



REQUEST FOR PROPOSAL

TECHNICAL ASSISTANCE FOR DELTA CDCS STAKEHOLDER ENGAGEMENT ACTIVITY

RFP No. 72066922F00004-2024-5
Approx. Start Date: November 25, 2024
Approx. End Date: February 28, 2025
From: Danny Guimaraes, Project Manager, DELTA Activity; James Collins, Chief of Party, DELTA Activity;
Email: procurements@liberia-delta.org

Notice Date: October 25, 2024
Questions Due Date: 5 pm GMT on November 4, 2024
Proposal Due Date: 8 pm GMT on November 10, 2024

Dear Interested Party,

IBI, on behalf of the USAID/Liberia Data, Evaluation, Learning, and Technical Assistance (DELTA) Activity (“Project”), is seeking proposals from eligible Liberian organizations to provide services further outlined in SECTION 2 of this RFP.

IBI (<https://www.ibi-usa.com/>) is a woman-owned small business consulting and training firm dedicated to providing insightful analysis and practical, timely solutions to challenges facing governments and companies. We partner with top quality local organizations to ensure that our clients achieve their goals.

IBI anticipates the award of one (1), three-month duration Firm Fixed Price subcontract under this RFP. The total anticipated ceiling for the resulting subcontract is USD 120,000. This ceiling is provided for estimation purposes only—this does not imply that Offerors should strive to meet the maximum. Offerors must propose costs that are realistic and reasonable for the work described in SECTION 2 of this solicitation. The estimated start date for the resulting subcontract is November 25, 2024. IBI reserves the right to award more or fewer awards than anticipated, or to make no award.

This RFP is made up of the following components:

- SECTION 1: Instructions for Offerors
- SECTION 2: Scope of Work
- SECTION 3: Past Performance Format
- SECTION 4: Evidence of Responsibility
- SECTION 5: Draft Subcontract Terms and Conditions

This procurement will be conducted under full and open competition procedures, pursuant to IBI Procurement Policy. It is the responsibility of the recipient of this solicitation document to ensure that it has been reviewed in its entirety, including subsequent solicitation amendments (due date is indicated for all questions to be entertained for clarification), if any, and IBI bears no responsibility for data errors resulting from transmission or conversion processes.

This RFP in no way obligates IBI to award a contract nor does it commit IBI to pay any cost incurred in the preparation and submission of a proposal. IBI will only evaluate proposals from qualified offerors and award of a contract under this RFP will be subject to the availability of funds and other internal IBI approvals.

Sincerely,

A handwritten signature in black ink, appearing to read 'Danny Guimaraes', is positioned above the typed name.

Danny Guimaraes
Project Manager, DELTA
IBI

SECTION 1: INSTRUCTIONS TO OFFERORS

A. Introduction

The DELTA Activity, funded by the United States Agency for International Development (USAID), seeks proposals from qualified Liberian firms to support the 2024 Country Development Cooperation Strategy (CDCS) Listening Tour. The goal of this tour is to gather feedback from stakeholders across Liberia, informing the design of USAID’s CDCS for 2025-2030, ensuring that future programming aligns with Liberia’s development priorities and challenges.

The selected firm will provide data collection services, including key informant interviews (KIIs), focus group discussions (FGDs), and town hall meetings. Data will be collected across nine counties using qualitative methods. This activity aims to capture diverse community perspectives, particularly from marginalized populations, in both rural and urban settings, ensuring their voices contribute to USAID’s strategic planning.

This work is integral to shaping USAID’s Liberia programming by reflecting local voices, promoting localization efforts, and addressing on-the-ground realities.

As a result of this RFP, IBI anticipates issuing a subcontract—utilizing the terms and conditions of SECTION 5 of this RFP. The selected subcontractor shall deliver the services described in this subcontract. The total anticipated ceiling for this subcontract will be USD 120,000.

B. Questions and Requests for Clarification

Any questions concerning this RFP must be submitted via email to procurements@liberia-delta.org by 5pm GMT on November 4, 2024.

Questions must be submitted in writing; phone calls will not be accepted. Questions and requests for clarification—and the responses thereto—that IBI believes may be of interest to other offerors will be circulated to all RFP recipients who have indicated an interest in bidding.

Only the written answers issued by IBI will be considered official and carry weight in the RFP process and subsequent evaluation. Any verbal information received from employees of IBI or any other entity should not be considered as an official response to any questions regarding this RFP.

C. Proposal Deadline

Proposals must be submitted by 8pm GMT on November 10, 2024. Proposals received after this date and time will be considered late and will be considered only at the discretion of IBI.

D. Protocol for Submission of Proposals

Each offeror must submit its proposal in electronic copy (via email) in two separate volumes: the Technical Volume and the Cost Volume. Proposals must be prepared and submitted in English.

Proposals must be submitted via email to procurements@liberia-delta.org. The subject line of the email must include the Offeror’s name, whether the email contains the technical or

cost volume, and “DELTA CDCS Stakeholder Engagement Subcontract Proposal,” in accordance with the example subject line below:

“DELTA CDCS Stakeholder Engagement Subcontract Proposal_ABC Company_Cost Volume”

The Technical Volume and the Cost Volume must be submitted separately. The Technical Volume may not contain any cost or price information. Files must be clearly marked either “Technical Volume” or “Cost Volume”.

E. Instructions for the Preparation of the Technical Proposal

At a minimum, the Technical Volume must contain the following required completed documents:

- I. A cover page with the name of the offeror, contact information for an authorized representative of the organization, including email and phone number, the offeror’s Unique Entity Identifier (UEI)¹, and signature by an authorized negotiator on behalf of the offeror. (1 page)
- II. Acronyms List (1 page)
- III. A table of contents (1 page).
- IV. Technical proposal (8 pages)

Annexes to be included as part of the Technical Volume include:

- | | |
|------------|--|
| Annex I: | CVs for proposed personnel (2 pages per CV) |
| Annex II: | Three (3) past performance references (See SECTION 3 of this RFP) (1 page) |
| Annex III: | Organizational Chart showing reporting lines and proposed personnel positions. (1 page) |
| Annex IV: | A copy of the offeror’s official registration or business license. (1 page) |
| Annex V: | Evidence of Responsibility (See SECTION 4 of this RFP) |
| Annex VI: | Conflict of Interest Declaration- If the Offeror believes there to be any actual, potential, or perceived Conflict of Interest in its submission of a proposal, the Offeror must declare this and propose mitigation strategies. If the Offeror does not anticipate any actual, potential, or perceived Conflict of Interest, provide a signed certification. (1 page) |
| Annex VII: | Activity Timeline showing key milestones, subtasks, and time required to complete them. Offerors are encouraged to present this timeline in a Gantt chart format but may use other formats if deemed appropriate. (1 |

¹ A Unique Entity Identifier (UEI) is a twelve (12) character ID that is assigned by the United States Government (USG) to recipients of USG funding. Offerors must have an active UEI or be able to obtain a UEI prior to receiving a subcontract resulting from this RFP. More information on obtaining a UEI can be found here: https://www.fsd.gov/gsafsd_sp.

page)

The Technical Volume should not contain any cost- or price-related information.

The technical proposal must be a Microsoft Word file. The technical proposal may not exceed 8 pages in length (excluding the cover page, acronyms list, table of contents, or annexes), and must use 12-point font and one-inch margins. The technical proposal must be in English. The technical proposal must include the page number at the bottom left side of each page.

IBI will not make assumptions concerning intent, capabilities, or experiences. Clear identification of technical proposal details shall be the sole responsibility of the Offeror.

The technical proposal must demonstrate the offeror's capacity to implement the scope of work (SOW) as outlined in SECTION 2 of this RFP, address the evaluation factors in SECTION 1.G., and demonstrate capacity in the following areas: (1) relevant experience, (2) staffing, (3) organizational systems and policies, and (4) technical approach to implementing the activities outlined in the SOW.

(1) Relevant Experience:

Descriptions of relevant experience shall include a description of the activity, the name of the funding agency, and the dates the activity was completed. As part of Annex II to the technical proposal, offerors must include contact information for at least one individual from the funding agency or client organization who can speak to the offeror's work on that activity. The individual experiences of executive staff may be considered as organizational experience.

(2) Staffing:

The offeror must describe the positions that will be involved in the administration of the CDCS Stakeholder Engagement Activity and provide brief summaries of the roles of each position. The offeror must name and provide the CV for the individual who will serve as its Lead Advisor. The CV should be no longer than 2 pages and must be included in Annex I of the technical proposal. This person will be the direct point of contact between IBI and the offeror and will provide oversight and direction for all of the offeror's staff working on the program. Personnel for positions other than the Lead Advisor do not need to be named at this time, but offerors may provide CVs for up to three additional proposed personnel in Annex I of the technical proposal. Offerors must also include an organizational chart as Annex III to the technical proposal to show reporting lines and highlight named staff. Organizational Charts and CVs do not count towards the 8-page limit for the technical proposal.

(3) Organizational Systems and Policies:

The offeror shall describe organizational systems and procedures that will ensure smooth implementation of the CDCS Engagement Activity. These shall include, but are not limited to, systems for procuring goods and services required to implement activities (including contracting personnel), accounting compliance, and communications.

(4) Technical approach:

The offeror shall present specific approaches they will use for completing the activities and deliverables outlined in the SOW. This section must clearly demonstrate how they will use

innovative approaches, promote efficiency, and produce high-quality deliverables in carrying out the SOW. Efficiency may be measured in cost savings and achievement of rapid results or outcomes beyond what are required in the SOW.

F. Instructions for Preparation of the Cost Proposal

Offerors must provide one Excel workbook and one Microsoft Word or Adobe PDF document for the Cost Volume. Offerors shall utilize excel formulas to the maximum extent possible to demonstrate how costs were determined. All information submitted as part of the Cost Volume shall be in USD. **Offerors must submit their budgets using the template linked below:**

https://docs.google.com/spreadsheets/d/1tK15i3OhsSD08T52kgBkpK2dDOFxmUuh/edit?usp=s_haring&ouid=112013668391876093890&rtprof=true&sd=true

Excel worksheets must not contain passwords, locked cells, or references to calculations not provided elsewhere in the proposal, and all calculations and formulas must be visible and unlocked. Calculations and formulas must be used instead of lump figures wherever feasible; failure to follow these instructions is grounds for finding the cost proposal non-responsive.

In pricing costs for personnel compensation, Offerors must comply with the applicable cost principles (FAR Part 31 for profit organizations and 2 CFR 200 for non-profit organizations and educational institutions), as well as AIDAR 752.7007 Personnel Compensation.

Employee benefits must be compliant with Liberian labor laws and the proposal must include a statement, signed by a duly authorized officer of the organization, certifying that the organization complies with all Liberian labor laws.

At a minimum, the Cost Volume must contain the following required completed documents:

- i. A cover page with the name of the offeror, contact information for an authorized representative of the organization, including email and phone number, the offeror's Unique Entity Identifier (UEI), and signature by an authorized negotiator on behalf of the offeror.
- ii. Proposed Payment Structure: Offerors must propose a deliverable-based payment structure in the format defined in the budget template linked above. The selected offeror will be paid according to the final payment structure incorporated into the subcontract and upon IBI's inspection and acceptance.
- iii. Detailed Budget- Offerors must provide a detailed budget for the subcontract period. This is to include a complete breakdown of the cost elements associated with each component. Supporting information is to be provided in sufficient detail to allow a complete analysis of each line-item cost. Offerors must utilize excel formulas to the maximum extent possible to demonstrate how costs were arrived at.
- iv. Budget Narrative- Offeror must provide a Budget Narrative that supports the cost estimates proposed in its detailed budget. There is a five-page limit for the Budget Narrative. The Budget Narrative must describe the nature of individual cost items proposed, calculations, and include a description of the source of that particular cost estimate (current market value, current catalogue price, current vendor price quotes, etc.). The Budget Narrative must clearly list out all of the offeror's assumptions and details to support the assumption. Narratives for the individual

cost items must provide a discussion of any estimated escalation rates where applicable. The Budget Narrative must also contain the following additional documents/information:

1. If indirect costs are applied, a copy of the Offeror’s NICRA.
 - a. If the Offeror does not have a NICRA, the Offeror shall submit audited balance sheets and profit and loss statements for the last two complete years, and the current year-to-date statements (or such lesser period of time if the Offeror is a newly-formed organization). The profit and loss statements should include detail of the total cost of goods and services sold, including a listing of the various indirect administrative costs, and be supplemented by information on the Offeror’s customary indirect cost allocation method, together with supporting computations of the basis for the indirect cost rate(s) proposed; and the most recent two fiscal year pool and base cost compositions along with derived rates, the bases of allocation of these rates and an independent certified audit by a certified accounting firm of these rates.

G. Evaluation Factors for Award

IBI may award a Contract without discussions with Offerors. Therefore, Offerors are to submit their best technical and cost proposals with their initial submissions. However, IBI reserves the right to conduct discussions if it is in IBI’s best interests.

The submitted technical information will be evaluated by a technical evaluation committee using the technical criteria shown below. The evaluation committee may include industry experts who are not employees of IBI. When evaluating the competing Offerors, IBI will consider the written qualifications/capability information provided by the Offerors, and any other information obtained by IBI through its own research.

i. Evaluation Method

IBI intends to evaluate proposals in accordance with this SECTION 1.G. and award a subcontract to the responsible Offeror(s) whose proposal(s) represents the Best Value to IBI. “Best value” is defined as the offer that results in the most advantageous solution for IBI, in consideration of technical, cost, and other factors.

The technical proposal will be rated of significantly higher importance than the price proposal. When the highest scoring technical proposal is equally rated between more than one offeror, price may be the determining factor.

ii. Technical Proposal Evaluation Criteria:

Technical proposals will be evaluated, above all, on their ability to demonstrate the offeror’s capacity to systematically collect qualitative data across a large sample size (including diverse audience and geographic locations), and having the skills to conduct interviews, effectively use qualitative data collection tools, clean and analyze (using any qualitative tool like NVIVO) qualitative data, and write report. To determine this capacity, the technical evaluation panel will evaluate the four areas outlined in SECTION 1.E. above and in the chart below.

Factor No.	Factor Name	Factor Description	Weighting (%)
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1	Relevant Experience	Does the offeror demonstrate capabilities specifically relevant to this SOW? Does the provided past performance information show that the offeror has completed similar scopes of work to the client's satisfaction?	30%
2	Staffing	Does the offeror provide adequate resources for rapid mobilization? Does the offeror propose qualified personnel with requisite experience? Does the offeror adequately address any staffing-related challenges to implementation?	20%
3	Organizational Systems and Policies	Does the offeror possess management, financial, administrative, and operational capacity to successfully implement this SOW? Does the offeror demonstrate capacity to manage a Firm Fixed Price mechanism? Does the proposal adequately address/mitigate any declared conflicts of interest (if any)?	15%
4	Technical approach	Does the offeror propose technical approaches that reflect a sound understanding of systems for conducting qualitative research, data analysis (using NVIVO or similar tool), gathering stakeholder feedback, and synthesizing perspectives from various stakeholders into actionable recommendations? Does the offeror's approach demonstrate creativity, innovation, and cost efficiency?	35%

Each factor will receive a score as follows: excellent, satisfactory, neutral, unsatisfactory, or deficient. A score of "excellent" demonstrates the offeror's capacity to achieve results beyond those expected in the scope of work (SOW). A score of "satisfactory" demonstrates the offeror's capacity to achieve the results outlined in the SOW. "Neutral" indicates ability to achieve some, but not all, of the results outlined in the SOW. "Unsatisfactory" indicates that the offeror is unlikely to achieve most of the results expected in the SOW. A score of "deficient" indicates that the offeror is unlikely to achieve any of the results expected in the SOW. Proposals may also receive a score of "non-responsive" if they do not comply with the instructions outlined in this RFP.

iii. Cost Proposal Evaluation Criteria:

Cost proposals will be evaluated but will not be assigned a rating.

IBI will conduct a cost evaluation to determine if the proposed costs are reasonable and demonstrate an accurate understanding of the resources needed to implement the SOW. This evaluation is conducted with the expectation of adequate cost/price competition and will rely heavily on market

forces to determine whether the proposed cost/price is fair and reasonable. The comparison of proposed cost/price in response to this solicitation is the preferred technique for this evaluation. IBI may also compare the proposed cost/price to historical cost/price paid for the same or similar services and the independent cost estimate.

A cost evaluation will not be performed where the Offeror's technical proposal is not deemed technically acceptable.

H. Final Selection

IBI intends to award a contract resulting from this solicitation to the responsible offeror whose proposal represents the best value after evaluation in accordance with the factors as set forth in this solicitation. This procurement utilizes the tradeoff process and IBI shall award the contract to the Offeror whose proposal represents the best value to IBI. IBI may award to a higher priced Offeror if a determination is made that the higher technical evaluation of that Offeror merits the additional cost/price, and therefore represents the best value to IBI.

I. Validity Period

Proposals must remain valid for at least sixty (60) calendar days after the proposal deadline.

J. Authorized USAID Geographic Code

All goods and services offered in response to this RFP or supplied under any resulting award must meet USAID Geographic Code 935 in accordance with the United States Code of Federal Regulations (CFR), 22 CFR §228, available at: <https://www.ecfr.gov/current/title-22/chapter-II/part-228>.

K. Eligibility of Offerors

By submitting an offer in response to this RFP, the offeror certifies that it is legally organized under the laws of Liberia; has as its principal place of business or operations in Liberia; is majority owned by individuals who are citizens or lawful permanent residents of Liberia; and managed by a governing body, the majority of who are citizens or lawful permanent residents of Liberia. It further certifies that its principal officers are not debarred, suspended, or otherwise considered ineligible for an award by the U.S. Government. IBI will not award a contract to any firm that is debarred, suspended, or considered to be ineligible by the U.S. Government.

L. Negotiations

Best and final price proposals are requested from all offerors. It is anticipated that awards will be made solely based on these original proposals. However, IBI reserves the right to conduct negotiations and/or request clarifications prior to awarding a subcontract.

M. Terms and Conditions of Subcontract

The anticipated subcontract type resulting from this RFP is a firm fixed price (FFP) subcontract. This solicitation is subject to the Draft FFP and Terms and Conditions detailed in SECTION 5 of this RFP. Any resultant award will be governed by these terms and conditions. IBI reserves the right to make revisions to the content, order, and numbering of the provisions in the actual subcontract document prior to execution by IBI and the selected awardee. Issuance of a subcontract award is subject to availability of

sufficient funds.

SECTION 2: SCOPE OF WORK

USAID/Liberia Data, Evaluation, Learning, and Technical Assistance (DELTA) Activity CDCS STAKEHOLDER ENGAGEMENT SUBCONTRACT

International Business Initiatives (IBI) is implementing the USAID-funded Liberia Data, Evaluation, Learning, and Technical Assistance (DELTA) Activity, which provides analytical and advisory services to USAID/Liberia's Office of Program and Project Development (PPD) and Technical Office (TO) teams in support of the Mission's project design, performance monitoring and evaluation, and operational learning and adapting. These services will play a key role in achieving the successful implementation of 1) the Mission's overall 2019-2024 Country Development Cooperation Strategy (CDCS); 2) systematic inclusion of USAID's strategic planning and research collection goals centered around the Mission's Collaborating, Learning and Adapting (CLA) Plan; and 3) Mission's Performance Management Plan.

A key strategic priority for the Mission is ensuring that all programmatic activities are informed by a comprehensive understanding of Liberia's unique geographic, cultural, social, and economic context. This includes its evolving political economy, historical experiences, social dynamics, and institutional capacities. Through the CDCS Listening Tour, DELTA will build strong relationships and foster continuous dialogue with a diverse range of Liberian stakeholders, including community members, local leaders, civil society organizations, and marginalized groups. DELTA will provide USAID with in-depth analysis and actionable insights, ensuring that future programming is locally relevant, responsive to community priorities, and designed to maximize sustainable development impacts in Liberia.

OBJECTIVES

The objective of this SOW is to support the implementation of DELTA's CDCS Listening Tour. This will be achieved by gathering critical feedback from diverse Liberian stakeholders, monitoring the Mission's progress in integrating local voices into strategic planning, and addressing any gaps in knowledge. Through DELTA's facilitation, the Mission will gain deeper insights into community development priorities and challenges, ensuring that programming is responsive to evolving needs. DELTA will help USAID apply this knowledge to shape future programs and policies through stakeholder engagement activities, workshops, and capacity-building initiatives with implementing partners (IPs).

This SOW outlines the roles and responsibilities of the subcontractor in supporting the CDCS Listening Tour. The subcontractor will provide technical services to USAID/Liberia staff, facilitating collaboration, learning, and engagement during the listening tour. The subcontractor will assist in drafting a comprehensive report, which will prioritize short-, medium-, and long-term learning goals informed by stakeholder feedback. The reports will enhance community feedback, cross-sectoral analysis, and organizational learning, while providing a framework for sharing lessons learned and driving strategic adaptation.

The subcontractor will support the Mission to improve its engagement with national and county-level partners and stakeholders.

Illustrative tasks/services include the following:

The selected subcontractor will perform data collection across nine counties using a combination of qualitative and quantitative methods. The firm will facilitate:

1. Focus Group Discussions (FGDs): 6 per county in nine counties, focusing on key community stakeholders

such as civil society organizations, local government actors, and marginalized populations.

2. Key Informant Interviews (KIIs): 6 per county in nine counties, targeting local government officials, traditional leaders, and other key stakeholders.
3. Town Hall Meetings: 1 per county in nine counties to ensure broad-based participation and inclusivity.

The subcontractor will develop engagement activity materials, coordinate logistics, ensure inclusive participation (especially marginalized groups), and comply with USAID data collection guidelines.

Illustrative Deliverables

The subcontractor must provide the following deliverables:

1. Data collection tools and protocols designed to capture local voices inclusively.
2. Full transcripts and summary reports of KIIs, FGDs, and town hall meetings.
3. Weekly progress reports and a comprehensive final report, synthesizing key findings and providing actionable recommendations for USAID/Liberia.

SECTION 3: PAST PERFORMANCE FORMAT

The following table must be completed and included as Annex II of the Technical Volume. Include at least three (3) projects that best illustrate experience relevant to this RFP or similar activities. Projects must have been completed in the past three years.

Prior work with IBI may not be used in this table.

#	Client Name, Address/Location, Telephone Number, Email	Contract or Purchase Order Number	Description of Activities or Work	Date of Work	Cost in USD(\$)
1					
2					
3					

IBI reserves the right to contact provided references to verify and, if applicable, request further information. IBI reserves the right to obtain past performance information obtained from sources other than those identified by the offeror. IBI shall determine the relevance of similar past performance information.

SECTION 4: EVIDENCE OF RESPONSIBILITY STATEMENT

This statement describes the offeror’s internal policies and procedures, as well as its ability to comply with the terms and conditions of a potential subcontract resulting from RFP No. 72066922F00004-2024-5, Technical Assistance For DELTA CDCS Stakeholder Engagement Activity. The offeror shall complete the information in this statement as part of its proposal.

Company Name: _____

Address: _____

UEI Number: _____

1. Authorized Negotiators

The offeror’s proposal in response to RFP No. 72066922F00004-2024-5, Technical Assistance For DELTA CDCS Stakeholder Engagement Activity may be discussed with any of the following individuals. These individuals are authorized to represent our company in negotiation of this proposal.

Names of authorized negotiator(s): _____

These individuals can be reached at the following office:

Address: _____

Telephone/Email: _____

2. Adequate Financial Resources

We hereby certify that the above-named company maintains adequate financial resources to manage any subcontract resulting from this offer.

If the offeror is selected for an award valued at \$30,000 or above, and is not exempted based on a negative response to Section 2(a) below, any first-tier subaward to the organization may be reported and made public through FSRS.gov in accordance with The Transparency Acts of 2006 and 2008. Therefore, in accordance with FAR 52.240-10 and 2 CFR 170, if the offeror positively certifies below in Sections 2.a and 2.b and negatively certifies in Sections 2.c and 2.d, the offeror will be required to disclose to IBI for reporting in accordance with the regulations, the names and total compensation of the organization’s five most highly compensated executives. By submitting this proposal, the offeror agrees to comply with this requirement as applicable if selected for a subaward.

In accordance with those Acts and to determine applicable reporting requirements, we certify as follows:

a) In the previous tax year, was your company’s gross income from all sources above \$300,000?

Yes No

b) In your business or organization's preceding completed fiscal year, did your business or organization (the legal entity to which the UEI number belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in

annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?:

Yes No

c) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the UEI number it provided belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? (FFATA § 2(b)(1)):

Yes No

d) Does your business or organization maintain an active registration in the System for Award Management (www.SAM.gov)?

Yes No

3. Ability to Comply

We certify we are able to comply with the proposed schedule and period of performance, having taken into consideration all existing business commitments, commercial as well as governmental.

4. Record of Performance, Integrity, and Business Ethics

Our record of integrity is outstanding. We have no allegations of lack of integrity or of questionable business ethics. Our integrity can be confirmed by our Past Performance References, contained in the Technical Volume.

5. Organization, Experience, Accounting and Operational Controls, and Technical Skills

Describe how the subcontract will be managed: _____

6. Equipment and Facilities

Describe the equipment and facilities available: _____

7. Eligibility to Receive Award

We are qualified and eligible to receive an award under applicable laws and regulation. In addition, we have performed similar work - describe: _____

8. Acceptability of Subcontract Terms and Conditions

We have reviewed the solicitation document and attachments and agree to the terms and conditions set forth therein.

I hereby certify that the above statements are true and accurate, to the best of my knowledge.

Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

SECTION 5: DRAFT CONTRACT TERMS AND CONDITIONS

TERMS AND CONDITIONS

This Agreement is made between **International Business Initiatives** (the “Company”), a limited liability company incorporated in the State of Texas and having its corporate headquarters at 3101 Wilson Blvd., Suite 300, Arlington, VA 22201 and [Click here to enter text.](#) (hereinafter called “the Subcontractor”) a for-profit company incorporated under the laws of Country.

The Agreement is in full force as of the first day of the Effective Date listed the cover of the Agreement between the Company and the Subcontractor. The Company and the Subcontractor are collectively referred to as “the Parties”.

Now, therefore, in consideration of the promises and of the mutual covenants and agreements contained herein, and intending to be legally bound, the parties hereby agree to the following terms and conditions of this Agreement:

1. BACKGROUND: PERIOD OF PERFORMANCE/TERM OF ENGAGEMENT

- (a) The Company is an international project management and consultancy company that provides technical systems and project management.
- (b) The Subcontractor has represented that it has the necessary expertise and skills to assist the Company.
- (c) Based on the Subcontractor’s representations, the Company has decided to engage the Subcontractor to provide non-commercial goods/services to the Company, as described in **Annex A “Scope of Work”** and **Annex B “Performance Milestones & Payment Schedule”**.
- (d) The Contractor has agreed to provide services as defined in this Agreement for the consideration and on the terms and conditions contained in this Agreement.

2. SCOPE OF WORK

Subcontractor shall provide Services described in **Annex A** of this Agreement (“Services”).

3. TERM OF THE AGREEMENT & TOTAL AGREEMENT PRICE

The period of performance of this Agreement is from MM DD, YYYY to MM DD, YYYY.

The total price in consideration of completion of the entire scope in **Annex A** within the period of performance is **US\$XXX,XXX**. The Company is not obligated to pay the Subcontractor in excess of this amount, including under termination provisions of this Agreement.

4. PRICES AND PERFORMANCE-BASED PAYMENTS

- a) Performance-based/milestone payments shall form the basis for the Agreement financing payments provided under this Agreement and shall apply to the whole Agreement. The performance-based payments schedule (**Annex B Performance Milestones & Payment Schedule**) describes the basis for payment, to include identification of the individual payment events, evidence of completion, and amount of payment due upon completion of each event.
- b) *Subcontractor request for performance-based payment.* Subcontractor may submit requests for payment of performance-based payments, in a form and manner acceptable to the Company. See also Article 23 of this Agreement.

- c) *Approval and payment of requests.* Subcontractor shall not be entitled to payment of a request for performance-based payment prior to successful accomplishment of the event or performance criterion for which payment is requested. The Company's Technical Representative shall determine whether the event or performance criterion for which payment is requested has been successfully accomplished in accordance with the terms of the Agreement. The Company's Technical Representative may, at any time, require the Subcontractor to substantiate the successful performance of any event or performance criterion which has been or is represented as being payable.
- d) *Records and controls.* The Subcontractor shall maintain records and controls adequate for administration of this clause or controls are determined by the Contracting Officer to be inadequate for administration of this clause.
- e) *Reports and the Company access.* The Subcontractor shall promptly furnish reports, certificates, financial statements, and other pertinent information requested by the Company for the administration of this clause and to determine that an event or other criterion prompting a milestone payment has been successfully accomplished. The Subcontractor shall give the Company reasonable opportunity to examine and verify the Subcontractor's records and to examine and verify the Subcontractor's performance of this Agreement for administration of this clause.
- f) The Agreement Price(s) is/are all-inclusive and shall not be subject to adjustment based on Subcontractor's cost experience, or for any other reason (unless and only to the extent otherwise expressly provided in this Agreement). Unless otherwise expressly stated in any other provision of the Agreement (or as may be reasonably agreed on a case-by-case basis and effected by the parties in an amendment), all costs, fees, direct and indirect costs, wages, fringe and other benefits, social charges, allowances, differentials, inspections and tests, audits, insurances, taxes, and service, labor and other charges, as well as all effort and risks of whatever nature and amount relating to or resulting from performing the Agreement, whether by Subcontractor itself or third parties, shall be deemed to be included in the Agreement Price(s).

5. ACCEPTANCE OF AGREEMENT/TERMS AND CONDITIONS

- (a) This Agreement integrates, merges, and supersedes any prior offers, negotiations, and agreements concerning the subject matter hereof and constitutes the entire agreement between the parties.
- (b) Subcontractor's acknowledgment, acceptance of payment, or commencement of performance shall constitute Subcontractor's unqualified acceptance of this Agreement.
- (c) Unless expressly accepted in writing by Company, additional or differing terms or conditions proposed by Subcontractor or included in Subcontractor's acknowledgment are objected to by Company and have no effect.
- (d) The headings used in this Agreement are inserted for the convenience of the parties and shall not define, limit, or describe the scope or the intent of the provisions of this Agreement.

6. APPLICABLE LAWS

- (a) This Agreement and any matter arising out of or related to this Agreement shall be governed by the laws of the State and Country from which this Agreement is issued by Company (as stated on the cover page), without regard to its conflicts of law's provisions, except that any provision in this Agreement that is (i) incorporated in full text or by reference from the Federal Acquisition Regulation (FAR); or (ii) incorporated

in full text or by reference from any agency regulation that implements or supplements the FAR or; (iii) that is substantially based on any such agency regulation or FAR provision, shall be construed and interpreted according to the federal common law of government contracts as enunciated and applied by federal judicial bodies, boards of contracts appeals, and quasi-judicial agencies of the US Federal Government.

- (b) Subcontractor, in the performance of this Agreement, shall comply with all applicable local, state, and federal laws, orders, rules, regulations, and ordinances. Subcontractor shall procure all licenses/permits and pay all fees and other required charges and shall comply with all applicable guidelines and directives of any local, state, and/or federal governmental authority. Subcontractor, at its expense, shall provide reasonable cooperation to Company in conducting any investigation regarding the nature and scope of any failure by Subcontractor or its personnel to comply with applicable local, state, and federal laws, orders, rules, regulations, and ordinances that may affect the performance of Subcontractor's obligations under this Agreement.
- (c)
- 1) If (i) Company's contract price or fee is reduced; (ii) Company's costs are determined to be unallowable; (iii) any fines, penalties or interest are assessed on Company; or (iv) Company incurs any other costs or damages; as a result of any violation of applicable laws, orders, rules, regulations, or ordinances by Subcontractor, its officers, employees, agents, suppliers, or subcontractors at any tier, Company may proceed as provided for in (3) below.
 - 2) Where submission of **cost or pricing data** is required or requested at any time prior to or during performance of this Agreement, if Subcontractor or its lower-tier subcontractors: (i) submit and/or certify cost or pricing data that are defective; (ii) with notice of applicable cutoff dates and upon Company's request to provide cost or pricing data, submit cost or pricing data, whether certified or not certified at the time of submission, as a prospective subcontractor, and any such data are defective as of the applicable cutoff date on Company's Certificate of Current Cost or Pricing Data; (iii) claim an exception to a requirement to submit cost or pricing data and such exception is invalid; (iv) furnish data of any description that is inaccurate; or, if (v) the U.S. Government alleges any of the foregoing; and, as a result, (A) Company's contract price or fee is reduced; (B) Company's costs are determined to be unallowable; (C) any fines, penalties, or interest are assessed on Company; or (D) Company incurs any other costs or damages; Company may proceed as provided for in (3) below.
 - 3) Upon the occurrence of any of the circumstances, other than withholdings, identified in paragraphs (1) and (2) above, Company may make a reduction of corresponding amounts (in whole or in part) in the price of this Agreement or any other contract with Subcontractor, and/or may demand payment (in whole or in part) of the corresponding amounts. Subcontractor shall promptly pay amounts so demanded. In the case of withholding(s), Company may withhold the same amount from Subcontractor under this Agreement.
- (d) Subcontractor shall be responsible for compliance with all requirements and obligations relating to its employees under all local, state, and federal statutes, ordinances, rules and obligations including, but not limited to, employer's obligations under laws relating to: income tax withholding and reporting; civil rights; equal employment opportunity; discrimination on the basis of age, sex, race, color, religion, disability, national origin, or veteran status; overtime; minimum wage; social security contribution and withholding; unemployment insurance; employer's liability insurance; worker's compensation; veteran's rights; and all other employment, labor or benefits related laws.

- (e) Subcontractor shall notify Company promptly in writing if a charge of noncompliance with any law addressing occupational health and safety or protection of the environment has been filed against Subcontractor in connection with the performance of this Agreement.

7. ASSIGNMENT

Any assignment of Subcontractor's Agreement rights or delegation of Subcontractor's duties shall be void, unless prior written consent is given by the Company's Contractual Representative. Nevertheless, Subcontractor may assign rights to be paid amounts due, or to become due, to a financing institution if Company is promptly furnished a signed copy of such assignment reasonably in advance of the due date for payment of any such amounts. Amounts assigned shall be subject to setoff or recoupment for any present or future claims of Company against Subcontractor. The Company shall have the right to make settlements and/or adjustments in price without notice to any assignee financing institution.

8. CHANGE IN CONTROL OF SUBCONTRACTOR

- (a) Prior to a potential change of control of Subcontractor and at least ninety (90) days prior to the proposed effectiveness of such change of control, Subcontractor shall promptly notify Company in writing thereof, and provide the identity of the potential new controlling party and information on such party and the transaction as Company may request, consistent with applicable law and confidentiality restrictions. For the purposes of this clause, a change in control shall include a change in ownership or control or a change in senior managerial leadership.
- (b) Upon notification to Company, Subcontractor shall respond to any and all questions provided by the Company to the Subcontractor in a timely manner so that the Company can determine the best course of action. Company's options, in its sole discretion, shall include the approval of the change of control with the performance of the Agreement continuing without interruption or subject to modification, the rejection of the change of control with the Agreement being terminated for convenience with performance being undertaken by Company directly or a substitute subcontracting party. In the instance of the Company's decision to terminate for convenience, Subcontractor shall use any and all efforts to transfer Subcontractor personnel who wish to continue performance as an employee of either the Company or a substitute subcontracting party, and all other administrative, financial, informational, and other means reasonably necessary to continue with uninterrupted service to the Client.

9. COMMUNICATION WITH COMPANY'S CUSTOMER

Subcontractor shall not communicate with Company's Client or higher tier Client in connection with this Agreement, except as expressly permitted by Company in writing. This clause does not prohibit Subcontractor from communicating with the U.S. Government with respect to (1) matters Subcontractor is required by law or regulation to communicate to the Government, (2) fraud, waste, or abuse communicated to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information, (3) any matter for which this Agreement, including a FAR or FAR Supplement clause included in this Agreement, provides for direct communication by Subcontractor to the Government.

10. CONTRACT DIRECTION

- (a) Only the Company Contracting Representative has authority on behalf of Company to make changes to this Agreement. All amendments must be identified as such in writing and executed by the parties where necessary.

- (b) Company's technical personnel may from time to time render assistance or give technical advice or discuss or effect an exchange of information with Subcontractor's personnel concerning the Work hereunder. No such action shall be deemed to be a change under the "Changes" clause of this Agreement and shall not be the basis for equitable adjustment.
- (c) Except as otherwise provided herein, all notices to be furnished by Subcontractor shall be in writing and sent to the Company Contracting Representative.

11. COUNTERFEIT WORK

- (a) The following definitions apply to this clause:
"**Counterfeit Work**" means Services provided under this Agreement that are or contains unlawful or unauthorized reproductions, substitutions, or alterations that have been knowingly mismarked, misidentified, or otherwise misrepresented to be an authentic, unmodified part from the original manufacturer, or a source with the express written authority of the original manufacturer or current design activity, including an authorized aftermarket manufacturer. Unlawful or unauthorized substitution includes used Work represented as new, or the false identification of grade, serial number, lot number, date code, or performance characteristics.
- (b) Subcontractor shall not deliver Counterfeit Work to Company under this Agreement.
- (c) Subcontractor shall maintain counterfeit risk mitigation processes in accordance with applicable industry recognized standards and with any other specific requirements identified in this Agreement.
- (d) Subcontractor shall immediately notify Company with the pertinent facts if Subcontractor becomes aware that it has delivered Counterfeit Work. Subcontractor, at its expense, shall provide reasonable cooperation to Company in conducting any investigation regarding the delivery of Counterfeit Work under this Agreement.
- (e) This clause applies in addition to and is not altered, changed, or superseded by any quality provision, specification, statement of work, regulatory flow-down, or other provision included in this Agreement addressing the authenticity of work by Subcontractor.
- (f) In the event that any service or item delivered under this Agreement constitutes or includes Counterfeit Work, Subcontractor shall, at its expense, promptly replace such Counterfeit Work with genuine work conforming to the requirements of this Agreement. Notwithstanding any other provision in this Agreement, Subcontractor shall be liable for all costs relating to the removal and replacement of Counterfeit Work, including without limitation Company's costs of removing Counterfeit Work, of installing replacement and of any testing necessitated by replacement after Counterfeit Work has been exchanged. The remedies contained in this paragraph are in addition to any remedies Company may have at law, equity or under other provisions of this Agreement.
- (g) Subcontractor shall include paragraphs (a) through (f) and this paragraph (g) of this clause or equivalent provisions in lower tier subcontracts for the delivery of items that will be included in or furnished as Services to Company.

12. DEFINITIONS

(a) The following terms shall have the meanings set forth below:

"Agreement" means the instrument of contracting, such as "Purchase Order", "PO", "Agreement", or other such type of designation, including these General Provisions, all referenced documents, exhibits and attachments. If these terms and conditions are incorporated into a "master" agreement that provides for releases, (in the form of a Purchase Order or other such document) the term "Agreement" shall also mean the Release document for the Work to be performed.

"FAR" means the Federal Acquisition Regulation, issued as Chapter 1 of Title 48, Code of Federal Regulations.

"Company" means IBI, acting through its companies or business units as identified on the face of this Agreement. If a subsidiary or affiliate of IBI is identified on the face of this Agreement, then "Company" means that subsidiary or affiliate.

"Company Procurement Representative" means a person authorized by Company's cognizant procurement organization to administer and/or execute this Agreement.

"Subcontractor" means the party identified on the Cover Page of this Agreement with whom Company is contracting.

"Work" means all required labor, articles, materials, supplies, goods, and services constituting the subject matter of this Agreement.

13. DISPUTES

- (a) Government-related disputes. In the event Subcontractor makes any claim involving any action or directive by, or on behalf of, the Government, or any question as to Subcontractor's compliance with the Prime Contract ("Government-related dispute"), Subcontractor shall submit its claim to Company, certified per the Contract Disputes Act and FAR 52.233-1. Upon review Company may, in its sole discretion sponsor Subcontractor's Claim as a pass-through claim for presentation to the Government. In the case of a Government-related Dispute, Company's liability to Subcontractor shall be limited solely and exclusively to whatever monies are recovered in hand on behalf of Subcontractor from the Government.
- (b) If Subcontractor submits a Government-related dispute to Company, and Company chooses at its sole discretion to present a pass-through claim against the Government, the following provisions will apply.
- (c) Claim presentation. Company, upon the written request by Subcontractor, shall present Subcontractor's Government-related dispute to the Government as a pass-through claim for resolution under the "Disputes" provisions of the prime contract and applicable law and regulation. Company agrees to present such claims for and on behalf of Subcontractor and to pass Subcontractor's Government-related dispute through to the Government in good faith, subject to Subcontractor's providing sufficient justification, back-up and certification of said Government-related dispute.
- (d) Costs, fees, and expenses. Subcontractor shall bear all reasonable and documented costs, fees, and expenses associated with, and incurred by Company, as part of Company's presentation of Subcontractor's Government-related disputes to the Government, including attorney's and consultant's fees.
- (e) Exclusive remedy. The pass-through process described above shall be Subcontractor's only remedy for Government-related disputes. Subcontractor shall make no claims against the Company for Government-related disputes, and any such claims shall be dismissed.
- (f) Direct Disputes Settled by Arbitration. All claims and disputes arising under, or relating to, this subcontract that are not Government-related disputes (e.g., are directly and exclusively between Company and Subcontractor) are to be settled by binding arbitration to be held in the Commonwealth of Virginia pursuant to the the-existing commercial arbitration rules of the American Arbitration Association (AAA). If the amount in controversy exceeds \$1,000,000, the Arbitration shall be conducted by a panel of three arbitrators with

each party selecting an arbitrator with those selected arbitrators selecting a third who shall serve as chair. For disputes under \$1,000,000, the Arbitration shall be conducted by a single arbitrator as may be agreed to by the Company and Subcontractor, or as otherwise appointed in accordance with AAA rules then in effect. The laws of the Commonwealth of Virginia shall govern the construction and interpretation of the rights and duties of the parties under this agreement. Any such arbitration shall include a written record of the arbitration hearing. An award of arbitration may be confirmed in a court of competent jurisdiction.

- (g) Mediation: as a condition precedent to filing a demand for arbitration or otherwise initiating litigation, the parties hereto agree that they shall first attempt to resolve their dispute by mediation through the American Arbitration Association by filing a request for mediation with the AAA and the other party. That being said, a party can file a demand for arbitration simultaneously with the request for mediation, but AAA shall hold the demand for arbitration in abeyance until the mediator declares an impasse.
- (h) Duty to perform. Pending final decision on any dispute under this clause, Company and Subcontractor will proceed and continue with performance unabated. Until final resolution of any dispute hereunder, Subcontractor shall diligently proceed with the performance of this subcontract as directed by Company.

14. ELECTRONIC CONTRACTING

The parties agree that if this Agreement is transmitted electronically neither party shall contest the validity of this Agreement, or any acknowledgement thereof, on the basis that this Agreement or acknowledgement contains an electronic signature.

15. EXTRAS

Work shall not be supplied in excess of quantities specified in this Agreement. Subcontractor shall be liable for handling charges and return shipment costs for any excess quantities.

16. GRATUITIES/KICKBACKS

Subcontractor shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) for the purpose of obtaining or rewarding favorable treatment as a Company supplier. By accepting this Agreement, Subcontractor certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.

17. INDEMNITY

Subcontractor shall defend, indemnify, and hold harmless Company, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns and customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising from any act or omission of Subcontractor, its officers, employees, agents, suppliers, or subcontractors at any tier, in the performance of any of its obligations under this Agreement.

18. INDEPENDENT CONTRACTOR RELATIONSHIP AND SUBCONTRACTOR PERSONNEL

- (a) Subcontractor's relationship to Company shall be that of an independent contractor and this Agreement does not create an agency, partnership, or joint venture relationship between Company and Subcontractor or Company and Subcontractor personnel. Personnel supplied by Subcontractor hereunder shall be deemed employees of Subcontractor and shall not for any purposes be considered employees or agents of Company and shall not be entitled to any rights under any Company benefit plan. Subcontractor assumes

full responsibility for the actions and supervision of such personnel while performing services under this Agreement. Company assumes no liability for Subcontractor personnel.

- (b) Nothing contained in this Agreement shall be construed as granting to Subcontractor or any personnel of Subcontractor rights under any Company benefit plan.

19. INFORMATION OF COMPANY

- (a) Subcontractor shall not reproduce or disclose any information, knowledge, or data of Company that Subcontractor may receive from Company or have access to, including proprietary or confidential information of Company or of others when in possession of Company (hereinafter Company Information), without the prior written consent of Company. Company Information includes, but is not limited to, business plans, marketing information, cost estimates, forecasts, bid and proposal data, financial data, formulae, compositions, products, processes, procedures, inventions, systems, or designs. Subcontractor agrees not to use any Company Information for any purpose except to perform this Agreement. Subcontractor shall maintain data protection processes and systems sufficient to adequately protect Company information and comply with any law or regulation applicable to such information.
- (b) If Subcontractor becomes aware of any compromise of information used in the performance of this Agreement or provided by Company to Subcontractor, its officers, employees, agents, suppliers, or subcontractors (an "Incident"), Subcontractor shall take appropriate immediate actions to investigate and contain the Incident and any associated risks, including notification within seventy-two (72) hours to Company after learning of the Incident. As used in this clause, "compromise" means that information has been exposed to unauthorized access, inadvertent disclosure, known misuse, loss, destruction, or alteration other than as required to perform the Work. Subcontractor shall provide reasonable cooperation to Company in conducting any investigation regarding the nature and scope of any Incident. Any costs incurred in investigating or remedying Incidents shall be borne by Subcontractor.
- (c) Prior to commencement of Work, Subcontractor shall have a written agreement with each of its employees performing services hereunder sufficient to enable Subcontractor to comply with this Clause.
- (d) Company information provided to Subcontractor remains the property of Company. Within thirty (30) days of the expiration or termination of this Agreement or upon the request of Company, Subcontractor shall return or certify the destruction of all Company Information and any reproductions, and Subcontractor shall promptly surrender all information or proprietary data developed by Subcontractor in performance of this Agreement, unless its retention is authorized in writing by Company.
- (e) Any Company provided information identified as proprietary or subject to restrictions on public disclosure by law or regulation shall be encrypted (i) if transmitted via the Internet, or (ii) during electronic storage if potentially accessible by the Internet or otherwise by non-authorized users.
- (f) The provisions set forth above are in addition to and do not alter, change or supersede any obligations contained in a proprietary information agreement between the parties.

20. INFORMATION OF SUBCONTRACTOR

Subcontractor shall not provide any proprietary information to Company without prior execution of a proprietary information agreement by the parties.

21. INSURANCE

- (a) Subcontractor shall maintain at least the following insurance coverages, unless otherwise agreed by Company in writing: Commercial General Liability coverage, including coverage on Products/Completed Operations, Blanket Contractual, Contractors' Protective Liability, Broad Form Property Damage, Personal Injury/Advertising Liability, and Bodily Injury and Property Damage with limits of not less than:
 - (b) General aggregate limit - \$1,000,000 **or 3 times** the contract amount, whichever is greater
 - (c) Each occurrence, combined single limit - \$1,000,000
 - (d) Aggregate products, combined single limit – \$1,000,000
 - (e) Aggregate personal injury/advertising liability - \$1,000,000
 - (f) Auto liability coverage in the amount of \$500,000 per occurrence and covering owned, hired and non-owned vehicles used in performance of this subcontract.
 - (g) Statutory workers' compensation insurance ("workers' compensation") in country/state in which work is to be performed.
 - (h) The Commercial General Liability, Auto Liability, and Umbrella Excess policies must include endorsements adding the Company and USAID as additional insured, stating coverage is primary and not contributory with any other insurance or self-insurance available to the additional insured and a waiver of subrogation in favor of the Company and USAID. Addition of insured endorsements limiting coverage to "ongoing work" of the "sole negligence" of Subcontractor are not acceptable.
 - (i) All policies must provide a 30-calendar day notice of cancellation to the Company with no exculpatory language. Policies must be written with insurance carriers authorized to do business in the country where Subcontractor operates.
 - (j) Defense Base Act (DBA) insurance in accordance with FAR 52.228-3 and AIDAR 752.228-3 must be provided for all Subcontractor employees working outside the United States, through the authorized USAID DBA provider. The rates and contact information for USAID's DBA insurance carrier are published in an Acquisition & Assistance Policy Directive found on USAID's website: <https://www.usaid.gov/work-usaid/resources-for-partners>. Alternatively, the Subcontractor can request the rates and contact information from the Company.

22. INTELLECTUAL PROPERTY

- a. Subcontractor warrants that the Services performed or delivered under this Agreement will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Except to the extent that the U.S. Government assumes liability therefor, Subcontractor shall defend, indemnify, and hold harmless Company, its officers, directors, employees, consultants, agents, affiliates, successors, permitted assigns and customers from and against all losses, costs, claims, causes of action, damages, liabilities, and expenses, including attorney's fees, all expenses of litigation and/or settlement, and court costs, arising out of any action by a third party that is based upon a claim that the Services performed or delivered under this Agreement infringes or otherwise violates the intellectual property rights of any person or entity.
- b. Subcontractor's obligations under paragraph (a) above shall not apply to the extent FAR 52.227-1 "Authorization and Consent" applies to Company's Prime Agreement for infringement of a U.S. patent and Company and its customers are not subject to any actions for claims, damages, losses, costs, and expenses, including reasonable attorney's fees by a third party.
- c. In addition to the Government's rights in data and inventions, Subcontractor agrees that Company, in the performance of its prime or higher tier contract obligations (including obligations of follow-on contracts,

contracts for subsequent phases of the same program, and sustainment contracts), shall have an unlimited, irrevocable, paid-up, royalty-free right to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, transfer computer software to the US Government and the Government's end customer, and prepare derivative works, and authorize others to do any, some or all of the foregoing, any and all, inventions, discoveries, improvements and patents as well as any and all data, copyrights, reports, and works of authorship, conceived, developed, generated or delivered in performance of this Agreement.

- d. The tangible medium storing copies of all reports, memoranda or other materials in written form including machine readable form, prepared by Subcontractor and furnished to Company pursuant to this Agreement shall become the sole property of Company.
- e. The Subcontractor shall follow AIDAR 752.227-14 Rights in Data – General in requesting to assert any copyright for the work products first produced in the performance of this Agreement. The requests must be submitted to the Company's Contracting Representative.
- f. No other provision in this Agreement, including but not limited to the Indemnity clause, shall be construed to limit the liabilities or remedies of the parties under this clause.

23. PAYMENT, TAXES AND DUTIES

- (1) Terms. Unless otherwise provided, terms of payment shall be net thirty (30) days from the latest of the following: (1) Company's receipt of Subcontractor's proper and accurate invoice; (2) acceptance in accordance with the acceptance criteria by the Company's authorized Technical Representative of the milestone for which the invoice is presented by the Subcontractor.
- (2) Date of Payment. Payment shall be deemed to have been made as of the date of mailing Company's payment or electronic funds transfer.
- (3) Taxes. Unless otherwise specified, prices include all applicable federal, state, and local taxes, duties, tariffs, and similar fees imposed by any government, all of which shall be listed separately on the invoice.
- (4) Final Release. Upon payment of the final Agreement invoice, both parties shall jointly sign a release mutually discharging the other, its officers, employees, and agents from all liabilities, obligations, and claims arising out of or related to this Agreement, subject only to specified claims in stated amounts.
- (5) Setoff and deduction for monies owed. The Company shall have a right of setoff against payments due or at issue under this Agreement or any other contract between the parties.
 - a. Subcontractor hereby authorizes the Company to deduct from any moneys payable to Subcontractor (whether or not arising out of this Agreement) all amounts which may be payable by Subcontractor to the Company, all amounts which are found by the Company or Subcontractor not to have been properly payable or overpaid, and also all amounts for which the Company may become liable to third parties by reason of Subcontractor's acts in performing or failing to perform Subcontractor's obligations under this Agreement.
 - b. In the event that any claim is made by a third party, the amount or validity of which is disputed by Subcontractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, the Company may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of the Company to exercise such right to deduct or to withhold shall not in any way affect the obligation of Subcontractor to protect the Company as elsewhere provided herein.
 - c. At any time, the Company may deduct from any payment(s) all or part of any amount due Subcontractor, whether in connection with this Agreement or any other agreement(s) between the Company and Subcontractor, that the Company determines to be owed to it by the Subcontractor.

- (6) Extra Charges. Except as otherwise provided in this Agreement, no payment for extras shall be made unless such extras have been authorized in writing.
- (7) Overpayment Notification. Should the Company make a payment which exceeds any elements (milestone billing amount) or ceiling amount of this Agreement, Subcontractor shall notify the Company of that fact within fifteen (15) days of receiving the overpayment.
- (8) **INVOICE INSTRUCTIONS - Invoice Contents**. A proper invoice must contain the following information:
- a. Name and complete address of Subcontractor;
 - b. Date of invoice;
 - c. Description of services/products being billed;
 - d. Name and complete address of Subcontractor official/bank to send payment to (if payment is to be sent to a bank account, provide complete account number and bank address plus appropriate forms provided by the Company); and
 - e. Name and complete address of Subcontractor official to notify if the invoice is found to be defective.
 - f. A certification signed by an authorized representative of the Subcontractor, as follows:
 - g. *"The undersigned hereby certifies to the best of my knowledge and belief that the sum claimed under this Agreement is proper and due; the work reflected by these deliverables has been performed, and the quantities and amounts involved are consistent with the requirements of this Agreement; all required Prime Contractor approvals have been obtained; this request does not include any amounts which the Prime Contractor intends to withhold or retain in accordance with the terms and conditions of the subcontract; and this certification is not to be construed as final acceptance of a subcontractor's performance."*

24. PLACE OF PERFORMANCE

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25. PRECEDENCE

The provisions of the Agreement shall be read together and applied in a manner consistent with the purpose of the Agreement to the maximum practicable extent. In the event of ambiguity of or apparent conflict or inconsistency between or among such provisions, Subcontractor shall have an affirmative duty to notify Company and obtain guidance before interpreting them. If it fails to do so, Subcontractor shall be bound by the interpretation deemed by Company, in its sole discretion, to be appropriate.

26. QUALITY CONTROL SYSTEM

Subcontractor shall provide and maintain a quality control system to its industry recognized Quality Standard and in compliance with any other specific quality requirements identified in this Agreement.

Records of all quality control inspection work by Subcontractor shall be kept complete and available to Company and its customers.

27. RELEASE OF INFORMATION

Except as required by law, no public release of any information, or confirmation or denial of same, with respect to this Agreement or the subject matter hereof, will be made by Subcontractor or its subcontractors without the prior written approval of Company. Subcontractor shall not use Company's name, brand, trademark, or logo related to the term "IBI" or any other trademark or logo owned by Company, in whatever shape or form, without the prior

written consent of Company.

28. RETENTION OF RECORDS

Unless a longer period is specified in the Cover Sheet to this Agreement or by law or regulation, Subcontractor shall retain all records related to this Agreement for four (4) years from the date of final payment received by Subcontractor. Records related to this Agreement include, but are not limited to, financial, proposal, procurement, specifications, production, inspection, test, quality, shipping and export, and certification records. At no additional cost, Subcontractor shall timely provide access to such records to the US Government and/or Company upon request.

29. SEVERABILITY

Each clause, paragraph and subparagraph of this Agreement is severable, and if one or more of them are declared invalid, the remaining provisions of this Agreement will remain in full force and effect.

30. SURVIVABILITY

All rights, obligations, and duties hereunder, which by their nature or by their express terms extend beyond the expiration or termination of this Agreement, including but not limited to warranties, indemnifications, intellectual property (including rights to and protection of intellectual property and proprietary information), and product support obligations shall survive the expiration or termination of this Agreement.

31. TIMELY PERFORMANCE

- (a) Subcontractor's timely performance is a critical element of this Agreement.
- (b) Subcontractor shall provide Company status of performance of this Agreement when requested. In addition, if Subcontractor becomes aware of an impending labor dispute involving Subcontractor or any lower tier subcontractor, or any other difficulty in performing the Work, Subcontractor shall timely notify Company, in writing, giving pertinent details. These notifications shall not change any delivery schedule.

32. TRAVEL COSTS

- (a) All travel incurred by Subcontractor in the performance of this Agreement is included within the Agreement
- (b) International Travel approval must be obtained from Company Technical Representative in writing at least two (2) weeks prior to proposed travel.

33. WAIVERS, APPROVALS, AND REMEDIES

- (a) Failure by either party to enforce any of the provisions of this Agreement or applicable law shall not constitute a waiver of the requirements of such provisions or law, or as a waiver of the right of a party thereafter to enforce such provision or law.
- (b) Company's approval of documents shall not relieve Subcontractor of its obligation to comply with the requirements of this Agreement.

- (c) The rights and remedies of either party in this Agreement are cumulative and in addition to any other rights and remedies provided by law or in equity.

34. WARRANTY

- (a) Subcontractor warrants that it is and shall remain free of any obligation or restriction which would interfere or be inconsistent with or present a conflict of interest concerning the Services to be furnished by Subcontractor under this Agreement.
- (b) Subcontractor warrants that it will perform the services under this Agreement with the degree of high professional skill and sound practices and judgment which is normally exercised by recognized professional firms with respect to services of a similar nature.
- (c) Subcontractor warrants that all Services furnished pursuant to this Agreement shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of this Agreement and be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one (1) year. If any non-conforming Services is identified within the warranty period, Subcontractor, at Company's option, shall promptly repair, replace, or reperform the Services.
- (d) Transportation of replacement Services, return of non-conforming Services, and re-performance of Services shall be at Subcontractor's expense. If repair, or replacement, or reperformance of Services is not timely, Company may elect to return, reperform, repair, replace, or re-procure the Services at Subcontractor's expense. All warranties shall run to Company and its customers.

35. WORK ON COMPANY AND THIRD-PARTY PREMISES

- (a) "Premises" as used in this clause means premises of Company, its customers, or other third parties where Services is being performed.
- (b) Subcontractor shall ensure that Subcontractor personnel working on Premises comply with any on-premises policies and: (i) do not bring weapons of any kind onto Premises; (ii) do not manufacture, sell, distribute, possess, use or be under the influence of controlled substances or alcoholic beverages while on Premises; (iii) do not possess hazardous materials of any kind on Premises without Company's authorization; (iv) remain in authorized areas only; (v) do not conduct any non-Company related business activities (such as interviews, hiring, dismissals or personal solicitations) on Premises, (vi) do not send or receive non-Company related mail through Company's or third party's mail systems; (vii) do not sell, advertise or market any products or memberships, distribute printed, written or graphic materials on Premises without Company's written permission or as permitted by law; and (viii) follow instruction from Company in the event of an actual or imminent safety or environmental hazard on Premises.
- (c) All persons, property, and vehicles entering or leaving Premises may be subject to search.
- (d) Subcontractor shall promptly notify Company and provide a report of any accidents or security incidents involving loss of or misuse or damage to Company, customer, or third party intellectual or physical assets, and all physical altercations, assaults, or harassment.
- (e)

- 1) Prior to entry on Premises, Subcontractor shall coordinate with Company to gain access. Subcontractor shall provide information reasonably required by Company to ensure proper identification of personnel, including, but not limited to verification of citizenship, lawful permanent resident status, protected individual or other status.
 - 2) Subcontractor personnel requiring access to Premises shall, prior to entry, be screened by Subcontractor at no charge to Company through the Company Subcontractor Screen Program, or otherwise screened by Subcontractor in a manner satisfactory to Company.
- (f) Subcontractor shall ensure that Subcontractor personnel: (i) do not remove Company, customer, or third party assets from Premises without Company authorization; (ii) use Company, customer, or third party assets only for purposes of this Agreement; (iii) only connect with, interact with or use computer resources, networks, programs, tools or routines authorized by Company; and (iv) do not share or disclose user identifiers, passwords, cipher keys or computer dial port telephone numbers. Company may periodically audit Subcontractor's data residing on Company, customer, or third-party assets on Premises.
- (g) Company may, at its sole discretion, have Subcontractor remove any specified employee of Subcontractor from Premises and require that such employee not be reassigned to any Premises under this Agreement.
- (h) Violation of this clause may result in termination of this Agreement in addition to any other remedy available to Company at law or in equity. Subcontractor shall reimburse Company, customer, or third party for any unauthorized use of Company, customer, or third-party assets.
- (i) Subcontractor shall advise the Company Procurement Representative of any unauthorized direction or course of conduct.
- (j) Subcontractor shall immediately report to Company all emergencies (e.g., medical, fire, spills or release of any hazardous material) and non-emergency incidents (e.g., job-related injuries or illnesses) affecting the Services. Subcontractor shall provide Company with a copy of any reports of such incidents Subcontractor makes to governmental authorities.

36. EXCUSABLE DELAYS

- (a) Except for defaults and inexcusable delays of subcontractors at any tier, the Subcontractor shall not be in default solely because of any failure to perform this Agreement under its terms if the failure is excusable and arises from causes totally beyond the control and without the fault or negligence of the Subcontractor. Examples of these causes are (1) acts of God or of the public enemy, (2) acts of the **US or Tanzania** Government in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) labor strikes, (8) freight embargoes, and (9) unforeseeable and unusually severe weather (to the extent such weather was experienced not due to other delays caused by the Subcontractor which pushed the Project or Subcontractor's Services into that adverse weather). In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Subcontractor. Default includes failure to make progress in the Services so as to endanger performance.
- (b) If the failure to perform is caused by the failure of a subcontractor of Subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Subcontractor and its lower tier subcontractor, and without the fault or negligence of either, the Subcontractor shall not be deemed to be in default, unless –
- (1) The subcontracted supplies or services were obtainable from other sources;
 - (2) The Company ordered the Subcontractor in writing to purchase these supplies or services from the other source; and
 - (3) The Subcontractor failed to comply reasonably with this order.

- (c) Notwithstanding the above, the Company reserves the right to self-perform any of the services which the Subcontractor is unable to perform due to excusable delays as outlined above and reduce the ceiling or portions of work assigned to the Subcontractor under this Agreement accordingly.
- (d) Furthermore, if the Client determines that the delay is inexcusable or otherwise claims damages or other recovery against the Company for the Subcontractor-caused delay, then Subcontractor shall be liable to the Company therefor and agrees to indemnify and hold the Company harmless for any claims or damages relating thereto.
- (e) Upon request of the Subcontractor, the Company shall ascertain the facts and extent of the failure. If the Company determines that any failure to perform results from one or more of the excusable causes above, the delivery schedule shall be revised, subject to the rights of the Company under the termination clause of this Agreement.

37. TERMINATION FOR CONVENIENCE

- (a) The Company may terminate performance of work under this Agreement in whole or in part where such action is reasonably required as a result of US Government action affecting all or part of the performance of work under the Prime Contract. The Company's Contracting Representative shall terminate by delivering to the Subcontractor a Notice of Termination specifying the extent of termination and the effective date.
- (b) After receipt of a Notice of Termination, and except as directed by the Company Contracting Representative, the Subcontractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
 - 1) Stop work as specified in the notice.
 - 2) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the Agreement.
 - 3) Terminate all subcontracts to the extent they relate to the work terminated.
 - 4) Assign to the Company, as directed by the Company's Contracting Representative, all right, title, and interest of the Subcontractor under the subcontracts terminated, in which case the Company shall have the right to settle or to pay any termination settlement proposal arising out of those terminations.
 - 5) With approval or ratification to the extent required by the Company's Contracting Representative, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts; the approval or ratification will be final for purposes of this clause.
 - 6) As directed by the Company's Contracting Representative, transfer title and deliver to the Company –
 - (i) Services in process, completed work produced or acquired for the work terminated; and
 - (ii) The completed or partially completed information, and other materials that, if the Agreement had been completed, would be required to be furnished to the Company.
 - 7) Complete performance of the work not terminated.
 - 8) Take any action that may be necessary, or that the Company's Contracting Representative may direct, for the protection and preservation of the property related to this Agreement that is in the possession of the Subcontractor and in which the Company has or may acquire an interest.
- (c) After termination, the Subcontractor shall submit a final termination settlement proposal to the Company's Contracting Representative in the form and with the certification prescribed by the Company's Contracting Representative. The Subcontractor shall submit the proposal promptly, but no later than 2 months from the effective date of termination, unless extended in writing by the Company's Contracting Representative upon written request of the Subcontractor within this 2-month period. However, if the Company's Contracting Representative determines that the facts justify it, a termination settlement proposal may be received and acted on after 2 months or any extension. If the Subcontractor fails to submit the proposal within the time

allowed, the Company's Contracting Representative may determine, on the basis of information available, the amount, if any, due the Subcontractor because of the termination and shall pay the amount determined.

- (d) Subcontractor and the Company's Contracting Representative may agree upon the whole or any part of the amount to be paid but may not exceed the total contract price as reduced by (1) the amount of payments previously made and (2) the contract price of work not terminated. The Agreement shall be modified, and the Subcontractor paid the agreed amount.
- (e) It is understood by Parties that the progress payment milestones, listed in **Annex B** to this Agreement represent 90% of the total actual price of performance of each milestone. In case of termination for convenience, Company will pay the contractor the 10% retainage amount for each completed milestone, which will be considered a full payment for the work delivered under that milestone. In addition, Subcontractor will be able to recover partial completion costs for incomplete milestones plus reasonable profit for the completed portion of the work at the time of termination not to exceed the total price of such milestones. Such consideration will only be made if Subcontractor provides substantial evidence that the work for incomplete milestones has started and the actual costs towards completion of those milestones have been incurred. To this end, Subcontractor is advised to track all costs for completing milestones separately to maximize recovery. No anticipated profit shall be paid for incomplete work under the Agreement.
- (f) In addition to costs in paragraph (e), Subcontractor shall be able to recover reasonable termination costs settlement of the work terminated, including-
 - (i) Accounting, legal, clerical, and other expenses reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontracts (excluding the amounts of such settlements); and
 - (iii) Storage, transportation, and other costs incurred, reasonably necessary for the preservation, protection, or disposition of the termination inventory.
 - (a) The cost principles and procedures of [part 31](#) of the Federal Acquisition Regulation, in effect on the date of this contract, shall govern all costs claimed, agreed to, or determined under this clause.
- (g) If the Subcontractor and the Company's Contracting Representative fail to agree on the whole amount to be paid because of the termination of work, the Company's Contracting Representative shall pay the Subcontractor the amounts determined by the Company's Contracting Representative in accordance with paragraphs (e) and (f) of this clause.

38. TERMINATION FOR DEFAULT

- (a)
 - 1) The Company may, subject to paragraphs (c) and (d) below, by written notice of default to the Subcontractor, terminate this Agreement in whole or in part if the Subcontractor fails to –
 - (i) Deliver the supplies or to perform the services within the time specified in this Agreement or any extension to the due dates authorized by the Company Contractual Representative in writing;
 - (ii) Make progress, so as to endanger performance of this Agreement (but see subparagraph (a)(2) below); or
 - (iii) Perform any of the other provisions of this Agreement or abide by any of the terms of this Agreement, including all applicable FAR flow down clauses (but see subparagraph (a)(2) below).
 - 2) The Company's right to terminate this Agreement under subdivisions (1)(ii) and (1)(iii) above, may be exercised if the Subcontractor does not cure such failure within 7 days (or more if authorized in writing)

by the Company's Contracting Representative) after receipt of the notice from the Company's Contracting Representative specifying the failure.

- (b) If the Company terminates this Agreement, it may acquire, under the terms and in the manner the Company's Contracting Representative considers appropriate, supplies or services similar to those terminated, and the Subcontractor will be liable to the Company for any excess costs for those supplies or services.
- (c) If this subcontract is terminated for default, the Company may require the Subcontractor to transfer title and deliver to the Company, as directed by the Company's Contracting Representative, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as manufacturing materials in this clause) that the Subcontractor has specifically produced or acquired for the terminated portion of this Agreement. Upon direction of the Company's Contracting Representative, the Subcontractor shall also protect and preserve property in its possession in which the Government or the Company has an interest.
- (d) The Company shall pay Agreement price for completed milestones delivered and accepted. It is understood by Parties that the progress payment milestones, listed in **Annex B** to this Agreement represent 90% of the total actual price of performance of each milestone. In case of termination for default, Company will pay the contractor the 10% retainage amount for each completed milestone less any costs of re-procurement of the Services to complete the remaining scope of the Agreement. If such costs of re-procurement exceed the 10% retainage amount for completed milestones, Subcontractor shall be liable to the Company for all such costs of re-procurement up to 20% above the total price of this Agreement.
- (e) No other costs shall be reimbursed or paid. Failure to agree will be a dispute under the Disputes clause. The Company may withhold from these amounts any sum the Company's Contracting Representative determines to be necessary to protect the Company against loss because of outstanding liens or claims of former lien holders.
- (f) If, after termination, it is determined that the Subcontractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience.
- (g) The rights and remedies of the Company in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

39. INCORPORATION OF FAR CLAUSES

The Federal Acquisition Regulation (FAR) clauses referenced below are incorporated herein by reference, with the same force and effect as if they were given in full text, and are applicable, including any notes following the clause citation, to this Agreement. If the date or substance of any of the clauses listed below is different from the date or substance of the clause actually incorporated in the Prime Agreement referenced by number herein, the date or substance of the clause incorporated by said Prime Agreement shall apply instead. The Contracts Disputes Act shall have no application to this Agreement, and nothing in this Agreement grants Subcontractor a direct claim or cause of action against the U.S. Government. Any reference to a "Disputes" clause shall mean the "Disputes" clause of this Agreement. Subcontractor shall include in each lower-tier subcontract the appropriate flow down clauses as required by the FAR and FAR Supplement clauses included in this Agreement.

39.1 GOVERNMENT SUBCONTRACT

- (a) This Agreement is entered into by the parties in support of a U.S. Government contract.
- (b) As used in the FAR clauses referenced below and otherwise in this Agreement:
 - 1) "Commercial Item" means a commercial item as defined in FAR 2.101.
 - 2) "Commercially available off-the-shelf (COTS) item" means a COTS item as defined in FAR 2.101.
 - 3) "Agreement" means this Agreement.

- 4) "Contracting Officer" shall mean the U.S. Government Contracting Officer for Company's government prime contract under which this Agreement is entered.
- 5) "Subcontractor" and "Offeror" means Subcontractor, which is the party identified on the face of the Agreement with whom IBI is contracting, acting as the immediate subcontractor to IBI.
- 6) "Prime Agreement" means the contract between IBI and the U.S. Government or between IBI and its higher-tier contractor who has a contract with the U.S. Government.

39.2 NOTES

- (a) The following notes apply to the clauses incorporated by reference below only when specified in the parenthetical phrase following the clause title and date.
 - 1) Substitute "Company" for "Government" or "United States" throughout this clause.
 - 2) Substitute "Company Contracting Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
 - 3) Insert "and Company" after "Government" throughout this clause.
 - 4) Insert "or Company" after "Government" throughout this clause.
 - 5) Communication/notification required under this clause from/to Subcontractor to/from the Contracting Officer shall be through Company.
 - 6) Insert "and Company" after "Contracting Officer", throughout the clause.
 - 7) Insert "or Company Contracting Representative" after "Contracting Officer", throughout the clause.
 - 8) If Subcontractor is an international contractor, this clause applies to this Agreement only if Services under the Agreement will be performed in the United States or Subcontractor is recruiting employees in the United States to work under this Agreement
- (b) See also the clause of this Agreement entitled Communication with Company Customer with respect to communications between Subcontractor and the Government.

39.3 AMENDMENTS REQUIRED BY PRIME CONTRACT

Subcontractor agrees that upon the request of Company it will negotiate in good faith with Company relative to amendments to this Agreement to incorporate additional provisions herein or to change provisions hereof, as Company may reasonably deem necessary in order to comply with the provisions of the applicable Prime Agreement or with the provisions of amendments to such Prime Agreement. If any such amendment to this Agreement causes an increase or decrease in the cost of, or the time required for, performance of any part of the Services under this Agreement, an equitable adjustment shall be made pursuant to the "Changes" clause of this Agreement.

39.4 PRESERVATION OF THE GOVERNMENT'S RIGHTS

If Company furnishes designs, drawings, special tooling, equipment, engineering data, or other technical or proprietary information (Furnished Items) which the U. S. Government owns or has the right to authorize the use of, nothing herein shall be construed to mean that Company, acting on its own behalf, may modify or limit any rights the Government may have to authorize Subcontractor's use of such Furnished Items in support of other U. S. Government prime contracts.

39.5 PROVISIONS OF THE FEDERAL ACQUISITION REGULATION (FAR) INCORPORATED BY REFERENCE

The following FAR clauses apply to this Agreement:

FAR Clause	Title	Date	Application
FAR 52.202-1	DEFINITIONS	(NOV 2013)	
FAR 52.203-19	PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS	(JAN 2017)	
FAR 52.204-14	SERVICE CONTRACT REPORTING REQUIREMENTS	(OCT 2016)	(Information required for first tier subcontractors under paragraph (f) of the

FAR Clause	Title	Date	Application
			clause must be submitted to Company annually by November 1)
FAR 52.204-23	PROHIBITION ON CONTRACTING FOR HARDWARE, SOFTWARE, AND SERVICES DEVELOPED OR PROVIDED BY KASPERSKY LAB AND OTHER COVERED ENTITIES	(JUL 2018)	(Subcontractor shall provide Company copies of any reports provided under this clause which relate to the performance of this Agreement.)
FAR 52.204-25	PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT	(NOV 2021))	(Note 4 applies. Delete paragraph (b)(2) of the clause.)
FAR 52.209-6	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	(OCT 2015)	(Applies if this Agreement exceeds \$35,000. Copies of notices provided by Subcontractor to the Contracting Officer shall be provided to Company.)
FAR 52.215-19	NOTIFICATION OF OWNERSHIP CHANGES	(OCT 1997)	(Applies if this Agreement meets the applicability requirements of FAR 15.408(k). Note 5 applies.)
FAR 52.222-50	COMBATING TRAFFICKING IN PERSONS	(MAR 2015)	(Note 2 applies. In paragraph (e) Note 3 applies.)
FAR 52.223-18	ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING	(AUG 2011)	(Applies if this Agreement exceeds \$3,500. Note 8 applies.)
FAR 52.225-13	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	(JUN 2008)	
FAR 52.225-25	PROHIBITION ON CONTRACTING WITH ENTITIES ENGAGING IN CERTAIN ACTIVITIES OR TRANSACTIONS RELATING TO IRAN - REPRESENTATION AND CERTIFICATIONS	(OCT 2015)	
FAR 52.227-14	RIGHTS IN DATA - GENERAL	(MAY 2014)	
FAR 52.228-3	WORKER'S COMPENSATION INSURANCE (DEFENSE BASE ACT)	(JUL 2014)	(All applications must be submitted through Company to USAID's DBA Provider upon Company's request unless an existing policy is in force.)
FAR 52.242-13	BANKRUPTCY	(JUL 1995)	(Notes 1 and 2 apply.)
FAR 52.242-15	STOP-WORK ORDER	(AUG 1989)	(Notes 1 and 2 apply.)
FAR 52.243-1	CHANGES - FIXED PRICE	(AUG 1987)	(Notes 1 and 2 apply. Alternate I applies if this Agreement is for services. Alternate II applies if this contract is for supplies and services.)
FAR 52.247-63	PREFERENCE FOR U.S.-FLAG AIR CARRIERS	(JUN 2003)	(Applies if this Agreement involves international air transportation.)

The following AIDAR clauses apply to this Agreement: **AIDAR 48 CFR CHAPTER 7**

AIDAR Clause	Title	Date	Application
AIDAR 752.7037	CHILD SAFEGUARDING STANDARDS	(AUG 2016)	
AIDAR 752.7013	CONTRACTOR-MISSION RELATIONSHIPS	(JUNE 2018)	
AIDAR 752.7013	CONTRACTOR-MISSION RELATIONSHIPS. (M/OAA-DEV-AIDAR-18-04c)		
AIDAR 752.7038	NONDISCRIMINATION AGAINST END-USERS OF SUPPLIES OR SERVICES	(OCT 2016)	

39.6 OTHER CLAUSES APPLICABLE TO SUBCONTRACTOR BY PRESCRIPTION IN THE PRIME CONTRACT

39.6.1 AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for procurement of goods and services under this contract is 935 (US, recipient Country and Developing countries as designated by the World Bank)

39.6.2 MARKING AND BRANDING

Subcontractor must comply with the requirements of the policy directives and required procedures outlined in USAID Automated Directive System (ADS) 320.3.2 "Branding and Marking in USAID Direct Contracting" (version from

February 05, 2020) at <https://www.usaid.gov/ads/policy/300/320> ; and USAID "Graphic Standards Manual" available at www.usaid.gov/branding, or any successor branding policy.

As per 320.3.2 Branding and Marking in USAID Direct Contracts, USAID Policy is to require exclusive branding and marking in USAID direct acquisitions. "Exclusive Branding" means that the program is positioned as USAID's, as showcased by the project name (e.g., "USAID/T-MELA Activity"). "Exclusive Marking" means Contractors and subcontractors may only mark USAID-funded programs, projects, <http://www.usaid.gov/policy/ads/300/320.pdf> activities, public communications, commodities with USAID Standard Graphic Identity and, where applicable, the host- country government or ministry symbol or another U.S. Government logo.

Subcontractor must comply with the Company's Marking and Branding Plan for the performance of this Agreement.

39.6.3 COMPLIANCE WITH THE TRAFFICKING IN PERSONS POLICY

The Company may terminate this Agreement, without penalty, if the Subcontractor or any subcontractor (i) engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of time that the Agreement is in effect, or (ii) uses forced labor in the performance of the Agreement.

39.6.4 EXECUTIVE ORDER ON TERRORISM FINANCING

Subcontractor is reminded that U.S. Executive Orders (including E.O. 13224) and U.S. law prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. FAR 25.701 prohibits agencies and their contractors and subcontractors from acquiring any supplies or services from individuals or organizations, if any proclamation, Executive Order, Office of Foreign Assets Control (OFAC) regulations, or statute administered by OFAC would prohibit such a transaction. Accordingly, Subcontractor must check the U.S. Department of the Treasury's OFAC List to ensure that the names of the subcontractors (and individuals from those organizations who have been made known to them), are not on the list. Mandatory FAR clause 52.225-13 Restrictions on Certain Foreign Purchases is included by reference in this Agreement. By accepting this contract, the Subcontractor acknowledges and agrees that it is aware of the list as part of its compliance with the requirements of that clause.

39.6.5 AIDAR 752.222-70 USAID DISABILITY POLICY (DEC 2004)

(a) The objectives of the USAID Disability Policy are: (1) To enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation; (2) To increase awareness of issues of people with disabilities both within USAID programs and in host countries; (3) To engage other U.S. Government agencies, host country counterparts, governments, implementing organizations and other donors in fostering a climate of non-discrimination against people with disabilities; and (4) To support international advocacy for people with disabilities. The full text of USAID's policy can be found at the following Web site: http://pdf.usaid.gov/pdf_docs/PDABQ631.pdf.

(b) USAID therefore requires that the Subcontractor not discriminate against people with disabilities in the implementation of USAID programs and that it make every effort to comply with the objectives of the USAID Disability Policy in performing this contract. To that end and within the scope of the contract, the Subcontractor's actions must demonstrate a comprehensive and consistent approach for including men, women, and children with disabilities.

39.6.6 AIDAR 752.222-71 NONDISCRIMINATION (JUNE 2012)

FAR part 22 and the clauses prescribed in that part prohibit contractors performing in or recruiting from the U.S. from engaging in certain discriminatory practices.

USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age,

veteran's status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. USAID does not tolerate any type of discrimination (in 04/22/2016 Partial Revision 93 any form, including harassment) of any employee or applicant for employment on any of the above-described bases.

Subcontractors are required to comply with the nondiscrimination requirements of the FAR. In addition, the Agency strongly encourages all its contractors (at all tiers) to develop and enforce nondiscrimination policies consistent with USAID's approach to workplace nondiscrimination as described in this clause, subject to applicable law.

39.6.7 INSURANCE ON PRIVATE AUTOMOBILES

If the Subcontractor or any of its employees or their dependents transport or cause to be transported (whether or not at subcontract expense) privately owned automobiles in the country of performance, or they or any of them purchase an automobile within the country of performance, the subcontractor agrees to make certain that all such automobiles during such ownership within the country of performance will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverage or such other minimum coverage as may be set by the Prime Contractor, payable in United States dollars or its equivalent in the currency of the country of performance: injury to persons, \$10,000/\$20,000; property damage, \$5,000. This coverage is in addition to the coverage included in the general insurance clause of this Agreement.

The premium costs for such insurance shall not be a reimbursable cost under this subcontract. Copies of such insurance policies shall be preserved and made available as part of the subcontractor's records which are required to be preserved and made available by the audit and records provisions of this subcontract.

39.6.8 PRIVACY AND SECURITY INFORMATION TECHNOLOGY SYSTEMS

INCIDENT REPORTING (APRIL 2018)

(a) Definitions. As used in this special contract requirement—"Information" means any communication or representation of knowledge such as facts, data, or opinions in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual.

"Sensitive Information" or "Sensitive But Unclassified" Sensitive But Unclassified (SBU) describes information which warrants a degree of protection and administrative control and meets the criteria for exemption from public disclosure set forth under Sections 552 and 552a of Title 5, United States Code: the Freedom of Information Act and the Privacy Act, 12 FAM 540 Sensitive but Unclassified Information (TL;DS-61;10-01-199), and 12 FAM 541 Scope (TL;DS-46;05-26-1995). SBU information includes, but is not limited to: 1) Medical, personnel, financial, investigatory, visa, law enforcement, or other information which, if released, could result in harm or unfair treatment to an individual or group, or could have a negative impact upon foreign policy or relations; and 2) Information offered under conditions of confidentiality, arising in the course of a deliberative process (or a civil discovery process), including attorney-client privilege or work product, and information arising from the advice and counsel of subordinates to policy makers, "Personally Identifiable Information (PII)", means information that can be used to distinguish or trace an individual's identity, such as their name, Social Security Number (SSN), biometric records, etc., alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. In performing this assessment, it is important to recognize that non-PII can become PII whenever additional information is made publicly available — in any medium and from any source — that, when combined with other available information, could be used to identify an individual. PII examples include name, address, SSN, or other identifying number or code, telephone number, and e-mail address. PII can also consist of a combination of indirect data elements such as gender, race, birth date, geographic indicator (e.g., zip code), and other descriptors used to identify specific individuals. When defining PII for USAID purposes, the term "individual" refers to a citizen of the United States or an alien lawfully admitted for permanent residence.

“National Security Information” means information that has been determined pursuant to Executive Order 13526 or any predecessor order to require protection against unauthorized disclosure and is marked to indicate its classified status when in documentary form. Classified or national security information is specifically authorized to be protected from unauthorized disclosure in the interest of national defense or foreign policy under an Executive Order or Act of Congress.

“Information Security Incident” means an occurrence that (1) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies.

“Spillage” means a security incident that results in the transfer of classified or other sensitive or sensitive but unclassified information to an information system that is not accredited,(i.e., authorized) for the applicable security level of the data or information.

“Privacy Incident” means a violation or imminent threat of violation of security policies, acceptable use policies, or standard security practices, involving the breach of Personally Identifiable Information (PII), whether in electronic or paper format.

(b) This special contract requirement applies to the Subcontractor and all personnel providing support under this Agreement (hereafter referred to collectively as “Subcontractor”) and addresses specific USAID requirements in addition to those included in the Federal Acquisition Regulation (FAR), Privacy Act of 1974 (5 U.S.C. 552a - the Act), E-Government Act of 2002 - Section 208 and Title III, Federal Information Security Management Act (FISMA), the Health Insurance Portability and Accountability Act of 1996 (HIPAA, Pub. L. 104-191, 110 Stat. 1936), the Sarbanes-Oxley Act of 2002 (SOX, Pub. L. 107-204, 116 Stat 745), National Institute of Standards and Technology (NIST), Federal Information Processing Standards (FIPS) and the 800-Series Special Publications (SP), Office of Management and Budget (OMB) memorandums, and other laws, mandates, or executive orders pertaining to the development and operations of information systems and the protection of sensitive information and data.

(c) Privacy Act Compliance Subcontractors must comply with the Privacy Act of 1974 requirements in the design, development, or operation of any system of records on individuals (as defined in FAR) containing PII developed or operated for USAID or to accomplish a USAID function for a System of Records (SOR).

39.6.9 52.204-21 BASIC SAFEGUARDING OF COVERED CONTRACTOR INFORMATION

SYSTEMS (NOV 2021)

(a) Definitions. As used in this clause—

Covered contractor information system means an information system that is owned or operated by a contractor that processes, stores, or transmits Federal contract information.

Federal contract information means information, not intended for public release, that is provided by or generated for the Government under a contract to develop or deliver a product or service to the Government, but not including information provided by the Government to the public (such as on public websites) or simple transactional information, such as necessary to process payments.

Information means any communication or representation of knowledge such as facts, data, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual (Committee on National Security Systems Instruction (CNSSI) 4009).

Information system means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information (44 U.S.C. 3502).

Safeguarding means measures or controls that are prescribed to protect information systems.

(b) Safeguarding requirements and procedures.

(1) The Contractor shall apply the following basic safeguarding requirements and procedures to protect covered contractor information systems. Requirements and procedures for basic safeguarding of covered contractor information systems shall include, at a minimum, the following security controls:

(i) Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).

(ii) Limit information system access to the types of transactions and functions that authorized users are permitted to execute.

(iii) Verify and control/limit connections to and use of external information systems.

(iv) Control information posted or processed on publicly accessible information systems.

(v) Identify information system users, processes acting on behalf of users, or devices.

(vi) Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.

(vii) Sanitize or destroy information system media containing Federal Contract Information before disposal or release for reuse.

(viii) Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.

(ix) Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.

(x) Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.

(xi) Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.

(xii) Identify, report, and correct information and information system flaws in a timely manner.

(xiii) Provide protection from malicious code at appropriate locations within organizational information systems.

(xiv) Update malicious code protection mechanisms when new releases are available.

(xv) Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.

(2) Other requirements. This clause does not relieve the Contractor of any other specific safeguarding requirements specified by Federal agencies and departments relating to covered contractor information systems generally or other Federal safeguarding requirements for controlled unclassified information (CUI) as established by Executive Order 13556.

(c) Subcontracts. The Contractor shall include the substance of this clause, including this paragraph (c), in subcontracts under this contract (including subcontracts for the acquisition of commercial products or commercial services, other than commercially available off-the-shelf items), in which the subcontractor may have Federal contract information residing in or transiting through its information system.

40. CERTIFICATIONS AND REPRESENTATIONS

Subcontractor acknowledges that Company will rely upon Subcontractor certifications and representations, including representations as to business size and socio-economic status as applicable, contained in this clause and in any written offer, proposal or quote, or company profile submission, which results in award of a contract to Subcontractor. By entering into such contract, Subcontractor republishes the certifications and representations submitted with its written offer, including company profile information, and oral offers/quotation made at the request of Company, and Subcontractor makes those certifications and representations set forth below. Subcontractor shall immediately notify Company of any change of status regarding any certification or representation.

40.1 FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (Applicable to solicitations and contracts exceeding \$150,000)

Definitions. As used in this provision—

"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8).

The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

Prohibition. The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

Certification. Subcontractor hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

Disclosure. If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the offeror with respect to this contract, Subcontractor shall complete and submit, with its offer, to Company OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. Subcontractor need not report regularly employed officers or employees of the offeror to whom payments of reasonable compensation were made.

Penalty. Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

40.2 FAR 52.209-5 Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

(a)(1) Subcontractor certifies, to the best of its knowledge and belief, that—

Subcontractor and/or any of its Principals—

Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered

against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision; and

Subcontractor has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

Have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

Federal taxes are considered delinquent if both of the following criteria apply:

The tax liability is finally determined. The liability is finally determined if it has been assessed. A liability is not finally determined if there is a pending administrative or judicial challenge. In the case of a judicial challenge to the liability, the liability is not finally determined until all judicial appeal rights have been exhausted.

The taxpayer is delinquent in making payment. A taxpayer is delinquent if the taxpayer has failed to pay the tax liability when full payment was due and required. A taxpayer is not delinquent in cases where enforced collection action is precluded.

Examples.

(i) The taxpayer has received a statutory notice of deficiency, under I.R.C. Sec. 6212, which entitles the taxpayer to seek Tax Court review of a proposed tax deficiency. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek Tax Court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

The IRS has filed a notice of Federal tax lien with respect to an assessed tax liability, and the taxpayer has been issued a notice under I.R.C. Sec. 6320 entitling the taxpayer to request a hearing with the IRS Office of Appeals contesting the lien filing, and to further appeal to the Tax Court if the IRS determines to sustain the lien filing. In the course of the hearing, the taxpayer is entitled to contest the underlying tax liability because the taxpayer has had no prior opportunity to contest the liability. This is not a delinquent tax because it is not a final tax liability. Should the taxpayer seek tax court review, this will not be a final tax liability until the taxpayer has exercised all judicial appeal rights.

The taxpayer has entered into an installment agreement pursuant to I.R.C. Sec. 6159. The taxpayer is making timely payments and is in full compliance with the agreement terms. The taxpayer is not delinquent because the taxpayer is not currently required to make full payment.

The taxpayer has filed for bankruptcy protection. The taxpayer is not delinquent because enforced collection action is stayed under 11 U.S.C. 362 (the Bankruptcy Code).

(2) Principal, for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a division, or business segment; and similar positions).

Subcontractor shall provide immediate written notice to Company if, at any time prior to contract award, Subcontractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that Subcontractor knowingly rendered an erroneous certification, in addition to other remedies available, Company may terminate this contract for default.

40.2.1 Subcontractor Policies and Procedures

By signing this Agreement, Subcontractor acknowledges that it has adequate USG contracting compliant policies that address the following and agrees to comply fully with such policies in the performance of this Subcontract:

- Business Ethics and Code of Conduct
- Child Protection Guidelines
- Anti-Trafficking Policy
- Protections Against Sexual Exploitation & Abuse
- Non-Discrimination
- Reporting of Fraud, Waste and Abuse