental nonprofit organization,
 - a nongovernmental educational institution,
 - a governmental organization,
 - an international organization, or
 - a joint venture.

A2. References

Please list the names, email addresses, phone numbers, and contact people at three organizations to which the Offeror has provided services of a similar or larger size and scope during the last 24 months, whom EDC can call on as references, and a description of the services provided to each organization. It is recommended that the Offeror alert the contacts that their names have been submitted and that they are authorized to provide performance information if requested by EDC.

Reference #1:

Organization Name: _____

¹ Offerors that currently have a UEI Code are requested to provide this information. Offerors who are not registered may do so at <https://sam.gov/content/entity-registration>. There is no charge for this registration. A UEI Code is not required for submission of a quotation but may be required before a contract is issued. Whether or not an Offeror currently has a UEI code will not affect the evaluation of the Offeror's quotation.

Contact Person: _____
Email Address: _____
Telephone Number: _____
Type of Services Provided: _____
Value of the Services Provided: _____
Month and Year During Which Services were Provided: _____

Reference #2:
Organization Name: _____
Contact Person: _____
Email Address: _____
Telephone Number: _____
Type of Services Provided: _____
Value of the Services Provided: _____
Month and Year During Which Services were Provided: _____

Reference #3:
Organization Name: _____
Contact Person: _____
Email Address: _____
Telephone Number: _____
Type of Services Provided: _____
Value of the Services Provided: _____
Month and Year During Which Services were Provided: _____

A3. Incorporation, Registration, and Litigation

The following documents must be included in your proposal.

Documentation showing the Offeror's current legal incorporation in the country in which it is incorporated:

Attached

A copy of the Offeror's currently active registration in South Sudan, demonstrating that the organization can legally operate in the South Sudan *if the Offeror will complete any work under a contract resulting from this RFP in the South Sudan.*

Attached

Offeror certifies that it will not complete any work under a contract resulting from this RFP in the South Sudan and further certifies that it can legally operate in the country(ies) in which all work under a contract resulting from this RFP will take place.

Information regarding any current lawsuits, legal proceedings, court cases, or other litigation in which the Offeror, or any of the entities in the collaboration, are involved, regardless of the jurisdiction where the litigation resides.

Attached

Offeror certifies that it is not currently involved in any lawsuits, legal proceedings, court cases, or other litigation.

A4. Key Individuals

The names and titles of the Offerors' key individuals are:

(a) the principal officers of the organization's governing body (e.g., chairman, vice chairman, treasurer and secretary of the board of directors or board of trustees): _____

(b) the principal officer and deputy principal officer of the organization (e.g., executive director, deputy director, president, vice president): _____

(c) the program manager(s) for the proposed contract: _____

(d) any other person who will have significant responsibilities for the administration of the US Government-financed activities or resources under the proposed delivery of the services: _____

A5. Awareness and Agreement to the Content of this RFP

By signing this form, the Offeror attests to its awareness and agreement to the content of this RFP and all accompanying calendar schedules and terms and provisions contained herein, including but not limited to the payment terms in Section 6.

A6. Compliance With Applicable Laws and Regulations

By signing this form, the Offeror agrees to comply with all applicable U.S. federal laws and regulations including those governing affirmative action, E-Verify, equal employment opportunity, use of human participants in research, disabilities, prohibitions against supporting terrorism, prohibitions on human trafficking and prohibitions against discrimination, and, if the value of the contract resulting from this RFP is \$10,000 or more, Executive Order 13496, Notification of Employee Rights Under Federal Labor Laws, see 29 CFR Part 471, Appendix A to Subpart A. Offeror hereby certifies that it is not delinquent on any State or Federal tax. The Offeror will cooperate with EDC in its efforts to comply with all laws, regulations and any award terms and conditions imposed by EDC by the sponsor(s) of this project.

A7. Debarment and Suspension

The Offeror further certifies that their firm (check one):

IS

IS NOT

currently debarred, suspended, or proposed for debarment by any United States federal entity. The undersigned agrees to notify EDC of any change in this status, should one occur, until such time as an award has been made under this procurement action.

A8. Proposals Validity

This proposal is submitted in response to an RFP issued by EDC. The undersigned is a duly authorized officer and hereby certifies that:

(Offeror Name)

agrees to be bound by the content of this Technical and Cost Proposals and agrees to comply with the terms, conditions and provisions of the referenced RFP. The Proposals shall remain in effect for a period of 90 calendar days as of the Due Date of the RFP.

A9. Authorized Negotiators

Person[s] authorized to negotiate on behalf of this firm for purposes of this RFP are:



Name: _____ Title: _____
Signature: _____ Date: _____
Name: _____ Title: _____
Signature: _____ Date: _____

A10. Signature

Signature of Authorized Officer:

Name: _____ Title: _____
Signature: _____ Date: _____

Annex B - RFP Checklist
Please include this checklist with your Proposals

Name of Vendor: _____

Items to be included with Proposals	Submitted (Yes/No)
1. Proposals on Letterhead	
2. Price guarantee valid for 90 days	
3. Technical proposal that describes the types of tax analysis the Offeror intends to provide in response to the statement of work.	
4. Annex A – Organizational Information & Certification (completed and signed)	
a. Certificate of Incorporation in South Sudan	
b. List of Key Personnel	
c. References (3)	
5. A copy of valid Tax Certification	
6. Financial Proposal	
7. Annex B – RFP Checklist	

Attachment C – Professional Services Agreement General Terms and Conditions

1. Professional Services (“Provider”) agrees to perform services as set forth in the Scope of Work, attached hereto, (“Services”) and EDC agrees to pay Provider upon satisfactory completion and acceptance of the work in accordance with the terms of this agreement (“Agreement”).
2. Provider will submit invoices to the EDC Project Director within thirty (30) days of completion of Services. EDC will not process an invoice that is not supported by a fully executed Agreement. It will take EDC at least thirty (30) days to process invoices once they have been approved by the Project Director.
 - a) If this is a Time at Fixed Unit Rates Agreement, the Provider will maintain accurate records of time worked. Provider will make such records available to EDC or its representatives upon reasonable request. Invoices will include the dates of Services and a description of the Services provided during the period covered by the invoice, in addition to the rates, units, and item descriptions for other EDC-authorized expenses. Invoices should be submitted to EDC on the invoice template, attached hereto as Attachment C. Alternatively, Provider’s invoice format may be accepted as long as it includes all of the information and documentation required in Attachment C.
 - b) If this is a Fixed Price Agreement, the Provider will submit invoices that include the Agreement number, dates of Services, a description of the Services provided during the period covered by the invoice, the scheduled payments including a description of milestones and deliverables, and item descriptions for other authorized expenses on the invoice. Invoices should be submitted to EDC on the invoice template, attached hereto as Attachment C. Alternatively, Provider’s invoice format may be accepted as long as it includes all of the information and documentation required in Attachment C.
 - c) Additional EDC pre-approved costs will be paid in accordance with Section 3 of the cover page. All EDC pre-approved costs must be itemized. Travel costs must also be itemized, and the names of all travelers, dates, and purpose of all trips must be included on the invoice. Travel costs will be reimbursed in accordance with EDC policy. The Provider will maintain accurate records of authorized expenses submitted for reimbursement. Provider will make such records available to EDC or its representatives upon reasonable request. EDC will not be responsible for costs not specifically approved in accordance with the terms of this Agreement.
 - d) Provider will submit invoices for allowable costs no later than 30 days after the end of each month. Invoices that do not conform to this Section 2 may not be paid.
 - e) Provider certifies that EDC will not be billed for Services paid by other entities or by EDC under any other agreement.
 - f) Payments to contractors for a calendar year will be reported as per IRS regulations; accordingly, EDC will issue a 1099 that will include all fees and expense reimbursements. Contractors are responsible for maintaining copies of expense documentation for their allowable tax deductions.
3. Provider’s relationship to EDC is that of an independent contractor. Provider certifies that he/she will not present or allege or claim to third persons in any manner whatsoever that he/she is employed by EDC. Provider further certifies that Provider makes his or her services available to the public through an independently established trade, occupation, profession, or business and is licensed as required by

applicable law or is part of a separate legally incorporated business, and that EDC is not Provider's sole client for this type of service. Provider shall determine the method, details, and means of performing the Services. EDC may not control, direct, or otherwise supervise Provider's assistants or employees in the performance of the Services. Provider will not use EDC facilities to perform the Services and Provider is free to make business decisions which affect Provider's profit or loss. Nothing in this Agreement is intended to create a partnership, agency, employer, employee, or joint venture relationship. Provider will be responsible for all taxes arising from compensation and other amounts paid under this Agreement and shall be responsible for all payroll taxes and fringe benefits of Provider's employees. Neither federal, nor state, nor local income tax, nor payroll tax of any kind, shall be withheld or paid by EDC on behalf of Provider or Provider's employees. Provider and Provider's employees will not be eligible for, and shall not participate in, any employee pension, health, welfare, or other fringe benefit plan, of EDC. No workers' compensation insurance shall be obtained by EDC covering Provider or Provider's employees. If the work is to be performed in the U.S., Provider certifies that Provider is authorized to work in the U.S. under U.S. Law.

4. Provider hereby agrees to indemnify, defend, and hold EDC harmless from and against all costs (including reasonable expenses and attorneys' fees) incurred by or imposed on EDC in connection with any alleged claims, actions, suits, or judgments related to a breach of Provider's warranties and representations under the Agreement. Provider shall perform the Services for EDC at Provider's own risk and accordingly, hereby releases EDC and its officers, directors, trustees, employees, agents, respective heirs, legal representatives, successors and assigns, from any and all claims and liability arising from Provider's fulfillment of the obligations related to this Agreement.

Provider hereby acknowledges and agrees that travel poses inherent dangers including but not limited to criminal or terrorist acts and exposure to endemic diseases. Provider acknowledges and agrees that EDC has made no representation concerning Provider's safety while on travel for EDC. Provider assumes all responsibility for understanding the inherent risks and any injury or damage that might result.

5. Provider is advised to carry general comprehensive liability insurance in an amount consistent with industry standards.

6. All data, documentation, specifications, models, computer programs and code, and other technical and business information furnished or disclosed to Provider by EDC is the property of EDC and shall be treated as EDC confidential information (collectively, "Confidential Information"). Unless such Confidential Information was previously known to Provider free of any obligation to keep it confidential, or is subsequently made public by EDC, Provider will use reasonable safeguards, including, if applicable commercially reasonable data security measures, that are appropriate for securing and protecting the type and amount of Confidential Information at issue. Provider will use the Confidential Information only for the purposes of performing the Services. Provider will immediately notify EDC of any unauthorized disclosure or use of Confidential Information and will take all actions (i) that it would take

itself with regard to its own Confidential Information under such circumstances and (ii) that EDC may reasonably request, to prevent any further unauthorized disclosure or use. At the end of the performance period, all copies will be returned to EDC or destroyed, as requested by EDC.

7. Provider and EDC agree that all written material, software programs, code, and documentation, and intangible or tangible inventions arising out of the performance of this Agreement, shall belong to EDC (collectively, the "Deliverables"). Provider agrees that the Deliverables are specially commissioned and works made-for-hire, and that EDC is deemed the author for copyright purposes. Notwithstanding anything to the contrary, to the extent that ownership in the Deliverables or any part thereof does not vest in EDC as a work made for hire, Provider hereby irrevocably and exclusively assigns and transfers in whole to EDC all of its right, title, and interest in and to the Deliverables. Provider hereby waives any rights to the Deliverables afforded by the U.S. Visual Artists Rights Act, and all so-called "moral rights" to the Deliverables afforded under the law of any country. Provider will, at EDC's request, execute documents required to vest ownership in all right, title and interest in and to the Deliverables in EDC. Provider will acquire all rights as necessary to provide EDC the rights agreed to be conveyed and will appoint EDC as attorney-in-fact to execute required documents. Provider will treat Deliverables as EDC Confidential Information. Provider will not incorporate any works in the preparation of Deliverables unless such works and their owners (including the owners of any intellectual property rights embodied therein) are identified in advance and in writing to EDC. If such works consist of or incorporate any materials owned by third parties, Provider warrants that he/she has the authority to grant to EDC unrestricted rights and licenses, free of any claim of rights by any other person or entity.

8. EDC may terminate the Agreement for any reason with fourteen (14) days prior written notice. EDC will not be liable for any payments accruing after notice of termination without EDC's approval.

9. If Section 7 or the Scope of Work of this Agreement identifies any individual(s) as Key Personnel then no substitution for such individual(s) may be made unless agreed to by EDC in writing. In the event Provider anticipates that any Key Personnel may become unavailable or have reduced availability to perform hereunder, Provider will give EDC reasonable notice of the same and justification in writing, sufficient to permit EDC to assess the impact of their unavailability or reduced availability. Any substitutions for Key Personnel proposed by Provider shall be, in skills and experience, equal to or superior than the departing Key Personnel.

10. Provider Representations and Warranties. In addition to representations and warranties contained in Section 6, Provider hereby agrees to perform the Services in accordance with industry standards and that the work product will be delivered to EDC with no restrictions or obligations that would impair EDC's rights under this Agreement. All work product containing software that is delivered pursuant to this Agreement will conform to written specifications and will be free of "bugs", viruses, or similar defects that would render the work product unfit for its intended use.

11. Delivery. Timely delivery of the Services is of the essence of this Agreement. In the event Provider knows or has reason to know of a delay or possible delay, Provider will immediately provide written notice thereof, including all relevant information, to EDC. Receipt of such notice by EDC will not constitute a waiver by EDC of the delivery schedule, or any of EDC's rights or remedies under this Agreement. In the event of nonconformance or rejection of delivery, Provider will have fifteen (15) business days to modify the work product so that it meets all written specifications (the "Cure Period"). In the event Provider is unable to deliver work in conformance with the written specifications and be accepted by EDC within the Cure Period, EDC may terminate this Agreement, withhold payment, or receive a full refund of all payments made to Provider pursuant to this Agreement.

12. Force Majeure. The Parties to this Agreement will be excused from any performance required hereunder if such performance is rendered impossible or impracticable due to any catastrophes or other major events beyond their reasonable control, including without limitation, war, riot and insurrection; laws, proclamations, edicts, ordinances or regulations; epidemics; states of emergency; government shutdowns, strikes, lockouts or other serious labor disputes; and floods, fires, earthquakes, explosions or other natural disasters. A party affected by force majeure will take all reasonable measures to remove such party's inability to fulfill its obligations hereunder with a minimum of delay. The affected party will notify the other party of such event as soon as possible, providing evidence of the nature and cause of such event, and will similarly give notice of the restoration of normal conditions as soon as possible. When such events have abated, the Parties' respective obligations hereunder will resume; provided, however, that EDC may terminate this Agreement, at its option, if Provider is rendered unable to perform its obligations hereunder by an event or events of force majeure for more than a total of one hundred and twenty days (120) within any twelve-month period during the Term.

13. The failure of EDC to enforce any right under this Agreement is not a waiver of that right.

14. Provider may not transfer or subcontract any part of this Agreement to another party, without EDC prior written consent.

15. Provider agrees not to use the prime sponsor or EDC's name or make reference to any prime sponsor or EDC employees in publications, news releases, advertising, speeches, technical papers, photographs, sales promotions, or publicity purposes of any form related to this work or data developed hereunder, unless Provider has received express written approval from EDC prior to such use.

16. This is the entire agreement with respect to its subject matter and there are no other agreements, either written or oral. It may be modified only by written amendment, executed by authorized representatives of both parties.

17. The interpretation of this Agreement and transactions or disputes under it shall be governed by the laws of the Commonwealth of Massachusetts, U.S.A.

18. Sections 3, 4, 6, 7, 15 and 17 will survive termination of this Agreement.

19. Provider agrees to comply with all applicable federal laws and regulations, including:

- a. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Provider agrees to comply with all applicable standards for contracts in excess of \$150,000.
- b. Debarment and Suspension (Executive Orders 12549 and 12689). Provider hereby certifies that neither he/she, nor any principal of the organization, is presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency, and is not delinquent on any State or Federal tax.
- c. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Provider certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Provider must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. This provision must be included in all contracts, subcontracts or subawards exceeding \$100,000 awarded hereunder.
- d. Procurement of recovered materials (2 CFR 200. 323). For Providers that are a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.
- e. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Provider agrees to comply with Section 889 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Public Law 115-232) and Federal Acquisition Regulation subpart 4.21, and 52.204-25 "Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment" (AUG 2020) which prohibits procuring or obtaining covered telecommunications equipment, services, or systems produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company or any subsidiary or affiliate of those companies. Provider will not provide any prohibited services or equipment to EDC. If Provider discovers any covered equipment or services are being provided during the contract performance, then within one business day of such discovery the Provider must notify EDC and provide any information required for compliance purposes.
- f. Domestic Preference for Procurements 2 CFR 200. 322. To the greatest extent practicable, Provider shall provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

- g. Provider will comply with applicable prohibitions against discrimination on the basis of: race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.); race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60; sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.); age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90; handicap, in: Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41, The Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq.), and Americans with Disabilities Act 42 USC 12101 et. Seq.; religion, in Executive Order 13798 and the Attorney General's Memorandum of October 6, 2017, as implemented at 2 CFR 200.300; disability 41 CFR 60-741.5(a), which prohibits discrimination against qualified individuals on the basis of disability and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities; veterans 41 CFR 60-300.5(a), which prohibits discrimination against qualified protected veterans and requires affirmative action by covered prime contractor and subcontractors to employ and advance in employment qualified protected veterans.
- h. Employment Eligibility Verification E-Verify (48 CFR 52.222-54). For contracts for commercial or noncommercial services or construction, has a value more than \$3500, and includes work performed in the United States, Provider will enroll in e-Verify and verify new employees.
- i. Common Federal Policy for the Protection of Human Subjects as codified by 45 CFR 46. Provider will comply with requirements on the use of human participants in research.
- j. Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, dated September 23, 2001.
- k. Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as implemented by 2 CFR 175.
- l. Notification of Employee Rights Under Federal Labor Laws, see 29 CFR Part 471, Appendix A to Subpart A, Executive Order 13496. If the value of this Agreement is \$10,000 or more.
- m. Prohibition on Contracting for hardware, software, and services developed or provided by Kaspersky lab and other covered entities (FAR 52.204-23). Provider is prohibited from contracting for hardware, software, and services developed or provided by Kaspersky Lab, and successor entity to Kaspersky Lab; any entity that controls, is controlled by, or is under common control with Kaspersky Lab; or any entity of which Kaspersky Lab has majority ownership.

Provider is obligated to understand the rules and regulations that govern this Agreement. Provider will cooperate with EDC in its efforts to comply with all laws, regulations and any award terms and conditions imposed on EDC by the sponsor(s) of this project.