



Australian Government

AusAID

9 September 2009

<p>Request for Tender</p>

STRONGIM PIPOL STRONGIM NESEN (SPSN)

REQUEST FOR TENDER

Strongim Pipol Strongim Nesen

AusAID is seeking proposals from organisations interested in providing services for Strongim Pipol Strongim Nesen (the “**Project**”). If your organisation chooses to lodge a proposal (the “**Tender**”) it must be submitted on the terms of this document and the attached Parts (together referred to as the “**Request for Tender**” or “**RFT**”). The required services (the “**Services**”) are described in detail in Part 3 Scope of Services.

STRUCTURE OF THE RFT

The RFT is separated into two (2) Sections and several Parts. References in the RFT to Parts and Sections are to Parts and Sections of this RFT.

Section 1 details the Project Specific Tender Conditions (**Part 1**) and the Project Specific Contract Conditions (**Part 2**), the Scope of Services (**Part 3**), and the Basis of Payments (**Part 4**).

Section 2 details the Standard Tender Conditions (**Part 5**) and the Standard Contract Conditions (**Part 6**).

The two sections are designed to clearly identify standard clauses applicable to AusAID tenders and contracts and by extension to highlight particular requirements (either in tendering or the contract) that will apply for this particular Project.

The conditions (Tender and Contract) contained in this RFT apply to this stage of the procurement process and supersedes any earlier stage conducted by AusAID.

Tenderers are encouraged to fully inform themselves of the Contract Conditions (both Project Specific and Standard) when preparing their Tenders and to make any enquiries before the Tender enquiry closing time, referred to in **Clause 2, Part 5**.

It is AusAID’s intention to contract on the basis of the Contract Conditions provided in this RFT.

AusAID Contracts Charter

AusAID has published a Contracts Charter describing AusAID’s approach to contracting aid activities, expectations of contractors and what contractors may expect from AusAID. Tenderers are encouraged to access and inform themselves of the Charter which is available on URL: <http://www.ausaid.gov.au/business/pdf/charter.pdf>

SECTION 1 – PROJECT SPECIFIC TENDER AND CONTRACT CONDITIONS

PART 1 – PROJECT SPECIFIC TENDER CONDITIONS

1. TENDER PARTICULARS

Closing Time:

(Clauses 1.11 and 1.15, Part 5)

2.00 pm local time in Canberra

Australian Capital Territory, Australia, 27 October 2009

Mode of submission:

(Clause 1.1, Part 5)

Either:

- Electronically, via AusTender at <https://tenders.gov.au> before the tender **Closing Time**;

or

- in hard copy, by depositing by hand in the Canberra Tender Box before the tender **Closing Time**.

Electronic Tender Lodgement

Address:

(Clause 1.11, Part 5)

Via AusTender at <https://tenders.gov.au>

Canberra Tender Box Address:

(Clause 1.15, Part 5)

Tender Box, Ground Floor, AusAID,

255 London Circuit, Canberra ACT 2601, AUSTRALIA.

Business Hours

for hard copy lodgement:

(Clause 1.15, Part 5)

Monday to Friday, 8.30 am to 5.00 pm

local time in Canberra, Australian Capital Territory,
Australia

Excluding Public holidays.

File Format for Electronic Tenders:

(Clause 4.3, Annex D to Part 5)

PDF (Portable Document Format)

Number of Copies of Tender:

(Clause 1.6, Part 5)

For electronic tender lodgement

Technical Proposal: One (1) electronic copy.

Tenderer's Submission Checklist: One (1) electronic copy.

Financial Proposal: One (1) electronic copy in a separate file.

Financial Assessment material: One (1) electronic copy in a separate file.

For hard copy tender lodgement

Technical Proposal: One (1) printed Original .

Tenderer's Submission Checklist: One (1) printed Original.

Financial Proposal: One (1) printed Original, in a separate, sealed envelope.

Financial Assessment material: One (1) printed Original copy in a separate sealed envelope.

One CD/DVD, containing all the files specified for electronic lodgement.

Endorsement of hard copy Tenders:

(Clause 1.17, Part 5)

“Tender for the Strongim Pipol Strongim Nesen”

Tender Validity Period:

(Clause 1.8, Part 5)

180 days

Contact Person:

(Clause 2.1, Part 5)

James Passmore

Fax: 61 2 6206 4885

Email address: james.passmore@ausaid.gov.au

Last Date for Tenderer Enquires:

All enquiries must be received not later than 14 day before the close of the Tender

Page limits:

(Clauses 7.15 and 7.17, Part 5)

Technical proposal 20 pages plus annexes.

CurriculumVitae 3 pages each.

Information:

The following document is attached:

Program Design Document (PDD)

NB: Tenderers should note that where there is an inconsistency between the PDD and the RFT, the RFT shall take precedence.

The Request for Tender and any associated documents are available from the AusTender website

<https://tenders.gov.au>

2. PRE-TENDER BRIEFING

- 2.1 AusAID intends to hold the pre-tender briefing at the Australian Embassy, Port Moresby on Monday 21 September 2009
- 2.2 Tenderers planning to attend the pre-tender briefing are requested to send advanced notification by email, indicating the name of the organisation and the number of people planning to attend, to James Passmore, by COB Friday 18 September 2009.

3. SCORE WEIGHTINGS AND TENDER ASSESSMENT

- 3.1 The technical assessment of the proposal will account for **85%** of the overall score using the following formula:

$$\text{Technical Score} = \frac{\text{Tenderer's Weighted Technical Score (out of 100)}}{\text{Highest Weighted Technical Score (out of 100)}} \times 85\%$$

- 3.2 Following consideration of the technical merit of Tenders, AusAID will invite selected tenderers' key personnel to interview. The following personnel will be required to attend: Contractor Representative, Program Manager, Monitoring and Evaluation (M&E) Adviser, and one other representative nominated by the Tenderer. Tenderers are required to attend interview at their own cost and may attend via teleconference. AusAID does not intend to interview personnel from any more than four (4) tenderers, unless advantageous to AusAID. Tenderers not invited to interview will be notified that their bid will not be further considered.
- 3.3 Following the technical assessment, and interviews, a like-for-like price assessment will be undertaken by AusAID of the proposals that are assessed by the Technical Assessment Panel (TAP) as technically suitable.
- 3.4 The like-for-like price assessment will represent **15%** of the overall score. The following formula for the scoring and ranking of Tenders on the basis of price will be used:

$$\text{Price Score} = \frac{\text{Bid Price of Lowest Priced Technically Suitable Bid}}{\text{Tenderer's Bid Price}} \times 15\%$$

- 3.5 Following the final assessment and calculation of the final aggregate scores, confirmation of the Tenderer's financial capacity to meet the contractual obligations referred to in **Clause 8 of this Part** and consideration of other factors referred to in **Clause 7.8, Part 5**, a recommendation for further action will be made to the appropriate AusAID delegate. Tenderers should be aware that the delegate is not bound to accept the TAP recommendation and may direct that other action be taken in accordance with this RFT.

4. **TENDER SCHEDULE A – TECHNICAL PROPOSAL (RESPONSE TO SELECTION CRITERIA)**

4.1 **Tender Schedule A** of the Tender must contain all information required in the following format:

- (a) a technical proposal that substantively and individually addresses the selection criteria provided in **Clause 4.2 of this Part** taking into consideration “other factors” under **Clause 7.8, Part 5**; and
- (b) the required annexes included in Clause 5 of this Part.

4.2 **Selection Criteria**

(A) CORPORATE SYSTEMS AND PROCESSES TO SUPPORT SPSN (Weighting 25%)

- (a) Tenderers must demonstrate that they:
 - have appropriate systems and processes to support large and complex activities in diverse locations with a wide range of partners;
 - have the ability and capacity to develop and implement equitable, inclusive and accountable systems in support of partnership principles, particularly management of grants, procurement and sub-contracting; and
 - the ability to support and manage a large and diverse team.

(B) STRATEGIC UNDERSTANDING OF SPSN AND DESIGN CRITIQUE (Weighting 25%)

- (a) Tenderers must demonstrate a strategic understanding of the SPSN, its goal and objectives, key linkages and stakeholders. Tenderers must demonstrate how Australian and PNG Government policies and the Democratic Governance Strategy will be applied to:
 - the development, translation and communication of high level strategies into activities implemented on the ground;
 - the five components and how they interrelate within the SPSN program, as well as externally to other development / GoPNG initiatives; and
 - cross cutting issues of inclusive decision-making, gender equality, violence against women, HIV and AIDS, disability inclusiveness, the environment, climate change, peace and conflict, child protection and anti-corruption.
- (b) Tenderers are to provide a critique of the Program Design Document (PDD) including its strengths, weakness and suggestions for improvement or alternatives.

(C) APPROACH TO IMPLEMENTATION (Weighting 25%)

- (a) Tenderers are required to articulate their approach to implementing SPSN including:
 - development of an Inception Plan, mobilisation and establishment of head and field offices;

- engagement with men and women, civil society, and GoPNG at all levels to prioritise local needs and secure local ownership;
 - communication; risk management; and monitoring and evaluation strategies, including links with existing partners and systems at sub-national and national levels;
 - performance management of the Program; and
 - incorporating lessons learnt relevant to supporting democratic governance in PNG.
- (b) Where Tenderers are part of a consortium or association with another party, they must demonstrate robustness in the linkages established as well as a clear management framework detailing the roles and responsibilities of each party.

(D) PERSONNEL
(Weighting 25%)

- (a) Tenderers are required to nominate personnel for the following positions:
- Contractor Representative (Head Office)
 - SPSN Program Manager (Long term in PNG)
 - Monitoring and Evaluation Adviser (Long term in PNG)
 - up to eight short term advisers.
- (b) Tenderers are to describe proposed team composition; and
- (c) Tenderers are to describe their recruitment strategies for engaging long term and short term national and international personnel including administration staff, technical advisers and coordinators.

5. Annexes

Annex 1 – Past Experience Form

Details of relevant activities or projects in which the Tenderer has been involved which demonstrate the Tenderer's ability to fulfil the objectives of the Project must be presented in the format outlined below. This annex must not contain more than 4 examples and details of each activity must not exceed one (1) A4 page.

Tenderers must provide information in the Referees section of the Past Experience Forms in accordance with **Clauses 7.18 – 7.21, Part 5** of the RFT.

PAST EXPERIENCE FORM

Activity Name:	
Activity Value:	
Activity Location(s):	
Activity Duration	
Client/Donor:	
Year Completed:	

Brief description of the activity and the Organisation's role:			
Brief description of activity outcomes:			
Statement of the similarities between this activity and the requirements of the activity currently being tendered and how this activity supports your statements addressing the Selection Criteria:			
Nominated Activity Referees:			
1. Name:		2. Name:	
Address:		Address:	
Email:		Email:	
Phone:		Phone:	

Annex 2 – Work Plan

A detailed work plan showing dependencies, e.g. A Gantt Chart or Critical Path Method identifying resources, dependencies and milestones. Dates referring to commencement or mobilisation are indicative only and may be varied by AusAID. This annex must be presented on A3 paper.

Annex 3 – Staffing Schedule and Team Member Inputs (Bar Chart)

A bar chart detailing proposed staffing profile and the proposed inputs per team member for this project and indicate total person months or person days for the duration of the project (denoting a person as “part-time” is not acceptable). This chart must be presented on A3 paper.

Annex 4 – Risk Management Plan

A detailed critique of the Risk Management Matrix provided in the Program Design Document (PDD) that must identify:

- (a) all risks that can be reasonably anticipated;
- (b) the level of probability of the risk eventuating;
- (c) the impact on the project if the risk eventuates along with possible options for ameliorating the risk;
- (d) the entity(s) responsible for managing the risk consistent with the PDD; and
- (a) the approach to be taken to mitigate any impact.

Annex 5 – Draft Inception Plan

A detailed draft Inception Plan for the first six (6) months of the Project. The Inception Plan must include provision for:

- (a) establishment of communication channels with AusAID and Stakeholders;
- (b) a description of all obligations required to be performed by the Contractor to implement the Services, and their timing, including but not limited to;
 - (i) establishment of report preparation and delivery mechanisms;
 - (ii) establishment of financial control procedures;
 - (iii) establishment of all other management and administration requirements; and
- (c) any other matters specified in the Scope of Services, **Part 3** of this RFT.

Annex 6 – Letters of Association and other details of other proposed sub-contractors (not to include implementing partners, such as any of AusAID Democratic Governance Unit’s existing partners)

Clause 9.2, Part 5 requires that AusAID is provided with assurance of the Associate’s corporate commitment and involvement in the Project in the form of a single page Letter of Association.

Clauses 9.4, Part 5 also requires that details are provided for other work to be sub-contracted and proposed sub-contractors, where these are reasonably known at the time of tender and who have made known their willingness to be involved with the Project limited to a single page per organisation.

Annex 7 – Commonwealth Government Policies Compliance

Tenderers are required to disclose in this annex if they are non compliant and/or have (or have had) issues associated with policies named in **Clause 17, Part 5**.

6. TENDER SCHEDULE B – SPECIFIED PERSONNEL

6.1 **Tender Schedule B** must contain all information on proposed Specified Personnel in the following format:

- (a) a list of proposed team members in the table (in landscape) format provided and in accordance with the instructions included in **Clauses 6.2-6.3** below;
- (b) a skills matrix providing a summary illustration of the skills of the proposed Project team as a whole (broken down by individual team members) in the key skill areas required for the Project’s implementation; and
- (c) a curriculum vitae for each proposed team member that conforms with the requirements outlined in **Clauses 7.16 and 7.17, Part 5**.

- 6.2 Tenderers must provide the information in the Referees column of the Specified Personnel table in accordance with **Clauses 7.18 - 7.21, Part 5**.
- 6.3 The Commitments column in the Specified Personnel table must include details of proposed team members' commitments to other projects (both AusAID and others) for the period of the Project. In addition to existing commitments, tenderers must detail potential commitments. Potential commitments include nominations in any contemporaneous AusAID or other tenders. Where a proposed team member has an existing commitment to another AusAID project, Tenderers must also detail the duration of the position in the other AusAID project as reflected in the AusAID contract for that project.
- 6.4 Tenderers are reminded of the requirements of **Clause 8, Part 6** particularly in relation to the availability of specified personnel. AusAID will consider as materially inaccurate, and will therefore reject, any Tender which does not disclose the fact that a proposed team member has an existing and continuing commitment to another AusAID project.
- 6.5 AusAID's strong preference is that individuals with conflicting commitments are not included in Tenders. Where team members with conflicting commitments are nominated, AusAID will assess on a case-by-case basis the impacts of the personnel changes and may require further information from the Tenderer in relation to managing the transition.
- 6.6 Tenderers should note that the positions identified as Specified Personnel have been identified as working with children. Tenderers will be required to comply with the requirements detailed in **Clause 19.2 of Part 5**.

SPECIFIED PERSONNEL

Position	Name	Total Inputs in person months		Referee Contact Details		Commitments
		Home Base	O/s	#1	#2	
Contractor Representative	specify					
SPSN Program Manager	specify					
M&E Adviser	specify					
Up to eight Short Term Advisers (to be specified by tenderer)	specify					

7. TENDER SCHEDULE C - FINANCIAL PROPOSAL

- 7.1 **Tender Schedule C** - the financial proposal must contain the information required and in the format detailed in this clause.
- 7.2 It must:
- (a) be a fully costed fixed price based on the outputs and/or inputs as specified in the Scope of Services, including:
 - (i) escalation and any allowance for foreign exchange rate variations;
 - (ii) necessary insurances required by the Contract Conditions and for the performance of the Services;
 - (b) be expressed in Australian dollars; and
 - (c) include detailed information on assumptions used in preparing the pricing.
- 7.3 Any escalators, foreign exchange rate variations, or other price risks, must be built into the fixed price proposal but separately disclosed as a single escalator factor. AusAID will not consider any “across the board” escalators subsequently applied to any rates or Project costs.
- 7.4 Information provided in the tables will be used for any financial assessment and for the like-for-like price assessment.

Fixed Contractor Management Fees and Costs

- 7.5 These costs are as defined in Schedule 2 Basis of Payment and should be detailed by tenderers in Tables B and C below.

Reimbursable Operational Costs

- 7.6 These costs are as defined in Schedule 2 Basis of Payment and Annex 1 to Schedule 2 Basis of Payment.
- 7.7 The following reimbursable operational costs will not be taken into account in the price assessment for this tender:
- (a) Actual long term personnel and justifiable associated costs (excluding those detailed in the Specified Personnel table);
 - (b) Short term personnel and associated costs (excluding those detailed in the Specified Personnel table)
 - (c) Fieldworker and related costs;
 - (d) Grant Committee costs; and

- (e) Joint Governing Council Costs.
- 7.8 The following reimbursable operational costs will be assessed as part of the price assessment for this tender and should be detailed by tenderers in Tables D to I below:
- (a) Consultant Pool costs;
 - (b) Head Office and Field office costs including insurance; and
 - (c) the cost of the full time M&E Adviser.
- 7.9 Tenderers must detail in the financial proposal the leave entitlements of nominated Specified Personnel. Where annual recreation leave entitlements exceed 2 trips or a total of 4 weeks per 12 month period, a justification must also be provided along with a narrative description of how the Tenderer will ensure, during Specified Personnel absences, the continued quality of Services. Tenderers should note that leave entitlements and the management strategy may be assessed by the TAP or AusAID as part of the technical assessment process. AusAID reserves the right to negotiate leave entitlements should AusAID consider them excessive.

Implementation costs

- 7.10 These costs are as defined in Schedule 2 Basis of Payment and Annex 1 to Schedule 2 Basis of Payment and will not be taken into account in the price assessment for this tender.

8. TENDER SCHEDULE D – FINANCIAL ASSESSMENT

No Contract will be entered into unless AusAID has satisfied itself of the financial capacity of the Tenderer to undertake the contractual obligations. In this regard, AusAID requires that each Tenderer provide information on its financial status at **Tender Schedule D**. Two options are available.

Option 1

This option is mandatory for:

- (a) those Tenderers who have not been subject to a financial assessment by AusAID in the 12 months preceding the date of release of this Tender; or
- (b) those Tenderers who have been subject to a financial assessment by AusAID within the 12 months preceding the date of release of this Tender who have experienced a material change in financial position since the last financial assessment was completed by AusAID; or those Tenderers who have finalised their latest annual financial statements since the Tenderers last financial assessment by AusAID.

Under this Option 1, Tenderers must provide details of the following:

1. the name of the tendering entity and its ultimate owner(s).

2. the names and financial relationships between the tendering entity, its parent entity (if relevant) and other related entities within the group.

3. the previous three years' annual financial statements for the tendering entity. These annual financial statements must be prepared in accordance with Generally Accepted Accounting Standards applicable to the Tenderers country of residence (audited if available). The annual financial statements for each year must include:

- (a) a balance sheet;
- (b) a profit and loss statement; and
- (c) a cashflow statement

each prepared on an accrual accounting basis.

An auditor's statement of financial viability or short form financial statements are not acceptable.

4. contact name and telephone number of the Tenderer's financial accountant.

5. a statement detailing any other tendering opportunities being pursued by the tendering entity or the group and the likely impact of such tendering opportunities on the financial capacity of the Tenderer to discharge its contractual obligations to AusAID associated with this RFT.

Option 2

This option may be considered by a Tenderer where:

- (a) a Tenderer has been subject to an AusAID financial assessment in the previous twelve months, except where the Tenderers latest annual financial statements have been finalised since the last financial assessment by AusAID; and
- (b) the Tenderer can demonstrate to the satisfaction of AusAID that their financial circumstances have not materially changed since the time of the previous financial assessment.

Tenderers who consider that they may qualify for Option 2 must provide the following information:

- 1. the date of its most recent financial assessment and the name of the tender for which this assessment was undertaken;
- 2. an explanation of why a Tenderer believes a further financial assessment is not warranted; and
- 3. a statutory declaration declaring that the Tenderer's financial position has not altered materially since the date of the previous assessment.

Where a Tenderer considers itself exempt from the need to provide the full financial information (Option 1) and chooses instead to supply with the information in Option 2 AusAID reserves the right to subsequently require the Tenderer to provide the information required in Option 1.

A Tenderer must respond to either Option 1 or Option 2 to satisfy the requirements of this Tender.

Tenderers should be aware that AusAID may wish to contact the nominated financial accountant to obtain further information to assess the financial capacity of the Tenderer to undertake the Contract.

AusAID reserves the right to engage appropriate external expertise to assist with the analysis of the financial information. A report on the financial capacity of the Tenderer to undertake the Contract may be provided to either the delegate or the TAP.

The financial information of Tenderers will be treated confidential.

TENDER SCHEDULE C – Financial Tables

Table A – Like-for-like assessment						
	Cost in Year 1	Cost in Year 2	Cost in Year 3	Cost in Year 4	Cost in Year 5	Total for 5 years
Table B	specify	specify	specify	specify	specify	specify
Table C	specify	specify	specify	specify	specify	specify
Table D	specify	specify	specify	specify	specify	specify
Table E	specify	specify	specify	specify	specify	specify
Table F	specify	specify	specify	specify	specify	specify
Table G						specify
Table H	specify	specify	specify	specify	specify	specify
Table I						
Total						Total for like for like assessment

Table B - Fixed Contractor Management Fees and Costs – Nominated Personnel and related costs

Item	Name	Total months input	Cost in Year 1 (inputs x monthly rate)	Cost in Year 2 (inputs x monthly rate)	Cost in Year 3 (inputs x monthly rate)	Cost in Year 4 (inputs x monthly rate)	Cost in Year 5 (inputs x monthly rate)	Total for 5 years
Contractor Representative	specify	specify	specify	specify	specify	specify	specify	specify
SPSN Program Manager	specify	60	12 x specify	12 x specify	12 x specify	12 x specify	12 x specify	specify
Total								Total for like for like assessment

Table C - Fixed Contractor Management Fees and Costs – Contractor Corporate Support and Administration Costs and Personnel Management Fees

Item	Cost in Year 1 (12 x monthly rate)	Cost in Year 2 (12 x monthly rate)	Cost in Year 3 (12 x monthly rate)	Cost in Year 4 (12 x monthly rate)	Cost in Year 5 (12 x monthly rate)	Total for 5 years
Contractor Corporate Support and Administration Costs	specify	specify	specify	specify	specify	specify
Personnel Management Fees	specify	specify	specify	specify	specify	specify
Total						Total for like for like assessment

NB: Tenderers must give a comprehensive and detailed breakdown of Contractor Corporate Support and Administration Costs as specified in Table C including profit, financing costs, administration, travel for head office, managerial, technical and administration staff,

communications and utilities costs, the cost of the Unconditional Financial Undertaking and any other corporate costs.

Table D - Other personnel (including salaries, accommodation and all associated costs)								
Position	Name	Total months input	Cost in Year 1 (inputs x monthly rate)	Cost in Year 2 (inputs x monthly rate)	Cost in Year 3 (inputs x monthly rate)	Cost in Year 4 (inputs x monthly rate)	Cost in Year 5 (inputs x monthly rate)	Total for 5 years
M&E Adviser	specify	60	specify	specify	specify	specify	specify	specify
Total								Total for like for like assessment

Table E - Consultant Pool (inclusive of all associated costs (eg salaries, accommodation, travel)								
Position	Name	Total days input	Cost in Year 1 (inputs x daily rate)	Cost in Year 2 (inputs x daily rate)	Cost in Year 3 (inputs x daily rate)	Cost in Year 4 (inputs x daily rate)	Cost in Year 5 (inputs x daily rate)	Total for 5 years
specify up to 8 consultants	specify	specify	specify	specify	specify	specify	specify	Total for like for like assessment

Table F – Port Moresby office operational costs¹

Item	Cost in Year 1	Cost in Year 2	Cost in Year 3	Cost in Year 4	Cost in Year 5	Total for 5 years
specify (e.g. rental)	specify	specify	specify	specify	specify	Total for like for like assessment

Table G – Port Moresby office set-up costs²

Item	Units (number of items)	Cost per item	Total
specify (e.g. computer)	specify	specify	Total for like for like assessment

Table H- Field office operational costs (per field office)³

Item	Cost in Year 1	Cost in Year 2	Cost in Year 3	Cost in Year 4	Cost in Year 5	Total for 5 years
specify (e.g. rental)	specify	specify	specify	specify	specify	Total for like for like assessment

¹ Inclusive of all office operational costs. For example rental (incl utilities), communication costs, consumables, annual audit costs, computers/server maintenance, office equipment maintenance, database, IT and internet costs, office and staff insurance.

² Inclusive of all office set-up costs. For example office equipment, vehicles, consumables and an environmental impact assessment.

³ Inclusive of all office operational costs. For example rental (incl utilities), communication costs, consumables, annual audit costs, computers/server maintenance, office equipment maintenance, database, IT and internet costs, office and staff insurance.

Table I – Field office set-up costs⁴			
Item	Units (Number of Units)	Cost per item	Total
Specify (e.g. computer)	specify	specify	Total for like for like assessment

⁴ Inclusive of all office set-up costs. For example office equipment, vehicles, consumables and an environmental impact assessment.

PART 2 - PROJECT SPECIFIC CONTRACT CONDITIONS

Note to Tenderers: Although these Project Specific Contract Conditions are presented as **Part 2** of this RFT, in the consolidated Contract Conditions they will appear as **Part A**.

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PART A – Project Specific Contract Conditions

In addition to the Standard Conditions detailed in Part B the following Project Specific Contract Conditions apply.

1. INTERPRETATION

1.1 Definitions

In this Contract, unless the context otherwise requires:

"Changed Tax" means a new tax imposed or a change in an existing Commonwealth, State or Territory Government or Partner Country tax after the commencement of this Contract described in **Clause 2** (Term of Contract) **below**.

"Independent Auditor" means an auditing firm that does not have any affiliations with, and is not currently engaged by, the Contractor in any manner.

"Long Term Adviser" or **"LTA"** means an adviser working continuously for six months or longer on the Project.

"Partner Country" means the country/countries in which the services are to be delivered in, as specified in Schedule 1.

"Payment Milestone" means a milestone identified in **Schedule 2 Basis of Payment** and for which the Contractor is entitled to receive a payment in accordance with the Contract.

"Program Design Document" or **"PDD"** means the program design document attached to this Contract.

"Short Term Advisers" or **"STA"** means advisers working on the Project for less than six months continuously.

"Stakeholders" means any body, institution, organization or governmental authority in the Partner Country or non-government organization having any interest in the Project.

"Program Director" means the specified person to be jointly recruited by the Contractor AusAID and the Government of Papua New Guinea.

"Tender" means the tender submitted by the Contractor together with accompanying documentation as an offer to undertake the Services.

"Third Party Issues" means any issues or events which may affect the Services and which are clearly within the control of a party other than AusAID, the Australian Diplomatic Mission in or having responsibility for the Partner Country or the Contractor.

1.2 The following acronyms and definitions apply to this Contract:

AusAID Australian Agency for International Development

CBOs Community Based Organisations

CDS	Community Development Scheme
CSO	Civil Society Organisation
DFCD	Department For Community Development
DGTP	Democratic Governance Transition Program
DNPM	Department of National Planning and Monitoring
DPD	Deputy Program Director
DPLGA	Department of Provincial and Local Government Affairs
FT	Full Time
GoPNG	Government of Papua New Guinea
HRD	Human Resource Development
IPR	Independent Progress Report
IRM	Independent Review Mechanism
JGC	Joint Governing Council
LGC	Local Grants Committee
LLG	Local-level Government
M&E	Monitoring and Evaluation
MEF	Monitoring and Evaluation Framework
MIS	Management Information System
NGO	Non Government Organisation
NGOs	Non Government Organisations
NGC	National Grants Committee
PD	Program Director
PNG	Papua New Guinea
PT	Part time
SNS	Sub National Strategy
SPSN	Strongim Pipol Strongim Nesen
UFU	Unconditional Financial Undertaking
UNIFEM	United Nations Development Fund for Women

2. TERM OF CONTRACT

- 2.1 The term of this Contract commences upon execution by both parties, being the date indicated at the front of this Contract, and continues until all obligations under this Contract have been fulfilled or earlier notice of termination under this Contract.
- 2.2 The Contractor must commence the Services in the Partner Country no later than 1 March 2010 and must complete the Services by 30 June 2014.

3. ACCOUNTS AND RECORDS

- 3.1 The statement of Project expenditure referred to in Standard Conditions **Clause 15.1(e)** (Accounts and Records) must be provided on a 3 monthly basis and must indicate:
- (a) total expenditure of the Project to date;
 - (b) disaggregated expenditure for the Project to date identifying all categories of expenditure including the Fees component and Reimbursable items;
 - (c) total expenditure for the period of 3 months; and
 - (d) forward expenditure and expenses by category for the period of 3 months.

4. NOTICES

- 4.1 For the purposes of Standard Conditions **Clause 40** (Notices), the address of a Party is the address set out below or another address of which that Party may from time to time give notice in writing to each other Party:

AusAID

To: Democratic Governance Program
Attention: First Secretary

Postal Address: Locked Bag 129
Waigani NCD
Papua New Guinea

Street Address: Australian High Commission
Godwit Road (Waigani)
Port Moresby NCD
Papua New Guinea

Facsimile: +675 3255535

Contractor:

To: Contractor's Name
Attention: Title First Name Surname

Postal Address: Postal Address

Street Address: Street Address

Facsimile: Fax

5. MANAGEMENT SERVICES

5.1 The Contractor must provide all Management Services necessary for the provision of the Services. In addition to the other requirements specified by the Contract, at a minimum the Contractor must provide the following Management Services:

- (a) provide pre-mobilisation briefings to Contractor Personnel including, but not limited to the following: security, medical/health situation, cultural environment, detail on project objectives, relevant contract obligations and AusAID's gender, disability and child protection policies.
- (b) decision-making within the Contractor's organisation and the advising of AusAID of decisions required by AusAID;
- (c) pro-actively identifying and rectifying problems or recommending strategies to AusAID on how to rectify problems, which may arise in, or during the performance of, the Services;
- (d) managing those risks which are the Contractor's responsibility under the Contract in accordance with the Risk Management Plan including in relation to Supplies after delivery and before their incorporation into the Project;
- (e) attendance at briefings with AusAID and status reporting to AusAID on progress at the times required by AusAID;

6. INDEPENDENT REVIEW MECHANISM

6.1 AusAID may establish an Independent Review Mechanism (the "IRM") whose purpose is to provide AusAID with independent technical and other advice on any aspects of the Project and to assist AusAID to assess the performance of the Services.

6.2 The Contractor must:

- (a) attend and participate in those IRM meetings which AusAID directs it in writing to attend;
- (b) when required by AusAID, consult with the IRM on matters related to the Project including:
 - (i) progress and performance of the Services;
 - (ii) any matters, circumstances or events which may be affecting or impacting upon the Contractor's relationship with the Partner Country, Stakeholders, AusAID or the IRM and suggest actions to avoid or counteract any adverse effects on the relationships;
 - (iii) any matters, circumstances or events which may affect the Project and if there are anticipated or contingent problems or difficulties, suggestions to avoid or counteract those problems or difficulties; and

- (iv) any issues or concerns which the Contractor may want to raise with AusAID.
- (c) co-operate with and assist in any way requested by the IRM in the performance of its monitoring and review;
- (d) co-operate with and assist the IRM by providing all necessary information and Contractor Personnel and ensuring its Contractor Personnel are available and willing to assist in answering inquiries or requests for information in respect of the performance of the Services; and
- (e) provide to the IRM copies of all reports, notices, information or other Project material which the IRM reasonably requires to fully and efficiently perform its monitoring and review as soon as practicable after such material is produced or received by the Contractor.

7. ANNUAL PLAN

- 7.1 The Contractor must provide to AusAID, within three (3) months of the Project Start Date, and by 1 October in each following year of the Project, an Annual Plan (aligned to calendar years) which, before it is implemented, must be approved by AusAID.
- 7.2 The Annual Plan should be prepared in accordance with directions provided in writing by AusAID, must be consistent with this Contract and must include the following matters:
- (a) the Contractor's plan for performance of the Services required for the period of the Annual Plan;
 - (b) the Contractor's proposed strategy for coordinating any Third Party Issues and for providing the Services in a flexible manner as is appropriate;
 - (c) a detailed budget for the period of the Annual Plan;
 - (d) the Annual Plan will be prepared against Components 1-5 identified in Schedule 1 Scope of Services and any additional components and key policy issues. The Annual Plan will include an analysis and adaptive review of activities under the five components of SPSN including:
 - (i) Key Partner operational plans for the year;
 - (ii) anticipated small, medium and large grant expectations;
 - (iii) thematic areas to be supported during the year;
 - (iv) proposed major capacity building initiatives for the year;
 - (v) proposed activities and strategies to ensure key policy issues such as disability inclusiveness, gender equality and HIV and AIDs mainstreaming are addressed;
 - (vi) proposed changes to the activities to meet SPSN outcomes;
 - (vii) a Workplan which details the scale and scope of each activity (including amendments) for the coming year; and
 - (viii) analysis of short term specialist requirements for the coming year and an indicative TOR for the roles.

- 7.3 The Contractor must make amendments to the Annual Plan as requested by AusAID.
- 7.4 Within 30 days of receipt of the Annual Plan in accordance with **Clause 7.1 above** AusAID shall notify the Contractor in writing when a decision is likely to be made to reject or accept the Annual Plan. If such Annual Plan has not been approved or rejected within the stated period of 30 days AusAID shall give fair and reasonable consideration to granting an extension of time to the Contractor in respect of the performance of the Services.
- 7.5 Acceptance by AusAID of an Annual Plan does not represent a change to the Contract. The Contract may only be varied in accordance with the Standard Conditions **Clause 12** (Contract Amendments).

8. **SUB-CONTRACTING**

- 8.1 In addition to the Standard Conditions **Clause 11** (Sub-Contracting) the following conditions apply to sub-contracts entered into by the Contractor:
- (a) the Contractor must obtain the prior written approval of AusAID to sub-contract with any party, except Specified Personnel, to the value of \$100,000 or more. In granting its approval AusAID may impose such conditions, which in AusAID's opinion are appropriate, in relation to a proposed sub-contract; and
 - (b) if AusAID objects to the Contractor's recommended sub-contractor, or AusAID nominates a particular sub-contractor, the Contractor must enter into an agreement with such other sub-contractor as directed by AusAID on the basis of remuneration approved by AusAID and provide AusAID with a copy of the executed sub-contract.
- 8.2 Standard Conditions **Clauses 11.1** (Sub-contracting) **(d)** and **(e)** (with respect to Deeds of Novation and Substitution) will only apply to sub-contracts valued at \$100,000 or more.

9. **MEETINGS**

- 9.1 The Program Director, Program Manager and Contractor Representative must attend meetings in Canberra at times determined by AusAID, to review or discuss the Contract including the following matters:
- (a) the general progress of the Project;
 - (b) matters arising from the Contractors reports to AusAID;
 - (c) any issues arising as a result of communication by either Party with Stakeholders;
 - (d) any other Third Party Issues and the Contractor's proposal for resolution of any issue referred to in **9.1(c) above**;
 - (e) any variations proposed to the Project including in relation to timing, whether or not any such variations have been agreed to by AusAID;
 - (f) Contract performance matters;
 - (g) the accuracy of invoices; and

- (h) such other matters in relation to which either Party provides five (5) Business Days' notice in writing to the other Party.

10. **RIGHT OF AusAID TO RECOVER MONEY**

- 10.1 Without limiting AusAID's rights under any provision of the Contract, any payment or debt owed by the Contractor to AusAID in relation to the Contract may be deducted by AusAID from the amount of payment of any claim for Fees, including Reimbursable Costs or from any other moneys payable or due to the Contractor or may be recovered in any court of competent jurisdiction.
- 10.2 AusAID may review any payments made to the Contractor at any time and:
 - (a) if the total of the amount paid to the Contractor is greater than AusAID determines by review to be payable under the Contract, then AusAID must notify the Contractor in writing of the amount of refund it has determined to be repayable;
 - (b) the Contractor must within 28 days after receipt of AusAID's notification:
 - (i) refund the excess to AusAID; or
 - (ii) provide AusAID with evidence supporting the Contractor's opinion concerning the amount of the refund;
 - (c) failure by the Contractor to provide evidence as required in **Clause 10.2(b)(ii) above** will, in the absence of payment in full of the refund claimed, be deemed to be evidence of the Contractor's acceptance that the amount of refund is correct and payable to AusAID on demand or deductible from subsequent payments due under the Contract; and
 - (d) AusAID must, within 28 days of receipt after the Contractor's evidence supporting its opinion concerning the amount of the refund, consider the Contractor's evidence and give the Contractor written notice either:
 - (i) calling for payment within 28 days of the refund determined by AusAID's review; or
 - (ii) calling for payment within 28 days of the refund as re-determined following its consideration of the Contractor's evidence; or
 - (iii) of AusAID's agreement that there is no refund payable.
- 10.3 If the Contractor fails within the relevant time to make a refund to AusAID of an overpayment determined under **Clause 10.2**, or pay any amount due to AusAID, the amount of the refund or payment is recoverable by AusAID from the Contractor by deducting the amount from subsequent payments owed to the Contractor or in any court of competent jurisdiction as a debt due and payable to AusAID by the Contractor.
- 10.4 Where AusAID deducts the amount of a debt or payment in accordance with this clause, it must advise the Contractor in writing that it has done so.

11. GOVERNMENT TAXES, DUTIES AND CHARGES

- 11.1 Except to the extent referred to in this clause and Standard Conditions **Clause 21** (Goods and Services Tax), each Party must bear and is responsible for its own costs in connection with the preparation, execution, and carrying into effect of the Contract.
- 11.2 Except where the Contract, the Treaty between Australia and the Partner Country or the MOU provides otherwise, all taxes:
- (a) imposed or levied in Australia or overseas during the term of the Contract in connection with the performance of the Contract; and
 - (b) which are not already included in the Fees payable by AusAID under the Contract,
- must be paid by the Contractor.
- 11.3 The Contractor must bear and is responsible for all stamp duty and other fees, whether levied in Australia or in the Partner Country, on or in respect of:
- (a) the Contract, the Project, and any sub-contracts entered into for the performance of the Services;
 - (b) the sale, purchase, lease, assignment, licence or transfer of any property under the Contract;
 - (c) the obtaining of any approvals, consents or authorisations in respect of the Project; and
 - (d) any instrument or transaction contemplated by or necessary to give effect to the Contract.
- 11.4 Subject to **Clause 11.8 below** if any new or existing government tax, duty or charge (“Changed Tax”) levied in Australia or the Partner Country in connection with the performance of the Services under this Contract is introduced, increases, decreases or is removed in its entirety and this affects the cost to the Contractor of providing the Services, the Contractor must give AusAID:
- (a) written notice of the increase, decrease or removal;
 - (b) written notice of the net effect of the Changed Tax on the cost of supplying the Services; and
 - (c) in the case of a decrease or a removal, any supporting evidence of the change and an explanation of its effect on the Fees,
- as soon as practicable after the change in the Changed Tax is announced or the Contractor becomes aware of the increase, decrease or removal.
- 11.5 An increase in the Fees under **Clause 11.4 above** shall not be approved and AusAID is not obliged to pay the amount claimed to be attributable to the change in the Changed Tax unless and until the Contractor provides AusAID with evidence of the net effect of the change in the Changed Tax on the cost of supplying the Services and AusAID is satisfied that:

- (a) the claimed increase is actually attributable to that Changed Tax and takes into account reductions in any other Changed Tax; and
 - (b) the net change in the Changed Tax has affected the Fees for supplying the Services,
- and the increase shall take effect from the date on which the Changed Tax became effective.
- 11.6 A decrease in Fees under **Clause 11.4 above** shall take effect from the date on which the change in the Changed Tax becomes effective.
- 11.7 The Contractor may claim a Changed Tax adjustment only once in respect of any change.
- 11.8 **Clause 11.4 above** does not apply to income tax, taxes on turnover or revenue or similar taxes imposed on or in respect of income, turnover or revenue.

12. INSURANCES

- 12.1 In addition to the Contractor's obligations regarding insurance detailed in Standard Conditions **Clause 34** (Insurance) the Contractor must ensure that:
- (a) AusAID is notified immediately the Contractor becomes aware of any actual, threatened or likely claims under all of the insurances required by this Contract or any act or omission by the Contractor which could materially reduce the available limit of indemnity;
 - (b) AusAID is notified in writing whenever the insurer gives the Contractor a notice of cancellation of project-related insurances;
 - (c) in respect of public liability insurance and property insurance that:
 - (i) all insurance agreements and endorsements (with the exception of limits of liability) name, and operate as if there was a separate policy of insurance covering, AusAID, the Contractor and sub-contractors; and
 - (ii) failure by any insured to observe and fulfil the terms of the policy does not prejudice the insurance of any other insured;
 - (d) where AusAID is a joint insured under an insurance policy, the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against AusAID; and
 - (e) all premiums are promptly paid.
- 12.2 The Contractor undertakes that it shall use its best endeavours to ensure that it commits no act or omission which renders any of the insurances required by this Contract to be effected by it, null and void or of less value.
- 12.3 In respect of the public liability insurance, Standard Conditions **Clause 34.1(a)** is amended as follows: the Contractor must ensure that the limit for each and every claim is \$20 million.

13. COMPLIANCE WITH AusAID POLICIES

- 13.1 In respect to its obligations to comply with AusAID's Policies the Contractor must upon mobilisation implement plans contained in their Tender for compliance with AusAID's *Gender and Development Policy* and report regularly to AusAID on any anticipated or unanticipated issues that may alter the Project Environmental Management Plan.

14. SECURITY CLEARANCE OF CONTRACTOR

- 14.1 AusAID may require a security clearance of the Contractor to be undertaken prior to the Contractor obtaining access to information deemed as classified and premises deemed as secure by AusAID, and AusAID Confidential Information.
- 14.2 If a clearance is required, the Contractor must cooperate fully with AusAID and any other person nominated by AusAID to conduct a security assessment of the Contractor, including the disclosure of any personal information required to undertake such assessment.
- 14.3 The Contractor may be required to pay for all costs associated with undertaking such an assessment.

15. IMPREST ACCOUNT

- 15.1 The Contractor shall establish an Imprest Account in accordance with this **Clause 15**.
- 15.2 The Contractor must undertake a selection process in order to recommend a commercial banking institution which represents value for money for AusAID approval, with which to establish the separate Imprest Account.
- 15.3 The Imprest Account will be titled SPSN Imprest Account. In correspondence with AusAID the Imprest Account will be referred to by title.
- 15.4 Money in the Imprest Account is the money of the Contractor and is not held by the Contractor on trust for AusAID or as agent for AusAID.
- 15.5 The Contractor agrees that the money in the Imprest Account is to be used for the purpose of funding approved Project activities. No money paid into the Imprest Account, or paid to the Contractor for the purposes of the Imprest Account shall be intermingled with the Contractor's other money.
- 15.6 The Contractor is responsible for the management of (including scheduling, acquittal and disbursement) and reporting on the Imprest Account.
- 15.7 The Contractor must produce and submit to AusAID for approval within three (3) months of the Project Start Date a Manual of Operations which details the management arrangements and operational procedures for the Imprest Account. Where appropriate the Manual of Operations must be developed in consultation with counterparts using counterpart systems, forms and processes as much as possible and support capacity building of partners.
- 15.8 The Contractor in consultation with the Partner Government, where appropriate, will appoint two personnel from one or both of their respective organisations as principal

signatories to the Imprest Account. In the case of the Contractor, the personnel shall be Specified Personnel. Both are to sign withdrawals. In circumstances where one of the principal signatories is absent from the Project, a third approved nominee may act as an alternative signatory to the Imprest Account. All principal and alternative signatories will be named in the Manual of Operations for the Imprest Account and approved by AusAID.

- 15.9 The funds held in the Imprest Account shall be used solely for the purpose of funding Implementation Costs for Components Two (2) to Five (5).
- 15.10 Bank charges relating to the Imprest Account shall be paid with monies from the Imprest Account and acquitted in the same way other expenditure is acquitted.
- 15.11 Interest earned on the Imprest Account shall remain in the Imprest Account and shall be used for Project purposes and acquitted to AusAID as such.
- 15.12 The Contractor must provide AusAID prior to the deposit by AusAID of monies into the Imprest Account, financial security in accordance with **Clause 17 (below)**
- 15.13 Subject to **Clause 15.14** and **15.15** below, monies for the Imprest Account will be paid by AusAID to the Contractor on a three (3) monthly basis.
- 15.14 The first payment is payable following AusAID approval of the Manual of Operations and each subsequent payment is payable following AusAID approval of the Contractor's:
 - (a) acquittal of the previous payment; and
 - (b) cashflow projection of funds required for each subsequent payment, over the next twelve month period.
- 15.15 Amounts payable in accordance with **Clause 15.13** above, will be paid within 10 days of notification received by AusAID's Finance Section.
- 15.16 The balance of the Imprest Account must be reported as at 1 March, 20 May, 1 September and 1 December each year, within 10 days of the end of each period, to the AusAID officer specified for the purposes of Standard Conditions **Clause 40** (Notices), with a copy of the balance provided to AusAID's Chief Finance Officer by:

Email (Preferably): accountsprocessing@ausaid.gov.au

Post: AusAID
Attention: Chief Finance Officer
GPO Box 887
Canberra ACT 2601
Australia

- 15.17 On every anniversary of the Commencement Date, an audit of the Imprest Account and all documentation relating to the Imprest Account for the previous twelve months must be conducted by an independent external auditor. The audit must be completed within 28 days of each anniversary of the Commencement Date and three copies of each audit report sent to AusAID within 7 days of the Contractor's receipt of the audit report. One copy must be sent to the relevant AusAID officer specified for the purposes of Standard

Conditions **Clause 40** (Notices), one copy must be sent to the Director, Audit and the third copy sent to the Chief Finance Officer at the following address:

AusAID

Attention: Director, Audit / Chief Finance Officer (delete as appropriate)

GPO Box 887

Canberra ACT 2601

Australia

- 15.18 A final independent audit of the Imprest Account and all documentation relating to the Imprest Account must be provided with the Project Completion Report for the period since the last independent audit provided in accordance with **Clause 15.17** above.
- 15.19 The cost of an audit conducted in accordance with **Clauses 15.17 and 15.18** is included in the fees payable to the Contractor, and the cost of any corrections or remedial work required to the Imprest Account pursuant to audit findings is to be borne by the Contractor.
- 15.20 The Imprest Account and all documentation relating to the Imprest Account, including documentation related to the use of the Imprest Account funds may be subject to audit by or on behalf of AusAID at any time and from time to time.
- 15.21 If, upon the premature termination of the Contract or at the end of the Contract, money remains in the Imprest Account, the Contractor shall pay to AusAID an amount equal to the total amount of money (including any accrued interest) remaining in the Imprest Account.
- 15.22 In the event that AusAID becomes aware that any money cannot be accounted for by the Contractor in the Imprest Account including upon premature termination of the Contract, AusAID has the right to recover the amount in question (plus interest equal to the interest that would have been earned on the funds had they remained in the Imprest Account) from monies due and owing to the Contractor under this Contract or as a debt due to the Commonwealth or by calling in the Unconditional Financial Undertaking referred to in **Clause 17 (below)**, whichever AusAID in its absolute discretion considers appropriate.
- 15.23 This clause shall survive expiration or termination of this Contract.

16. **REDUCTION IN FEES FOR NON-PERFORMANCE**

- 16.1 If the Contractor fails to supply the Services in accordance with the Contract, the Fees shall be reduced to cover the reduced level of Services rendered to AusAID or loss or damage suffered by AusAID (as appropriate) because of that failure in accordance with the formula set out in **Schedule 2**.

17. **UNCONDITIONAL FINANCIAL UNDERTAKING**

- 17.1 The Contractor must, on or before the Project Start Date, provide to AusAID a performance security in respect of the Services in the form of an unconditional and irrevocable financial undertaking from a financial institution authorised to carry on banking business under the *Banking Act 1959* (Cth) in Australia and approved by AusAID.

- 17.2 The performance security provided must be in the form appearing in **Schedule 5** and must be provided at the Contractor's cost, for the maximum aggregate sum of \$5,000,000 and be available for the term of the Contract.
- 17.3 AusAID is not obliged to make any payments under the Contract, whether or not such payments are due, prior to receipt of the performance security duly executed and, where applicable, stamped, in accordance with **Clause 17.1 above**.
- 17.4 If AusAID becomes entitled to exercise all or any of its rights to recover moneys under or in relation to the Contract, AusAID may exercise all or any of its rights under the performance security.

18. **PERFORMANCE GUARANTEE**

- 18.1 The Contractor must, at its expense, provide to AusAID; within 10 Business Days of the Project Start Date, a performance guarantee executed by a guarantor delivered to AusAID, guaranteeing the performance by the Contractor of its obligations under the Contract, which must be substantially in the form appearing in **Schedule 6**.

PART 3 –SCOPE OF SERVICES

Note to Tenderers: Although this Scope of Services is presented as Part 3 of this RFT, in the Consolidated Contract it will appear as Schedule 1.

SCHEDULE 1 – SCOPE OF SERVICES

Strongim Pipol Strongim Nesen (SPSN)

1. BACKGROUND

- 1.1 The goal of Strongim Pipol Strongim Nesen (SPSN) is “to enable civil society, together with the state and others, to better meet the needs and priorities of men, women and children in communities across PNG”. SPSN aims to help to achieve the overarching outcome of AusAID’s Democratic Governance Strategy which is “men and women, civil society and the state working together on issues of public interest, shaping policy, allocating resources, and enabling the exercise of rights”. SPSN also aligns with the two principles of the Democratic Governance Strategy, namely to promote partnership between the state and civil society, and to work at as local a level as possible to promote demand from grassroots civil society and sub-national levels of government.
- 1.2 SPSN will improve support to civil society and local level governance in PNG. It will provide civil society, government at all levels, and other key stakeholders with a range of support, including grants, capacity-building, networking opportunities and research.
- 1.3 SPSN will build on past activities and lessons to promote democratic governance principles and practices more broadly and will strengthen existing systems and maximise coherence.
- 1.4 While building on past Democratic Governance initiatives, there are seven substantive new directions introduced into SPSN:
 - (a) provision of contracted administrative and management support to AusAID to engage strategically with GoPNG at all levels, civil society and development partners;
 - (b) a long term approach to strengthening civil society recognising that the sustainability of short term ‘project’ oriented support is not realistic;
 - (c) a broader range of stakeholders in implementation, through deliberate engagement with government and the private sector as well as informal and clan and family groups;
 - (d) a broader set of potential activities for assistance which are seen as promoting democratic governance (e.g. community service delivery, strengthening local government-community engagement, networks and collaboration and enabling environment activities);
 - (e) innovative mechanisms that support institutional development and a PNG-led approach to governance reform;
 - (f) a focus on key substantive issues such as inclusive decision-making, sub-national government strengthening, gender equity, violence against women, the environment, HIV and AIDS and peace and conflict; and

- (g) a focus on supporting individuals and leaders who participate in fulfilling the six democratic governance functions: community mobilisation, capacity building, strengthening sub-national government/community engagement, community service delivery, networking and advocacy.
- 1.5 SPSN will support the current efforts of the Government of PNG (GoPNG) through the Department for Community Development (DFCD) and the Department of Provincial and Local Government Affairs (DPLGA) for stronger engagement with communities including the practice and promotion of democratic values such as participation, legitimacy, equality, transparency, accountability and responsiveness. SPSN will explore ways to effectively build the capacity of sub-national government for community engagement, and will position itself to develop models which can be scaled up and replicated. Careful selection of initial sites to foster closer community engagement with government is warranted where interest, opportunity and capacity converge. SPSN needs to have specific mechanisms that link with AusAID's Sub-National Strategy (SNS) (and DPLGA) and needs to ensure high level coordination with DNPM, DFCD and DPLGA for the overall strategic direction of SPSN.
- 1.6 To achieve SPSN's goal, the Contractor will act as a facilitator and supporter of the various delivery organisations implementing activities funded by SPSN, and support partnerships, networks and capacity-building. Seven field offices will be located to provide maximum reach and impact for the implementation of SPSN.
- 1.7 The head office is to be located in Port Moresby and one of the field offices is to be located in Buka. The PDD proposes that field offices be located in Goroka, Mendi, Lae, Vanimo, Kokopo and Kiunga, however alternative locations could also be considered if supported by adequate justification.
- 1.8 Within each of the nominated SPSN field office towns / cities, SPSN should engage with the local communities and agencies in ways that suit the local context and that can maximise the benefit of SPSN (including where relevant AusAID's SNS program).
- 1.9 Several SPSN Field Offices could also operate as a 'one stop shop' for non-state actors to access information on Australia's aid program. This information could include (for example) forms and selection criteria for Australia's (and New Zealand's) scholarship program; training or development opportunities available under the various donor-funded HRD initiatives; or information on grants available through the PNG Incentive Fund or Agriculture Innovations Grant Scheme; and communication on Australia's overseas development policies.

2. MANAGEMENT AND COORDINATION ARRANGEMENTS

Joint Governing Council (JGC):

- 2.1 A JGC will be responsible for the policy, strategic direction and implementation oversight for SPSN including reviewing progress and endorsing the Annual Plan. The JGC will also participate, and be the forum, for broader policy discussion between AusAID, GoPNG and non-state actors.
- 2.2 The JGC will be made up of men and women from GOA, GoPNG, civil society, the private sector, donors, development partners and other stakeholders. The JGC will include up to three (3) representatives from GoPNG and two (2) from GOA. GoPNG representatives will likely be drawn from the DNPM, DFCD and DPLGA. Selection of AusAID and GoPNG

nominees will reflect both individual merit and the position held. An additional five (5) representatives will be chosen to provide a cross-representation of non-state actors including churches, private sector, national and provincial CSOs, CBOs and academia. Selection of these non-state members will be based on their individual skills and their affiliate organisations. A donor representative will be invited from the Donor Working Group on Civil Society.

- 2.3 The JGC will review the Contractor's annual plan and SPSN-wide performance reporting. It will also have input into AusAID's assessment of Contractor performance, and levels of staffing and resourcing. In addition the JGC has governance oversight of each component including:
- (a) endorsing criteria for Key Partner selection (Component 1);
 - (b) endorsing membership of the LGCs and NGC and criteria for grants selection (Component 2);
 - (c) endorsing priority areas for improving governance practices (Component 3);
 - (d) endorsing thematic areas and priorities (Component 4); and
 - (e) approving the capacity building framework (Component 5).
- 2.4 AusAID will manage the JGC and will provide the Secretariat support for the JGC (i.e. setting the agenda, calling meetings, taking and producing the final draft of the meeting minutes). The Contractor will provide administrative and other logistical support to AusAID as requested.
- 2.5 The Contractor will provide the JGC with regular reports and information on SPSN's progress.
- 2.6 The SPSN Program Director and two Deputy Program Directors will have standing invitations to most JGC meetings.

Local and National Grants Committees

- 2.7 The Contractor will establish and support eight LGCs (for small grants) through each of the seven field offices and one in Port Moresby, plus a NGC (for large grants) in Port Moresby. Membership of the committees will be approved by the JGC and will consist of a representative from the DFCD, the DPLGA and other stakeholders.
- 2.8 The LGCs and NGC will oversee the screening, selection, implementation, and review process for the two grants schemes in Component 2. In particular, the committees will:
- (a) assess the eligibility of groups;
 - (b) screen and select expressions of interest;
 - (c) assess project applications against criteria in an accountable and transparent manner;
 - (d) select projects and allocate a budget to each; and
 - (e) oversee and manage the works of the Field Workers and other resource staff involved in the implementation of the grant scheme (LGC only).

- 2.9 All members of LGCs and NGC will be expected to sign a Code of Conduct, developed by the Contractor with stakeholders and approved by the JGC.
- 2.10 The Contractor will provide secretarial support to each LGC and the NGC, provide training in their roles, and monitor their operation and conduct.

Independent Review Mechanism (IRM):

- 2.11 An Independent Review Mechanism (IRM) will review the quality of SPSN's systems and procedures and make recommendations to the JGC and AusAID. The IRM will be contracted and managed by AusAID. The IRM will review the systems of all SPSN implementers, including AusAID, the Contractor, Key Partners and proponent organisations to ensure they are consistent with the design.

3. COMPONENT DESCRIPTION

- 3.1 SPSN will have five (5) components:

Component 1: Strengthened practice and promotion of democratic governance by Key Partners

- 3.2 Component 1 will support AusAID's direct engagement with approximately four (4) existing (and up to five (5) new) Key Partners. These Key Partners will enter into a strategic partnership relationship with AusAID, to strengthen and extend both AusAID and each Partner's contribution to democratic governance. A partnership agreement between AusAID and each Key Partner will articulate the aim of the partnership; respective roles and responsibilities; potential risks and mitigation strategies; communication protocols; joint decision-making principles and approach to performance measurement. This will be supported by an Annual Operational Plan for each Key Partner, detailing the level and type of support to be provided and identifying the agreed outcomes.
- 3.3 In addition to the four existing Key Partners, an additional five will be jointly identified and funded through the SPSN. The Contractor will develop selection criteria in liaison with AusAID, for approval by JGC to identify the additional Key Partners. Two new Key Partners will be selected in the first year, with an additional three joining in the second year, with at least one new Key Partner being a women's advocacy network. The new Key Partners will be proposed by AusAID and endorsed by the Joint Governing Council (JGC) in a transparent, accountable process for up to a 5-year funding cycle.
- 3.4 To support this component funds will be available as follows:
- (a) for the four (4) existing Key Partners funds will be available as per Annex 1 to Schedule 2 Basis of Payment up to a total of \$16.75m over the five (5) years of SPSN; and
 - (b) for the five (5) new Key Partners a maximum of \$500,000 each will be available each year up to a total of \$11m over the five (5) years of SPSN.

Component 2: Communities working together to address identified priorities

- 3.5 Component 2 seeks to build on social capital and experiences of the Community Development Scheme (CDS) to deliver a grant scheme which will be used to support a range of activities that fall under the six supporting functions of democratic governance.

- 3.6 The grant scheme will evolve over time to be more closely integrated with PNG institutions and systems, including alignment of grant mechanisms and some communities scaling up their projects to address their needs through a wider initiative as described in Component 3.
- 3.7 In Component 2 SPSN will establish and maintain operational mechanisms for the implementation of small, medium and large grants. Grants will be aimed at local organisations and communities and involves mobilising and supporting a network of men and women. To improve the effectiveness of the grant applications and outcomes, the SPSN will undertake organisational capacity assessment and development for local groups, as part of fostering inclusive, participatory planning processes for grant activities. These grants processes will link with, and strengthen, GoPNG's own policies and systems as appropriate.
- 3.8 Eligibility of groups and proposals will be determined by the eight Local Grants Committees (LGC), supported by the seven field offices and Port Moresby Head Office for small grants and medium grants. There will also be large grants available for significant initiatives and selected through a National Grants Committee.
- 3.9 To support this component funds will be available as follows:
- (a) small grants for projects with:
 - (i) approximately \$12,500 per grant up to a total of \$15m over the five (5) years of SPSN; and
 - (ii) approximately 240 small grants to be provided each year and approximately 1,200 over the five (5) years of SPSN.
 - (b) medium grants for projects with:
 - (i) approximately \$50,000 per grant up to a total of \$5.25m over the five (5) years of SPSN; and
 - (ii) approximately 21 medium grants to be provided each year and approximately 105 over the five (5) years of SPSN.
 - (c) large grants for larger projects with:
 - (i) approximately \$200,000 per grant up to a total of \$6.8m in large grants for larger projects; and
 - (ii) approximately 34 large grants to provided over the five (5) years of SPSN.

Component 3: Improving local governance in selected geographic areas

- 3.10 Component 3 aims to identify and model how particular development needs can be addressed through improving local governance practices. While Component 2 supports projects with individual communities, Component 3 will operate at a larger scale within a district, or across several districts. Engagement could be based on a thematic issue (e.g. social concern such as home violence) or around the problems of a particular landscape (e.g. taking a valley / watershed approach to environmental concerns).

- 3.11 The focus will be on identifying and addressing local development priorities, establishing links and engagement with men and women within government, communities, development partners and private sector. It will build on existing systems and processes as part of modelling an approach that empowers stakeholders to initiate and maintain improvements in services, opportunities and local circumstance. SPSN initiatives will be based on demand, opportunity and need, with technical assistance and capacity building provided.
- 3.12 As part of this component the Contractor will support the NGC to identify 3-4 target initiatives with an approximate duration of two (2) years for JGC endorsement each year.
- 3.13 To support this component funds will be available as follows:
- (a) for initiative design approximately \$15,000 per initiative up to a total of \$240,000;
 - (b) for initiative implementation approximately \$175,000 per grant up to a total of \$2.8m; and
 - (c) approximately 3-4 initiatives are to be funded each year and approximately 16 over the five (5) years of SPSN.

Component 4: Strengthened collaboration of men and women stakeholders for the promotion of democratic governance

- 3.14 Component 4 will build SPSN-wide national collaboration between stakeholders for the promotion of democratic governance by providing support for national and Pacific-regional networks of stakeholders to address particular issues impacting on democratic governance, to build a critical mass of stakeholders debating and considering democratic governance in general, and for guidance to be provided to AusAID and other development partners on how to best support and engage with civil society. This component encompasses the wide range of actors working within PNG including government, private sector and development partners, as well as the Democratic Governance Program and other AusAID and donor initiatives in PNG.
- 3.15 This component supports priorities that emerge in thematic areas (e.g. gender equality, conflict prevention, local governance reform) and will steadily build a cohort of advocates who apply principles of good governance in agencies and organisations.
- 3.16 Consistent with SPSN's strong focus on reflection and reviewing lessons learned Component 4 will also support six pieces of research, analysis and impact assessment, comprising two significant research activities and four minor ones on specific issues.
- 3.17 To support this component funds will be available as follows:
- (a) for initiatives on thematic issues approximately \$100,000 per initiative up to a total of \$1m for up to two (2) thematic issues per year over the five (5) years of SPSN; and
 - (b) for research initiatives approximately \$30,000 per initiative up to a total of \$270,000 for approximately nine (9) research initiatives over the five (5) years of SPSN.

Component 5: Strengthened human capital of men and women for the practice of democratic governance

- 3.18 Component 5 seeks to strengthen the capacity of individuals to support the practice of democratic governance. Many individuals and particularly women involved in community development and government reform across churches, civil society organisations and government agencies encounter barriers to exert leadership and drive change within their organisations.
- 3.19 In Component 5 the Contractor will analyse the barriers and constraints for individuals to support democratic governance paying particular attention to the different barriers and constraints faced by men compared with women. At least 50% of the individuals supported through this component should be women. An assessment of the barriers faced differentially will reveal whether this ratio should be increased and more women should benefit from this component than men.
- 3.20 Support will be provided in Component 5 through methods to be described by the Contractor in a capacity building framework, which will outline how individuals (both men and women) will be identified, mobilised, mentored, trained, networked and supported to implement their skills in their organisation or workplace.
- 3.21 The SPSN will also provide local institutions with grants for the design and delivery of training and development activities to allow them to provide formal and informal training to SPSN participants in democratic governance.
- 3.22 To support this component funds will be available as follows:
- (a) for individuals:
 - (i) approximately \$800 per individual up to a total of \$1.76m over the five (5) years of SPSN; and
 - (ii) grants are to be distributed according to the following schedule:
 - (A) approximately 300 in the first year;
 - (B) approximately 400 in the second year; and
 - (C) approximately 500 each year thereafter.
 - (b) for institutions:
 - (i) approximately \$35,000 per institution up to a total of \$2.52m over the five (5) years of SPSN; and
 - (ii) grants are to be distributed according to the following schedule
 - (A) eight (8) in the first year; and
 - (B) 16 each year thereafter.

4. **SERVICES**

- 4.1 The Contractor will perform management services for implementation, divided into two key responsibilities:

- (a) management functions; and
- (b) operational support functions required for each component.

Management Functions

4.2 The Contractor shall perform the following Services in accordance with the terms and conditions of this Contract:

- (a) **Relationship management** with local institutions implementing SPSN activities (Key Partners, grant recipient organisations, sub-contractors) and with a wide range of stakeholders, including Government at all levels, private sector and donors, AusAID's Democratic Governance team and other AusAID staff;
- (b) **Support the JGC** including:
 - (i) providing regular reports on SPSN's progress;
 - (ii) attending (in the form of the SPSN Program Director and two Deputy Program Directors) JGC meetings as required; and
 - (iii) administering the funding for the JGC, including funding for annual review workshops, sitting fees for committee members, travel related costs and logistical arrangements.
- (c) **Administrative and Logistical support for JGC Secretariat:** provide support to AusAID in its role as JGC Secretariat as requested;
- (d) **Support the NGC and LGCs** including:
 - (i) establishing and supporting eight LGCs (for small grants) through each of the seven field offices and one in Port Moresby, plus a NGC (for large grants) in Port Moresby;
 - (ii) developing a Code of Conduct for approval by the JGC and to be signed by members of the NGC and LGCs;
 - (iii) providing secretarial support to the NGC and each LGC;
 - (iv) providing training to members of the NGC and LGCs in their roles and monitoring their operations and conduct;
 - (v) ensuring that each committee is representative in terms of gender and geography, meets good governance and transparency requirements, and addresses potential conflict of interest issues amongst committee members;
 - (vi) ensuring LGCs are established within a reasonable time period after commencement of the Contract (two to four months), and the review and analysis undertaken by LGCs is increasingly competent and lessons learnt effectively incorporated into future operations;

- (vii) ensuring that responsibility for assessment and approval of all community projects is progressively assumed by the LGC while continuing to meet the guidelines and criteria of the Operations Handbook; and
 - (viii) administering the funding for the LGCs and NGCs, including stipends for committee members, travel related costs and logistical arrangements.
- (e) **Capacity building and institutional strengthening:** including planning and implementing a range of training, professional development and organizational development activities for Key Partners, participating stakeholder organizations, relevant government agencies, and individuals working in the sector; provide communities with knowledge, assistance and skill formation in how to best advocate for, and access, funds and support to improve the democratic governance arrangements and service delivery;
- (f) **Financial management:** including budgeting and expenditures for operational and grant funds, as well as maintaining an audit regime. The audit regime will be developed by the Contractor for JGC and AusAID endorsement and shall encourage strong financial and performance reporting by implementing partners. The Contractor will arrange an annual audit of SPSN as a whole and provide a report to the JGC;
- (g) **Agreement and Contract administration:** negotiating contracts and agreements with organisations and facilitating agreements as required for the broader aid program in consultation with AusAID;
- (h) **Systems and Procedures:** including ensuring business processes (financial, administrative and M&E) are consistent with partnership principles developed by AusAID and Key Partners, and building on existing GoPNG systems and procedures as appropriate. This also includes the streamlining of processes and formats for proposals, organizational assessment, funding, reporting and administration of grants and sub-contracts;
- (i) **Operations Handbook:** develop an Operations Handbook which details the key management and operational mechanisms for SPSN;
- (j) **Monitoring and Evaluation:** including maintaining M&E systems required for SPSN as outlined in the PDD. The Contractor shall clearly identify these M&E systems in a Monitoring and Evaluation Framework which they will be responsible for implementing and reviewing annually. This shall include:
- (i) assessing progress and achievements against objectives through a range of methods proposed in the MEF;
 - (ii) impact assessment through an in-depth qualitative assessment of domains of change that SPSN aims to influence using methods such as longitudinal case studies at the household level and institution level, and research studies, and using methods such as Contribution Analysis and Most Significant Change, to assess the contribution of SPSN towards any changes observed;
 - (iii) internal learning and reflection through building a culture of continuous improvement, encouraging open feedback from stakeholders, annual reviews,

supporting Key Partners to carry out internal reviews, participatory reviews of grants, peer reviews and minor research enquiries;

- (iv) Quality Assurance and Risk Monitoring through monitoring inputs using a grant and activity database, financial and grant reporting, quarterly reports and Annual Plans, partnership performance reviews, updates to the risk matrix and risk management plan in each Annual Plan, and contractor performance monitoring;
- (v) external reviews through active participation in the Independent Progress Report (IPR) and other studies commissioned separately by AusAID;
- (vi) developing a detailed M&E Framework for SPSN collaboratively with AusAID, Key Partners and other stakeholders to meet learning and accountability needs;
- (vii) establishing the processes and systems to operationalise the MEF and supervise its implementation by a wide range of stakeholders and organisations;
- (viii) ensuring information and lessons learnt are shared between components, with support provided to stakeholders to build their capacity in M&E;
- (ix) aggregating, synthesizing, analysing and preparing reports from a wide range of evidence available to the JGC and AusAID in a usable form;
- (x) identifying and managing data, providing regular reporting that maps progress and disaggregates data along important themes (e.g. by gender, geography);
- (xi) working with AusAID at commencement to ensure systems and data provided are the kind and level of information required by AusAID in order to meet its reporting needs including providing data and information in relation to SPSN initiatives:
 - (A) by province, district, LLG and ward;
 - (B) by sector;
 - (C) in relation to cross-cutting issues such as gender equity, violence against women, HIV and AIDS, disability inclusiveness, the environment, climate change, governance, peace and conflict, child protection and anti-corruption;
 - (D) by organisation;
 - (E) sex-disaggregated; and
 - (F) for public diplomacy/good news stories
- (xii) aligning M&E with relevant government agencies' own processes where appropriate; and

- (xiii) using information generated through M&E processes to produce an annual SPSN-Wide Implementation Strategy, and analysis which will be provided to the JGC, AusAID and Key Partners as part of the Six Monthly Progress Reports.
- (k) **Continuous Improvement and learning:** contribute to a process of continuous learning, in conjunction with AusAID. This includes the Contractor sharing examples of best practice and lessons learnt with AusAID (including other AusAID programs), GoPNG and CSO stakeholders and cross-SPSN initiatives;
- (l) **Human resource management:** including the recruitment and selection of appropriate, well qualified international and local staff to fulfil key personnel positions, managing a network of Field Workers and identifying and mobilizing appropriate long and short term advisers as required for implementation;
- (m) **Implementation of Disability, Gender and HIV and AIDS and other policies:** including mainstreaming and monitoring of disability, gender equality, child protection and HIV and AIDS strategies. This includes all aspects of awareness raising, training and on-going mentoring as part of integrating and modelling good practice;
- (n) **SPSN Subcontractors:** manage the performance of all subcontractors and service providers to ensure the agreed outcomes are achieved;
- (o) **Communication and Representation:** including:
 - (i) establishing a Management Information System (MIS), which incorporates sex-disaggregated information that will enable AusAID to conduct SPSN-wide analysis and assessment. This includes:
 - (A) utilising and amending the existing DGTP MIS structure to accommodate the M&E reporting requirements of SPSN; and
 - (B) establishing and maintaining a CSO database for AusAID reference to assist in planning and managing activities which work with civil society.
 - (ii) drafting and implementing a Communications Plan to keep stakeholders informed about SPSN's principles, approaches and that ensures SPSN is a focal point for information on democratic governance in PNG; and
 - (iii) acting as a 'one stop shop' for information on Australia's aid program by facilitating the dissemination of information through field offices as requested by AusAID.
- (p) **Grant management** systems, procedures, acquittal, financial management:
 - (i) ensure all business processes and systems are consistent with the partnership principles agreed to by AusAID and partners;
 - (ii) negotiate and enter into contracts and agreements with participating organisations, and facilitate agreements as required for the broader aid program;

- (iii) develop streamlined processes and formats for proposals, organisational assessment, funding, reporting and administration of grants and sub-contracts, including consistency with other AusAID sectoral programs, other donors, and GoPNG as appropriate;
 - (iv) ensure key operational systems are documented in an Operations Handbook which is annually updated and easily accessible by key stakeholders;
 - (v) manage budgeting and expenditure for operational and grants funds, and maintain an audit regime;
 - (vi) ensure that Imprest Account administration complies with the approved Operations Handbook requirements, and annual Imprest audit reports are satisfactorily addressed in writing; and
 - (vii) manage the selection, contracting, payment and monitoring processes for Grant Agreements based on the financial limitations in the approved Annual Plan and the guidelines in the approved Operations Manual. The Contractor will sign all Grant Agreements.
- (q) **Corporate resourcing and administration** (Human Resource and administration, procurement, IT, legal, logistics):
- (i) establish, resource and manage a national office (in Port Moresby) and seven field offices which will undertake national functions and local functions relating to activities in the vicinity;
 - (ii) ensure that any existing resources in the nominated towns / cities are not duplicated by SPSN;
 - (iii) recruit and select appropriate international and local staff to fulfil key personnel positions;
 - (iv) sub-contract and manage a network of Field Workers, and identify and mobilise appropriate long and short term personnel as required for SPSN implementation;
 - (v) ensure all personnel are qualified and experienced for their positions against the Terms of Reference, are selected under a fair and transparent recruitment process, and receive annual performance appraisals;
 - (vi) ensure staff adopt the principles of SPSN including gender equity, child protection and disability inclusiveness;
 - (vii) maintain offices and ensure all offices and places of work comply with local Occupational Health and Safety standards, and engender an open, participative and welcoming environment;
 - (viii) ensure that field offices provide a secure environment for working and secure facilities for the storage of confidential information, electronic files, the IT equipment and other resources; and

- (ix) ensure data and files are regularly backed up and securely stored off site.

5. SPSN TRANSITION PHASE

5.1 The Contractor will ensure the smooth transition to SPSN from current arrangements, including:

- (a) outlining transition phase arrangements in an Inception Plan (in accordance with Clause 9.1(a) below. The Inception Plan will identify how the Contractor will make best use of existing resources and shall include;
 - (i) detailed schedules for staffing, establishment of systems and offices and support for the JGC;
 - (ii) how the seven (7) field offices and Port Moresby office will be located, and details of the individual structures, staffing and local organisational linkages for each of the offices;
 - (iii) how existing databases can be refined to meet SPSN needs;
 - (iv) how the initial 3-months of SPSN will be implemented to ensure a seamless transition; and
 - (v) a plan for advocacy and providing information to the key stakeholders;
- (b) informing stakeholders of the new arrangements during the first six months of SPSN through implementing the agreed Communications Plan (in accordance with Clause 9.1(c)(xiii) below);
- (c) accepting the transfer of assets, vehicles and office and accommodation arrangements from the Democratic Governance Transition Program as directed by AusAID; and
- (d) managing funding and providing continued support to ongoing DGTP activities.

5.2 The Contractor will be required to accept the novation of existing contracts as follows:

- (a) accept the novation of, and subsequently manage, existing contracts and agreements that will continue the relevant DGTP activities;
- (b) administer ongoing funding for the existing Key Partners currently administered by AusAID; and
- (c) accept the novation of, and subsequently manage, contracts for the existing PNG Sports Foundation Adviser and the PNG Sports Foundation Finance Adviser. The contracts for these advisers will be renegotiated by the Contractor, the GoPNG Ministry (PNG Sports Foundation) and the advisers within six (6) months of the commencement of SPSN. Following renegotiation of these contracts, the performance management of these two advisers will be managed by the PNG Sports Foundation in conjunction with the Contractor. The Contractor will be responsible for confirming the advisers continued attendance at their position, the logistical and other support requirements (i.e. leave fares) and the payment of the advisers.

6. OPERATIONAL FUNCTIONS

Component 1: Strengthened practice and promotion of democratic governance by Key Partners

6.1 The Contractor shall:

- (a) assist AusAID to jointly develop Partnership Agreements with Key Partners;
- (b) develop criteria for the selection of Key Partners for approval by the JGC. Criteria will include but not be limited to the following: experience, capacity to implement, and a clear mandate that is aligned to the Democratic Governance Strategy;
- (c) facilitate discussions and dialogue between AusAID and Key Partners regarding the scope and nature of Key Partner agreements to extend the scope and coverage of Key Partners' community development and democratic governance activities;
- (d) negotiate and facilitate communication between Key Partners to identify common priority areas that require support;
- (e) develop and sign grant agreements with Key Partners or provide technical assistance (employed or sub-contracted) to deliver support for Key Partner activities in accordance with developing their individual strategic plans;
- (f) manage the annual tranches, acquittal of funds, and audit requirements of the grants to Key Partners;
- (g) monitor and support organisations to develop and implement their strategy and annual operational plans;
- (h) assess the capacity gaps of Key Partners and ensure a capacity building program is incorporated into annual operational plans;
- (i) develop systems and procedures for organisational assessment, funding arrangements, reporting, and M&E, endorsed by JGC, which meet partnership principles and allows the review of Partnerships against agreed criteria; and
- (j) support Key Partners to share experiences and lessons.

6.2 The Contractor will ensure that:

- (a) identification of potential Key Partners and their selection is made on the basis of shared values and principles (reflected in the criteria of the Operations Handbook) and their capacity to meet democratic governance outcomes;
- (b) business processes do not undermine partnership principles and approach;
- (c) capacity assessment mapping/analysis is undertaken with Key Partners and participating organisations;
- (d) capacity building is provided through a wide range of approaches, including generic training and service provision, tailored support to organisations, and through mentoring and support from personnel; and

- (e) key aid program policy issues of disability inclusiveness, gender equality and HIV/AIDS mainstreaming are incorporated appropriately into capacity building plans of Key Partners.

Component 2: Communities working together to address identified priorities

6.3 The Contractor shall:

- (a) establish and maintain human resources for the implementation of the small, medium and large grants schemes. This will include a team of staff at the national level (located in Port Moresby), and seven field offices. The overall management structure for the scheme will be approved by the JGC;
- (b) develop tailored regional strategies for each field office to guide implementation of SPSN in each geographic context, which will be approved by the JGC;
- (c) contract, coordinate and build the capacity of a network of eight to twelve locally based Field Workers, both men and women in each Province, to support the development and implementation of the grants;
- (d) ensure the Field Workers are trained in gender sensitive and participatory planning processes;
- (e) coordinate the Field Workers to work with eligible local groups in each Province annually to assess their capacity, and to develop and implement a capacity development plan;
- (f) establish and annually review systems for the grants schemes including criteria and eligibility standards, proposal formats, screening, organisational assessment, appraisal, appeals and complaints, reporting and participatory evaluation and review. Systems and processes should complement and strengthen existing GoPNG systems where appropriate. These procedures will be documented in the Operations Manual and approved by the JGC; and
- (g) develop and manage a review process that ensures information generated facilitates learning, innovation and research.

6.4 The Contractor will ensure that:

- (a) participative planning methodologies are used by Community Based Organisations/Non-Government Organisations (NGOs) at village level which are gender and poverty inclusive;
- (b) communities, groups and networks implement a range of activities using their own capacity and local assets arising from planning processes;
- (c) approved grant funding projects address priority aspirations of communities, groups, and networks arising from participative analysis and planning processes and align with and strengthen GoPNG's priorities and processes where possible;
- (d) selection of projects is made upon the basis of agreed criteria (e.g. poverty, gender equality, complementarity, and governance) that are approved by the JGC and documented in the Operations Manual;

- (e) participating organisations are selected on the basis of the criteria established in the Operations Handbook, reflecting the principles of SPSN, relationships of mutual trust and shared values;
- (f) the capacity of local Field Workers and core group members is assessed and supported through Component 5;
- (g) project proposals meet minimum technical standards and guidelines as outlined in the Operations Handbook and incorporate relevant GoPNG and AusAID policy, such as HIV, gender and environment Policies;
- (h) effective working relationships are maintained between SPSN, local staff and district stakeholders; and
- (i) participatory reviews, cross visits, and specific studies stimulate learning and improve community project implementation.

Component 3: Improving local governance in selected geographic areas

6.5 The Contractor shall:

- (a) coordinate the NGC to annually identify initiatives for JGC approval, reflect on progress and identify which types of initiatives need to be actively targeted in future years;
- (b) manage relationships and participatory learning to design initiatives;
- (c) provide technical assistance and capacity building to support initiative implementation, and especially facilitate links that complement and strengthen other GoPNG agencies and programs (in particular DPLGA and DFCD), donor initiatives, and stakeholder interests;
- (d) supervise progress of implementation, compliance, and financial oversight and coordinate a review of local governance initiatives with AusAID and the JGC after three years; and
- (e) establish intentional learning processes for ongoing adaptation and improvement.

6.6 The Contractor will ensure that:

- (a) engagements are selected based on need (communities requiring greater support due to remoteness, poverty, conflict, or serious governance imbalances), demand (communities and other sectors demonstrate innovation and commitment in dealing with local governance issues which can be expanded through further assistance), and opportunity (sufficient capacity and experience exists within the community, local government agencies, local partners or Key Partners);
- (b) initiatives are designed through a participative and gender sensitive process that models democratic governance principles and are implemented by local parties where possible;
- (c) capacity building is provided through a wide range of approaches, including generic training and service provision, tailored support to organisations, and through mentoring and support from SPSN Officers;

- (d) SPSN works in collaboration with existing GoPNG systems and staff;
- (e) all capacity building activities incorporate key aid policy issues such as gender equality and HIV/AIDS; and
- (f) stakeholders are facilitated to reflect and learn from their experiences and lessons learnt are incorporated into other SPSN Components.

Component 4: Strengthened collaboration of men and women stakeholders for the promotion of democratic governance

6.7 The Contractor shall:

- (a) support the selection of thematic priorities that impact on democratic governance in PNG;
- (b) establish and support networks and appoint Secretariats and working groups to promote action;
- (c) support wider debate among non-state actors on democratic governance;
- (d) provide staff to participate in the selection, organisational assessment, design, monitoring, and review functions for non-State actor participation in sectoral programs as negotiated and agreed by the AusAID Democratic Governance team and the broader AusAID program;
- (e) coordinate the provision of information and analysis, systems and procedures to AusAID sectoral programs, GoPNG, and other donors as required;
- (f) provide operational support for AusAID sectoral programs, GoPNG, and other donors to engage with non-state actors;
- (g) support civil society stakeholders to undertake research, analysis and impact assessment;
- (h) coordinate regular participatory review processes involving all key stakeholders including AusAID; and
- (i) use the research outcomes to contribute to the Contractor's use of a range of methods to capture and assess SPSN impact.

6.8 The Contractor will ensure that:

- (a) dialogue and engagement is facilitated among a broad range of state, non-state and other actors to share lessons on democratic governance principles, practice and policy;
- (b) civil society engagement across AusAID's bilateral program is streamlined and consistent and a knowledge base is established on civil society for access;
- (c) a broad base of data and analysis is available for M&E;
- (d) a wide range of stakeholders are engaged in M&E (reflection and feedback mechanisms), including building the capacity of partners in M&E;

- (e) SPSN continues to adapt and change on the basis of lessons learnt and innovative approaches; and
- (f) facilitate the adoption of SPSN's methods by the GoPNG national program, AusAID's Development Cooperation Strategy and other donors' programs as appropriate.

Component 5: Strengthened Human Capital of men and women for the Practice of Democratic Governance

6.9 The Contractor shall:

- (a) analyse the barriers and constraints for individuals to support democratic governance with particular emphasis on the different constraints faced by women and men;
- (b) develop a capacity building framework that outlines how individuals (men and women) will be identified, mobilised, mentored, trained, networked and supported to implement their skills in their organisation or workplace;
- (c) strengthen and build human resources for SPSN internally: i.e. local staff, Short Term Advisers, and sub-contracted Advisers working with Key Partners;
- (d) identify and support the professional development of external civil society professionals through workshops/training events, and conferences;
- (e) undertake analysis of, and liaise with, relevant existing and future AusAID initiatives, for example the Pacific Leadership Program and the Human Resource Development initiative;
- (f) review the role for existing training organisations in PNG and assess their capacity to deliver components of the capacity building program;
- (g) support local training organisations in PNG to deliver training and education on community development; and
- (h) work with a range of institutions to identify education programs that will be supported and negotiate how to build the capacity of institutions to provide teaching and learning that is directly relevant to principles of democratic governance.

6.10 The Contractor will ensure that:

- (a) the capacity of individuals to exert leadership and drive change in democratic governance in PNG is enhanced;
- (b) local training organisations deliver courses directly relevant to the principles of democratic governance;
- (c) training and other activities implemented will incorporate key policies such as gender equality, violence against women, HIV and AIDS, disability inclusiveness, the environment, climate change, peace and conflict, child protection and anti-corruption; and
- (d) synergies with the Australian Scholarships Program, relevant HRD programs and initiatives supported through the Pacific Leadership Program are exploited.

Additional Grants

- 6.11 The Contractor may be required to administer other AusAID grant schemes if requested by AusAID. This could include:
- (a) administering the HIV and AIDS small grant scheme, which has an annual budget of approximately \$1m per annum;
 - (b) administering the Pacific Violence Against Women small grant program, which AusAID funds through UNIFEM. This grant scheme has an annual budget of approximately \$200,000; and
 - (c) administering other grants schemes as requested by AusAID.
- 6.12 The services to be provided by the Contractor in the administration of additional grants schemes would consist of:
- (a) the services detailed in Clause 4.2 (above); and
 - (b) services which relate specifically to the additional grants scheme.
- 6.13 In the event that additional grants schemes are incorporated into SPSN, the Contract shall be amended by addition of an annex to this Schedule 1 Scope of Services. The annex will detail:
- (a) the scope of the services required for the additional grants scheme;
 - (b) funding arrangements for the additional grant scheme; and
 - (c) all other pertinent details.

7. CONTRACTOR PERFORMANCE ASSESSMENT

- 7.1 AusAID shall undertake at least six-monthly monitoring visits, with technical assistance at their discretion. These visits and review of documentation provided by the Contractor will form the basis for AusAID's Contractor Performance Assessment, which will determine the Six Monthly Milestone Payment as detailed in Schedule 2 Basis of Payment.
- 7.2 The Contractor Performance Assessment will refer to the standards for service provision as detailed below and a written report will be provided to the Contractor, highlighting any particular strengths or weaknesses noted in performance. The Contractor shall have one month to respond to the assessment, and rectify or address any issues or concerns raised.

Level	What will be assessed?	How assessed (method)	Who is responsible?	How will results be used?
Inputs, activities and scope	<ul style="list-style-type: none">Activities implemented and partnerships supported according to Annual Plans and considering risk matrix.Geographic and sectoral spread of SPSN activities (particularly for Component 2).	<ul style="list-style-type: none">Document review of:<ul style="list-style-type: none">- Financial reporting and audits- Database reports (including MIS)- Grant funding reports- Partnership Performance	<p>Contractor.</p> <p>AusAID and IRM assess Contractor's systems and procedures.</p>	<p>Revised processes.</p> <p>Informs contractor performance assessment.</p>

	<ul style="list-style-type: none"> • Level of mainstreaming of cross cutting issues incl. gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti-corruption • Quality standards met for systems, procedures and technical assistance. 	assessments <ul style="list-style-type: none"> • Internal operational review workshops. • Site visits and observation by AusAID and IRM. 	Contractor assesses systems and procedures of Key Partners where relevant.	
Contractor Performance Monitoring	<ul style="list-style-type: none"> • Contractor meets service standards against contract requirements. 	<ul style="list-style-type: none"> • Document analysis • Site visits and observation (against service standards) 	AusAID	Six monthly contractor performance assessment rating.

8. INDEPENDENT PROGRESS REPORT

8.1 AusAID will organise for an Independent Progress Report (IPR) to be undertaken at the end of the third year of SPSN. The IPR Terms of Reference (TOR) will be specified at that time. The TOR may include, but not be limited to:

- (a) assessing the success of SPSN in achieving its goal;
- (b) providing AusAID and the GoPNG with independent technical and other advice on any aspects of SPSN;
- (c) assessing the sustainability of SPSN;
- (d) assessing the integration of key aid policy issues such as gender equality;
- (e) how SPSN is being implemented;
- (f) the extent to which (if any) SPSN Design Framework needs to be amended;
- (g) identifying any necessary changes that may support sustainability;
- (h) assisting AusAID and the GoPNG to assess the Contractor's performance; and
- (i) planning for the future development of SPSN.

8.2 For the IPR, the Contractor must:

- (a) facilitate logistical arrangements and arrange appropriate meetings and visits as requested by AusAID for the conduct of the IPR;
- (b) attend and participate in those IPR meetings which AusAID directs it in writing to attend;
- (c) when required by AusAID, consult with the IRM on matters related to SPSN including:

- (i) progress and performance of the Services;
 - (ii) any IPR matters, circumstances or events which may affect or impact upon the Contractor's relationship with the GoPNG, stakeholders, AusAID or the IPR and suggest actions to avoid or counteract any adverse effects on such relationships;
 - (iii) any matters, circumstances or events which may affect SPSN and, if there are anticipated or contingent problems or difficulties, suggestions to avoid or counteract those problems or difficulties; and
 - (iv) any issues or concerns which the Contractor may want to raise with AusAID and the GoPNG.
- (d) co-operate with, and assist in any way reasonably requested by the IPR, the performance of its monitoring and review;
 - (e) co-operate with and assist the IPR by providing all necessary information, and ensuring its Contractor Personnel are available and willing to assist in answering enquiries or requests for information in respect of the performance of the Services; and
 - (f) provide to the IPR copies of all reports, notices, information or other SPSN material, which the IPR reasonably requires to fully and efficiently perform its monitoring and review, as soon as practicable after such material is produced or received by the Contractor.

9. **REPORTING REQUIREMENTS**

9.1 The Contractor must provide the following reports by the date, in the format and the number of copies indicated:

- (a) Inception Plan: including the SPSN staffing strategy, covering the period from transition and for the first six (6) months of the Contract and submit to AusAID and the JGC for approval within one (1) month of the Contract Start Date;
- (b) Personnel Review: The Contractor will undertake a review of all personnel roles and responsibilities within six (6) months of the Contract Start Date, which may result in the cessation or relocation of positions. As part of the review, the Contractor will assess the performance of all personnel prior to any new contracts being awarded;
- (c) Operations Handbook: The key management and operational mechanisms for SPSN shall be included in an Operations Handbook submitted to AusAID for endorsement within three (3) months of the Contract Start Date and prior to the release of any grant funds. The criteria outlined in the Operations Handbook must reflect the flexibility embodied in the overall design, and be consistent with partnership principles developed by AusAID and Key Partners. The Operations Handbook will include:
 - (i) TOR for the operation and responsibilities of LGCs and the NGC;
 - (ii) standard Grant Agreements, outlining selection processes, terms and conditions of agreements, and basis of payments and reporting arrangements (including exclusions for inputs and activities which expenditure must not be made);

- (iii) Grant Operational Procedures in support of potential beneficiaries, including grant proposal formats, the selection criteria, the selection processes, standard agreements, basis for payments, acquittals, monitoring methods and the audit regime; grant selection criteria, as well as the grant advocacy, appraisal, approval and field monitoring processes;
- (iv) the grant selection criteria, for use by the LGC and NGC, including the grant advocacy, appraisal, approval and field monitoring processes;
- (v) the resource allocation process, to be endorsed by the JGC, based on the agreed Provincial level allocations to democratic governance initiatives within the overall SPSN budget;
- (vi) indicative Key Partner Agreements, including standard contracts based on 'Partnership' principles. This includes draft financial disbursement / monitoring / reporting methods in relation to the Key Partner funding arrangements;
- (vii) Financial Management Procedures to manage the financial systems (including the Imprest Account), as well as arrangements for financial acquittals, reporting templates and regular internal / external auditing;
- (viii) Manual of Operations which details the management arrangements and operational procedures for the Imprest Account as detailed in Section 1 Part 2, **Clause 15**. The manual must be submitted to AusAID for approval within three (3) months of the Project Start Date.
- (ix) Human Resource Development Plan, including Terms of Reference and Duty Statements for all positions; personnel appraisal / performance management processes; and a staff development plan for Port Moresby and Field Office staff;
- (x) Risk Management Plan covering risks associated with the SPSN operations; health and safety (including HIV + AIDS); medical emergencies and evacuation; personal security briefings and guidelines; and emergency communication arrangements and protocols.
- (xi) Quality Assurance plan as agreed with AusAID;
- (xii) specifications for the establishment and maintenance of the MIS for grants administration and civil society engagement;
- (xiii) MEF Implementation Plan: one (1) hard copy and one (1) electronic copy submitted by the Program Director to the Post, within three (3) months of Contract Start Date. Ongoing data maintenance and additional reporting requirements shall be outlined in this document;
- (xiv) Communications Plan: this will form part of the Operations Handbook and be completed for endorsement by the JGC / AusAID within the first 6 weeks of implementation. The Communication Plan will identify lines of reporting and responsibility; methods to engage stakeholders at National, provincial and local levels; strategies and methods to engage with appropriate AusAID (and other donor) initiatives including the scholarships program, other HRD initiatives, the Incentive Fund and the SNS; and
- (xv) Gender Strategy detailing how SPSN will ensure gender is addressed as a cross-cutting issue and how gender equity and AusAID's Gender and Development Policy will be incorporated into SPSN.

- (d) Annual Plan: two (2) hard copies and one (1) electronic copy submitted by the Program Director to the AusAID Activity Manager, as specified in the Project Specific Contract Conditions;
- (e) LGC and NGC Minutes: submitted within seven (7) days of the meeting, two (2) hard copies and one (1) electronic copy, submitted by the Program Director to the AusAID Activity Manager;
- (f) Six-monthly Progress Reports: including progress against the Component and Cross Cutting activities, reporting against AusAID's policies (gender; disability; HIV + AIDS) and 6-monthly M&E analysis;
- (g) Completion Report: Upon completion of the Contract, the Contractor must provide AusAID with five (5) hard copies and one (1) electronic copy of a Completion Report; and
- (h) Other reports as requested by AusAID in writing to meet AusAID's corporate reporting requirements.

9.2 All reports must:

- (a) be provided in accordance with the specification under Standard Condition Clause 7 (Reports);
- (b) be accurate and not misleading in any respect;
- (c) be prepared as directed in writing by AusAID;
- (d) allow AusAID to properly assess progress under the Contract;
- (e) be provided in the format, number and on the media requested by AusAID;
- (f) not incorporate either the AusAID or the Contractor's logo;
- (g) be provided at the time specified in this Schedule; and
- (h) incorporate sufficient information to allow AusAID to monitor and assess the success of the Services in achieving the objectives of AusAID's policies including gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti-corruption.

10. PERSONNEL

- 10.1 The Contractor shall support the SPSN team and the operations of SPSN through its administrative and financial staff and facilities in PNG and elsewhere as required, and by means of professional and technical direction and support that will ensure the quality of SPSN's outcomes. SPSN staffing is not closely aligned with components so that stronger linkages across SPSN are facilitated. The cross cutting functions are each supported by an advisor, with staff within each component team. Field offices will deliver all aspects of SPSN within their area of coverage.

10.2 The Contractor shall provide the following Personnel:

Specified Personnel

Specified Personnel	Name	Total months input	Cost in Year 1 (inputs x monthly rate)	Cost in Year 2 (inputs x monthly rate)	Cost in Year 3 (inputs x monthly rate)	Cost in Year 4 (inputs x monthly rate)	Cost in Year 5 (inputs x monthly rate)	Total for 5 years
Contractor Representative	TBA	TBA	TBA	TBA	TBA	TBA	TBA	TBA
SPSN Program Manager	TBA	60	TBA	TBA	TBA	TBA	TBA	TBA
M&E Adviser	TBA	60	TBA	TBA	TBA	TBA	TBA	TBA

- 10.3 An indicative staffing profile and Terms of Reference for key positions are included at Annex 1 to this Schedule 1 Scope of Services.
- 10.4 The in-country personnel will be supported by a team of short term specialists drawn from a Consultant Pool, with Terms of Reference prepared by the Contractor for JGC endorsement.
- 10.5 The Contractor will undertake a review of current roles and responsibilities in accordance with Clause 9.1(b) above.
- 10.6 The Contractor shall maintain an appropriate balance between international and local personnel for full time in-country positions. SPSN will aim to ensure that approximately five international personnel are appointed to full time in-country positions, and at least half the proposed Consultant Pool are PNG or Pacific nationals. SPSN will also ensure that there is an appropriate gender balance for full-time in-country positions, with at least 30% of personnel to be women and a target of 50% female personnel.
- 10.7 The Contractor will provide and maintain a full complement of staff necessary to undertake the tasks of SPSN as outlined in this Schedule 1 Scope of Services.
- 10.8 At the direction of AusAID and the GoPNG, the Contractor will conduct an international and local search for the key personnel positions (the Program Director, Deputy Program Director – Implementation and Deputy Program Director – Support Services). AusAID, GoPNG and the Contractor will jointly interview and determine appointments to these key personnel positions. Once appointed, the Program Director and senior staff will undertake further recruitment of personnel, and make recommendations to AusAID and GoPNG for approval.
- 10.9 Each year in the Annual Plan the Contractor will propose the short term positions and inputs required from the Consultant Pool, or if required, institute a selection process.

- 10.10 The Contractor shall deploy local administrative, logistics and other support staff necessary for the efficient and effective management and administration of SPSN.
- 10.11 The Contractor shall ensure that all staff for SPSN have Terms of Reference in accordance with the Position Descriptions (provided at Annex 1 to Schedule 1 Scope of Services) and that an appropriate staff development, performance planning and review program is in place to ensure the professional development of locally engaged staff.
- 10.12 AusAID may require the Contractor to recruit and maintain international and local Advisors and other personnel to work across the broader Democratic Governance Program and AusAID's bilateral program. These positions would have specific TORs developed and approved by AusAID and relevant partner agencies. Reporting and management arrangements would be negotiated between AusAID and the Contractor on a case by case basis.

ANNEX 1 TO SCHEDULE 1 SCOPE OF SERVICES

SPSN INDICATIVE STAFFING PROFILE AND TERMS OF REFERENCE FOR KEY POSITION

Long Term Advisers

Position and Location	Function	Duration
SPSN Port Moresby Office		
Program Director ⁵	Overall strategic management and planning. Engagement between AusAID, GoPNG, delivery organizations and stakeholders, including Component 1.	FT
Deputy Program Director: Implementation	Leadership, planning, budgeting, reporting and supervision of SPSN implementation by through Components 2-5	FT
Deputy Program Director: Support Services	Leadership, planning, budgeting, reporting and supervision of support services systems and process for SPSN operations.	FT
Program Manager	Manage and coordinate the necessary financial, systems, IT, HR and other operational support necessary for the effective implementation of the in-country team responsibilities. Mobilize effectively in-country full time and short term international staff. To maintain systems and procedures in line with Contractual obligations and AusAID requirements.	FT
Capacity building and institutional strengthening Adviser	Planning, oversight, review and reporting of Component 1 and Component 5 CB and IS-related activities. Management of relationships with delivery organizations and stakeholders	FT
Community Development and Local Governance Adviser/Component 3 Coordinator	Planning, oversight, review and reporting of Component 3 initiatives. Management of relationships with delivery organizations and stakeholders. With sub-national governance strengthening, decentralization, community development expertise.	FT
Democratic Governance Adviser/ Component 4 Coordinator	Planning, oversight, review and reporting of Component 4 initiatives, with peace, conflict and development, civic education expertise. Provide advice across all grants systems/processes set up to ensure SPSN operations meet DG principles. Manage relationships with delivery organizations and stakeholders.	FT
Gender Adviser	Develop a Gender Strategy for SPSN. Participate in the analysis, design, planning, review and reporting of activities implemented across the SPSN. Design, facilitate and support a thematic issue network on gender-related topics under Component 4.	FT
Grants Coordinator	Overall coordination of the systems and procedures for all grants under the SPSN, including providing support for other AusAID sectoral programs as required.	FT
M&E Adviser	Manage the M&E process and system, providing comprehensive, straightforward and relevant data and information for the SPSN, AusAID and Partners for learning and development.	FT
M&E Coordinator	Maintain M&E systems and reporting, and advise and support local organizations in data collection and report preparation.	FT
IT Coordinator	Establish and maintain IT requirements of HO and Field Offices, including establishing a website, email, and database IT systems.	FT
Database Officer	Maintain database: information provided by M&E system/reporting.	FT

⁵ The Program Director, the Deputy Program Director: Operations and the Deputy Program Director: Support Services will each be jointly selected by AusAID and the Contractor after SPSN has been awarded.

Finance Manager	Overall budgeting and financial reporting. Establishing and overseeing financial management systems and procedures. Establish and maintain audit regime (sub-contracted local accounting firm)	FT
Assistant Accountant	Accounts administration	FT
Legal Officer	Administration of grants agreement and contracts, and compliance issues	FT
Marketing/Communications Coordinator	Develop and implement Communications Strategy for the SPSN.	FT
Procurement and Logistics Coordinator	Establish systems and supervise operations to provide support to Field Offices, HO, Key Partners and other Delivery Organisations.	FT
HO Administration staff, Security and other ancillary staff	6 support staff (in addition to the 3 support staff already allowed for in the SPSN Field Office in Port Moresby).	FT
8 SPSN Field Offices - 7 in Provinces, 1 co-located at SPSN in Port Moresby		
Eight Field Program Coordinators (1 in each Field Office)	Oversee Component 2 implementation, including capacity building. Manage relationships with local partners, participate in Component 3, 4 and 5 activities as appropriate to local Provinces and organisations. Provide information on SPSN and other AusAID initiatives to local stakeholders when requested.	FT
Sixteen Development Coordinators (2 in each Field Office)	Support the activities and monitor the progress of successful grant initiatives. Manage development and implementation of the grants the network of Field Workers.	FT
Support staff (3 in each SPSN Field Office)	Provide administrative, financial and data entry services to support the operation of the Field Office.	FT
Field Workers (6 FTE in each SPSN Field Office)	Field Workers supported by the SPSN to work directly with communities, agencies, NGOs and CSOs to advocate and support local improvements in Democratic Governance	As Rqd

Short Term Advisers and Consultant Pool

Position	Function	Duration
Contractor Representative	Oversee Contractor responsibilities in line with the intention of the Design and the Contract. Provide corporate support to the Program Director (and other Specialists and local staff) for the fulfilment of their responsibilities. Ensure financial and contract obligations are met within CPGs and other accountabilities. Ensure effective relationships between the Contractor employees, consultants, the JGC, AusAID, GoPNG and other stakeholders. Provide high level management advice to the JGC (AusAID and GoPNG) on operational requirements of the SPSN.	PT
STA: M&E	Work with the M&E Adviser to develop the M&E Framework with stakeholders, refine existing DGTP systems and procedures to operationalise the SPSN M&E Framework and training and capacity of local staff and Delivery Organisations. Assist in the preparation of analysis for Annual Report from M&E information and reporting, including participation in direct evidence gathering and consultations as required.	6 wks in year 1; 3 weeks each in yrs 2-5
STA: MIS / Database specialist	Refine and develop the CSO database to meet AusAID and SPSN requirements of the M&E Framework.	6 wks Yr 1; 3 weeks Yrs 2-5

STA: Financial Management	Review and refine financial management systems and procedures for SPSN operations, including the Imprest Accounts.	2 months year 1
Audit	Develop and implement a system of independent financial audit through an independent audit firm.	As reqd
Up to 8 STA proposed by Contractor	To be proposed by the Contractor eg. Gender Community development Governance Financial sustainability Peace, conflict and development Disability Research Technical (e.g. water supply) Capacity building Organisational development	Indicative only

JOB TITLE: PROGRAM DIRECTOR

Reports To: JGC and AusAID

Position Description

The Program Director will be full time (5 years, 60 months in-country) responsible for the overall strategic management and direction of SPSN, providing the necessary professional oversight of all SPSN staff (long and short term) to ensure the achievement of SPSN objectives and outputs.

The Program Director will be based in Port Moresby, with travel to SPSN Field Offices and work areas. The Program Director is also the primary point of engagement between AusAID, GoPNG, delivery organisations and stakeholders. The Program Director is expected to liaise regularly with AusAID Port Moresby and other key stakeholders to ensure effective implementation of SPSN to meet the SPSN contractual obligations and completion of tasks outlined in the Scope of Services. The Program Director oversees all policies and analysis of SPSN, to ensure that all cross cutting themes are fully integrated and will seek opportunities for deeper engagement with other AusAID Programs, in particular promote the use of improved democratic governance and community engagement principles developed within SPSN to other relevant GoPNG and AusAID programs.

Specific Duties

- Provide leadership, guidance, and strategic direction to the Program team to ensure the overall Program's framework is achieved via Planning, Capacity Building, M&E, Continuous Learning, and Program Sustainability;
- Directly manage the activities of the Deputy Program Director Operations and the Deputy Program Director Support Services;
- Act as the primary point of contact for AusAID, ensuring an effective working relationship through raising, discussing and proposing solutions to matters related to SPSN in an open and timely manner;
- Ensure that the cross cutting themes of disability inclusiveness, gender equality, HIV and AIDs and peace and conflict are integrated throughout the SPSN;
- Oversee recruitment processes for all local and international staff;
- Mentor and guide the team and coordinate regular staff performance reviews. Undertake performance Reviews for the Deputy Program Directors, key Advisers/managers and the Program Manager;
- Delegate responsibilities for day-to-day coordination of operations to the Deputy Program Directors and other staff as appropriate;
- Ensure that SPSN activities accord with AusAID and GoPNG Policies;
- Oversee SPSN Planning and Reporting, Finance and Physical Resource Management, Human Resource Management;
- Liaise with Relevant Stakeholders and regularly interact with CSOs, governments (national and local), and donor organisations to develop more focused SPSN interventions and promote SPSN roles and objectives;
- Develop the Annual SPSN Strategy that includes proposed short-term positions and TOR for the coming year;
- Provide strategic direction and technical inputs to ensure that SPSN adheres to the guiding principles of progressive engagement, sustainability, gender inclusiveness and pro-poor, accountability and holistic approach; and

- Attend all Joint Governing Council meetings in an observer capacity.

Core Competencies

- Strong strategic leader with proven ability to develop, articulate and build momentum for a clear strategic vision.
- Extensive conceptual and practical experience in civil society strengthening and local governance issues (essential) and a solid insight on the dynamics of civil society and local governments in PNG's decentralized setting (desirable).
- Significant experience in managing and implementing complex development aid programs, including demonstrated skills and experience in planning, HRD and M&E.
- Strong leadership and management skills and demonstrated capacity to manage and mentor personnel in a cross-cultural environment.
- Demonstrated gender awareness, cultural sensitivity and commitment to inclusive policies.
- Experience of working with NGOs and/or previous work experience in PNG.
- Strong appreciation of the AusAID program in PNG and the role of the SPSN in delivering against the Development Cooperation Strategy and Australia-PNG Partnership for Development, including the Millennium Development Goals.
- Ability to give sound advice on complex and/or sensitive/political issues, based on awareness of GOA policy directions.
- Previous experience managing complex programs for AusAID, including an understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.
- Excellent communication and writing skills.

JOB TITLE: CONTRACTOR'S REPRESENTATIVE

Reports To: Managing Contractor

Position Description

The Contractor's Representative (CR) will oversee the implementation of the Contractor's responsibilities in line with the intention of the Design and the Contract. In particular the CR will coordinate and provide the Contractor support to the Program Director (and other Specialists and local staff) to support their responsibilities. In collaboration with the Program Director, the CR will take the lead role in raising, discussing and proposing solutions to AusAID, on any matters related to the Contractual performance of the team or the systems and procedures employed. In particular the CR will work with the Program Manager and Deputy Program Director: Support Services to ensure the administrative burden placed on the Program Director, Deputy Program Director: Operations, the Field Offices and specialist/managers is minimised to allow them to focus on implementation, technical management, relationship management and strategic issues. The CR will be a full-time permanent employee of the Contractor (with part-time inputs) and may be based at the Head Office or in PNG.

Specific Duties

- Oversee the contractual obligations and administrative processes of the SPSN to ensure they meet AusAID, GoPNG and Managing Contractor requirements;
- Prepare any Contract variations or amendments necessary for the SPSN, based on agreements with AusAID and the PD;
- Be responsible for reviewing the final quality of all Contractual deliverables (milestones, reports, billings and financial statements) before submission to AusAID and addressing any issues and concerns with the PD and SPSN team;
- Ensure effective collaborative relationships are maintained between the Managing Contractor's employees, consultants, the JGC, AusAID, GoPNG and other stakeholders and be pro-active in addressing concerns before they affect SPSN deliver;
- Provide high level management advice to the JGC on operational requirements of SPSN;
- Oversee the cross-SPSN audit processes and manage efficient and effective audit response mechanisms in conjunction with the DPD (Support Services and the PC);
- Oversee Human Resource processes; and
- Oversee the establishment of the short-term consultant pool and the timely engagement of short-term consultants based on the requirements in the Annual Plan.

Core Competences

- Proven senior program management experience or qualifications.
- Strong working knowledge of AusAID contractual processes and cross cutting policies especially those related to procurement, fraud, gender equality, violence against women and corruption.
- Full-time permanent employee of the Managing Contractor with sufficient seniority to coordinate Managing Contractor administrative and support services for the SPSN.
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption

JOB TITLE: DEPUTY PROGRAM DIRECTOR – SUPPORT SERVICES

Reports To: Program Director

Position Description

The Deputy Program Director (DPD) (Support Services) will be full time (5 years, 60 months in-country), responsible for leadership, planning, budgeting, reporting and supervision of support services systems and process for SPSN operations.

The DPD (Support Services) will be posted in Port Moresby, with travel to SPSN Field Offices as required. The DPD (Support Services) will ensure the SPSN is run efficiently and effectively taking into account Contractor, GOA and GoPNG requirements. Systems and procedures developed for SPSN should take into account their potential institutionalisation into local government or civil society agencies as part of sustainability planning.

The DPD (Support Services) will report to the Program Director and, together with the DPD (Implementation) and the CR, will form the senior executive for the SPSN.

Specific Duties

- Oversee development, review, quality assurance and updating of the SPSN Administration, HR, IT, Financial, M&E Manuals and Operating Guidelines;
- Oversee the operations of the Program Manager, Advisers, coordinators and Field staff ;
- Ensure the quality and integrity of SPSN systems and procedures and coordinate reporting based on SPSN administrative, financial, MIS, and M&E database information;
- Contribute to the production of the Annual Report and Annual Plan and coordinates the production of all annexes related to budgets, staffing schedules, procurement and logistics;
- In consultation with the Program Director, regularly report and undertake informal liaison with AusAID/Post as required;
- Coordinate the development and implementation of the communication strategy including procurement of SPSN advertising material, website development and maintenance; and
- Work with the Program Director and with all staff to ensure cross cutting themes of inclusive practice, gender equality, child protection, people with disabilities, HIV and peace and conflict are integrated throughout SPSN.

Core Competencies

- Proven senior program management experience or qualifications. Experience in development assistance management of complex programs would be beneficial.
- Demonstrated gender awareness and cultural sensitivity.
- Strong working knowledge of AusAID contractual processes, systems, procedures and cross cutting policies especially those related to contracting, procurement, fraud, anti corruption.
- Excellent communication and writing skills (oral and written) and fluent in English.
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.

JOB TITLE: PROGRAM MANAGER

Reports To: Deputy Program Director (Support Services)

Position Description

The Program Manager will be full time (5 years, 60 months in-country) responsible for the day to day management and administration, providing on-going support to the Program Director and Deputy Program Directors.

The Program Manager will be posted in Port Moresby, with travel to SPSN Field Offices and work areas as required. The Program Manager will manage the financial and auditing processes and other SPSN administration, including human resource management, IT, logistics and the procurement necessary for the effective implementation of SPSN. The Program Manager will be responsible for ensuring all administrative and financial processes are consistent with partnership principles. The Program Manager will be responsible for sourcing and managing the international and local personnel to fulfil key positions and the establishment, contracting and management of a quality Consultant Pool. The Program Manager will work with SPSN Port Moresby and Field offices to ensure that procedures are equitable, in line with contractual obligation and AusAID requirement. The Program Manager has prime responsibility for timely collation and production of SPSN documentation (meeting agendas, briefing papers, milestone reporting, sub-contractor reports).

Specific Duties

- Oversee human resource management of all in-country staff to comply with the Contractor's requirements and regulations of AusAID and GoPNG;
- Manage the human resources to ensure full and equitable participation of men and women on the SPSN;
- Manage an administration team which manages recruitment and mobilisation of national permanent, sub-contracted, casual and part-time staff; staff performance planning and professional development; equitable salary packaging and progression schemes; welfare, leave; workplace health & safety and security;
- Liaise and coordinate with AusAID Post regarding visa requirements for all Long Term and Short Term Advisers;
- Manage the Consultant Pool to ensure appropriately qualified local and international technical consultants are registered to undertake short-term technical support functions as required by the Program Director;
- Oversees office accommodation and administration of in-country staff and manage an administration team which manages office identification, establishment, leases, utilities, communication, fit-out, maintenance and efficient day to day operations;
- Oversees procurement and logistics, including the activities of the Procurement and Logistics Coordinator to ensure that; procurement of all office and operational equipment in line with the contract between AusAID and the Contractor; internal land, air and sea travel, vehicle/boat purchase, operation and maintenance is undertaken with a Value for Money approach;
- Oversee the activities of the Finance Manager and financial systems, to ensure procedures are developed with clear and transparent mechanisms and processes that comply with the requirements of the Contractor and AusAID, consistent with partnership principles. This includes; establishing, managing and reporting on in-country operational account(s); establishing, managing and reporting on the Imprest Account according to Commonwealth procedures; logging and tracking payments related to operational and grant funding; preparing manuals and ensure training of all staff with financial responsibilities; submission of Funding

Schedules and acquittal documentation required under the AusAID contract; coordination with Field Offices on local fund allocations; supervise, monitor and support the SPSN Payroll; monitor all SPSN expenditure on a monthly basis;

- Oversee SPSN IT, responsible for: specification, operation and maintenance of all electronic communication and equipment, computer hardware, networks and software; establish and enforcing data, email and internet protocols that ensure security and avoid fraud or illegal activities;
- In collaboration with the Grants coordinator and Capacity-Building and Institutional Strengthening Advisor, and under the supervision of the DPD Support Services, ensure internal checks and balances are in place and develop procedures and management mechanisms for identifying, addressing, and mitigating against fraud and corruption; and
- Quality control all financial and administrative details contained in SPSN reports, guides, manuals, and communication materials.

Core Competencies

- Extensive experience (at least 5 years) in administration and management of large international programs, especially in financial management and the application of IT in financial management systems and the management of staff in remote locations.
- Experience in development assistance management and AusAID systems and procedures would be beneficial.
- Excellent communication and writing skills (oral and written) and fluent in English. Fluency in Pidgin would be a distinct advantage.
- Demonstrated gender awareness and cultural sensitivity and the capacity to mainstream cross-cutting themes into the SPSN management systems and staff, including gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.

JOB TITLE: DEPUTY PROGRAM DIRECTOR - IMPLEMENTATION

Reports To: Program Director

Position Description

The Deputy Program Director (Implementation) will be full time (5 years, 60 months in-country) responsible for the leadership, planning, budgeting, reporting and supervision of SPSN implementation by Component.

The DPD (Implementation) will be posted in Port Moresby, with travel to SPSN Field Offices and work areas as required. The DPD (Implementation) will ensure the SPSN is run efficiently, equitably and effectively taking into account Contractor, GOA and GoPNG requirements. This includes ensuring SPSN Components deliver outputs, including integration of cross cutting themes, and contribute to outcomes as defined in the Design and identified through the Annual Planning process. Systems and procedures developed for the SPSN should take into account their potential institutionalisation into government or civil society agencies as part of sustainability planning.

The DPD (Implementation) will report to the Program Director and, with the DPD (Support Services) and the Contractor's Representative will form the senior executive for the SPSN.

Specific Duties

- Oversee the technical quality and delivery of all five components of the SPSN;
- Oversee the operations of the seven Field Offices and Head Office (Component 2) and the integration of devolved services with provincial and district stakeholders;
- Ensure all five components integrate cross cutting themes;
- Oversee management and deliverables of the Capacity building and Institutional strengthening Specialist (Component 1 & 5); the Community Development and Local Government Specialist (Component 3); the Democratic Governance Specialist (Component 4) and the Gender Specialist;
- Ensure the quality, equity and integrity of SPSN technical processes (ensuring operational processes are inclusive, consistent with partnership principles) and actively manage relationships, networks, forums and linkages to ensure SPSN processes are effectively integrated;
- Contribute to the production of the Annual Report and Annual Plan and coordinates the production of all annexes related to operational analysis;
- In consultation with the Program Director, report and undertake informal liaison with AusAID/Post as required; and
- Provide strategic analysis and advice to the Program Director concerning improvements to increase the impact of democratic governance processes, as well as developing strategies to articulate, facilitate and motivate a shared vision of democratic governance.

Core Competencies

- Proven senior program management experience.
- 10+ years experience in community-based development and/or local governance assistance programming.
- Demonstrated significant experience and understanding of contemporary approaches to democratic governance processes in a medium to large scale program, as well as experience in promoting local democratic governance in the context of decentralization.

- Demonstrated gender awareness, cultural sensitivity and commitment to inclusive practice.
- Proven experience in designing, implementing, reviewing and evaluating medium to large scale community empowerment programs.
- Significant experience in managing staff and external consultants; excellent interpersonal and communication skills, including an ability to write high level technical reports.
- Strong working knowledge of AusAID contractual processes, systems, procedures and cross cutting policies especially those related to contracting, procurement, fraud and corruption.
- Excellent communication and writing skills (oral and written) and fluent in English.
- Demonstrated ability and commitment to undertake regular field visits and interact effectively with different stakeholders.
- Understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.
- PNG experience would be beneficial as would some fluency in Pidgin.

JOB TITLE: COMMUNITY DEVELOPMENT AND LOCAL GOVERNANCE ADVISER

Report to: Deputy Program Director - Implementation

Position Description

The Community Development/Local Governance Adviser is a full time (5 years, 60 months in-country) position. The Adviser will have primary responsibility for planning, oversight, review and reporting of Component 3 initiatives. The CD/LGS will be posted in Port Moresby, with travel to SPSN Field Offices and work areas as required.

The CD/LGS will develop and upgrade community engagement/development strategies to support the development of model approaches for improved local governance and community empowerment, involving managing relationships with delivery organisations and stakeholders to design and test new approaches. The position will provide SPSN wide advice regarding, local governance, local civil society/community organisation strengthening, integration of cross cutting themes and local and national policy implications. This will include strategic technical analysis and reporting to the JGC and the SPSN more broadly on models developed, achievements and improvements required to increase the impact of SPSN at the community level and the relevance of community engagements and activities. The position has a strategic role in guiding and managing inclusive community engagement and empowerment strategy for SPSN and will collaborate closely with the Program Director, Deputy Program Director Implementation and other Component Manager/Specialists to fulfil these terms of reference.

Specific Duties

- Facilitate AusAID, GoPNG, Key Partners and local stakeholders to regularly review inclusive community engagement and development experiences to identify opportunities for amplified engagements that deliver improved local governance outcomes;
- Ensure cross cutting themes are fully integrated throughout the component;
- Regularly liaise with other AusAID programs, particularly SNS and the Law & Justice sector to identify opportunities to develop stronger links between local government processes, systems and communities;
- Support the design and contracting processes of Component 3 initiatives and other components as required;
- With the M&E Adviser establish processes to monitor and evaluate the effectiveness of models developed, then analyse and report on the models;
- Provide strategic technical analysis and advice to the Program Director concerning improvements required to increase the impact of community engagements, as well as strategies to articulate, facilitate and motivate a shared vision of democratic governance;
- Regularly participate in, and/or organise training and development for SPSN staff, partner organisations, GoPNG, AusAID, and other donors on community development and local government processes and share and discuss the relevance of SPSN processes; and
- Coordinate the implementation and refinement of the SPSN Community engagement processes with the seven Field Offices and Head Office including supervision and mentoring of SPSN staff in the development and implementation of the methods.

Core Competencies

- 10+ years experience in community-based development and/or local governance assistance programming.

- Demonstrated significant experience and understanding of contemporary approaches of community engagement and empowerment in a medium to large scale program, as well as experience in promoting local democratic governance in the context of decentralization.
- Demonstrated in depth understanding of rural development, with a focus on participatory processes and gender and poverty inclusion. Understanding of systems and asset based approaches would be beneficial.
- Demonstrated gender awareness and cultural sensitivity.
- Proven experience in designing, implementing, reviewing and evaluating medium to large scale community empowerment programs.
- Significant experience in managing staff and external consultants; excellent interpersonal and communication skills, including an ability to write high level technical reports.
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.
- Demonstrated ability and commitment to undertake regular field visits and interact effectively with different stakeholders.
- PNG experience would be beneficial as would some fluency in Pidgin.

JOB TITLE: DEMOCRATIC GOVERNANCE ADVISER

Report to: Deputy Program Director - Implementation

Position Description

The Democratic Governance Adviser (DGA) is full time (5 years, 60 months in-country) position, with primary responsibility for the planning, oversight, review and reporting of Component 4 initiatives, and responsibility for institutionalising democratic governance principles into SPSN systems and processes, and supporting their uptake in other AusAID programs and other stakeholders' strategic policies and operational systems. The DGA will be posted in Port Moresby, with travel to SPSN Field Offices and work areas as required.

The DGA will ensure that Component 4 is delivered in line with design and contractual requirements. In particular the DGA will ensure processes are established to facilitate dialogue and engagement among a broad range of state, non-state and other actors to share lessons on democratic governance principles, practice and policy. The DGA will also streamline civil society engagement with AusAID's bilateral program and establish a knowledge base on civil society that all AusAID programs can access. The adviser will ensure meaningful inclusion of women across all processes and that cross cutting these are fully integrated.

The DGA will ensure the SPSN continues to adapt and change on the basis of lessons learnt and take innovative approaches as appropriate. The DGA will report against the SPSN broader impact upon the AusAID DCS and sector programs, GoPNG programs and other donor programs in particular that the methods of SPSN are adopted by others as appropriate.

In addition the position will provide SPSN wide advice regarding, democratic governance issues and local and national policy implications. This will include strategic technical analysis and reporting to the JGC and the SPSN more broadly on collaboration developed, achievements and improvements required to increase the impact of collaboration efforts. The position also has a role in influencing AusAID's Democratic Governance Strategy. The DGS will collaborate closely with the Program Director, Deputy Program Director Implementation and other Component Manager/Specialists to fulfil these terms of reference.

Specific Duties

- Support the selection of thematic priorities that impact on democratic governance in PNG;
- Ensure thematic priorities are inclusive of gender equality and that at least some are specific to strategic needs of women;
- Support Field Offices and SPSN networks to promote positive outcomes in democratic governance at local levels;
- Support the design and contracting processes of Component 4 initiatives and other components as required;
- Support the design and review of SPSN grants systems and processes in promoting democratic governance;
- Support wider debate among non-state actors on democratic governance;
- Participate in the selection, organisational assessment, design, monitoring, and review functions for non-state actor participation in bilateral programs as negotiated and agreed by the AusAID Democratic Governance team and the broader AusAID program;
- Provide operational support for AusAID sectoral programs to engage with non-state actors;

- With the M&E Adviser, establish processes to monitor and evaluate the effectiveness of networks and collaboration developed, and of democratic governance mainstreaming through SPSN;
- Analyse and report on the networks and collaboration developed;
- Provide strategic technical analysis and advice to the PD concerning improvements required to increase the impact of democratic governance, as well as strategies to articulate, facilitate and motivate actors behind a shared vision of democratic governance; and
- Regularly participate in, and /or organise training and development for SPSN staff, partner organisations, GoPNG, AusAID, and other donors on democratic governance processes.

Core Competences

- 10+ years experience related to facilitating closer community, private and government sector collaboration using participatory or democratic governance models.
- Demonstrated significant experience and understanding of contemporary approaches of participatory or democratic governance in a medium to large scale program, as well as experience in promoting local democratic governance in the context of decentralisation.
- Proven experience in designing, implementing, reviewing and evaluating medium to large scale community empowerment programs.
- Proven experience in developing and facilitating networks or forums that deliver meaningful collaboration, dialogue and outcomes.
- Demonstrated gender awareness and cultural sensitivity.
- Significant experience in managing staff and external consultants; excellent interpersonal and communication skills, including an ability to write high level technical reports.
- Demonstrated ability and commitment to undertake regular field visits and interact effectively with different stakeholders.
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.
- PNG experience would be beneficial as would some fluency in Pidgin.

JOB TITLE: MONITORING AND EVALUATION ADVISER

Report to: Deputy Program Director – Support Services

Position Description

The Monitoring and Evaluation (M&E) Adviser is a full time (5 year 60 months in-country) position. The Adviser will have primary responsibility for the design, establishment and operation of the M&E system for the SPSN. The Adviser will be professionally qualified and have a strong background in M&E systems that are gender sensitive, IT and data collection methods, as well as an understanding of the various levels and types of data required.

The M&E Adviser will continually monitor and adapt the systems and processes to ensure that the relevant information from the field and from across SPSN is captured and provided in a form that assist the forward planning and ongoing quality improvement. The Adviser will also ensure, where possible, that the information is sourced from GoPNG or Partner systems and avoid establishing duplicate systems or collection processes. The Adviser will ensure the framework measure gender equality and the integration of information about progress on cross cutting themes.

Where appropriate, the Adviser will build the M&E capacity of Partners and assist them to institutionalise effective, sustainable M&E systems, in order that the data provided to the SPSN is valid and reliable.

The M&E Adviser will be tasked to specifically ensure that the information and data is provided in a form, and of a type, that meets the needs of the SPSN, the JGC and AusAID.

Specific Duties

- Establish a Monitoring Unit within the SPSN to ensure that data, information and M&E reports are timely, accurate and relevant;
- Liaise with the Program Director and AusAID to ensure that the type of information being collected and provided meets all AusAID reporting requirements and will be available in a form that aligns with the SPSN and AusAID needs;
- Suggest measures and tools that can be used to monitor and evaluate the impact of the SPSN, including methods such as tracer studies, case studies, most significant change;
- Working with the M&E STA, develop the required systems and mechanisms to collect the data, using (where possible) existing sources that are reliable and effective (i.e. the SPSN will not duplicate existing systems where possible);
- Liaise with the Field Offices to ensure that relevant information is collected from the field and that the Field staff receive advice, guidance, training and the required M&E tools to undertake their work;
- Build the capacity of SPSN staff, civil society, GoPNG, AusAID, donors and other stakeholders in relation to M&E for civil society and democratic governance;
- Ensure that the M&E system reflects the need for data relating to cross cutting issues, including (for example) gender disaggregated, provincial / district location of SPSN activities and grants; SPSN activities and outcomes by component; participation of people with disabilities; impact and integration across SPNS activities; and other information as required;
- Supervise and monitor collection of information and data, including work of data-entry staff;
- Support Key Partners to share experiences and lessons; and
- Strengthen and build human resources for M&E, internally (local staff Key Partners).

Core Competences

- 10+ years experience related to developing and managing complex monitoring and evaluation systems.
- Demonstrated significant experience and understanding of contemporary approaches to monitoring and evaluation and the requirements to collect, analyse and report on activities, outcomes and impact.
- Proven experience in, and commitment to, the training and mentoring of local staff in the management of systems and in the analysis and production of M&E reports and recommendations.
- Demonstrated gender awareness and cultural sensitivity.
- Significant experience in managing staff and external consultants; excellent interpersonal and communication skills, including an ability to write high level technical reports.
- Demonstrated ability and commitment to undertake field visits and interact effectively with different stakeholders.
- PNG experience would be beneficial as would some fluency in Pidgin;
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.

JOB TITLE: CAPACITY BUILDING AND INSTITUTIONAL STRENGTHENING ADVISER

Report to: Deputy Program Director - Implementation

Position Description

The Capacity Building and Institutional Strengthening (CB/IS) Adviser is a full time (5 years, 60 months in-country) position. The Adviser will have primary responsibility for the planning, oversight, review and reporting of Component 1 and Component 5 initiatives. The CB/IS Adviser will be posted in Port Moresby, with travel to SPSN Field Offices and work areas as required.

The CB/IS Adviser will ensure that the identification, collaboration with and strengthening of Key Partners individuals significantly contributes to the delivery of SPSN outcomes in line with the design and as amended by the Annual Planning process.

The CB/IS Adviser will ensure the SPSN continues to adapt and change on the basis of lessons learnt and innovative approaches and that the SPSN's broader impact upon the AusAID DCS and Strategy, the GoPNG national program and other donors programs is evident, in particular that the methods of SPSN are adopted by others as appropriate.

In addition the position will provide SPSN wide advice regarding capacity building to increase gender equality, civil society strengthening issues and local and national policy implications. This will include strategic technical analysis and reporting to the JGC and the SPSN more broadly on collaboration developed, achievements and improvements required to increase the impact of SPSN collaboration efforts. The position will ensure strong links between the SPSN approach to grants selection, fraud and audit, and capacity building support. The CB/IS Specialist will collaborate closely with the Program Director, Deputy Program Director Implementation and other Component Manager/Specialists to fulfil these terms of reference.

Specific Duties

- Manage a process to develop agreed inclusive selection criteria and subsequently assist AusAID to identify and select Key Partners for endorsement by the JGC;
- With the Program Director and the Deputy Program Director (Implementation) facilitate discussions and dialogue between AusAID and Key Partners regarding the scope and nature of Key Partner agreements;
- Negotiate and facilitate communication between Key Partners to identify common priority areas that require support;
- Assess the capacity gaps of Key Partners and ensure a capacity building program, inclusive of gender equality capacity development, is incorporated into annual operational plans;
- Monitor and support organisations to implement their strategy and annual operational plans;
- Support Key Partners to share experiences and lessons;
- Develop a capacity building framework that outlines how men and women will be identified, mobilised, mentored, trained, networked and supported to implement their skills in their particular organisation or workplace;
- Contribute to the development of grants processes and a fraud and audit regime that institutionalize capacity-building support to organisations;
- Strengthen and build human resources for the SPSN internally (local staff and Short Term Advisors, and sub-contracted Advisors working with Key Partners);

- Identify and support the professional development of external civil society professionals through workshops/training events, and conferences;
- Ensure that all training and other capacity building activities implemented across SPSN incorporate gender equality and HIV + AIDS prevention;
- Review the role for existing training organisations in PNG and assess their capacity to deliver training and development aspects of the capacity building program;
- Support local training organisations in provincial PNG to deliver training and education on community development;
- Support the design and contracting processes of Component 1 and 4 initiatives;
- With the M&E Adviser, establish processes to monitor and evaluate the effectiveness of the institutional strengthening and developed;
- Analyse and report on the institutional strengthening and individual capacity building efforts; and
- Provide strategic technical analysis and advice to the Program Director concerning improvements required to increase the impact of institutional strengthening and individual capacity building, as well as strategies to articulate, facilitate and motivate actors behind a shared vision of democratic governance.

Core Competences

- 10+ years experience related to strengthening organisations and running targeted capacity building programs for civil society.
- Demonstrated significant experience and understanding of contemporary approaches of capacity building and institutional strengthening in a medium to large scale program, particularly in the context of decentralization.
- Proven experience in designing, implementing, reviewing and evaluating medium to large scale institutional strengthening or capacity building programs.
- Demonstrated gender awareness and cultural sensitivity.
- Significant experience in managing staff and external consultants; excellent interpersonal and communication skills, including an ability to write high level technical reports.
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.
- Demonstrated ability and commitment to undertake regular field visits and interact effectively with different stakeholders.
- PNG experience would be beneficial as would some fluency in Pidgin.

JOB TITLE: FINANCE MANAGER

Report to: Program Manager

Position Description

The Finance Manager is a full time (5 years, 60 months in-country) position. The Adviser will have primary responsibility for the planning, implementation and management of the financial systems required to support SPSN. The Finance Manager will be posted in Port Moresby, with travel to SPSN Field Offices and work areas as required.

The Finance Manager will oversee the finance systems, support staff and data to ensure that the financial aspects of the SPSN (including the Imprest Account, local expenditure, reporting, auditing and anti-fraud mechanisms are in place and continually improved.

In addition the position will provide SPSN wide advice regarding forward planning (including Annual Planning) and capacity building in order to increase financial accountability and maintain systems development. This includes working with relevant staff at the SPSN Field Offices and (where appropriate) with the Key partners.

The position will also support the SPSN leadership in maintaining oversight of the grants scheme, including measures to minimise potential for fraud. The Finance Manager will also arrange for, and monitor, the SPSN audit process, including in the regular reporting to AusAID

Specific Duties

- Establish and maintain the appropriate financial management and reporting systems for all Components and activities (in Port Moresby and in the Field), in order to provide SPSN leadership and AusAID with accurate and timely information and reporting;
- Supervise and train local staff to operate the financial management systems and facilitate mentoring and professional development activities as part of strengthening the financial management capacity of the SPSN;
- As required, provide a range of financial reports, data, records and specific financial information on all aspects of the SPSN operations, including for inclusion in the Six Monthly reports and the monthly expenditure reports;
- As required, support the forward planning of SPSN activities including the Annual Planning process, expenditure forecasts, cash-flow analysis, Imprest Account management and the development of grants processes;
- With the Program Director and the Deputy Program Director (Implementation) facilitate discussions between AusAID and Key Partners regarding the scope and nature of the financial support, reporting and safeguards as required under Key Partner Agreements; and
- Establish and monitor an appropriate SPSN audit arrangement covering all aspects of the financial systems and expenditure. This will involve contracting an external auditor and responding to any required improvements or changes that are required.

Core Competences

- Professional qualifications and certification relating to financial management and reporting.
- 10+ years experience related to complex financial management, program management, financial reporting, Imprest accounts and managing financial grants / allocations.
- Demonstrated significant experience and understanding of contemporary financial management systems and the staffing and systems required for large scale development programs.
- Demonstrated gender awareness and cultural sensitivity.

- Significant experience in managing / developing local staff; excellent interpersonal and communication skills, including an ability to write high level technical reports.
- An understanding of AusAID's policies relating to gender equality, violence against women, HIV and AIDS, disability inclusiveness, environment, climate change, peace and conflict, child protection and anti corruption.
- Demonstrated ability and commitment to undertake regular field visits and interact effectively with different stakeholders.
- PNG experience would be beneficial as would some fluency in Pidgin.

Part 4 - Basis of Payment

Note to Tenderers: Although this Basis of Payment is presented as Part 4 of this RFT, in the Consolidated Contract it will appear as Schedule 2.

SCHEDULE 2 – BASIS OF PAYMENT

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1. TOTAL AMOUNT

- 1.1 The maximum amount payable by AusAID to the Contractor for the provision of the Services shall not exceed the sum of **A\$XXX** plus GST, if any, up to a maximum of **A\$XXX**. This is comprised of the following elements:
- (a) \$XXX for Grant Funds and Implementation Costs;
 - (b) \$XXX for Reimbursable Operational Costs;
 - (c) \$XXX for Fixed Contractor Management Fees and Costs.
- 1.2 AusAID shall not be liable for any Costs or expenditure incurred by the Contractor in excess of this amount.

2. GRANT FUNDS AND IMPLEMENTATION COSTS

- 2.1 The amount payable to the Contractor in Grant Funds and Implementation Cost payments shall not exceed the sum of \$63,390,000 plus GST. This is comprised of:
- (a) Key Partner Grants (Component 1)
 - (b) Small, medium and large scale grants to CSOs (Component 2)
 - (c) Implementation costs for programmed initiatives (Component 3)
 - (d) Implementation costs for thematic initiatives (Component 4)
 - (e) Implementation costs for human resource initiatives (Component 5)
- 2.2 Annex 1 to this Schedule 2 Basis of Payment provides details of the maximum amounts applicable to each funding category.
- 2.3 Key Partner Grants (Component 1) as detailed in Clause 2.1(a) above shall be paid to the Contractor in advance upon receipt by AusAID of a correctly formatted invoice.
- 2.4 Components 2-5 will be funded through an Imprest Account. The Contractor shall provide a projection of Imprest Account requirements for each quarter, and upon approval by AusAID, funds shall be forwarded by AusAID to the Imprest Account as an advance.

- 2.5 Further tranches of funding to the Imprest Account will be provided by AusAID upon satisfactory acquittal and financial reporting by the Contractor of previous tranches and approval by AusAID of the projection of requirements for each quarter.

3. REIMBURSABLE OPERATIONAL COSTS

- 3.1 The amount payable to the Contractor for Reimbursable Operational Costs shall not exceed the sum of \$XXX plus GST. This is comprised of:
- (a) Actual long term personnel and associated costs (excluding those nominated in the tender as part of the Contractor's fixed management fees and costs);
 - (b) Short term personnel and associated costs;
 - (c) Consultant Pool costs;
 - (d) Head office and Field office costs including insurance;
 - (e) Fieldworker and related costs;
 - (f) Travel and related costs;
 - (g) Grant Committee costs; and
 - (h) Joint Governing Council costs.
- 3.2 The Contractor shall provide a quarterly invoice for Reimbursable Operational Costs on the basis of actual expenditure in accordance with the approved Annual Plan and budget for the period. Annex 2 this Schedule 2 Basis of Payment provides details of the maximum amounts applicable to each category of Reimbursable Operational Costs.
- 3.3 Reasonable freight and insurance required for procurement will be reimbursed at cost.
- 3.4 The entitlement to reimbursement for travel costs is as follows:
- (a) **Airfares:** reimbursed at economy class for flight legs under four hours and business class for flight legs over four hours. Any travel undertaken at cheaper rates (e.g. discount fares) does not entitle the Contractor to reimbursement of the cost of any higher class of travel. Travel must be via the most direct and cost effective route;
 - (b) **Accommodation and Travel Allowances:** will be reimbursed as negotiated with AusAID; and
 - (c) **Compulsory Arrival and Departure Taxes, and Travel to and from Airport:** reimbursed at cost.
- 3.5 Any other procurement costs will be covered by the Fixed Contractor Management Fees and Costs.

4. FIXED CONTRACTOR MANAGEMENT FEES AND COSTS

- 4.1 The amount payable to the Contractor for Fixed Contractor Management Fees and Costs shall not exceed the sum of \$XXX plus GST. This is comprised of:
- (a) Nominated personnel and related costs;
 - (b) Contractor corporate support and administration costs, inclusive of:
 - (i) Financing costs;
 - (ii) Administration;
 - (iii) Travel for head office, managerial, technical and administration staff;
 - (iv) Communications and utilities costs; and
 - (v) All other corporate costs related to fulfilling responsibilities of this Contract including UFU costs.
 - (c) All management fees and additional costs and charges, inclusive of all margins and profits.
- 4.2 Payment for Fixed Contractor Management Fees and Costs shall be made in two parts:
- (a) Regular quarterly payments of \$XXX, comprising 80% of the total quarterly Fixed Contractor Management Fees and Costs.
 - (b) Six Monthly Milestone Payments of \$XXX, comprising 20% of the total six monthly Fixed Contractor Management Fees and Costs. The assessment criteria for the Contractor Performance Assessment which will determine the amount payable for the Six Monthly Milestones are included in Annex 2 to this Schedule 2 Basis of Payments.

5. FEES AND COSTS FOR ADDITIONAL GRANTS

- 5.1 In the event that AusAID requests the Contractor to incorporate any additional grants schemes, as detailed in Clause 6.11 of Schedule 1 Scope of Services, the Contractor will be entitled to additional management fees covering the additional costs associated with the administration of the additional grants.
- 5.2 The Fixed Contractor Management Fees and Costs for Additional Grants Schemes will be calculated as follows:
- $X/Y * Z = \text{Fixed Contractor Management Fees and Costs for Additional Grants Schemes}$
where:
 $X = \text{additional funds to be allocated as grants through additional component}$
 $Y = \$63,390,000 \text{ (total grants)}$
 $Z = \text{Fixed Contractor Management Fees and Costs as nominated for Components 1-5.}$
- 5.3 Payments for the Fixed Contractor Management Fees and Costs for Additional Grants Schemes will be made in accordance with Clause 4.2 (above).

- 5.4 Additional grants schemes incorporated into SPSN will have a separate budget for Implementation Costs and Reimbursable Operational Costs.
- 5.5 The Contractor will be required to segregate and separately manage funds associated with additional grants from the funds for Components 1-5 of SPSN.

6. CLAIMS FOR PAYMENT

- 6.1 The Contractor's tax invoice must be submitted when due pursuant to this Schedule in a form identifiable with the Services.
- 6.2 All tax invoices must include a certification by a Company Director of the Contractor, or their delegate:
- (a) that the invoice has been correctly calculated; and
 - (b) that the Services included in it have been performed in accordance with the Contract.
- 6.3 The Contractor shall provide tax invoices in accordance with AusAID's requirements.
- 6.4 All claims for payment must be made out to:

Chief Finance Officer
Australian Agency for International Development
GPO Box 887
CANBERRA ACT 2601

- 6.5 Tax invoices should be sent to the above address. Alternatively, AusAID will accept electronic tax invoices. These can be sent to accountsprocessing@ausaid.gov.au
- 6.6 Invalid tax invoices will be returned to Managing Contractors. Information on what constitutes a valid tax invoice can be found at:
<http://www.ato.gov.au/businesses/content.asp?doc=/content/50913.htm>

Annex 1 to Schedule 2 Basis of Payment

Strongim Pipol Strongim Nesen Indicative Budget in AUD	Unit	Unit Cost	# per year	Annual expenditure	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 years
					2009-10	2010-11	2011-12	2012-13	2013-14	
A. GRANT FUNDS AND IMPLEMENTATION COSTS										
Component 1: Strengthened practice and promotion of Democratic Governance by Key Partners										
Partner 1	Avg grant/yr	\$1,000,000	1	1,000,000		1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
Partner 2	Avg grant/yr	\$1,000,000	1	1,000,000		1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
Partner 3	Avg grant/yr	\$1,000,000	1	1,000,000		1,000,000	1,000,000	1,000,000	1,000,000	4,000,000
Partner 4	Avg grant/yr	\$1,000,000	1	1,000,000	750,000	1,000,000	1,000,000	1,000,000	1,000,000	4,750,000
Sub-total existing partners				4,000,000	750,000	4,000,000	4,000,000	4,000,000	4,000,000	16,750,000
Five new Key Partners (up to \$500,000 per year each)	Avg grant/yr	\$500,000	5	2,500,000	1,000,000	2,500,000	2,500,000	2,500,000	2,500,000	11,000,000
Sub-total new Key Partners				2,500,000	1,000,000	2,500,000	2,500,000	2,500,000	2,500,000	11,000,000
Sub-total Component 1				6,500,000	1,750,000	6,500,000	6,500,000	6,500,000	6,500,000	\$27,750,000
Component 2: Communities working together to address identified priorities										
Total of 1,000 Small Grants (200/year)	Av grant/yr	\$12,500	240	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	3,000,000	15,000,000
Total of 80 Medium grants (up to 10 / year)	Av grant/yr	\$50,000	21	1,050,000	1,050,000	1,050,000	1,050,000	1,050,000	1,050,000	5,250,000
Total of 30 Large Grants (6 per year)	Av grant/yr	\$200,000	2	400,000	1,400,000	1,800,000	1,800,000	1,800,000	1,800,000	6,800,000
sub-total Component 2				\$226,667	4,450,000	5,450,000	5,850,000	5,850,000	4,050,000	\$27,050,000
Component 3: Improving local governance practices in selected areas										
Activity design costs for 16 projects	Avg initiative/yr	\$15,000	4	60,000	60,000	60,000	60,000	60,000		240,000
Implementation costs for 16 projects	Avg initiative/yr	\$175,000	4	700,000	700,000	700,000	700,000	700,000		2,800,000
sub-total Component 3				760,000	760,000	760,000	760,000	760,000	-	\$3,040,000
Component 4: Strengthened stakeholder collaboration for the promotion of democratic governance										
Total of 10 Thematic activity costs	Avg initiative/yr	\$100,000	2	200,000	200,000	200,000	200,000	200,000	200,000	1,000,000
Research, analysis and impact assessment	Avg/year	\$30,000	2	60,000	30,000	60,000	60,000	60,000	60,000	270,000
sub-total Component 4				260,000	230,000	260,000	260,000	260,000	260,000	\$1,270,000
Component 5: Strengthened human capital for the practice of democratic governance										
Training and PD per individual for total of 2,200 people	Av/individual	\$800	500	400,000	240,000	320,000	400,000	400,000	400,000	1,760,000
Fund 72 local Training Institutions (16 / year)	Av/year	\$35,000	16	560,000	280,000	560,000	560,000	560,000	560,000	2,520,000
sub-total Component 5				960,000	520,000	880,000	960,000	960,000	960,000	\$4,280,000
A. SUB-TOTAL: COMPONENTS 1-5				12,930,000	8,710,000	14,250,000	14,330,000	14,330,000	11,770,000	\$63,390,000

Annex 1 to Schedule 2 Basis of Payment

B. REIMBURSABLE IMPLEMENTATION COSTS										
	Unit	Unit Cost	# per year	Annual expenditure	Year 1	Year 2	Year 3	Year 4	Year 5	Total 5 years
Local Grants Committee costs										
Stipend	per person/day	\$50	384	19,200	19,200	19,200	19,200	19,200	19,200	96,000
Travel to meetings - assume 3 external travel to meeting	per person/meeting	\$35	384	13,440	13,440	13,440	13,440	13,440	13,440	67,200
Allow \$900 for transport costs for 3 external members	LGC Transport costs	\$900	48	43,200	43,200	43,200	43,200	43,200	43,200	216,000
Venue hire & catering	per meeting	\$350	32	11,200	11,200	11,200	11,200	11,200	11,200	56,000
sub-total				87,040	87,040	87,040	87,040	87,040	87,040	435,200
National Grants Committee										
Stipend	per person/day	\$50	48	2,400	2,400	2,400	2,400	2,400	2,400	12,000
Travel to meetings	per person/meeting	\$50	40	2,000	2,000	2,000	2,000	2,000	2,000	10,000
Allow \$1300 for transport costs for 3 external members	NGC Transport costs	\$1,300	6	7,800	7,800	7,800	7,800	7,800	7,800	39,000
Venue hire & catering	per meeting	\$500	5	2,500	2,500	2,500	2,500	2,500	2,500	12,500
sub-total				14,700	14,700	14,700	14,700	14,700	14,700	73,500
Joint Governing Council costs										
Annual Review Workshops	Per meeting	\$12,000	1	12,000	12,000	12,000	12,000	12,000	12,000	60,000
JGC member sitting fee	per day per person	\$200	32	6,400	3,840	6,400	6,400	6,400	6,400	29,440
JGC member travel and accommodation	per person/meeting	\$800	32	25,600	25,600	25,600	25,600	25,600	25,600	128,000
JGC meeting venue hire & catering	per meeting	\$750	8	6,000	6,000	6,000	6,000	6,000	6,000	30,000
JGC member travel (field visits)	per trip	\$750	18	13,500	13,500	13,500	14,850	16,335	17,969	76,154
sub-total				63,500	60,940	63,500	64,850	66,335	67,969	323,594
Fieldworker and related costs										
Training and related development costs	Per Year	\$5,000	8	40,000	40,000	40,000	40,000	40,000	40,000	200,000
Fieldworker allowance: \$50 / day to cover local / adjacent transport + costs	daily allowance	\$50	6,600	330,000	330,000	330,000	330,000	330,000	330,000	1,650,000
sub total				370,000	370,000	370,000	370,000	370,000	370,000	1,850,000
TOTAL					532,680	535,240	536,590	538,075	539,709	2,682,294

Annex 2 To Schedule 2 Basis of Payment

Contractor Performance Assessment

AusAID will be directly responsible for carrying out the Contractor Performance Assessment which will be used as the basis for the Six Monthly Milestone Payment. In the last month of each six months, AusAID will undertake an assessment of contractor performance against the criteria shown below. AusAID should draw upon the reports of the Independent Review Mechanism as well as their own participation in the program, written reports and financial statement, and minutes of the JGC as well as feedback from participating stakeholders (for example Key Partners), in carrying out their assessments.

This Six Monthly Milestone Payment uses an “exception approach” as a means to highlight performance issues and give the Contractor an opportunity to respond and take action. It will be used in conjunction with ongoing communication and dialogue between AusAID and the Contractor on performance issues. The Six Monthly Milestone Payment will be payable upon a rating of ‘satisfactory’ or better for each and every criteria. For any criteria where an ‘unsatisfactory’ rating is made, AusAID will reduce the Six Monthly Milestone Payment in direct proportion to the total number of satisfactory ratings provided (e.g. if 1 out of 5 criteria are rating unsatisfactory, the payment will be reduced by 20% for that period).

For any criteria where a rating of ‘needs attention’ is given, the Six Monthly Milestone Payment will still be made and the Contractor will have the opportunity to rectify performance or provide a response to the rating.

Where the Contractor receives a ‘needs attention’ rating for the same criteria for three consecutive assessments, this will be regarded as unsatisfactory and AusAID will reduce the Six Monthly Milestone Payment on the third assessment in direct proportion to the total number of satisfactory ratings provided.

<i>Criteria</i>	<i>Rating</i>	<i>Comment</i>
<i>Relationship Management</i> <ul style="list-style-type: none"> • Effective relationships supported between key stakeholders and partners; • Maintenance of functional networks and linkages with men's and women's networks; • Regular, clear and meaningful communication through materials and in person conducted; • Business processes are consistent with partnership principles and AusAID's approach to democratic governance. 	Outstanding Satisfactory Needs Attention Unsatisfactory	<i>Substantive comments and examples should be provided</i>
<i>Personnel management</i> <ul style="list-style-type: none"> • Systems for the recruitment, mobilisation, performance management of men and women operating effectively; • Staff appropriately qualified, experienced for the positions and supported in their work; • Appropriate balance of local and international staff; • Appropriate balance of male and female personnel; • Staff work effectively as a team. 	Outstanding Satisfactory Needs Attention Unsatisfactory	
<i>Capacity Building</i> <ul style="list-style-type: none"> • Capacity building for partners and stakeholders is operates at a pace and approach that is appropriate and consistent with their priorities, responsibilities and absorptive ability; • High quality, timely and appropriate technical assistance is provided in an equitable manner, in accordance with partner's priorities; • Capacity building takes account of gender equity and disability inclusiveness. 	Outstanding Satisfactory Needs Attention Unsatisfactory	
<i>Monitoring and evaluation</i> <ul style="list-style-type: none"> • Data collection and reporting systems operating effectively to meet analytical needs; • High level analytical support provided to the JGC and AusAID; • Analysis demonstrates sophisticated understanding of gender equity, violence against women, and disability inclusiveness; • Analysis is used to improve program effectiveness; • Continuous improvement and learning across stakeholders is supported. 	Outstanding Satisfactory Needs Attention Unsatisfactory	

<p><i>Financial Management</i></p> <ul style="list-style-type: none"> • Grants distributed in a timely manner and balanced in proportion to the Annual Plan; • Financial administration conducted in accordance with the approved Finance/Operations manual; • Provision timely and accurate financial information to AusAID as required; • Audit system operating effectively. 	<p>Outstanding</p> <p>Satisfactory</p> <p>Needs Attention</p> <p>Unsatisfactory</p>	
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SECTION 2 – STANDARD TENDER AND CONTRACT CONDITIONS

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PART 5 – STANDARD TENDER CONDITIONS

Bolded words are defined in the Tender Particulars in **Part 1** of this RFT.

1. DOCUMENTS THAT MUST BE LODGED

1.1 Tenders must be lodged either:

- (a) Electronically, via AusTender at <https://tenders.gov.au> before the **Closing Time** and in accordance with the tender lodgement procedures set out in **Annex D to this Part** and on AusTender; or
- (b) Physically, by depositing by hand in the Canberra Tender Box before the **Closing Time**.

1.2 AusAID's preference is for electronic lodgement of Tenders. However, if electronic lodgement is not possible, you may lodge a hard copy of your Tender instead.

1.3 For both electronic and hard copy Tender lodgement, you must submit the following documents as part of your Tender:

- (a) the technical proposal which includes:
 - (i) **Tender Schedule A** addressing the selection criteria and including the required annexes in the form specified in **Part 1**; and
 - (ii) **Tender Schedule B** providing details of Specified Personnel in the form specified in **Part 1**;
- (b) The financial proposal in the form specified in **Part 1 Tender Schedule C**. For electronic submissions, **Tender Schedule C** must be submitted as a separate file, and for hard copy submissions, **Tender Schedule C** must be submitted in a separate sealed envelope;
- (c) The financial assessment material in the form specified in **Part 1 Tender Schedule D**. For electronic submissions, **Tender Schedule D** must be submitted as a separate file, and for hard copy submissions, **Tender Schedule D** must be submitted in a separate sealed envelope; and
- (d) The completed and signed Tenderer Declaration in the form specified in **Annex B of this Part**.
- (e) The completed and signed Tenderer's Submission Checklist in the form specified in **Annex C of this Part**.

1.4 All documentation submitted as part of the Tender must be in English.

1.5 Tenderers must include all information specified in this RFT in their Tender. Tenderers accept that their failure to provide all information required, in the format specified will result in their Tender being considered as a non-conforming Tender and liable to rejection.

- 1.6 The Tenderer must submit the number of copies specified in the Tender Particulars (**Part 1 Clause 1** of this RFT). Different numbers of copies may be required for hard copy lodgement and for electronic lodgement.
- 1.7 Tenders submitted by facsimile or email will not be considered.
- 1.8 It is a condition of this RFT that each Tender must remain valid and available for acceptance by AusAID for the **Tender Validity Period** specified in the Tender Particulars (**Part 1 Clause 1** of this RFT).
- 1.9 A person or persons having authority to lodge the Tender and enter into a contract on behalf of the Tenderer must sign the Tenderer Declaration (**Annex B of this Part**).
- 1.10 AusAID may extend the **Closing Time** at its sole and absolute discretion, and will issue an Addendum notifying any decision to extend.

Conditions Applying to Electronic Tender Lodgement

- 1.11 Electronic tenders must be lodged electronically via the Australian Government Tender System, AusTender, at <https://www.tenders.gov.au> before the **Closing Time** and in accordance with the tender lodgement procedures set out in **Annex D of this Part** and on AusTender.
- 1.12 Where there is any inconsistency between the tender lodgement procedures set out on AusTender and those set out in this RFT, this RFT will prevail.
- 1.13 Tenders not submitted in accordance with **Clause 1.11** will be excluded from evaluation.
- 1.14 It is the responsibility of tenderers to ensure that their infrastructure including operating system and browser revision levels meet the minimum standards as defined on AusTender. Neither AusAID nor the Commonwealth takes any responsibility for any problems arising from tenderers' infrastructure and/or Internet connectivity.

Conditions Applying to Hard Copy Tender Lodgement

- 1.15 For hard copy lodgement, the Tenderer is responsible for the delivery of their Tender. The Tender must be placed in AusAID's **Canberra Tender Box**. The Tender must be delivered during **Business Hours** by the **Closing Time**. Failure to submit a Tender in accordance with this clause may render the Tender liable to rejection.
- 1.16 The Original Tender document and any copies requested should be bound using a plastic comb binding, and should contain no plastic page separators.
- 1.17 The Tender should be endorsed with the name of the Project and marked: "Tender Box: Attention **Contact Person**." The Tenderer's postal address and fax number should be provided on the outside of the Tender.

2. TENDERER ENQUIRIES

- 2.1 Any enquiries that Tenderers may have must only be directed to the **Contact Person** specified in the Tender Particulars.
- 2.2 If a Tenderer:

- (a) finds any discrepancy, error or omission in the terms and conditions of the RFT, including of the Contract Conditions; or
- (b) wishes to make any enquiry, including seeking clarification, of the RFT, including of the Contract Conditions,

the Tenderer must notify the **Contact Person** in writing, which notice may be sent by means of facsimile transmission or email, as soon as possible and not later than 14 days prior to the **Closing Time**.

- 2.3 AusAID will respond to any Tenderer enquiries no later than 7 days prior to the **Closing Time**.
- 2.4 AusAID reserves the right to issue or publish answers to any Tenderer enquiries to all Tenderers.

3. **LATE TENDERS**

Conditions Applying to Tenders Lodged Electronically

- 3.1 A Tender lodged electronically is a **Late Tender** in accordance with the conditions specified in **Clause 6, Annex D of this Part** and will be excluded from evaluation.
- 3.2 For tenders submitted electronically, the time displayed on AusTender is deemed to be the correct time and will be the means by which AusAID will determine whether Tenders lodged electronically have been lodged by the **Closing Time**.
- 3.3 The judgement of AusAID as to the time a Tender has been lodged electronically will be final.

Conditions Applying to Tenders Lodged in Hard Copy

- 3.4 A hard copy Tender lodged after the **Closing Time** is a late Tender.
- 3.5 AusAID will admit to evaluation a Tender that was received late solely due to AusAID mishandling. AusAID mishandling does not include mishandling by a courier or mail service provider engaged by a Tenderer to deliver their Tender. It is the responsibility of tenderers to ensure that their Tender is dispatched in sufficient time for it to be received by AusAID by the **Closing Time**.
- 3.6 Late Tenders that are rejected by AusAID will be returned to tenderers unopened, except in cases where a Tender must be opened to identify the return address of the Tenderer or to establish which tender process the Tender was for.
- 3.7 If a Tender is taken to be late, the Tenderer may be asked to provide explanatory evidence in an appropriate form to the **Contact Person** specified in the Tender Particulars.

4. **NON-CONFORMING TENDERS**

- 4.1 Subject to **Clause 3 (Late Tenders) of this Part**, Tenders will be regarded as non-conforming if they fail to conform with one or more of the requirements of the RFT.

- 4.2 AusAID reserves the right to seek clarification of non-conforming Tenders in accordance with **Clause 5 of this Part**.
- 4.3 Subject to **Clause 3 (Late Tenders) of this Part**, AusAID may, at its absolute discretion, assess or reject a non-conforming Tender.
- 4.4 AusAID will not enter into correspondence about a decision to assess or reject a non-conforming Tender.

5. **CLARIFICATION OF TENDERS**

- 5.1 AusAID reserves the right to seek clarification of any Tender. Tenderers must:
- (a) respond to any request for clarification within the time period specified by AusAID;
 - (b) ensure that additional information provided answers AusAID's enquiry and is fully consistent with the Tender submitted by the Tenderer; and
 - (c) not seek to change any aspect of their Tender by providing additional information to AusAID.
- 5.2 Clarifications are provided on the terms of the RFT.
- 5.3 Failure to supply clarification to the satisfaction of AusAID may render the Tender liable to rejection.

6. **AMENDMENT OF THE RFT**

- 6.1 AusAID may amend the RFT at any time by issuing an Addendum. All conditions of this RFT will apply to Addenda.

7. **ASSESSMENT OF TENDERS**

- 7.1 Tenders will be assessed on the following basis:
- (a) technical, which includes the other factors described in **Clause 7.8 of this Part** which in AusAID's opinion may impact upon the suitability of any Tenderer including the financial viability of any Tenderer; and
 - (b) financial
- to achieve the best value for money outcome.
- 7.2 Tenderers should note that value for money determinations are made on a whole-of-life basis and that AusAID is not bound or required to accept the lowest priced Tender or any Tender.

Technical Assessment

- 7.3 The technical assessment will be undertaken by the Technical Assessment Panel (the “**TAP**”) comprising AusAID representative(s) and independent specialists appointed at AusAID’s sole discretion. Representatives of the Partner Government may also participate. The TAP will assess Tenders based on the technical selection criteria specified in **Part 1**.

- 7.4 AusAID may invite a Tenderer (shortlisted or otherwise) to give AusAID a short presentation and be interviewed by the TAP. Specified Personnel, such as the proposed in-country team leader and the project director, will be required to attend at the presentation. If Specified Personnel are unable to attend, a teleconference presentation may be arranged. Specified Personnel will be required to answer any questions asked by the TAP. The TAP will be convened in Canberra and the costs of the Tenderer's (and its personnel's) attendance must be borne by the Tenderer.
- 7.5 Tenderers should note that failure by a Tenderer or proposed Specified Personnel to attend the presentation (either in person or via teleconference) may disadvantage the Tender.
- 7.6 TAP members are required to maintain the “commercial-in-confidence” nature of the proceedings of the TAP meeting. TAP members must not discuss matters relating to the technical assessment of any tender with any party. Tenderers must not make contact with any members of the TAP, outside any TAP meeting, and any such contact will be considered a breach of confidentiality and may result in AusAID rejecting the tender of the Tenderer concerned.
- 7.7 AusAID reserves the right to take into account in the assessment of this Tender the past performance of the Tenderer or any proposed personnel contained in the Tender in accordance with **Annex A of this Part**.
- 7.8 In making its assessment the TAP or AusAID may have regard to other factors relevant to the suitability, capacity and qualifications of a Tenderer including but not limited to:
- (a) the Tenderer's ability to comply with AusAID policies referred to in this RFT and the Tenderer's ability to comply with the **Contract Conditions**;
 - (b) the resourcing of Tenders;
 - (c) information obtained from any source which is relevant to the capacity of the Tenderer or any proposed personnel to perform the Services and achieve the Project goals and objectives. Such information may be the result of inquiries made by AusAID; and
 - (d) the Tenderer's demonstrated understanding of the cultural environment of the Project.

These other factors have not been allocated any specific weightings.

- 7.9 TAP members may adjust technical scores as a consequence of the presentation, interview and consideration of past performance.

Goods and Services Tax

- 7.10 All Tenderers should be aware that under *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)*, AusAID is treated as a taxable enterprise. To allow a like-for-like price assessment, the financial proposal must state the value of the supplies exclusive of the GST.

Insurances

- 7.11 The financial proposal must be inclusive of all necessary insurances required by the Contract Conditions and for the performance of the Services. Notwithstanding the requirements of the Contract AusAID strongly recommends that all Tenderers seek advice on and consider arranging professional indemnity insurance as a matter of prudent commercial practice. Where such insurance is arranged, AusAID recommends that it be maintained for the duration, plus a further 3 years, of the full Term of the Contract or earlier termination.

Project Vehicles

- 7.12 For the purposes of this clause, “Project Vehicles” are defined as vehicles paid for by AusAID, remain the responsibility of the Contractor for the term of the Project and that are provided primarily for Contractor Personnel use for Project activities. Vehicles purchased by the Project, but handed over to the Partner Country immediately (where maintenance and insurance are Partner Country responsibilities and Contractor Personnel do not use the vehicles or only use them on an exceptional basis) are not considered Project Vehicles for the purposes of requiring a financial contribution by the Contractor.
- 7.13 In consideration of the Contractor being entitled to use Project Vehicles for non-project use the Contractor must contribute \$250.00 for each Project Vehicle for each month of the Project. The contribution will be deducted by the Contractor and must be clearly identified on the Contractor’s invoices.
- 7.14 The Contractor must abide by the following requirements with regards to Project Vehicles:
- (a) Project demands must always take precedence over private use;
 - (b) the Contractor must ensure that any persons driving the Project Vehicle must have a current valid international or Partner Country drivers license for the class of Project Vehicle;
 - (c) the Contractor is responsible for ensuring Project Vehicles are appropriately insured;
 - (d) the Contractor is responsible for ensuring that seat belts are fitted and must make every effort to ensure that they are worn at all times by drivers and all passengers;
 - (e) the Contractor is responsible for any costs incurred in the event of an accident while the Project Vehicle is being privately used; and
 - (f) the Contractor must ensure that Project Vehicles are serviced in accordance with manufacturer’s requirements.

Tenderers Note: compliance with the requirements detailed in **Clause 7.13 above** may be subject to a review undertaken by or on behalf of AusAID under the **Standard Conditions** clause of the Contract titled **Reviews**.

Technical proposal format

7.15 The technical proposal must:

- (a) indicate the Tenderer's nominated contact person and contact details on the cover page;
- (b) be in a type font of no less than 12 point on A4 paper;
- (c) have left and right page margins of no less than 2.5 cm, and top and bottom page margins of no less than 3 cm, excluding headers, footers and page numbers;
- (d) not have the AusAID logo or any other representation or mark which may indicate that the Tenderer is in any way related to or connected with AusAID; and
- (e) be no longer than the page limit detailed in the Tender Particulars (inclusive of tables, diagrams or graphs), but exclusive of required annexes.

Curricula vitae

7.16 The curriculum vitae for team member must include the following information:

- (a) name and personal contact details (this can be an email address or phone number);
- (b) nationality and if relevant permanent resident status;
- (c) professional qualifications, including institution and date of award; and
- (d) details of recent relevant professional and development work experience, including the duration and extent of inputs.

7.17 CVs must be no longer than the page limit detailed in the Tender Particulars, must be signed and dated by the proposed team member, and must include the following certification:

"I, *[insert name]*, declare that:

- (a) the information provided in this CV is accurate and hereby authorise the Commonwealth to make whatsoever inquiries it may consider reasonable and necessary to undertake in the course of the Tender assessment in relation to the information I have provided in this CV or any other matter which may relate to my suitability for the position for which I have been nominated; and
- (b) I am available to participate in the Project in the role in which I have been nominated in the Tender for the period or periods indicated in the Tender";
- (c) I have not been convicted of an offence of, or relating to, bribery of a public official, nor am I subject to any proceedings which could lead to such a conviction.

While an original signature on CVs is preferred, copies are allowed. However, Tenderers are reminded of their warranties (**paragraphs 3.3 and 3.4**) and the potential consequences to their Tender (**paragraph 3.5**), as detailed in the Tenderer Declaration (**Annex B of this Part**).

Referees

- 7.18 Tenderers must nominate at least two (2) referees who can provide an objective assessment of the quality of relevant and recent work performed by the organisation (if the Annex titled Past Experience Forms is used) or the proposed team member (regarding Tender Schedule B). Referees who can supply character references only are not sufficient.
- 7.19 Tenderers must ensure that nominated referees do not have an actual or potential conflict of interest when acting as a referee. In particular, Tenderers must ensure that referees:
- (a) are not an employee of, or the holder of a current executive office (or similar position) within the organisation of, or do not have a business in association with, the Tenderer or a subsidiary organisation of the Tenderer;
 - (b) are not included in the Tender as proposed team members; and
 - (c) are not AusAID employees.
- 7.20 Tenderers must further ensure that nominated referees:
- (a) are available to be contacted in the 3 week period after the **Closing Time**; and
 - (b) are able to provide comments in English.
- 7.21 AusAID reserves the right to check with nominated referees and with other persons as AusAID chooses, the accuracy of the information and quality of work performed.

8. **JOINT VENTURES AND CONSORTIUMS**

- 8.1 AusAID intends to contract with a single legal entity.
- 8.2 In the case of a joint venture or consortium that does not constitute a single legal entity, AusAID will contract with the lead joint venture or consortium member that is required to be nominated by the tenderer.
- 8.3 Tenders by a joint venture or consortium must be submitted on the basis that details on the activities to be performed and responsibility assumed by each party of the joint venture or consortium must be clearly specified in the body of the text in **Tender Schedule A**.
- 8.4 AusAID may require parent company guarantees from the parent companies of parties to a joint venture or consortium.

9. **ASSOCIATES AND OTHER SUB-CONTRACTORS**

- 9.1 Tenders involving two or more parties who have not formed a single legal entity will only be accepted if the Tender is submitted on the basis that one party, the Tenderer, is intended to act as the prime contractor and any other party becomes a sub-contractor known as an “Associate”.
- 9.2 Tenders involving Associates will be assessed on the basis of that arrangement. Tenders must include:

- (a) details on the activities to be performed and responsibilities assumed by each party where Associates are involved must be described in the body of the text of **Tender Schedule A**; and
- (b) assurance to AusAID from an authorised representative of the Associate of their corporate commitment to and involvement in the Project in the form of a single page Letter of Association in a separate annex to **Tender Schedule A**.

Details of Associate responsibilities, if any, will be included in the Contract.

- 9.3 In addition to Associates, Tenderers are required to include detailed information on other work to be sub-contracted (excluding Specified Personnel) and proposed sub-contractors, where these are reasonably known at the time of the Tender and have expressed their willingness to be involved in the Project. These details must also be included in a separate annex to **Tender Schedule A** in the form described in **Clause 9.4 below**.
- 9.4 Letters in which organisation's express their willingness to be involved with the Tenderer in the Project as a sub-contractor must be limited to a single page per organisation and include details on the broad skills or areas in which the organisation may add value.
- 9.5 Tenderers note: AusAID contracts assign full responsibility for all sub-contracted Services to the contractor.

10. **OWNERSHIP OF TENDERS AND RFT**

- 10.1 All Tenders become the property of AusAID on lodgement.
- 10.2 Such intellectual property rights as may exist in the information contained in each Tender will remain the property of the Tenderer.
- 10.3 The Tenderer authorises AusAID to copy, adapt, amend, disclose, including to AusAID contractors and advisers, or do anything else necessary, in AusAID's sole discretion, to all materials including that which contains intellectual property rights of the Tenderer or other parties contained in the Tender.
- 10.4 Copyright in the RFT is reserved to AusAID.

11. **CONFLICT OF INTEREST**

11.1 Tenderers must:

- (a) identify any actual or potential conflict of interest; and
- (b) the procedures they intend to implement for dealing with, any actual or potential conflicts of interest,

which may arise in connection with the submission of their Tender or the conduct of the Services described in this RFT. Tenders should include details of any known circumstances that may give rise to either an actual conflict or potential of conflict of interest in relation to the Project.

- 11.2 If any actual or potential conflicts of interest arise for a Tenderer before entering into a Contract for the Services, AusAID may:
- (a) enter into discussions to seek to resolve such conflict of interest; or
 - (b) disregard the Tender submitted by such a Tenderer; or
 - (c) take any other action that AusAID considers appropriate.

12. TENDERING CONDUCT

- 12.1 Each Tenderer warrants that it has not engaged in collusive or anti-competitive practices with any other Tenderer in the preparation of its Tender.
- 12.2 If a Tenderer is found to have made false or misleading claims or statements, or receives improper assistance or improperly obtains confidential information, AusAID reserves the right to reject at any time, any Tender lodged by or on behalf of that Tenderer.

13. INELIGIBILITY TO TENDER

- 13.1 A Tenderer is ineligible to tender where the Tenderer or any subcontractor of the Tenderer is listed by the World Bank in its “Listing of Ineligible Firms” or “Listings of Firms, Letters of Reprimand” posted at www.worldbank.org (the “**World Bank List**”).
- 13.2 Tenderers warrant by submitting a tender that the Tenderer, and any subcontractor of the Tenderer, are not listed on a World Bank List. Tenderers must also state in their tender whether the Tenderer or any subcontractor of the Tenderer is listed on any similar list maintained by any other donor of development funding (“**Relevant List**”) or are subject to any proceedings which could lead to listing on a World Bank List or listing on any Relevant List. Tenderers must also immediately notify AusAID where the Tenderer or any of their subcontractors becomes listed on a World Bank List or Relevant List, or subject to proceedings which may lead to such a listing, after the tender is submitted to AusAID.
- 13.3 AusAID will exclude any tender where the Tenderer is in breach of the warranty, or does not disclose any circumstance required under **Clause 13.2**. AusAID also reserves the right to exclude any tender, where the Tenderer or a subcontractor of the Tenderer becomes listed on a World Bank List or Relevant List, or is subject to proceedings which could lead to such a listing.
- 13.4 Tenderers should note that if they tender in breach of this **Clause 13**, or are subsequently listed on a World Bank List or Relevant List, AusAID may terminate any contract subsequently entered into with that Tenderer.
- 13.5 For the purpose of this **Clause 13**, a reference to a Tenderer or a subcontractor of a Tenderer, includes any company in the same group as the Tenderer or the subcontractor (including but not limited to, related bodies corporate of the Tenderer or subcontractor within the meaning of the *Corporations Act 2001*) and parties with whom the Tenderer or subcontractor is associated in respect of this Tender.

14. AusAID's RIGHTS

14.1 As a Commonwealth Government agency, all AusAID procurement is subject to the Commonwealth Procurement Guidelines. The core principle of Commonwealth procurement is to achieve value for money. AusAID is also bound to conduct its procurement in an ethical, accountable, transparent, efficient and effective manner.

14.2 AusAID reserves the right to:

- (a) seek Tenders from any organisation;
- (b) accept or reject any Tender;
- (c) terminate, extend or vary its procurement process for the Services;
- (d) request clarification in relation to a Tender;
- (e) seek information or negotiate with any organisation that has not been invited to submit a Tender;
- (f) terminate negotiations with the preferred Tenderer and commence negotiations with any other Tenderer;
- (g) evaluate Tenders as AusAID sees appropriate; and
- (h) negotiate with any one or more Tenderers.

15. TENDERER'S ACKNOWLEDGEMENT

15.1 A Tender is submitted on the following basis:

- (a) no legal obligation or agreement whatsoever is intended to be or is created between AusAID and any Tenderer by virtue of the tender process (including but not limited to statements contained in this RFT) unless and until contract negotiations are completed and a formal written agreement acceptable to AusAID is entered into and executed by an authorised officer of AusAID and by the successful Tenderer, if any;
- (b) the Tenderer acknowledges and agrees that AusAID, its employees, agents and advisers are not, and will not be responsible, or liable for the accuracy or completeness of any information contained in this RFT; and
- (c) the Tenderer is responsible for all costs of and incidental to the preparation and delivery of the Tender, including obtaining this RFT, or any subsequent stage of the procurement process, including answering any queries and providing any further information sought by AusAID.

16. DEBRIEFING OF TENDERERS

16.1 If requested, AusAID will provide Tenderers with a written debriefing on the results of the assessment of their Tender, including reasons why the tender was not successful.

16.2 AusAID will not enter into discussion or communications on the content of the tender debrief once it has been completed.

17. COMPLIANCE WITH LAWS, GUIDELINES AND POLICIES

17.1 Freedom of Information

- (a) The *Freedom of Information Act 1982* gives members of the public rights of access to official documents of the Australian Government and its agencies. The *Freedom of Information Act 1982* extends, as far as possible, the right of the Australian community to access information (generally documents) in the possession of the Australian Government, limited only by considerations of the protection of essential public interest and of the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities.
- (b) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Freedom of Information Act 1982* on their participation in this RFT process and any subsequent contract.

17.2 Privacy

- (a) The *Privacy Act 1988* establishes a national scheme providing, through codes of practice adopted by private sector organisations and the National Privacy Principles, for the appropriate collection, holding, use, correction, disclosure and transfer of personal information by private sector organisations.
- (b) The Draft Contract provides that the Contractor will comply with the *Privacy Act 1988*, including the Information Privacy Principles and the National Privacy Principles whether or not the Contractor is an organisation subject to the *Privacy Act 1988*.
- (c) The Tenderers acknowledge that the *Privacy Act 1988* reflects the principles of the International Covenant on Civil and Political Rights and OECD Guidelines, in particular, the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data.
- (d) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Privacy Act 1988* on their participation in this RFT process and any subsequent contract.

17.3 Access by Australian National Audit Office

- (a) Attention of Tenderers is drawn to the *Auditor-General Act 1997* which provides the Auditor-General, or an authorised person, with a right to have, at all reasonable times, access to information, documents and records.
- (b) In addition to the Auditor-General's powers under the *Auditor-General Act 1997*, the Draft Contract provides that the Contractor will provide the Auditor-General, or an authorised person, access to information, documents, records and agency assets, including those on the Contractor's premises. Such access will apply for the term of the contract and for a period of seven years from the date of expiration or termination.
- (c) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Auditor-General Act 1997* on their participation in the RFT process and any subsequent contract.

17.4 Access by Ombudsman

- (a) Attention of Tenderers is drawn to the *Ombudsman Act 1976* which gives Australians access to a government officer, known as an ombudsman, who investigates complaints from the public about government agencies and their operations and decisions, and reports on ways in which they may be resolved.
- (b) In addition to the ombudsman's powers under the *Ombudsman Act 1976*, the Draft Contract provides that the Contractor will provide the ombudsman, access to information, documents, records and agency assets, including those on the Contractor's premises. Such access will apply for the term of the contract and for a period of seven years from the date of expiration or termination.
- (c) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Ombudsman Act 1976* on their participation in the RFT process and any subsequent contract.

17.5 Equal Employment Opportunity for Women in the Workplace Act 1999.

- (a) Australian Government policy prevents AusAID from entering into contracts with suppliers who are currently named as non compliant under the *Equal Employment Opportunity for Women in the Workplace Act 1999* (EEO Act).
- (b) AusAID will exclude from consideration any Tender from a Tenderer who is named or whose subcontractor is named as not complying with the EEO Act.

17.6 United Nations Act, Criminal Code Act 1995 and World Bank List

- (a) AusAID will exclude from consideration any Tender from a Tenderer who is listed:
- (b) by the Minister for Foreign Affairs under the *Charter of the United Nations Act 1945* and/or listed in regulations made under Division 102 of the *Criminal Code Act 1995* (Cth). Further information about listed persons and entities is available from the Department of Foreign Affairs and Trade website at www.dfat.gov.au/icat/UNSC_financial_sanctions.html and from <http://www.nationalsecurity.gov.au/>
- (c) by the World Bank on its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at www.worldbank.org (the "World Bank List") and/or any similar list maintained by any other donor of development funding.

17.7 Other Australian Government and AusAID Policies

- (a) Tenderers should familiarise themselves with AusAID policies including:
 - (i) the policy *Gender Equality in Australia's Aid Program – Why and How* (March 2007). This document is available on AusAID's website at <http://www.ausaid.gov.au/publications/default.cfm>;
 - (ii) The strategy 'Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014', and in particular the strategy's six guiding principles, located at

http://www.ausaid.gov.au/publications/pdf/FINAL%20AusAID_Disability%20for%20All.pdf;

- (iii) AusAID's policy on the environment as set out in the *Environmental Management Guide for Australia's Aid Program*. This document is available on AusAID's website at <http://www.ausaid.gov.au/keyaid/envt.cfm>.
- (iv) AusAID's *Child protection policy*, in particular the child protection compliance standards at Attachment 1 to the policy. This document is available on AusAID's website at <http://www.ausaid.gov.au/publications/default.cfm>.
- (v) any other policies published from time to time on <http://www.ausaid.gov.au> or as otherwise notified to Tenderers.

18. FURTHER REQUIREMENTS

- 18.1 Tenderers should be aware that current employees of AusAID cannot be included in Tenders for AusAID projects. Former AusAID employees may be included in Tenders if doing so does not represent a breach of conflict of interest.
- 18.2 Tenderers should note that the Commonwealth Procurement Guidelines require that Commonwealth agencies must not enter into agreements with suppliers who have had a judicial decision against them (not including decisions under appeal) relating to employee entitlements and who have not paid the claim. AusAID will reject submissions from tenderers in this position.
- 18.3 Tenderers must keep any discussions or contact with AusAID in connection with the Tender, the RFT and any contract negotiations confidential. Any unauthorised approach by a Tenderer to an AusAID officer or discussion of matters pertaining to the procurement process will be considered a breach of confidentiality.

19. CONTRACT NEGOTIATIONS

- 19.1 AusAID may select, as preferred Tenderer, the Tenderer(s) who best meet the requirements of the RFT on the basis of the tender assessment process.
- 19.2 The preferred Tenderer(s) must within 14 days of written notification from AusAID that it has been selected as preferred Tenderer, provide AusAID with originals of Police Clearance Certificates for all Personnel nominated in their Tender in positions specified in the Specified Personnel Table (**Clause 7, Part 1**) as working with children.
 - (a) Police Clearance Certificates must be provided for each country in which the individual has lived for 12 months or longer over the last five years, and for the individual's country of citizenship;
 - (b) Police Clearance Certificates must be dated no earlier than 12 months before the Tender Closing Time;
 - (c) If any required Police Clearance Certificates are not provided to AusAID in accordance with **Clause 19.2** above, AusAID may exercise its right, specified at **Clause 14.2** above, to terminate negotiations with the preferred Tenderer and commence negotiation with any other Tenderer. AusAID recognises that in limited

instances it may prove impossible to obtain a reliable Criminal Record Check, and will take non-provision of a Criminal Record Check into account upon request;

- (d) AusAID reserves the right to require the preferred Tenderer(s) to replace any Personnel whose Police Clearance Certificate shows conviction of criminal offences of, or relating to, child abuse where AusAID, in its absolute discretion, considers that the Personnel poses an unacceptable risk to children's safety or well-being. Nominated replacement Personnel must have qualifications and experience equal to or better than those of the personnel being replaced, and must be acceptable to AusAID.

19.3 It is AusAID's intention to contract on the basis of the Contract Conditions contained in this RFT. Following the selection of a preferred Tenderer AusAID may enter into negotiations with the preferred Tenderer in respect of the Scope of Services and the Basis of Payments of the contract. Such negotiations will be strictly limited to matters of detail rather than substance.

19.4 If the Scope of Services is reduced as a result of constraints imposed on AusAID before or after the **Closing Time**, AusAID and the preferred Tenderer must negotiate, in good faith, a proportionate reduction, if necessary, to the fixed price quote.

19.5 Enhancements to the Scope of Services included in the Tender in accordance with the selection criteria should be costed into the fixed price quote for the purposes of the like-for-like price assessment. Where AusAID has instructed that the like-for-like price assessment is to be based on indicative values, the Tenderer must clearly specify all cost implications of enhancements proposed in the Tenderer's technical proposal.

20. **CONTRACT PLANS**

20.1 The preferred Tenderer may be required to convert the Technical Proposal submitted in its Tender into appropriate schedules for the Contract based on the Contract Conditions. The Tenderer must take into account the outcome of any negotiations and give effect to amendments agreed with AusAID.

21. **APPLICABLE LAW**

21.1 The laws of the Australian Capital Territory apply to the RFT and the RFT process.

ANNEX A - AUSAID USE OF PERFORMANCE INFORMATION

1. AusAID reserves the right to take into account in the assessment of this Tender the past performance, in previous AusAID and non-AusAID activities, or activities of:
 - (a) any Tenderer; and
 - (b) any member of the proposed personnel,in its capacity as:
 - (c) contractor, consultant or sub-contractor;
 - (d) an associate or employee of a contractor, consultant or sub-contractor; or
 - (e) a joint venture partner.
2. AusAID may:
 - (a) include in the assessment any contractor performance information contained in any internal AusAID contractor performance reporting systems in relation to performance of the Tenderer or proposed management, administrative and Project personnel on previous AusAID activities, providing the contractor has seen the report and has had reasonable opportunity to comment; and
 - (b) take into account relevant performance information provided by external referees in relation to a Tenderer or proposed personnel member obtained by AusAID as a result of inquiries made within the previous 12 months.
3. AusAID reserves the right to use any relevant information obtained in relation to a Tenderer or proposed personnel member obtained either during the Tender period or within the previous 12 month period by providing it to the Technical Assessment Panel (TAP) or to any other relevant person for the purposes of Tender assessment, and such information may be taken into account in the course of assessment of the Tender by the TAP and AusAID. Where information has been received in accordance with paragraph 2 (a) above, this may also be introduced into the TAP process.
4. AusAID may, at any time, make independent inquiries of:
 - (a) any person or entity which it reasonably believes to have actual knowledge of the performance of the Tenderer or proposed personnel member/s on a previous project or activity, whether or not that person or entity is nominated in the Tender as a referee for the Tenderer or proposed personnel member; and
 - (b) any Commonwealth Government department, agency or other government entity in Australia whether Commonwealth or State, or any other country, including law enforcement agencies in relation to a person who is proposed for inclusion in a Tender or a Tenderer.

5. AusAID may request a Tenderer to provide additional or clarifying information in relation to information obtained during the assessment process following the **Closing Time** for the purpose of assessment of the Tender.
6. Information obtained as a result of inquiries made by AusAID in relation to performance on previous activities will be sought on a confidential basis and AusAID shall not be obliged to disclose the content or source of prior performance information about a Tenderer or individual to any person.
7. AusAID shall not be liable upon any claim, demand, proceeding suit or action by any Tenderer or any proposed personnel member in relation to any matter, thing or issue arising out of or in any way in relation to the collection of information from any source or the use of any information collected pursuant to this Annex in the Tender assessment process.

ANNEX B – TENDERER DECLARATION

I, *[name, address and corporation of person making the declaration]*, do solemnly and sincerely declare that:

1. DEFINITIONS

1.1 In this declaration:

“**AusAID**” means the means the Australian Agency for International Development and represents the Commonwealth of Australia;

“**Services**” means Services to be performed by the Contractor in the *[enter Project name]*;

“**Tenderer**” means *[list name, address and ABN and ACN if appropriate. Note, Tenderers must provide their ABN if they have one. Moreover, if you are a Company and your ACN is not included in your ABN, you must also provide your ACN)]*; and

“**Tender Price**” means the total amount excluding Reimbursable Expenses indicated by a Tenderer as being the lowest amount for which that Tenderer is prepared to undertake the Services.

2. BASIS OF DECLARATION

2.1 I hold the position of *[managing director or other title]* of the Tenderer and am duly authorised by the Tenderer to make this declaration.

2.2 I make this declaration on behalf of the Tenderer and on behalf of myself.

3. THE OFFER

3.1 The Tenderer tenders to perform the Services for the Tender Price set out in the Tender, which is submitted as a separate file (for electronic submissions), or in a separate sealed envelope (for hard copy submissions).

3.2 The Tenderer undertakes, if this Tender is accepted and a Contract acceptable to AusAID is executed by both parties, to commence the provision of the Services and to perform them in accordance with the Contract.

3.3 The Tender is accurate in every respect. In particular, I warrant that the information and certification included in each CV submitted in the Tender is accurate, that the proposed team members have been approached and confirmed their availability and that AusAID has the authority to make the inquiries referred according to the CV certification.

3.4 I acknowledge that if the Tenderer is found to have made false or misleading material claims or statements in the Tender or in this declaration, or to have used confidential information, or received improper assistance, AusAID will reject at any time any Tender lodged by or on behalf of the Tenderer.

3.5 I acknowledge and agree to the matters specified in **Clauses 14** (AusAID’s Rights) and **15** (Tenderer’s Acknowledgement) of **Part 5**.

3.6 I agree:

- (a) that the Tenderer will be bound by this Tender for the Tender Validity Period of 180 days after the **Closing Time**; and
 - (b) that this Tender may be accepted by AusAID at any time before the expiration of that period or any additional period to which we may agree.
- 3.7 I acknowledge that this Tender will not be deemed to have been accepted except as specified in the RFT.
- 3.8 I understand that AusAID is not bound to accept the lowest priced or any Tender.
- 3.9 I warrant that in preparing the Tender for the Services the Tenderer did not act in any way which did or could have had the effect of reducing the competitiveness of the tender process for the Services. In particular I warrant that the Tenderer did not engage in:
- (a) any discussion or correspondence with other tenderers concerning the amount of the Tender;
 - (b) any collusive tendering or other anti-competitive practices with any of the other Tenderers or any other person; or
 - (c) any conduct or have any arrangement or arrive at any understanding with any of the other Tenderers.
- 3.10 **[This clause applies to government owned Tenderers only.]** I warrant that in preparing the Tender, the Tenderer has complied with the principles of competitive neutrality.
- 3.11 I warrant that the Tenderer, and any subcontractor of the Tenderer are not:
- (a) listed on a World Bank List as referred to in **Clause 13** (Ineligibility to Tender) of **Part 5** of this RFT;
 - (b) listed on any similar list maintained by any donor of development funding (Relevant List), or;
 - (c) subject to any proceedings which could lead to listing on a World Bank List or listing on a Relevant List.
- 3.12 Neither the Tenderer nor any of its employees, agents or contractors have been convicted of an offence of, or relating to bribery of a public official, nor are they subject to any proceedings which could lead to such a conviction.
- 3.13 I undertake that the Tenderer will not permit any of its employees, agents or contractors, to work with children if they pose an unacceptable risk to children's safety or well being.
- 3.14 No employees of the Tenderer, or its agents or contractors, who have been nominated in Project positions that involve working with children, have been convicted of a criminal offence relating to child abuse, nor are they subject to any proceedings which could lead to such a conviction.
- 3.15 Neither the Tenderer nor any of its agents or contractors has an unsettled judicial decision against it relating to employee entitlements.

- 3.16 Neither the Tenderer nor any of its employees, agents or contractors had knowledge of the technical proposal or the Tender Price for the Services of any other tenderer prior to the Tenderer submitting its Tender for the Services.
- 3.17 Neither the Tenderer nor any of its employees, agents or contractors disclosed the technical proposal or the Tender Price for the Services submitted by the Tenderer to any other tenderer who submitted a tender for the Services or to any other person or organisation prior to the **Closing Time**.
- 3.18 Neither the Tenderer nor any of its employees, agents or contractors provided information to any other tenderer, person or organisation, to assist another tenderer for the Services to prepare a tender known in the building and construction industry as a “cover bid”, whereby the Tenderer was of the opinion or belief that another tenderer did not intend to genuinely compete for the Contract.
- 3.19 The Tenderer is genuinely competing for the Contract and its Tender is not a “cover bid”.
- 3.20 Prior to the Tenderer submitting its Tender for the Services neither the Tenderer nor any of its employees, agents or contractors entered into any Contract, agreement, arrangement or understanding that the successful Tenderer for the Services would pay any money, or would provide any other benefit or other financial advantage, to or for the benefit of any other tenderer who unsuccessfully tendered for the Tender.
- 3.21 I acknowledge that each party constituting the Tenderer is bound jointly and severally by this Tender.

ADDENDA TO TENDER DOCUMENTS

I acknowledge receipt of the following Addenda, the terms of which are incorporated in the Tender:

Number _____ Dated _____ Number _____ Dated _____

Number _____ Dated _____ Number _____ Dated _____

ADDRESS OF TENDERER

Address or Registered Office of Tenderer

Address for service of notices (NOT PO. BOX)

Telephone Number: Fax Number:

SIGNED for and on behalf of *insert*)
organisation/ company name ABN (and)
ACN if applicable) by:)

insert name and title

Signature

ANNEX C – TENDERER’S SUBMISSION CHECKLIST

This checklist is to be included with all proposals. Tenderers are to confirm that their proposal complies with the requirements of the Request for Tender (RFT) by initialling the box where appropriate.

This checklist is provided to Tenderers in order to assist in the submission of a proposal which conforms with the requirements of the RFT, however it is not an exhaustive list of these requirements. It is incumbent on Tenderers to ensure that proposals comply with the terms of the RFT. It should be considered that all requirements detailed in the RFT are mandatory and that failure to comply with any of the requirements detailed in the RFT may lead to a Tenderer’s proposal being deemed non-conforming.

	Checked
Tenderer’s Declaration	
Has the Tenderer’s Declaration been completed and signed?	
For electronic lodgement has one (1) electronic copy in a separate file been submitted?	
For hard copy lodgement, has one (1) printed original been submitted?	
Tender Schedule A: Technical Proposal and Annexes	
Is the Technical Proposal within the specified page limit?	
Does the Technical Proposal address each of the selection criteria individually?	
Does the Technical Proposal indicate the Tenderer’s nominated contact person and contact details on the cover page?	
Are the required annexes included and within the specified page limit(s)?	

	Checked
<p>If the Past Experience Annex is used have at least two (2) referees been nominated and has it been confirmed that they are:</p> <ul style="list-style-type: none"> a) not an employee of, or the holder of a current executive office (or similar position) within the organisation of, or do not have a business in association with the Tenderer or a subsidiary of the Tenderer? b) not included in the Tender as proposed team members? c) not AusAID employees? 	
<p>Are both the Technical Proposal and annexes:</p> <ul style="list-style-type: none"> a) in a type font of no less than 12 point on A4 paper? b) formatted with left and right page margins no less than 2.5cm and top and bottom page margins no less than 3cm, excluding headers, footers and page numbers? c) absent of AusAID's logo or any representation or mark which indicates that the Tenderer is in any way related to or connected with AusAID? 	
For electronic lodgement, has one (1) electronic copy containing all parts and annexes been provided?	
For hard copy lodgement, has one (1) printed original containing all parts and annexes been provided?	
Tender Schedule B: Specified Personnel	
Are the CV's within the specified page limit and certified and signed by the nominated personnel?	
Do the CV's include the name and personal contact details of the nominated personnel?	
Do the CV's include the nationality and, if relevant, permanent residency status of the nominated personnel?	
Do the CV's include details of the professional qualifications of nominated personnel (if relevant), including institution and date of award?	

	Checked
Do the CV's include details of recent relevant professional and development work experience, including the duration and extent of inputs?	
<p>Have at least two (2) referees been nominated on each of the CV's and has it been confirmed that they are:</p> <ul style="list-style-type: none"> a) not an employee of, or the holder of a current executive office (or similar position) within the organisation of, or do not have a business in association with the Tenderer or a subsidiary of the Tenderer b) not included in the Tender as proposed team members? c) not AusAID employees? 	
For electronic lodgement, has one (1) electronic copy been provided in a separate file?	
For hard copy lodgement, has one (1) printed original been provided?	
Tender Schedule C: Financial Proposal	
Is the financial proposal in the required format?	
<p>Is the financial proposal a fully costed schedule of rates expressed in Australian dollars and based on the inputs as specified in the Scope of Services, including:</p> <ul style="list-style-type: none"> (a) escalation? (b) necessary insurances required by the Contract Conditions and for the performance of the Services? (c) detailed information on assumptions used in preparing the pricing? 	
For electronic lodgement has one (1) electronic copy been provided in a separate file?	
For hard copy lodgement has one (1) printed original been provided in a separate, sealed envelope?	

	Checked
Tender Schedule D: Financial Proposal (Option 1 or 2 is to be selected by Tenderers in accordance with the terms detailed in the RFT).	
Option 1	
Have the names of the tendering entity and its ultimate owners been provided?	
Have the names and financial relationships between the tendering entity, its parent entity (if relevant) and other related entities within the group been provided?	
Have the previous three (3) years annual financial statements for the tendering entity been provided including: <ul style="list-style-type: none"> (a) a balance sheet? (b) a profit and loss statement? (c) a cashflow statement? (d) contact name and telephone number of the Tenderer's financial accountant? (e) a statement detailing any other tendering opportunities being pursued by the tendering entity or the group and the likely impact of such tendering opportunities on the financial capacity of the Tenderer to discharge its potential contractual obligations to AusAID under this RFT ? 	
For electronic lodgement, has one (1) electronic copy been provided in a separate file?	
For hard copy lodgement, has one (1) printed copy been provided in a separate sealed envelope?	
Option 2	
Has the date of the most recent financial assessment and the name of the Tender for which this assessment was undertaken been provided?	
Has an explanation of why the Tenderer believes a further financial assessment is not necessary been provided?	

	Checked
Has a statutory declaration declaring that the Tenderer's financial position has not altered materially since the date of the previous assessment been provided?	
For electronic lodgement, has one (1) electronic copy been provided in a separate file?	
For hard copy lodgement, has one (1) printed copy been provided in a separate sealed envelope?	

ANNEX D – CONDITIONS FOR USE OF AUSTENDER, THE AUSTRALIAN GOVERNMENT ONLINE TENDER SYSTEM

1. AUSTENDER, THE AUSTRALIAN GOVERNMENT ONLINE TENDER SYSTEM

- 1.1 AusTender is the online tendering system for Australian Government Agencies. AusTender allows tenderers to download tender documentation and upload tender responses. Tenderers must first register with AusTender at <https://www.tenders.gov.au>.
- 1.2 Access to and use of AusTender is subject to terms and conditions. Tenderers must agree to comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender.
- 1.3 It is the responsibility of tenderers to ensure that their infrastructure including operating system and browser revision levels meet the minimum standards as defined on AusTender. Neither AusAID nor the Commonwealth take any responsibility for any problems arising from tenderers' infrastructure and/or Internet connectivity.
- 1.4 Tenderers must inform themselves concerning all security measures and other aspects of the AusTender technical environment. Tenderers must make their own assessment of the AusTender system prior to using it for any matter related to this RFT and no responsibility will be accepted by AusAID arising in respect of any use or attempted use by any party of AusTender.

2. REGISTERED TENDERERS AND NOTICES

- 2.1 In the event that AusAID elects to vary or supplement this RFT or change the conditions of tender, it will make reasonable efforts to inform tenderers in accordance with this **Clause 2**.
- 2.2 Tenderers may be informed by notices and other information issued as addenda posted on the webpage for this RFT on AusTender.
- 2.3 Tenderers who have registered and downloaded the tender documentation will be notified by AusTender via email of any addenda issuance. It is in the interest of tenderers to ensure they have correctly recorded their contact details prior to downloading tender documentation. If tenderers have not recorded their details

correctly, they should amend their details and download the tender documentation again.

- 2.4 Tenderers are required to log in to AusTender and collect addenda as notified.
- 2.5 The Commonwealth will accept no responsibility if a tenderer fails to become aware of any addendum notice which would have been apparent from a visit to the AusTender page for this RFT.
- 2.6 If a tenderer has obtained tender documentation other than from AusTender, they must visit AusTender, register as a user and download the tender documentation for this RFT.

3. **AUSTENDER HELP DESK**

- 3.1 All queries and requests for technical or operational support must be directed to:

AusTender Help Desk
Telephone: 1300 651 698
Email: tenders@finance.gov.au

The AusTender Help Desk is available between 9am and 5pm Canberra Time, Monday to Friday (excluding ACT and national Australian public holidays).

4. **PREPARING TO LODGE A TENDER ELECTRONICALLY**

Virus Checking

- 4.1 In submitting their tenders electronically, tenderers warrant that they have taken reasonable steps to ensure that tender response files are free of viruses, worms or other disabling features which may affect AusTender and/or AusAID computing environment. Tenders found to contain viruses, worms or other disabling features will be excluded from the evaluation process.

Tender File Formats, Naming Conventions and Sizes

- 4.2 Tenderers must lodge their tender in accordance with the requirements set out in this **Clause 4** for file format/s, naming conventions and file sizes. Failure to comply with any or all of these requirements may result in the tender not uploading successfully and/or may eliminate the bid from consideration.
- 4.3 AusAID will accept tenders lodged in the **File Formats for Electronic Tenders** specified in the Tender Particulars (**Clause 1 of Part 1** of this RFT).
- 4.4 The tender file name/s must:
 - (a) incorporate the tenderer's company name
 - (b) reflect the various parts of the bid they represent, where the tender comprises multiple files;
 - (c) not contain \ / : * ? " < > | characters. Check your files and re-name them if necessary; and

- (d) not exceed 100 characters.

4.5 Tender files:

- (a) must not exceed a combined file size of 5 megabytes per upload;
- (b) should be uploaded from a high level directory on a tenderer's desktop, so as not to impede the upload process; and
- (c) should be zipped (compressed) together for transmission to AusTender.

4.6 AusTender will accept up to a maximum of five files in any one upload of a tender. Each upload should not exceed the combined file size limit of 5 megabytes. If an upload would otherwise exceed 5 megabytes, the tenderer should either:

- (a) transmit the tender files as a compressed (zip) file not exceeding 5 megabytes; and/or
- (b) lodge the tender in multiple uploads ensuring that each upload does not exceed 5 megabytes and clearly identify each upload as part of the tender.

4.7 If a tender consists of multiple uploads, due to the number of files or file size, tenderers should ensure that transmission of all files is completed before the **Closing Time**.

4.8 Tenders must be completely self-contained. No hyperlinked or other material may be incorporated by reference.

Scanned or Imaged Material, including Statutory Declarations

4.9 Scanned images of signed and/or initialled pages within the tender, including Statutory Declarations and Deeds of Confidentiality, where they are required, are permitted so long as the total file size does not exceed the 5 megabyte limit. The use of scanned or imaged material, where it expands the tender file size beyond the 5 megabyte limit per upload, is prohibited.

5. ELECTRONIC LODGEMENT PROCESS

5.1 Before submitting an electronic tender, tenderers must:

- (a) ensure their technology platform meets the minimum requirements identified on AusTender;
- (b) refer to AusTender's Help guidance, if required, on uploading tenders;
- (c) take all steps to ensure that the tender is free from anything that might reasonably affect useability or the security or operations of AusTender and/or AusAID computing environment;
- (d) ensure that the tender does not contain macros, script or executable code of any kind unless that specific material has previously been approved in writing by AusAID; and

- (e) ensure that the tender complies with all file type, format, naming conventions, size limitations or other requirements specified in **Clause 4** above or otherwise advised by AusAID or required by AusTender.

5.2 Tenderers must allow sufficient time for tender lodgement, including time that may be required for any problem analysis and resolution prior to the **Closing Time**.

5.3 Tenderers should be aware that holding the “Lodge a Response” page in the web browser will not hold the electronic tender box open beyond the **Closing Time**. An error message will be issued if the lodgement process is attempted after the **Closing Time**.

5.4 Tenders lodged through AusTender will be deemed to be authorised by the tenderer.

5.5 If tenderers have any problem in accessing the AusTender website or uploading a tender they must contact AusAID via the nominated **Contact Person (Clause 1 of Part 1)** or the AusTender Help Desk (**Clause 3.1** above) **prior to the Closing Time**. Failure to do so will exclude a tender from consideration.

6. **LATE TENDERS, INCOMPLETE TENDERS AND CORRUPTED FILES**

6.1 Any attempt to lodge a tender electronically after the **Closing Time** will not be permitted by AusTender. Such a tender will be deemed to be a Late Tender.

6.2 Where electronic submission of a tender has commenced prior to the **Closing Time** but concluded after the **Closing Time**, and upload of the tender file/s has completed successfully, as confirmed by AusTender system logs, the tender will not be deemed to be a Late Tender. Such tenders will be identified by AusTender to AusAID as having commenced transmission prior to, but completed lodgement after, **Closing Time**.

6.3 Where a tender lodgement consists of multiple uploads, due to the number and/or size of the files, tenderers must ensure that transmission of all files is completed and receipted before the **Closing Time** and **Clause 6.2** above will only apply to the final upload.

6.4 Late Tenders, incomplete tenders, including those with electronic files that cannot be read or decrypted, tenders which AusAID believes to potentially contain any virus, malicious code or anything else that might compromise the integrity or security of AusTender and/or AusAID’s computing environment, will be excluded from evaluation.

7. **PROOF OF LODGEMENT**

7.1 When a tender lodgement has successfully completed, an official receipt is provided on screen. The on-screen receipt will record the time and date the tender was received by AusTender and will be conclusive evidence of successful lodgement of a tender. It is essential that tenderers save and print this receipt as proof of lodgement. A separate email confirming receipt of the tender will also be automatically dispatched to the email address of the registered user whose details were recorded at login.

7.2 Failure to receive a receipt means that lodgement has not completed successfully. Where no receipt has been issued by AusTender, the attempted lodgement will be

deemed to have been unsuccessful. Tenderers should refer to **Clauses 5.2 and 5.5** above.

8. **AUSTENDER SECURITY**

8.1 Tenderers acknowledge that although the Commonwealth has implemented the security measures described on AusTender, the Commonwealth does not warrant that unauthorised access to information and data transmitted via the Internet will not occur.

8.2 Tenderers acknowledge that:

- (a) lodgement of their tender on time and in accordance with these conditions of tender is entirely their responsibility; and
- (b) AusAID will not be liable for any loss, damage, costs or expenses incurred by tenderers or any other person if, for any reason, a tender or any other material or communication relevant to this RFT, is not received on time, is corrupted or altered or otherwise is not received as sent, cannot be read or decrypted, or has its security or integrity compromised.

PART 6 - STANDARD CONTRACT CONDITIONS

Note to Tenderers: Although these Standard Contract Conditions are presented as **Part 6** of this RFT, in the consolidated Contract Conditions they will appear as **Part B**.

PART B – STANDARD CONTRACT CONDITIONS

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PART B – STANDARD CONTRACT CONDITIONS

1. INTERPRETATION

1.1 Definitions

In this Contract, unless the context otherwise requires:

"**APS Code of Conduct**" refers to the code of conduct of the Australian Public Service (for details visit the Internet website address: www.apsc.gov.au).

"**APS Values**" refers to the values of the Australian Public Service (for details visit the Internet website address: www.apsc.gov.au).

"**Associates**" means an organisation or organisations whom the Contractor identified in its tender for the Project as an associate or joint venturer or consortium member to provide the Services.

"**Auditor-General**" has the meaning set out in the *Auditor-General Act 1997*.

"**AusAID Confidential Information**" means information that:

- (a) is designated by AusAID as confidential; or
- (b) the Contractor knows or ought to know is confidential;
- (c) is comprised in or relating to the Contract Material, the Data, any Intellectual Property of AusAID or third parties where the third party Intellectual Property is made available by or on behalf of AusAID, or the internal management and structure of the Department of Foreign Affairs and Trade, AusAID or the Commonwealth of Australia;
- (d) is personal information under the *Privacy Act 1988*, but does not include this Contract or information which:
- (e) is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation; or
- (f) has been independently developed or acquired by the Contractor, as established by written evidence.

"**AusAID Eligibility Criteria**" means the criteria organisations wishing to tender for AusAID contracts must satisfy. Details are available at <http://www.ausaid.gov.au/business/contracting/eligibility.cfm>.

"**Business Day**" means a day on which AusAID is open for business.

"**Commonwealth**" means Commonwealth of Australia or AusAID, as appropriate.

"**Commonwealth Procurement Guidelines**" means the guidelines issued by the Minister for Finance and Administration that governs purchasing by Commonwealth agencies and

departments. Details are available at:
http://www.finance.gov.au/procurement/procurement_guidelines.html.

"Contract" means this agreement including all Parts, the Schedules and any annexes.

"Contract Conditions" means the provisions contained in Part A **"Project Specific Conditions"** and Part B **"Standard Conditions"** of the Contract excluding the Schedules and any annexes.

"Contract Material" means all material created or required to be developed or created as part of, or for the purpose of performing, the Services, including documents, equipment, information and data stored by any means, and any software and associated instrumental/operations manuals.

"Contractor Personnel" means personnel either employed by the Contractor or Associates, engaged by the Contractor or Associates on a sub-contract basis, including the Specified Personnel, or agents of the Contractor or Associates engaged in the provision of the Services.

"Control" has the meaning given to that term in the *Corporations Act 2001*.

"Cost" or **"Costs"** means any actual costs or expenses.

"Criminal Record Check" means a check of an individual's criminal history record, conducted by the police or other authority responsible for conducting such checks.

"Data" includes any information provided to the Contractor under this Contract from any source, or collected or created by the Contractor in connection with the Services, whether in magnetic, electronic, hardcopy or any other form.

"Director of Equal Opportunity for Women in the Workplace" means the person so named in section 9 of the *Equal Opportunity for Women in the Workplace Act 1999*.

"Dispute Notice" means a notice of dispute given by one Party to the other Party under this Contract.

"Document" includes:

- (a) any paper or other material on which there is writing or printing or on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and
- (b) a disc, tape or other article, or any material, from which sounds, images, writings or messages are capable of being reproduced with or without the aid of any other article or device.

"Encumbrance" means any lien, mortgage, charge or third party right or interest.

"Fees" means the fees for the Services set out in **Schedule 2**, including Reimbursable Costs.

"Force Majeure Event" means any of the following where they are beyond the reasonable control of the Contractor or AusAID and where they make it impossible to perform the Contract obligation:

- (a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster;
- (b) acts of war (whether declared or not), invasion, acts of foreign enemies, mobilisation, requisition, or embargo;
- (c) acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution, or military usurped power, or civil war; and
- (d) contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosion, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly.

"GST" means the goods and services tax imposed by *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

"Intellectual Property" means business names, copyrights, patents, trade marks, service marks, trade names, designs, and similar industrial, commercial and intellectual property.

"Loss" or **"Losses"** means any loss, losses, damage, liability, cost or expense including legal expenses on a solicitor and own client basis.

"MOU" or **"Treaty"** (if any) means the Memorandum of Understanding or treaty in relation to development cooperation, including any related **"Subsidiary Arrangement"** entered into between AusAID and the government of the Partner Country which deals with a number of governmental arrangements relevant to this Contract.

"NAA" means National Archives of Australia.

"Partner Government" means the Government of the Partner Country.

"Party" means AusAID or the Contractor.

"Personal Information" means information or an opinion (including information or an opinion forming part of a database), whether true or not and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion, as set out in section 6 of the *Privacy Act 1988* (Cth).

"Police Clearance Certificate" means the certificate showing the results of a **"Criminal Record Check"**, issued by the police or other authority responsible for conducting such checks.

"Privacy Commissioner" means the person so named in section 19 of the *Privacy Act 1988* (Cth).

"Prior Material" means all material developed by the Contractor or a third party independently from the Services whether before or after commencement of any Services.

"Project Administration and Equipment" means goods and services, such as office furniture, computers, vehicles, communications, utilities and office rent required by the Contractor for the day-to-day administration of the Project.

"Project Specific Conditions" means Contract Conditions in Part A of this Contract.

"Project Start Date" means the date specified in the Project Specific Conditions **Clause 2** (Project Commencement) as the date by which the Contractor must commence the Services.

"Project Supplies" means goods provided to the Partner Country by the Contractor during the course of the Project as required by this Contract.

"Reimbursable Costs" means any costs incurred by the Contractor for which AusAID shall reimburse the Contractor as specified in **Schedule 2**.

"Relevant List" means any similar list to the World Bank List maintained by any other donor of development funding.

"Services" means the services described in **Schedule 1** together with any supplies or materials incidental to the services.

"Specified Acts" means classes or types of acts or omissions performed by or on behalf of AusAID which would infringe an author's right of attribution, or integrity, of authorship but does not include those which would infringe an author's right not to have authorship falsely attributed.

"Specified Personnel" means the Contractor Personnel who are identified in **Schedule 1**.

"Standard Conditions" means Contract Conditions in Part B of this Contract.

"Supplies" means Project Supplies and Project Administration and Equipment purchased by the Contractor for use in this Project.

"Tax" means any income tax, capital gains tax, recoupment tax, land tax, sales tax, payroll tax, fringe benefits tax, group tax, profit tax, interest tax, property tax, undistributed profits tax, withholding tax, goods and services tax, consumption tax, value added tax, municipal rates, stamp duties and other fees, levies and impositions, assessed or charged, or assessable or chargeable by or payable to any governmental taxation or excise authority and includes any additional tax, interest, penalty, charge, fee or other amount imposed or made on or in relation to a failure to file a relevant return or to pay the relevant tax.

"Working With Children" means working in a position that involves regular contact with children, either under the position description or due to the nature of the work environment.

"World Bank List" means a list of organisations maintained by the World Bank in its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at: <http://web.worldbank.org/external/default/main?theSitePK=84266&contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984>

General

In this Contract, including the recitals, unless the context otherwise requires:

- (a) the contractual obligations of the Parties must be interpreted and performed in accordance with the Contract as a whole;
- (b) Contract clause headings are for convenience only and shall not be taken into consideration in the interpretation or construction of the Contract;
- (c) a reference to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any statutory instrument issued under, that legislation or legislative provision;
- (d) a word denoting the singular number includes the plural number and vice versa;
- (e) a word denoting an individual or person includes a corporation, firm, authority, body politic, government or governmental authority and vice versa;
- (f) a word denoting a gender includes all genders;
- (g) a reference to a recital, clause, Schedule or annexure is to a recital, clause, Schedule or annexure of or to this Contract;
- (h) where used in the Contract the words “including” or “includes” will be read as “including, without limitation” or “includes, without limitation” (as the case may be);
- (i) a reference to any contract or document is to that contract or document (and, where applicable, any of its provisions) as amended, novated, supplemented or replaced from time to time;
- (j) “shall” and “must” denote an equivalent positive obligation;
- (k) a reference to any Party to this Contract, or any other document or arrangement, includes that Party's executors, administrators, substitutes, successors and permitted assigns; and
- (l) a reference to "dollars" or "\$" is to an amount in Australian currency.

1.2 Counterparts of the Contract

This Contract may be executed in any number of counterparts and by the different Parties on different counterparts, each of which constitutes an original Contract. In the event of any discrepancy between the Parties' versions of the Contract, the Contract held by AusAID as the original will prevail.

1.3 Contract prevails

If there is any inconsistency (whether expressly referred to or to be implied from the Contract or otherwise) between the Contract Conditions and the provisions in the

Schedules, the Schedules are to be read subject to the Contract Conditions and the Contract Conditions prevail to the extent of the inconsistency.

1.4 **Inconsistency**

If there is any inconsistency (whether expressly or to be implied from the Contract or otherwise) between the Project Specific Conditions and the Standard Conditions, the Project Specific Conditions are to be read subject to the Standard Conditions and the Standard Conditions prevail to the extent of the inconsistency, unless explicitly amended in the Project Specific Conditions.

2. **SCOPE OF CONTRACT**

- 2.1 The Contract sets out the terms and conditions on which the Contractor agrees to secure the aims and objectives of the Project supplying, or procuring the supply of, the provision of the Services.
- 2.2 The activities to be performed and responsibilities assumed by the Contractor are detailed in **Schedule 1**.
- 2.3 Neither the Contractor, nor Contractor Personnel or Associates, shall by virtue of this Contract be, or for any purpose be deemed to be, and must not represent themselves as being, an employee, partner or agent of AusAID.

3. **AUSAID'S OBLIGATIONS**

- 3.1 AusAID must:
 - (a) make payments to the Contractor in accordance with the Contract; and
 - (b) perform, fulfill, comply with, submit to and observe the terms and conditions of the Contract, which are to be performed, fulfilled, complied with, submitted to or observed by AusAID.

4. **NON-EXCLUSIVITY**

- 4.1 The Contractor may not be the exclusive provider of services to AusAID similar to those provided under this Contract.
- 4.2 The Contractor must cooperate with any other service provider appointed by AusAID to ensure the integrated and efficient carrying on of the Project and must provide such reasonable assistance to other service providers as AusAID may reasonably request.

5. **PROVISION OF SERVICES**

- 5.1 In providing the Services, the Contractor must:
 - (a) perform the Services as described in **Schedule 1** for the term of the Contract, unless the Contract is terminated earlier;
 - (b) accept and implement AusAID's reasonable directions in relation to the management of the Project;

- (c) use its best endeavours to ensure the spirit and intent of the Project are fully met by the Services, including acting within the spirit and intent of the Treaty, MOU or Subsidiary Arrangement;
- (d) liaise and cooperate with AusAID, with the stakeholders, and the Australian Diplomatic Mission in or having responsibility for the Partner Country especially in relation to security, personal safety and welfare matters;
- (e) subject to any flexibility permitted in the Contract, ensure all timing obligations included in the Contract are fully met;
- (f) within the term of the Contract assist AusAID in the maintenance and ongoing implementation of the Services, including monitoring and evaluating the Services to ensure results accord with the aims of the Project, and provide necessary handover assistance to any subsequent service provider and to the Partner Country;
- (g) ensure that the Services are provided to a standard which shall promote Australia's international reputation and standing as a source of skill and expertise in the provision of international assistance;
- (h) perform the Services in a manner which, as far as possible, establishes and maintains a harmonious, cooperative and effective working relationship with stakeholders and any personnel from the Partner Country involved in the Project;
- (i) if a Risk Management Plan for the Project has not been prepared prior to the Project Start Date, the Contractor must prepare a Risk Management Plan within 30 days after the Project Start Date. If requested by AusAID, the Contractor will make the Risk Management Plan available to AusAID;
- (j) whether a Risk Management Plan is prepared under paragraph (i) above, or was prepared prior to the Project Start Date (for example, as part of the Contractor's tender for the Project or as part of the Program Design Document or similar document), the Contractor must maintain and update the Risk Management Plan, as necessary, to ensure that at all times it adequately reflects Project risks and includes risk-minimisation strategies. The Contractor must promptly advise AusAID of any significant risks in accordance with **Clause 6 below**. The Contractor must also ensure the Risk Management Plan contains provisions for advance notification of AusAID of risks that may lead to disruption or delay of the Project;
- (k) liaise with, and obtain all necessary consents, approvals and authorisations from any public and other authorities in the Partner Country;
- (l) provide adequate support resources to secure the aims and objectives of the Project;
- (m) be responsive to the changing needs and environment of the Partner Country; and
- (n) seek to improve the quality, effectiveness and efficiency of the Services at every opportunity.

5.2 Without limiting its other obligations and liabilities under this Contract, the Contractor must remedy at its cost any failure to comply with its obligations to perform the

Services in accordance with this Contract as soon as practicable after becoming aware of the failure.

- 5.3 The Parties recognise that the performance of the Services may be affected by changes to relevant policy in the Partner Country, and that some flexibility in the performance of the Services shall be required.

6. **EARLY NOTIFICATION**

- 6.1 The Contractor must report immediately, and in any event within seven (7) days, to AusAID on any actual, perceived or anticipated problems or risks that may have a significant effect on the achievement of the aims and objectives of the Project, on the cost to AusAID or on the delivery or operation of the Services. If the report is first given orally, the Contractor must promptly confirm the report in writing to AusAID. The Contractor must recommend to AusAID options to prevent or mitigate the impact of problems on the Project.

7. **CONTRACTOR PERSONNEL**

- 7.1 The Contractor must ensure that Contractor Personnel are aware of, and must use its best endeavours to ensure Contractor Personnel comply with, the requirements of the Contract.
- 7.2 The Contractor must use its best endeavours to ensure that all Contractor Personnel conduct themselves in a manner consistent with the *Public Service Act 1999*, and in accordance with *APS Values* and the *APS Code of Conduct*.
- 7.3 The Contractor must use its best endeavours to ensure that no Contractor Personnel or their accompanying family members:
- (a) become involved in the political affairs of the Partner Country (unless citizens of the Partner Country);
 - (b) interfere in the religious affairs of the Partner Country (unless citizens of the Partner Country); or
 - (c) share information known as a result of their work on, or relationship to, the Project, in a way that a reasonable person could foresee may be detrimental to the relationship between the Australian and Partner Governments.
- 7.4 The Contractor must not employ a currently serving Commonwealth employee in any capacity in connection with the Services without the prior written approval of AusAID.
- 7.5 The Contractor must ensure that media advertisements placed by the Contractor for personnel to fill a Project position acknowledge that the Project is funded by AusAID as part of the Australian Government's official overseas aid program.
- 7.6 AusAID may give notice to the Contractor requiring the Contractor to remove any Contractor Personnel from work in respect of the Services. The Contractor must promptly arrange for the removal of such Contractor Personnel from work in respect of

the Services and their replacement (if required) with Contractor Personnel acceptable to AusAID.

- 7.7 The Contractor must advise AusAID promptly in writing of any change in the circumstances of any Contractor Personnel that, in the Contractor's reasonable opinion, is likely to affect AusAID's assessment of the person under the Contract.
- 7.8 The Contractor must advise AusAID immediately in writing if any Contractor Personnel is arrested for, or convicted of, criminal offences relating to child abuse, or for accessing or possessing child pornography. AusAID may require Contractor Personnel under formal investigation in relation to such criminal offences to be suspended from duty or transferred to other duties during the investigation.
- 7.9 AusAID may give notice to the Contractor requiring the Contractor to temporarily suspend from duty, or transfer to other duties, any Contractor Personnel who are under criminal or internal investigation in relation to child abuse or accessing or possessing child pornography. The Contractor must comply promptly with any such notice.

8. SPECIFIED PERSONNEL

- 8.1 The Contractor must provide all Specified Personnel for the Project and for the minimum periods specified in **Schedule 1**.
- 8.2 During the minimum periods specified in **Schedule 1**, the Long Term Advisers included in the Specified Personnel must be exclusively dedicated to the Project and only perform the duties required under this Contract unless otherwise agreed in writing by AusAID.
- 8.3 The Contractor must use its best endeavours to ensure that persons nominated as Specified Personnel:
 - (a) are of good fame and character;
 - (b) are properly qualified for the tasks they are to perform;
 - (c) are certified as fit and healthy by a legally qualified medical practitioner to work in the Partner Country, and have received the necessary medical advice, including that on vaccinations and other preventive medical assistance allowing them to undertake work in-country in a safe manner;
 - (d) are adequately briefed and understand the environment and culture of the Partner Country; and
 - (e) act in a fit and proper manner while they are carrying out work or performing duties under the Contract.
- 8.4 The Contractor must use its best endeavours to secure the availability of Specified Personnel for the term of the Contract. If a change to Specified Personnel is required the Contractor must provide AusAID with not less than 3 months prior written notice of such change except where circumstances beyond the reasonable control of the Contractor make the giving of such notice impracticable. Any proposed change to the

Specified Personnel must only be made after written consent from AusAID and in accordance with the procedure set out in **Clause 8.8 below**.

- 8.5 Subject to **Clause 8.4 above**, Specified Personnel may be temporarily absent from the Project. Where Specified Personnel are unavailable for work in respect of the Contract, for any period in excess of 2 weeks, the Contractor must notify AusAID in writing immediately and, if requested, must provide replacement personnel acceptable to AusAID and the Partner Government at no additional charge and at the earliest opportunity and for the duration of the absence.
- 8.6 The costs incurred by the Contractors in providing temporary substitute personnel due to the absence of Specified Personnel are the responsibility of the Contractor.
- 8.7 The Contractor must advise AusAID promptly in writing of any change in the circumstances of any Specified Personnel that, in the Contractor's reasonable opinion, is likely to affect AusAID's assessment of the person under the Contract.
- 8.8 Before appointing Specified Personnel to the Project, the Contractor must obtain AusAID's written approval. In seeking approval of proposed Specified Personnel the Contractor must provide to AusAID:
- (a) the full names, dates of birth, and nationalities of proposed personnel and their accompanying dependants;
 - (b) a statement demonstrating that the proposed personnel has the demonstrated skills and capacity to undertake the job specification of the position and duration of the proposed appointment;
 - (c) a copy of the proposed person's curriculum vitae certified as accurate by the person and showing recent and relevant experience and formal qualifications including dates of award; and
 - (d) assurances that the nominated personnel has no existing commitments (defined in relation to the commitments of the position and not the individual's commitment to a particular organisation), to other AusAID projects that will suffer detriment if accepted on this Project. If this is not the case AusAID may require further information before assessing the individual's suitability.
- 8.9 If the Contractor is unable to provide acceptable replacement Specified Personnel with equivalent qualifications and experience AusAID may seek a reduction in fees.
- 8.10 This clause is a fundamental term of the Contract, such that breach shall entitle AusAID to terminate the Contract in accordance with **Clause 31** and sue for damages.

9. **PROJECT VEHICLE CONTRIBUTION**

- 9.1 For the purposes of this clause, "Project Vehicles" are defined as vehicles paid for by AusAID, remain the responsibility of the Contractor for the term of the Project and that are provided for Project activities. Vehicles purchased by the Project, but handed over to the Partner Country immediately (where maintenance and insurance are Partner Country responsibilities and Contractor Personnel do not use the vehicles or only use

them on an exceptional basis) are not considered Project Vehicles for the purposes of requiring a financial contribution by the Contractor.

- 9.2 In consideration of the Contractor being entitled to use Project Vehicles for non-project use the Contractor must contribute \$250.00 for each Project Vehicle for each month of the Project. The contribution will be deducted by the Contractor and must be clearly identified on the Contractor's invoices.
- 9.3 The Contractor must abide by the following requirements with regards to Project Vehicles:
- (a) Project demands must always take precedence over private use;
 - (b) the Contractor must ensure that any persons driving the Project Vehicle must have a current valid international or Partner Country drivers license for the class of Project Vehicle;
 - (c) the Contractor is responsible for ensuring Project Vehicles are appropriately insured;
 - (d) the Contractor is responsible for ensuring that seat belts are fitted and must make every effort to ensure that they are worn at all times by drivers and all passengers;
 - (e) the Contractor is responsible for any costs incurred in the event of an accident while the Project Vehicle is being privately used; and
 - (f) the Contractor must ensure that Project Vehicles are serviced in accordance with manufacturer's requirements.

10. PROCUREMENT SERVICES

- 10.1 In procuring all Supplies, the Contractor must:
- (a) determine what Supplies are required for proper implementation of the Services and advise AusAID;
 - (b) keep AusAID informed of ongoing requirements for Supplies in connection with the Project;
 - (c) implement procedures so that procurement is undertaken in a manner that is consistent with the Commonwealth Procurement Guidelines, in particular, observing the Core Principle of achieving value for money and the supporting principles;
 - (d) maintain complete and accurate records documenting the procedures followed in procuring, and the particulars of Supplies; and
 - (e) use its best endeavours to ensure Supplies are maintained including taking appropriate steps to ensure that manufacturers' warranties of Supplies are secured and warranty conditions followed.

- 10.2 The Contractor shall bear the loss or damage in respect of Supplies until handover of Supplies to the Partner Government.
- 10.3 The Contractor must use its best endeavours to ensure all Supplies are free from defects in design, material, manufacture or workmanship. The Contractor must replace defective Supplies under warranty provisions or at its own cost.
- 10.4 The Contractor shall establish and maintain a Register of Assets which shall record any non-consumable Supplies valued at \$2,000 or more, which at a minimum contains the following information: reference identification number (which may be for example, a serial number, engine number or chassis number); description of the asset; date of procurement; cost; location; current status; and disposal or handover details.
- 10.5 The Register of Assets and associated documentation such as import documents, invoices and warranties shall be subject to audit by or on behalf of AusAID at any time and from time to time.
- 10.6 The Contractor must use the Supplies for purposes permitted under this Contract only and must ensure that the Supplies at all times remain free from any Encumbrance.

11. SUB-CONTRACTING

- 11.1 The Contractor may not sub-contract the whole of the Services. The sub-contracting of parts or elements of the performance of the Services is subject to compliance with the following requirements:
- (a) the sub-contracting of any of the Services shall not relieve the Contractor from any responsibility under this Contract;
 - (b) the Contractor must implement procedures that are consistent with the principles of the Commonwealth Procurement Guidelines for the engagement of all sub-contracting of the Services, with the exception of Associates;
 - (c) the Contractor must ensure that sub-contracts include equivalent provisions regarding the Contractor's relevant obligations under this Contract. In particular sub-contractors must:
 - (i) comply with relevant and applicable laws, regulations and development policies, including AusAID's *Child protection policy* (<http://www.ausaid.gov.au/publications/pubs.cfm?Type=PubPolicyDocuments>) and child protection compliance standards (Attachment 1 to the policy), both in Australia and in the Partner Country;
 - (ii) be insured to at least the minimum of their statutory obligations and that they carry all commercially prudent insurances for the activities to be undertaken as part of the Services;
 - (iii) be bound by the same obligations regarding **Clauses 15** (Accounts and Records), **18** (Audits), **19** (Access to Premises), **26** (Privacy), and **35.4** (Anti-corruption) **below** and as required by Project Specific Conditions **Clause 3** (Accounts and Records) as the Contractor; and

- (iv) be bound by appropriate obligations in relation to ongoing software licensing, computer maintenance requirements and handover arrangements to the Partner Country;
- (d) if requested by AusAID, the Contractor must provide to AusAID an executed Deed of Novation and Substitution in the form at **Schedule 4** (Deed of Novation), contemporaneously with or within 10 Business Days of execution of the sub-contract by the Contractor;
- (e) the sub-contract must include the right of AusAID, in the event of AusAID issuing a notice of substitution under the Deed of Novation at **Schedule 4** (Deed of Novation), to further novate the sub-contract to another contractor;
- (f) the Contractor must maintain up-to-date records of the names of all sub-contractors engaged by the Contractor to perform part of the Services. If requested by AusAID, the Contractor must, within five (5) working days, provide to AusAID a copy of the records of sub-contractors' names, in the format specified by AusAID. The sub-contract must include the right of AusAID to disclose the name of the sub-contractor, in accordance with **Clause 27 (AusAID Use of Contract Information) below**;
- (g) the Contractor must maintain records as to the performance of each of the sub-contractors engaged by the Contractor including details of any defects in such performance and the steps taken to ensure compliance with the Contract and provide to AusAID if requested; and
- (h) if requested by AusAID, the Contractor must provide to AusAID a copy of any proposed or executed sub-contract.

11.2 The obligations of **Clause 8.1 above** apply equally to Associates.

11.3 Despite any consent or approval given by AusAID, the Contractor shall remain at all times responsible for ensuring the suitability of Associates and sub-contractors and for ensuring that the Services are performed in accordance with the Contract.

12. **CONTRACT AMENDMENT**

12.1 The Contractor must not do anything that amounts to a variation of this Contract in whole or in part otherwise than in accordance with this clause.

12.2 Changes to the Contract shall not be legally binding upon either party unless agreed in writing and signed by both Parties in the form of a "Deed of Amendment".

12.3 AusAID or the Contractor may propose an amendment to the manner of providing the Services or changes to the Project, at any time for the purpose of improving the delivery of the Services or, the efficiency, cost-effectiveness and development impact of the Services.

12.4 The Contractor must prepare an "Amendment Proposal" for any change sought by AusAID, or the Contractor, at no extra cost to AusAID and this must be submitted to AusAID in a timely manner.

- 12.5 The Amendment Proposal must include specific identification of the proposed change, associated cost implications, a cost/benefit and risk analysis, including of developmental impact improvements, a general plan for implementation of the change and a projected time schedule.
- 12.6 AusAID may, at its sole discretion, accept or reject the Amendment Proposal submitted by the Contractor.

13. EXTENSION OF TIME

- 13.1 Subject to **Clause 13.6 below** neither AusAID nor the Contractor shall be in breach of the Contract to the extent that performance of their Contract obligations is prevented by any of the following causes (“**Relevant Causes**”) that arise during the term of the Contract:
- (a) a Force Majeure Event;
 - (b) a significant change in circumstances beyond the control of the Contractor;
 - (c) an Australia-wide or Partner Country-wide industrial dispute; or
 - (d) a change in the laws of Australia or the Partner Country that directly impacts on the provision of the Services.
- 13.2 Where in the Contractor’s reasonable opinion there is likely to be a delay in the Contractor’s discharging an obligation under the Contract because of a Relevant Cause the Contractor must:
- (a) immediately notify AusAID in writing when the Contractor considers any event or circumstance may cause a delay and the estimated period of delay or likely period of delay;
 - (b) give details of the likely effect on the Project and any Contractual implications;
 - (c) take all reasonable steps to mitigate the effects of any delay and make written recommendations of additional strategies to avoid or mitigate the effects of the event;
 - (d) request in writing an extension of time which the Contractor considers reasonable in all the circumstances in the form of an Amendment Proposal in accordance with **Clause 12.5 above**; and
 - (e) use its best endeavours to continue to perform its obligations under the Contract.
- 13.3 AusAID must give consideration to the Contractor’s recommendations and request for an extension of time and as soon as practicable after receiving the request notify the Contractor in writing whether it has determined that a Relevant Cause has occurred and whether all or part of the request has been granted. AusAID’s approval of a request may be granted subject to conditions.
- 13.4 If AusAID approves in writing a request, the extension of time and any approved changes to the Contract will be documented in a “Deed of Amendment”. The Contract

shall be deemed to have been varied once the Deed of Amendment is signed by both the Contractor and AusAID.

- 13.5 Even if the Contractor has not given notice under **Clause 13.2 above**, where AusAID considers that a delay has arisen, in whole or in part, because of an act or omission on the part of AusAID, its employees or agents, AusAID may, by notice in writing to the Contractor, extend the time for performance of the relevant obligation of the Contractor.
- 13.6 Where AusAID has determined that a Relevant Cause has occurred, and the Contractor's inability to perform its obligations due to a Relevant Cause exceeds 45 Business Days, AusAID may:
- (a) notify the Contractor that the Contract is suspended for a specified period of time; or
 - (b) delete part of the Services; or
 - (c) immediately or thereafter terminate the Contract in whole or in part by providing notice in writing to the Contractor.
- 13.7 A notice of suspension, deletion or termination of the Contract under **Clause 13.6 above** takes effect on the date that the notification is received by the Contractor.
- 13.8 In the event of suspension, deletion or termination of Services or the Contract under **Clause 13.6 above** the Contractor may claim, Fees for Services performed as payable under **Schedule 2**, prior to the date of suspension, deletion or termination, on a pro rata basis and Costs that are reasonably and properly incurred by the Contractor in connection with the Contract to the extent to which those Costs are unavoidable as a direct consequence of the suspension, deletion or termination of the Contract in accordance with this clause. Any Cost must be substantiated to AusAID and must not include loss of profits or any other form of expectation loss.

14. **HANDOVER**

- 14.1 The Contractor must within 12 months of the Project Start Date draft a Handover Plan which includes all the functions to be performed to hand over Contract Material, Supplies, information, documents and other materials to the Partner Country in a manner which ensures the Partner Country is able to benefit from the Project and in particular enables the Partner Country to manage ongoing maintenance requirements, as well as any other matters specified in **Schedule 1**. The Contractor must provide a copy of the Draft Handover Plan to AusAID within 12 months of the Project Start Date.
- 14.2 The Contractor must make changes to the Handover Plan as reasonably requested by AusAID and update the Handover Plan as necessary during the Project but at least annually and 6 months before the end of the Contract.
- 14.3 The Contractor must ensure that a finalised Handover Plan is provided to AusAID within seven (7) days of any early termination of the Project, or one month prior to the expected completion of the Project.

- 14.4 The Contractor must provide all reasonable assistance and cooperation necessary, on expiration or termination of the Contract, to facilitate the provision of further maintenance by AusAID or an alternative service provider. In particular the Contractor must:
- (a) deliver to AusAID or its nominee complete copies of all the Data and Contract Material, in a form and on a media approved by AusAID, and any other AusAID property including the Supplies;
 - (b) either destroy or deliver to AusAID all copies of AusAID Confidential Information as required by AusAID;
 - (c) if requested by AusAID, facilitate the assignment to AusAID, AusAID's nominee or to the Partner Country of sub-contracts relating to Supplies, including for licensing and support of information technology and any construction work maintenance;
 - (d) vacate the Project Office where this has been supplied by AusAID or the Partner Country;
 - (e) co-operate with AusAID and, if requested, AusAID's nominee, and provide reasonable assistance relating to the transfer of any contracts to AusAID, its nominee or the Partner Country;
 - (f) provide to AusAID or, if requested, to AusAID's nominee all information, including Data and Contract Material, necessary for an alternative service provider to assume provision of the Services;
 - (g) continue the provision of the Services for as long as reasonably requested by AusAID on the terms and conditions of the Contract;
 - (h) cooperate with AusAID and any other service provider in the ongoing provision of services similar to the Services; and
 - (i) allow AusAID to audit compliance with this clause.

15. ACCOUNTS AND RECORDS

- 15.1 The Contractor must at all times maintain full, true, separate and up-to-date accounts and records in relation to the Fees, Supplies and the Services. Such accounts and records must:
- (a) record all receipts and expenses in relation to the Supplies and Services, including those involving foreign exchange transactions;
 - (b) be kept in a manner that permits them to be conveniently and properly audited;
 - (c) enable the extraction of all information relevant to this Contract;
 - (d) contain details of the disposition of Supplies as agreed to by AusAID such as replacement, write-off or transfer to the Partner Country; and

- (e) the Contractor shall provide to AusAID a statement of Project expenditure on a regular basis for the duration of the Project. The details of the timing and content of the statement of expenditure are defined in Part A Project Specific Contract Conditions.

15.2 Accounts and records must be provided for inspection by AusAID immediately upon the request of AusAID.

15.3 The accounts and records must be held for the term of this Contract and for a period of seven (7) years from the date of expiry or termination of this Contract.

16. **REPORTS**

16.1 The Contractor must ensure that all reports required in accordance with **Schedule 1**, provide the information required and conform with the quality and format requirements specified.

16.2 The Contractor is responsible for any extra costs occasioned by any clarifications, discrepancies, errors or omissions in reports provided to AusAID or other information supplied in writing by the Contractor, provided such discrepancies, errors or omissions are not due to inaccurate information supplied in writing to the Contractor by AusAID.

16.3 AusAID may reject and withhold payment of Fees for any report which does not conform to the requirements of the Contract until the Contractor rectifies the report.

17. **REVIEWS**

17.1 For the purpose of ensuring that this Contract is being properly performed, AusAID may itself, or may appoint an independent person or persons to assist in the performance of, or to perform, a review of this Contract at the frequency and in relation to any matter specified by AusAID.

17.2 The Contractor must participate cooperatively in any reviews conducted by AusAID or its nominees. In addition the Contractor must respond in writing to any draft review report within 28 days after the date of receipt by the Contractor of the draft report unless otherwise agreed in writing by AusAID.

17.3 Reviews may be conducted of:

- (a) the efficiency and effectiveness of the Contractor's operations in relation to the provision of the Services, including procurement and risk management procedures;
- (b) the accuracy and reliability of the Contractor's financial management systems;
- (c) the Contractor's compliance with their obligations under the Contract in relation to foreign exchange transactions;
- (d) the accuracy of the Contractor's reports in relation to the provision of the Services;
- (e) the Contractor's compliance with AusAID's *Child protection policy* and child protection compliance standards (Attachment 1 to the policy);

- (f) the Contractor's compliance with its Contractor Personnel, confidentiality and privacy obligations; or
 - (g) any other matters relevant to the performance of any Services including user satisfaction.
- 17.4 Each Party must bear its own costs of any such reviews conducted by or on behalf of AusAID.
- 17.5 The requirement for, and participation in, reviews does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with this Contract.

18. AUDITS

- 18.1 Where AusAID has reasonable concerns regarding the Contractor's financial management systems AusAID must provide the Contractor with written notification of those concerns and what action is required of the Contractor. This may include:
- (a) that the Company Director must provide a Statutory Declaration confirming that they have sighted the necessary supporting documentation and confirm the veracity of the claim for payment;
 - (b) providing AusAID with additional documentation to support the claim for payment; or
 - (c) a direction that the Contractor engage an independent, suitable organisation to undertake an audit of those financial management systems, including invoicing procedures and practices.
- 18.2 The Contractor must respond to any notice received under **Clause 18.1 above** within 14 days.
- 18.3 Where the Contractor does not respond within 14 days, or the response does not alleviate AusAID's concern, AusAID reserves the right, if it has not already done so, to direct the Contractor to provide AusAID with certification from an independent auditor as described in **Clause 18.1(c) above**.
- 18.4 If AusAID directs the Contractor to undertake an independent audit under this clause:
- (a) the terms of reference must be agreed in writing by AusAID;
 - (b) the audit must be undertaken according to the standards of the professional body relevant to the particular audit and those standards must be detailed in the terms of reference;
 - (c) the Contractor will bear the total cost of the audit; and
 - (d) AusAID will not make any further payments owed to the Contractor pending certification of the reliability of the Contractor's financial management systems and the veracity of the invoicing procedures and practices.

19. ACCESS TO THE CONTRACTOR'S PREMISES, DATA AND RECORDS

- 19.1 The Contractor must grant AusAID and/or its nominees (including the Auditor-General or the Privacy Commissioner or their delegates), access to the Contractor's premises, the Data, records, accounts and other financial material or material relevant to the Services, however and wherever stored, in the Contractor's or its sub-contractors' custody, possession or control, for inspection and copying.
- 19.2 Such access must be available to AusAID and its nominees:
- (a) during the hours of 9 am and 5 pm on a Business Day;
 - (b) except in the case of a breach of this Contract, subject to reasonable prior notice; and
 - (c) at no additional charge to AusAID.
- 19.3 In the case of documents or records stored on a medium other than in writing, the Contractor must make available on request such reasonable facilities as may be necessary to enable a legible reproduction to be created at no additional cost to AusAID.
- 19.4 This clause applies for the term of this Contract and for a period of seven (7) years from the date of its expiration or termination.

20. PAYMENT

- 20.1 AusAID must make payment of the Fees within 30 days of:
- (a) AusAID's acceptance of the satisfactory completion of the Services or relevant Payment Milestone as specified in **Schedule 2**; and
 - (b) receipt of a correctly rendered invoice.
- 20.2 It is AusAID corporate practice to inform Contractors as soon as reasonably possible, and in any case within 30 days of receipt of notice of the completion of an identified output or provision of a report whether or not that output or report is accepted.
- 20.3 The Fees are fixed for the term of the Contract unless varied in accordance with the Contract.
- 20.4 The Contractor must make all foreign exchange transactions at arms length and at commercially competitive rates. Supporting documentation must be retained in accordance with Standard Conditions **Clause 15.1** (Accounts and Records) and may be audited by AusAID in accordance with Standard Conditions **Clause 17** (Reviews).
- 20.5 Where the Contractor is entitled to reimbursement for expenditure in a currency other than Australian dollars under this Contract, the Contractor must invoice AusAID for the equivalent Australian dollar amount as recorded by the Contractor in their general ledger converted at an exchange rate which is calculated in accordance with appropriate accounting standards.

- 20.6 No invoice for any period is to be submitted before the provision of any reports required by the Contract for the relevant period.
- 20.7 Subject to the Contract AusAID shall pay Reimbursable Costs within 30 days of receipt of a correctly-rendered invoice.
- 20.8 An invoice is correctly rendered if:
- (a) the invoice details all Services provided against the Fees and records the amount payable in respect of each category of Services described in the Contract;
 - (b) the invoice details the Contractor's monthly contribution toward Project Vehicles in accordance with **Clause 9.2**;
 - (c) the invoice is based upon the calculation of Fees referred to in **Schedule 2**; and
 - (d) a company director of the Contractor, or their delegate has certified that the invoice:
 - (i) has been correctly calculated;
 - (ii) that the Services included in it have been performed in accordance with this Contract; and
 - (iii) in the case of Reimbursable Costs that these costs have been paid.
- 20.9 If an invoice is found to have been rendered incorrectly, any underpayment or overpayment shall be recoverable by or from the Contractor, as the case may be and, without limiting recourse to other available remedies may be offset against any amount subsequently due from AusAID to the Contractor.
- 20.10 A payment by AusAID is not an admission of liability. In the event that AusAID makes a payment for the completion of a Payment Milestone or the procurement of Supplies or inputs that AusAID subsequently learns have not been completed to the quality or performance specifications required or provided as required, the payment shall be deemed an overpayment and recoverable from the Contractor. Without limiting recourse to other available remedies, the overpayment may be offset against any amount subsequently due to the Contractor.
- 20.11 AusAID need not pay an amount that is disputed in good faith by AusAID until the dispute is resolved.
- 20.12 AusAID need not pay any amount due to the Contractor until the Contractor delivers to AusAID a written statement which satisfies the requirements of section 127 of the *Industrial Relations Act 1996* (NSW) or the requirements of similar State or Territory legislation, in relation to the payment of employees or sub-contractors of the Contractor who were engaged in the performance of the Contract.
- 20.13 Except as otherwise specified in this Contract, the Fees are inclusive of all costs, expenses, disbursements, levies and taxes and the actual costs and expenses incurred by the Contractor in providing the Services.

- 20.14 If the Contractor does not have an Australian Business Number (ABN), AusAID, in accordance with the relevant provisions of the Pay as You Go (PAYG) legislation, shall be required to withhold a prescribed proportion of the amount payable to the Contractor under the Contract, unless the exceptions under Division 12 of the PAYG legislation apply.
- 20.15 AusAID will make all amounts payable to the Contractor under this Contract into a bank account nominated by the Contractor. The Contractor must provide AusAID with the necessary details as soon as possible following execution of this Contract. Requests to change bank account must be provided to AusAID with 45 days notice.

21. GOODS AND SERVICES TAX

- 21.1 Except as provided by this clause, all taxes, duties and charges imposed or levied in Australia in connection with the performance of this Contract shall be borne by the Contractor or its sub-contractor(s), as the case requires.
- 21.2 The amount shown against each item in **Schedule 2** is the 'value' of the 'periodic supplies' to be made under this Contract, as these terms are used in the *A New Tax System Act 1999* (Cth).
- 21.3 The amount payable under the Contract for each supply listed in **Schedule 2** is the value of that supply plus any GST payable by the Contractor under the GST legislation. Payment by AusAID to the Contractor of the GST shall be subject to the Contractor providing AusAID with a valid Tax Invoice issued in accordance with the relevant provisions of the GST legislation and regulations.
- 21.4 The total amount of GST payable by the Contractor, and for which the Contractor seeks payment from AusAID, in respect of any supply shall be shown as a separate item on the Tax Invoice.
- 21.5 AusAID shall not pay to the Contractor any amount referable to GST, except as provided in this clause.

22. INTELLECTUAL PROPERTY RIGHTS

- 22.1 Subject to **Clause 22.2**, the title to all Intellectual Property rights in or in relation to Contract Material shall vest upon its creation in AusAID. If required by AusAID, the Contractor must bring into existence, sign, execute or otherwise deal with any document which may be necessary to enable the vesting of such title or rights in AusAID.
- 22.2 **Clause 22.1** does not affect the ownership of Intellectual Property in any Prior Material incorporated into the Contract Material, but the Contractor grants to AusAID a permanent, irrevocable, royalty-free worldwide, non-exclusive licence to use, reproduce, adapt and otherwise exploit such Prior Material in conjunction with the Contract Material. The licence granted under this **Clause 22.2** includes the right of AusAID to sub-licence any of its employees, agents or contractors to use, reproduce, adapt and otherwise exploit the Prior Material incorporated into the Contract Material for the purposes of performing functions, responsibilities, activities or services for, or on behalf of, AusAID.

- 22.3 The Contractor must ensure that the Contract Material is used, copied, supplied or reproduced only for the purposes of this Contract.
- 22.4 The Contractor must deliver all Contract Material to AusAID or to the Partner Government counterpart agency as may be directed in writing by AusAID.

23. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

- 23.1 The Contractor must at all times indemnify AusAID, its employees and agents and the Partner Country ("**those indemnified**") from and against any Loss or liability whatsoever incurred by any of those indemnified or arising from any claim, demand, suit, action or proceeding by any person against any of those indemnified where such Loss or liability arose out of an infringement, or an alleged infringement, of the Intellectual Property rights of any person, which occurred by reason of the performance or use of the Services.

24. MORAL RIGHTS

- 24.1 The Contractor warrants or undertakes that the author of any Contract Material, other than Prior Material, has given or will give a written consent to the Specified Acts (whether occurring before or after the consent is given) which extends directly or indirectly for the benefit of AusAID in relation to such material used, reproduced, adapted and exploited in conjunction with the other Contract Material.

25. CONFIDENTIALITY

- 25.1 Subject to this clause, the Contractor must not, without the prior written approval of AusAID, make public or disclose to any person any AusAID Confidential Information. In giving written approval, AusAID may impose such terms and conditions as in AusAID's opinion are appropriate.
- 25.2 The Contractor must take all reasonable steps to ensure Contractor Personnel do not make public or disclose the AusAID Confidential Information and must promptly notify AusAID of any unauthorised possession, use or disclosure of AusAID Confidential Information.
- 25.3 The Contractor must ensure that any Contract Personnel who will have access to AusAID Confidential Information complete a written undertaking in the form set out at **Schedule 3**, relating to the non-disclosure of that information.
- 25.4 The Contractor may disclose AusAID Confidential Information:
- (a) to its legal advisers in order to obtain advice in relation to its rights under this Contract, but only to the extent necessary for that purpose;
 - (b) to the extent required by law or by a lawful requirement of any government or governmental body, authority or agency having authority over the first-mentioned party; or
 - (c) if required in connection with legal proceedings,

but in the case of (b) and/or (c) above, subject to the Contractor giving AusAID sufficient notice of any proposed disclosure to enable AusAID to seek a protective order or other remedy to prevent the disclosure.

- 25.5 The Contractor must not transfer AusAID Confidential Information outside Australia, except to the Partner Country, or allow parties outside Australia to have access to it, without the prior approval of AusAID.
- 25.6 The Contractor must use AusAID Confidential Information held, acquired or which the Contractor may have had access to in connection with this Contract only for the purposes of fulfilling its obligations under this Contract. Upon expiry or earlier termination of this Contract the Contractor must either destroy or deliver to AusAID all AusAID Confidential Information, as required by AusAID.
- 25.7 This clause shall survive expiration or termination of this Contract.

26. **PRIVACY**

- 26.1 This clause applies only where the Contractor deals with Personal Information when, and for the purpose of, providing the Services.
- 26.2 In this clause, the terms ‘agency’, ‘Information Privacy Principles’ (IPPs), and ‘National Privacy Principles’ (NPPs) have the same meaning as they have in section 6 of the *Privacy Act 1988*.
- 26.3 The Contractor acknowledges that it is a ‘contracted service provider’ within the meaning of section 6 of the *Privacy Act 1988* (the Privacy Act), and agrees in respect of the provision of the Services:
 - (a) to use or disclose Personal Information obtained during the course of providing the Services, only for the purposes of this Contract;
 - (b) not to do any act or engage in any practice that would breach an IPP contained in section 14 of the Privacy Act, which if done or engaged in by an agency, would be a breach of that IPP;
 - (c) to carry out and discharge the obligations contained in the IPPs as if it were an agency under that Act;
 - (d) to notify individuals whose Personal Information the Contractor holds, that complaints about acts or practices of the Contractor may be investigated by the Privacy Commissioner who has power to award compensation against the Contractor in appropriate circumstances;
 - (e) not to use or disclose Personal Information or engage in an act or practice that would breach section 16F of the Privacy Act (direct marketing), a NPP (particularly NPPs 7 to 10) where that section or NPP is applicable to the Contractor, unless:
 - (i) in the case of section 16F – the use or disclosure is necessary, directly or indirectly, to discharge an obligation under this Contract; or

- (ii) in the case of a NPP – where the activity or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under this Contract, and the activity or practice which is authorized by this Contract is inconsistent with the NPP;
 - (f) to disclose in writing to any person who asks, the content of the provisions of this Contract (if any) that are inconsistent with a NPP binding a party to this Contract;
 - (g) to immediately notify AusAID if the Contractor becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause, whether by the Contractor or any sub-contractor;
 - (h) not to transfer such information outside Australia, except to the Partner Country, or to allow parties outside Australia or the Partner Country to have access to it, without the prior approval of AusAID; and
 - (i) to ensure that any employee of the Contractor who is required to deal with Personal Information for the purposes of this Contract is made aware of the obligations of the Contractor set out in this clause.
- 26.4 The Contractor agrees to ensure that any sub-contract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the sub-contractor has the same awareness and obligations as the Contractor has under this clause, including the requirement in relation to sub-contracts.
- 26.5 The Contractor agrees to indemnify AusAID in respect of any loss, liability or expense suffered or incurred by AusAID which arises directly or indirectly from a breach of any of the obligations of the Contractor under this clause, or a sub-contractor under the sub-contract provisions referred to in **Clause 26.4 above**.
- 26.6 This clause shall survive expiration or termination of this Contract.

27. **AusAID USE OF CONTRACT INFORMATION**

- 27.1 AusAID may disclose matters relating to the Contract, including the Contract and the names of sub-contractors as specified in **Clause 11.1 (f) above**, except where such information may breach the *Privacy Act 1988*, to Commonwealth governmental departments and agencies, Commonwealth Ministers and Parliamentary Secretaries, and to the Commonwealth Parliament, including responding to requests for information from Parliamentary committees or inquiries.
- 27.2 This clause shall survive termination or expiration of the Contract.

28. **PUBLICITY**

- 28.1 The Contractor must identify and implement appropriate opportunities for publicising the Project.
- 28.2 The Contractor must not make any press, media or other announcements or releases relating to this Contract and the Services without the prior approval of AusAID Public Affairs Group as to the form, content and manner of the announcement or release.

- 28.3 The Contractor must only use the Australian Government/AusAID logo (in-line version) to denote association with Australia, the Australian Government or AusAID in any publicity or other project related materials. The Contractor must comply with the “AusAID Logo Guidelines for Managing Contractors” at all times, including when advertising for sub-contractors or personnel. The Guidelines are available from the AusAID Business website.
- 28.4 The Contractor shall, if appropriate, erect a sign at each Project site that acknowledges the contributions of the Australian and Partner Governments. Such signs shall in all cases be discussed and agreed between AusAID and the Partner Government. Signs should use the Australian Government/AusAID logo (in-line version). No independent project or program logos or emblems are to be used. Contractor signs may also be displayed, but not in greater number or prominence than acknowledgments to either the Australian or Partner Governments.

29. WARRANTIES

- 29.1 The Contractor represents and warrants that it has made its own assessment of all information made available to the Contractor in respect of the Services and sought appropriate professional advice concerning:
- (a) any information, statements or representations;
 - (b) the regulatory regime applicable to the delivery of the Services both in Australia and in the Partner Country;
 - (c) the assumptions, uncertainties and contingencies which may affect the future business of the Services; and
 - (d) the impact that a variation in future outcomes may have on any Services.
- 29.2 Subject to any law to the contrary, and to the maximum extent permitted by law, AusAID, its employees, agents and advisers each disclaim all liability for any Losses (whether foreseeable or not) suffered by any other person acting on any part of the information made available to the Contractor in respect of the Service, whether or not the loss arises in connection with any negligence, default or lack of care on the part of AusAID, its employees, agents or advisers or any other person or any misrepresentation or any other cause.
- 29.3 The Contractor warrants that it shall have full corporate power and authority to enter into, perform and observe its obligations under this Contract and that the execution, delivery and performance of this Contract shall be duly and validly authorised by all necessary corporate action.

30. PERSONNEL SECURITY

- 30.1 The Contractor is responsible for the security of Contractor Personnel and for taking out and maintaining appropriate insurances in respect of Contractor Personnel.
- 30.2 The Contractor is responsible for the immediate development and implementation of a Security Plan to ensure the safety and security of Contractor Personnel. The Security Plan should incorporate prevention strategies and response plans, including evacuation

plans where appropriate. The Contractor shall submit a copy of the Security Plan to AusAID prior to mobilisation in the Partner Country. The Contractor shall review and update the Security Plan whenever considered necessary by the Contractor and shall submit the revised document to AusAID.

- 30.3 The Contractor must keep abreast of the security situation in the Partner Country including where relevant having regard to travel advisories and notices including those issued by the Australian Department of Foreign Affairs and Trade. The Australian advisories and notices are available at: www.dfat.gov.au
- 30.4 The Contractor acknowledges and confirms that, notwithstanding any other provisions of the Contract:
- (a) it is not the function or responsibility of AusAID or any person acting or purporting to act on behalf of AusAID, to comment on or approve the Contractor's Security Plans; and
 - (b) the Contractor has not entered the Contract based on any representation, statement or assurance by AusAID or any person acting or purporting to act on behalf of AusAID, in respect of the safety or security of the Contractor, Contractor Personnel or any person acting on behalf of the Contractor, in the Partner Country or in any other location.

31. **TERMINATION FOR CONTRACTOR DEFAULT**

- 31.1 In addition to any other rights or remedies it has at law or in equity or under this Contract, AusAID may, by notice in writing to the Contractor terminate this Contract, with effect from the date in the notice, if the Contractor:
- (a) commits a breach of this Contract and:
 - (i) that breach is not capable of remedy;
 - (ii) fails to remedy that breach within **[10]** Business Days (or such further time as AusAID may, in its absolute discretion, specify), after receiving a notice from AusAID requiring the Contractor to remedy the breach; or
 - (iii) does not commence to remedy that breach, within a reasonable time (having regard to the nature of the breach) after being given notice by AusAID requiring the Contractor to remedy the breach;
 - (b) becomes, or in AusAID's reasonable opinion is likely to become, bankrupt, insolvent or otherwise financially unable to fulfil its obligations under this Contract;
 - (c) becomes subject to one of the forms of external administration provided for in Chapter 5 of the *Corporations Act* 2001;
 - (d) is wound up by resolution or an order of the court;
 - (e) ceases to carry on business;

- (f) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors or has a receiver and manager appointed on behalf of debenture holders or creditors;
- (g) suffers any execution against its assets having, or which in AusAID's reasonable opinion is likely to have, an adverse effect on its ability to perform this Contract;
- (h) ceases to hold any licence, qualification, approval, authority or consent required for the Contractor to comply with its obligations under this Contract (except to the extent that this is outside the Contractor's reasonable control);
- (i) assigns its rights otherwise than in accordance with the requirements of this Contract;
- (j) suffers a change in Control which in AusAID's reasonable opinion may adversely affect the Contractor's ability to perform the Services under this Contract;
- (k) is in breach of the warranty, regarding listing on a World Bank List or Relevant List, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract;
- (l) is, during the term of this Contract, listed on a World Bank List or Relevant List;
- (m) is in breach of the warranty, regarding convictions or proceedings relating to an offence of, or relating to, bribery of a public official, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract;
- (n) is in breach of the warranty, regarding unsettled judicial decisions relating to employee entitlements, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract;
- (o) is, during the term of this Contract, convicted of an offence of, or relating to, bribery of a public official. In this Clause 31.1(o) the Contractor includes Contractor Personnel; or
- (p) is in breach of the warranty, regarding convictions or proceedings relating to an offence of, or relating to, child abuse, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract.

31.2 If this Contract is terminated under this Clause 31:

- (a) subject to this Contract, the parties are relieved from future performance of this Contract, without prejudice to any right of action that has accrued at the date of termination;
- (b) subject to this Contract, all licences and authorisations granted to the Contractor by AusAID under this Contract terminate immediately despite anything to the contrary contained in the relevant licence or authorisation;
- (c) the AusAID Confidential Information, Supplies and any other property supplied or given to the Contractor by AusAID pursuant to this Contract must be immediately returned to AusAID;

- (d) AusAID is not obliged to make any further payments (including the payment of Fees) to the Contractor. However, AusAID may, in its absolute discretion, consider making a payment to the Contractor in such amount and upon such terms as AusAID determines is appropriate in the circumstances; and
- (e) the Contractor will indemnify and hold AusAID harmless against any Losses, costs and expenses arising out of or in connection with the termination or any breach of this Contract by the Contractor (including those arising from affected sub-contracts).

32. TERMINATION FOR CONVENIENCE

32.1 In addition to any other rights or remedies it has at law or in equity or under this Contract, AusAID may, by notice in writing to the Contractor, terminate or reduce the scope of this Contract from the time specified in the notice (and without the need to give further notice) and, in that event, AusAID may give to the Contractor such directions as it thinks fit in relation to subsequent performance of this Contract.

32.2 Where notice is given under **Clause 32.1** the Contractor must:

- (a) comply with all directions given by AusAID;
- (b) cease or reduce (as applicable) the performance of work under the Contract; and
- (c) immediately do everything possible to mitigate its Losses, and all other loss, costs (including the costs of its compliance with any directions) and expenses in connection with the termination (including those arising from affected sub-contracts) arising in consequence of termination of this Contract under this **Clause 32**.

32.3 In the event of termination or reduction in scope under this **Clause 32**, subject to **Clause 32.4**, AusAID will only be liable to the Contractor for:

- (a) Fees, as payable under **Schedule 2**, for Services performed prior to the termination, on a pro rata basis; and
- (b) Costs that are:
 - (i) directly attributable to the termination or reduction in scope of this Contract; and
 - (ii) in AusAID's opinion, reasonably and properly incurred by the Contractor in connection with the Contract,

to the extent that such Costs are substantiated to AusAID.

32.4 AusAID is not liable for any loss of profits or any other form of expectation loss arising out of, or in connection with, the termination or reduction in scope of this Contract under this **Clause 32**.

33. INDEMNITY

- 33.1 The Contractor must at all times indemnify AusAID, its employees, agents and contractors (except the Contractor) ("**those indemnified**") from and against any Loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such Loss or liability was caused or contributed to in any way by any wilfully wrongful, unlawful or negligent act or omission of the Contractor, or any Contractor Personnel in connection with this Contract.
- 33.2 The Contractor agrees that AusAID may enforce the indemnity in favour of the persons specified in **Clause 33.1 above** for the benefit of each of such persons in the name of AusAID or of such persons.
- 33.3 The indemnity in this clause is reduced to the extent that the Loss or liability is directly caused by AusAID, its employees or contractors (except the Contractor), as substantiated by the Contractor.
- 33.4 The Contractor is responsible for all risks associated with the Data, the Supplies and any AusAID property while in the possession or control of the Contractor.
- 33.5 This indemnity shall survive termination or expiration of this Contract.

34. INSURANCE

- 34.1 The Contractor must arrange and maintain for the duration of the Contract unless otherwise specified:
- (a) public liability insurance with a limit of at least \$5 million for each and every claim which covers:
 - (i) loss of, or damage to, or loss of use of any real or personal property; or
 - (ii) personal injury to, illness (including mental illness) or death of any person arising from the performance of the Contract;
 - (b) motor vehicle third party property damage insurance;
 - (c) workers' compensation insurance:
 - (i) which fully insures the Contractor for any amount it becomes liable to pay under any statute relating to workers' or accident compensation or for employer's liability at common law;
 - (ii) to be effected in the Partner Country as well as every state or territory in Australia where the Contractor Personnel normally reside or in which their contract of employment was made; and
 - (iii) which, where possible at law extends to indemnify AusAID as principal for AusAID's liability to persons engaged by the Contractor.

Where there is no workers compensation legislation in force in the Partner Country the Contractor should arrange adequate personal accident and illness insurance (accidental death and weekly benefits) for any Contractor Personnel not otherwise covered for the duration of the Contract;

- (d) property insurance covering any Contract Material, Supplies and the reinstatement of any Data while in the care, custody or control of the Contractor for its full replacement value;
 - (e) professional indemnity insurance to cover the Contractor's obligations under this Contract. The Contractor's professional indemnity policy must respond to claims arising under the *Trade Practices Act (Cth)* 1974, in regard to this Contract. The Contractor may obtain the insurance on an annual basis if necessary, but must maintain the necessary insurance each year until the expiration of three (3) years after the full Term of the Contract or earlier termination of the Contract;
 - (f) adequate medical and dental insurance for Contractor Personnel who are engaged to operate outside their country of permanent residence; and
 - (g) adequate insurance for medical evacuation and evacuation resulting from an insured event for all Contractor Personnel.
- 34.2 The Contractor must, within 14 days after a request by AusAID, provide for any insurance policy: a certificate of currency, a list of exclusions; and the amount of excess payable.
- 34.3 Neither the effecting of insurance nor any failure to effect such insurance shall in any way limit, reduce or otherwise affect any of the obligations, responsibilities and liabilities of the Contractor under the other provisions of this Contract or at law.
- 34.4 In the event of an insurance claim any deductible/excess payable shall be the responsibility of the Contractor.

35. CONFLICT OF INTEREST

Conflict of Interest

- 35.1 The Contractor warrants that, at the date of signing this Contract, no conflict of interest exists or is likely to arise in the performance of its obligations under this Contract.
- 35.2 The Contractor must use best endeavours to ensure that a situation does not arise which may result in a conflict of interest. The Contractor must not engage in any activity, subject to **Clause 35.3 below**, that may result in a conflict of interest arising or continuing.
- 35.3 Where a conflict of interest arises in the performance of the Contractor's obligations under this Contract, the Contractor must notify AusAID immediately, and may request permission from AusAID to undertake the work despite that conflict of interest.

Anti-Corruption

- 35.4 The Contractor warrants that the Contractor shall not make or cause to be made, nor shall the Contractor receive or seek to receive, any offer, gift or payment, consideration or benefit of any kind, which would or could be construed as an illegal or corrupt act, either directly or indirectly to any party, as an inducement or reward in relation to the execution of this Contract. In addition, the Contractor shall not bribe public officials and shall ensure that all Contractor Personnel comply with this provision. Any breach of this clause shall be grounds for immediate termination of this Contract under Standard Conditions **Clause 31** (Termination for Contractor Default) by notice from AusAID.

36. FRAUD

- 36.1 For the purpose of this clause, 'fraudulent activity' or 'fraud' means: Dishonestly obtaining a benefit by deception or other means.
- 36.2 The Contractor and its sub-contractors must not engage in any fraudulent activity.
- 36.3 The Contractor must prepare a fraud risk assessment and zero tolerance fraud control strategy. These must contain appropriate fraud prevention, detection, investigation and reporting processes and procedures that comply with the *Commonwealth Fraud Control Guidelines*.
- 36.4 The Contractor is responsible for preventing and detecting fraud including fraud within those functions outsourced / performed by a sub-contractor or under any other arrangement established by the Contractor relating to the management or administration of AusAID provided funds. The Contractor is responsible for ensuring that its staff and its subcontractors' staff are responsible and accountable to the Contractor for preventing and reporting any fraud or suspected fraud as part of their routine responsibilities.
- 36.5 The Contractor must report in writing within 5 working days to AusAID any detected, suspected, or attempted fraudulent activity involving AusAID provided funds. Where a matter is reported in writing to AusAID by a Contractor, the advice must provide where known:
- (a) the name of the Project under which AusAID funding is being provided;
 - (b) name of any personnel or subcontractors involved;
 - (c) the allegation(s), including a chronological account of the facts giving rise to the allegation(s);
 - (d) the names of the suspected offender(s) (where known);
 - (e) details of witnesses;
 - (f) copies of relevant documents;
 - (g) references to any relevant legislation;
 - (h) a nominated contact officer;
 - (i) any other relevant information (eg, political sensitivities, any other party or agency that has been informed, involved or that can assist with investigations); and
 - (j) the current status of any inquiries commenced by the Contractor.

- 36.6 The Contractor must, in consultation with AusAID, develop and implement a strategy to investigate the detected, suspected or attempted fraud based on the principles set out in the *Australian Government Investigations Standards* which are available from AusAID when a demonstrated need to distribute them exists. The Contractor will be responsible for the conduct of the investigation. Any investigator appointed by the Contractor should possess the minimum qualifications specified in the *Commonwealth Fraud Control Guidelines*. Before engaging a qualified investigator, the Contractor may consult with AusAID regarding the appointment and may request assistance from AusAID in meeting the actual costs of a qualified investigator. Provided that the Contractor has consulted with AusAID before engaging an investigator, AusAID may in its absolute discretion agree to meet some or all of those costs.
- 36.7 AusAID reserves the right to appoint its own investigator, conduct the investigation, conduct a concurrent investigation or refer the allegations to the appropriate law enforcement agencies or any other person or entity AusAID deems appropriate in Australia or in the partner countries for investigation. In this instance the Contractor shall provide all assistance that may be required at the Contractor's sole expense.
- 36.8 Following the conclusion of an investigation, where the investigation finds the Contractor, an employee of the Contractor or a subcontractor of the Contractor has acted in a fraudulent manner, the Contractor shall:
- (a) where money has been misappropriated, pay to AusAID or the project the full value of the AusAID funds that have been misappropriated; or
 - (b) where an item of property has been misappropriated, either return the item to AusAID or the project or if the item cannot be recovered or has been damaged so that it is no longer usable, replace the item with one of equal quality.
- 36.9 Following the conclusion of an investigation, where the investigation finds that a party other than the Contractor, an employee of the Contractor or a subcontractor of the Contractor, has acted in a fraudulent manner, the Contractor shall at the Contractor's cost:
- (a) make every effort to recover any AusAID funds or funded property acquired or distributed through fraudulent activity, including without limitation, one or both of the following:
 - (i) taking recovery action in accordance with recovery procedures, including civil litigation, available in the Partner Country. Before commencing any recovery action, the Contractor may consult with AusAID regarding the proposed course of action and may request assistance from AusAID in meeting the costs of the recovery action. Provided that the Contractor has consulted with AusAID before commencing recovery action, AusAID may in its absolute discretion agree to meet some or all of those costs.
 - (ii) referring the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity.
 - (b) keep AusAID informed, in writing, on a monthly basis, of the progress of the recovery action.

- 36.10 If the Contractor considers that after all reasonable action has been taken to recover the funds or funded property and full recovery has not been achieved or recovery has only been achieved in part, the Contractor may seek approval from AusAID that no further recovery action be taken. The Contractor must provide to AusAID all information, records and documents required by AusAID to enable the AusAID delegate to make a decision on whether to approve non-recovery of funds or funded property.
- 36.11 In the event that any investigation finds that the contractor, an employee of the Contractor or a subcontractor of the Contractor has been involved in any fraudulent activity, or in the event that AusAID discovers that a suspected, attempted or detected fraud has not been reported to AusAID, AusAID, at AusAID's sole discretion, reserves the right to:
- (a) Terminate the Contract with the Contractor, in which event, AusAID shall not be liable to the Contractor for any claim, demand, proceeding suit or action by the Contractor, and the Contractor shall indemnify, defend and hold harmless AusAID from any claim, demand, proceeding suit or action from any party or individual resulting from such termination; and / or.
 - (b) Not enter into any further agreement with the Contractor until such time as AusAID is satisfied that any recommended changes to the Contractor's management and procedures have been made in order to prevent any further fraudulent activity from occurring and to ensure timely reporting of suspected, attempted or detected fraud to AusAID.
- 36.12 **Clauses 36.6, 36.7, 36.8, 36.9 and 36.10**, shall survive expiration of this Contract in relation to:
- (a) any fraud detected by the Contractor before the date of expiry of this Contract but the Contractor had not commenced an investigation under **Clause 36.6** before that date,
 - (b) any investigation commenced by the Contractor under **Clause 36.6**, but not completed, before the date of expiry of this Contract, and
 - (c) any investigation commenced by AusAID under **Clause 36.7**, but not completed, before the date of expiry of this Contract.

37. **COMPLIANCE WITH LAWS, GUIDELINES AND POLICIES**

- 37.1 The Contractor must at all times have regard to and comply with, and use its best endeavours to ensure that all Contractor Personnel comply with, the laws in Australia, the Partner Country and applicable laws of other countries.
- 37.2 A list, as amended from time to time, of Australian laws that may apply to the delivery of developmental aid to foreign countries can be found on the AusAID website: <http://www.aisaid.gov.au/business/contracting.cfm>.

This list is not exhaustive and is provided for information only. The provision of this list does not relieve the Contractor from complying with the obligations contained in **Clause 37.1**.

- 37.3 The Contractor and all Contractor Personnel must at all times have regard to and operate in accordance with relevant guidelines, as amended from time to time, and listed on the AusAID website: <http://www.ausaid.gov.au/business/contracting.cfm>.
- 37.4 The Contractor must notify AusAID of any material breach by the Contractor or Contractor Personnel of a law or guideline referred to in this **Clause 37**.
- 37.5 On becoming aware of a material breach by the Contractor or Contractor Personnel of a law or guideline, whether or not such a breach is notified to AusAID by the Contractor, AusAID may, in addition to any other rights available to AusAID, terminate this Contract under **Clause 31**.
- 37.6 The Contractor must in carrying out its obligations under this Contract comply with those laws in relation to organisations and individuals associated with terrorism, including 'terrorist organisations' as defined in Division 102 of the *Criminal Code Act 1995 (Cth)* and listed in regulations made under that Act and regulations made under the *Charter of the UN Act 1945 (Cth)*. The Contractor must ensure that funds provided under this Contract do not provide direct or indirect support or resources to organisations and individuals associated with terrorism. If, during the course of this Contract, the Contractor discovers any link whatsoever with any organisation or individual associated with terrorism it must inform AusAID immediately.
- 37.7 The Contractor must when providing any Services and procuring the Supplies have regard to and operate in accordance with Australian policies on developmental aid to foreign countries including:
- (a) the policy Gender Equality in Australia's Aid Program – Why and How (March 2007);
 - (b) The strategy 'Development for All: Towards a Disability-Inclusive Australian Aid Program 2009-2014', and in particular the strategy's six guiding principles, located at http://www.ausaid.gov.au/publications/pdf/FINAL%20AusAID_Disability%20for%20All.pdf;
 - (c) Child protection, in particular the child protection compliance standards at Attachment 1 to AusAID's *Child protection policy*;
 - (d) Environment. AusAID is bound by the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*, which applies to all aid activities. The Contractor must:
 - 1. ensure that environmental requirements specified in the Scope of Services are implemented, monitored and reported;
 - 2. comply with AusAID's Environmental Management System outlined in the *Environmental Management Guide for Australia's Aid Program*, including:
 - a. assess and manage all actual or potential environmental impacts, both direct and indirect, to avoid or mitigate negative impacts and promote positive impacts;

- b. report regularly on any such impacts as required by the Scope of Services; and
- 3. comply with all relevant environmental laws and regulations of the Partner Country.

The *Environmental Management Guide for Australia's Aid Program* can be found at: <http://www.aisaid.gov.au/keyaid/envt.cfm>.

38. INVESTIGATION BY THE OMBUDSMAN

- 38.1 In carrying out the Services, the Contractor, and an employee or subcontractor of the Contractor, may be a "Commonwealth service provider" under section 3BA of the Ombudsman Act 1976.
- 38.2 The Contractor must use its best endeavours, and must ensure that employees and subcontractors of the Contractor use their best endeavours, in undertaking the Services, not to engage in conduct that:
 - (a) would, if the Contractor or an employee or subcontractor were an officer of AusAID, amount to a breach of duty or to misconduct; or
 - (b) should be brought to the attention of the principal officer of AusAID.
- 38.3 If the Commonwealth Ombudsman commences an investigation of conduct of the Contractor, as a Commonwealth service provider, the Contractor, at the cost of the Contractor, must cooperate with the investigator including:
 - (a) providing all documentation required by the investigator,
 - (b) making Contractor Personnel available to assist the investigator and
 - (c) allowing the investigator, at any reasonable time of the day, to enter a place occupied by the Contractor and carry on the investigation at that place.
- 38.4 If the Ombudsman brings evidence to the notice of AusAID concerning the conduct of the Contractor, or of an employee or subcontractor of the Contractor, the Contractor must, at the cost of the Contractor, take whatever remedial action is required by AusAID or by the Ombudsman to rectify the situation.
- 38.5 The Contractor must ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the subcontractor has the same awareness and obligations as the Contractor has under this clause, including this requirement in relation to subcontracts.

38.6 The Contractor agrees to indemnify AusAID in respect of any loss, liability or expense suffered or incurred by AusAID, due to conduct of the Contractor or of an employee or subcontractor, which arise directly or indirectly, as a result of an investigation carried out by the Ombudsman.

38.7 This clause shall survive expiration or termination of this Contract.

39. RESOLUTION OF DISPUTES

39.1 The Parties undertake to use all reasonable efforts in good faith to resolve any disputes which arise between them in connection with this Contract. Subject to **Clause 20.11** (Payment) and unless otherwise agreed by the Parties, the Parties shall at all times during the dispute proceed to fulfil their obligations under this Contract.

39.2 A Party may give the other Party a notice of dispute ("**dispute notice**") in connection with this Contract. Following the giving of a dispute notice, the dispute must be referred to a senior officer of AusAID and a senior officer of the Contractor, who must use reasonable endeavours to resolve the dispute within 20 Business Days or such other period as is agreed by the Parties.

39.3 If the Parties have not been able to resolve the dispute in accordance with **Clause 39.2 above**, then the Parties may agree on a process for resolving the dispute through means other than litigation or arbitration, including by mediation or conciliation.

39.4 In the event that the dispute, controversy or claim has not been resolved within 50 Business Days (or such other period as agreed between the Parties in writing) after the dispute notice has been received in accordance with clause headed 'Notices' in Part B (Standard Contract Conditions) of this Contract, then either Party is entitled to treat the mediation process as terminated and may, if it wishes, commence legal proceedings.

39.5 Nothing in this clause prevents either Party from seeking urgent injunctive relief.

40. NOTICES

40.1 A notice required or permitted to be given by one Party to another under this Contract must be in writing and is treated as having been duly given and received:

- (a) when delivered (if left at that Party's address);
- (b) on the third Business Day after posting (if sent by pre-paid mail); or
- (c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

41. MISCELLANEOUS

41.1 Waiver

The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that Party by this Contract does not operate as a waiver of

that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Contract.

41.2 Liability of Party

If any Party to this Contract consists of more than one person then the liability of those persons in all respects under this Contract is a joint liability of all those persons and a separate liability of each of those persons.

41.3 Entire agreement

This Contract constitutes the sole and entire agreement between the Parties and a warranty, representation, guarantee or other term or condition of any nature not contained or recorded in this Contract is of no force or effect.

41.4 Severance

If any provision of this Contract is invalid and not enforceable in accordance with its terms, other provisions that are self-sustaining and capable of separate enforcement with regard to the invalid provision, are and continue to be valid and enforceable in accordance with their terms.

41.5 Assignment

No Party may assign or transfer any of its rights or obligations under this Contract without the prior consent in writing of the other Party.

41.6 Governing Law and Jurisdiction

This Contract is governed by, and is to be construed in accordance with, the law of the Australian Capital Territory and the Parties submit to the exclusive jurisdiction of the courts of the Australian Capital Territory and any court hearing appeals from those courts.

41.7 Contra Proferentem

No rule of construction shall apply in the interpretation of this Contract to the disadvantage of one Party on the basis that such Party put forward or drafted this Contract or drafted any provision of this Contract.

41.8 False and Misleading Information

The Contractor acknowledges that it is aware that, in relation to section 137.1 of the *Commonwealth Criminal Code*, giving false or misleading information is a serious offence.

SCHEDULE 3 - DEED OF CONFIDENTIALITY

THIS DEED POLL is made on the _____ day of _____ []

in favour of **COMMONWEALTH OF AUSTRALIA** represented by the Australian Agency for International Development ("**AusAID**") which is part of the Department of Foreign Affairs and Trade.

BY [Insert name and address of Recipient] (the "**Recipient**").

RECITALS

- A. AusAID and **Contractor's Name** (the "**Contractor**") have entered into a Contract for the purpose of a project in **Country**.
- B. The Recipient has been engaged by the Contractor to work on the project.
- C. The Recipient will, in carrying out that work, be given access to Confidential Information.
- D. AusAID requires the Recipient to enter into this Deed in relation to use of Confidential Information.

THE RECIPIENT DECLARES AS FOLLOWS:

1. INTERPRETATION

In this Deed:

"**Confidential Information**" means information that:

- (a) is designated by AusAID as confidential; or
 - (b) the Recipient knows or ought to know is confidential,

and includes to the extent that it is confidential:
 - (c) information comprised in or relating to any Intellectual Property of AusAID or third parties where the third party Intellectual Property is made available by or on behalf of AusAID;
 - (d) information relating to the internal management and structure of the Department of Foreign Affairs and Trade, AusAID or the Commonwealth of Australia;
 - (e) the Data; and
 - (f) personal information under the *Privacy Act 1988*;
- but does not include information which:

- (g) is or becomes public knowledge other than by breach of this Deed or other obligation of confidentiality; or
- (h) has been independently developed or acquired by the Recipient as established by written evidence.

"Data" includes any information provided to the Contractor under this Contract from any source, or collected or created by the Contractor in connection with the Services, whether in magnetic, electronic, hardcopy or any other form.

2. NON DISCLOSURE

- 2.1 The Recipient must not copy, reproduce or disclose any of the Confidential Information without the prior written consent of AusAID, which consent AusAID may grant or withhold in its absolute discretion.

3. RESTRICTION ON USE

- 3.1 The Recipient must use the Confidential Information only for the purpose of the Services.

4. DELIVERY UP OF DOCUMENTS

- 4.1 AusAID may, at any time and without notice, demand, either orally or in writing, the delivery to AusAID of all documents in the possession or control of the Recipient which contain the Confidential Information.

5. SURVIVAL OF OBLIGATIONS

- 5.1 The obligations in this Deed are perpetual.

EXECUTED as a deed poll.

SIGNED, by the Recipient in the presence of:)
)
 Signature of

.....

Signature of witness

.....

Name of witness
(Print)

SCHEDULE 4 – DEED OF NOVATION AND SUBSTITUTION

This **DEED OF NOVATION AND SUBSTITUTION** made the day of

BETWEEN:

COMMONWEALTH OF AUSTRALIA represented by the Australian Agency for International Development of the Department of Foreign Affairs and Trade (“**AusAID**”)

AND:

[ABN of] (the
“**Subcontractor**”) of the second part;

AND:

Contractor's Name ACN# of **Contractor's Address** (the “**Contractor**”) of the third part.

WHEREAS:

- A. AusAID is concerned to ensure that the Services under the Contract are properly delivered.
- B. The Subcontractor is a subcontractor to the Contractor for the Services.
- C. The Subcontractor and Contractor have agreed with AusAID to novate the Subcontract to AusAID in the event that AusAID exercises its right under **Clause 31** and **32** of the Contract.
- D. The Subcontractor agrees that AusAID may novate the Subcontract to another Contractor at its sole and absolute discretion in the event that AusAID has exercised its right under **Clause 31** and **32** of the Contract.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. **DEFINITIONS**

“**Business Day**” means a day on which trading banks are open for business in Canberra;

“**Commencement Date**” has the same meaning as in the Contract;

“**Contract**” means the Contract for the provision of Services between AusAID and the Contractor dated on or about [];

“**Deed**” means this Deed of Novation;

“**Services**” means the services to be provided by the Contractor to AusAID under the Contract;

“**Party**” means AusAID, the Subcontractor or the Contractor;

“**Subcontract**” means the contract between the Contractor and the Subcontractor for the provision of the Subcontractor Services; and

“**Subcontractor Services**” means the services that the Subcontractor is obliged to provide to the Contractor under the Subcontract.

2. **APPLICATION OF DEED**

The Contractor and the Subcontractor agree that:

 this Deed is entered into for the benefit of AusAID; and

AusAID may exercise the rights granted to it under this Deed.

This Deed commences on the Commencement Date of the Subcontract.

3. **NOVATION**

AusAID may issue a notice of substitution to the Subcontractor if AusAID is entitled to exercise its rights under **Clauses 31 or 32** of the Contract.

The Parties agree that on and from the date of issue of a notice of substitution:

AusAID is substituted for the Contractor under the Subcontract in respect of the Subcontractor Services as if AusAID was originally the Party to the Subcontract instead of the Contractor, and all references in the Subcontract to the Contractor are to be read and construed as if they were references to AusAID;

AusAID is to pay any amount due to the Subcontractor under the Subcontract to the Subcontractor and the receipt of the Subcontractor shall be full and sufficient discharge for any such payments;

subject to paragraph (a), AusAID is bound by, and must fulfil, comply with and observe all the provisions of the Subcontract and enjoys all the rights and benefits of the Contractor under the Subcontract; and

the performance by the Subcontractor of services under the Subcontract, is instead of, and not in addition to, any performance by the Contractor of its obligations under that Subcontract.

If AusAID exercises its rights of novation under this deed, AusAID may further novate the Subcontract by substituting a new contractor in place of the Contractor on the terms of this deed with appropriate alterations. In the event of such novation, the rights and obligations of the Subcontractor with respect to the Contractor shall become the rights and obligations of the Subcontractor with respect to the new contractor.

4. **RELEASE**

Except in relation to payment due from the Contractor to the Subcontractor under the Subcontract but unpaid on the date of issuing of the notice of substitution referred to in **Clause 3** of this Schedule, the Contractor releases and discharges AusAID from any and all claims, actions, proceedings, obligations and liabilities (whether based in negligence or any other form of legal liability) in respect of or in any way arising from the Subcontract prior to the date of the notice of substitution in respect of the Subcontractor Services.

5. **FURTHER ASSURANCES**

Each Party must take such steps, execute all such documents, and do all such acts and things as may be reasonably required by the other Party to give effect to any of the transactions contemplated by this Deed.

6. **DISCHARGE**

Neither the Subcontractor nor the Contractor are discharged or released or excused from this Deed by an arrangement made between the Contractor and the Subcontractor prior to the issue of a notice of substitution with, by any change to the Subcontract, or by any forbearance whether as to payment, time or otherwise.

The Contractor undertakes to notify AusAID of any alterations to the Subcontract or other matter referred to in **Clause 3** of this Schedule. A failure of the Contractor to notify AusAID under this clause does not alter the Subcontractor's obligations under this Deed.

This Deed by the Subcontractor for AusAID to assume the obligations of the Contractor is discharged in relation to the Subcontract only on completion by the Subcontractor of all its obligations under the Subcontract in respect of the Subcontractor Services, or, in the event of the issue of a notice of substitution, on the due and proper performance of the Subcontract by the Subcontractor.

The obligations of AusAID under this Deed in its application to the Subcontract must not exceed the obligations of the Contractor under the Subcontract.

7. **NOTICES**

A notice required or permitted to be given by one Party to another under this Deed must be in writing and is treated as being duly given and received:

when delivered (if left at that Party's address);

on the third Business Day after posting (if sent by pre-paid mail); or

on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and the facsimile machine provides an affirmation of a successful transmission).

8. **Address of Party**

For the purposes of this clause, the address of a Party is the address set out below or another address of which that Party may from time to time give notice to each other Party:

AusAID

To: **Desk Name**

Attention: Country Program Manager

Address: Australian Agency for International Development
GPO Box 887
CANBERRA ACT 2601

Facsimile: **Desk Fax**

Contractor

To: **Contractor's Name**

Attention:

Address: **Contractor's Address**

Facsimile: **Contractor's Fax**

Subcontractor

To:

Attention:

Address:

Facsimile:

9. **LAWS**

This Deed is subject to and construed in accordance with the laws in force in the Australian Capital Territory.

10. **WARRANTY**

The Subcontractor and the Contractor each warrant and represent to AusAID that at all times:

the execution and delivery of this Deed has been properly authorised by all necessary corporate action of the Subcontractor and the Contractor respectively;

the Subcontractor and the Contractor respectively each has full corporate power and lawful authority to execute and deliver this Deed and to consummate and perform or caused to be performed its obligations under this Deed;

this Deed constitutes a legal, valid and binding obligation of the Subcontractor and the Contractor respectively, enforceable in accordance with its terms by appropriate legal remedy; and

to the best of each of the Subcontractor's or the Contractor's knowledge, there are no actions, claims, proceedings or investigations pending or threatened against or by the Subcontractor or the Contractor respectively that may have a material effect on the ability of the Subcontractor or the Contractor respectively to perform its obligations under this Deed.

11. **GENERAL**

Counterparts

This Deed may be executed up to three (3) counterparts and all of those counterparts taken together constitute one and the same instrument.

Attorneys

Where this Deed is executed on behalf of a Party by an attorney, that attorney by executing declares that the attorney has no notice of the revocation of the power of attorney under the authority of which the attorney executes this Deed on behalf of that Party.

Further Assurance

Each Party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers all deeds, documents, instruments and acts reasonably required of it or them by notice from another Party effectively to carry out and give full effect to this Deed and the rights and obligations of the Party under it.

Assignment

No Party may assign or transfer any of its rights or obligations under this Deed without the prior consent in writing of the other Parties. AusAID may withhold its consent in its absolute discretion.

EXECUTED as a Deed.

SIGNED , for and on behalf of the)	
COMMONWEALTH OF)	
AUSTRALIA in the presence of:)
)	Signature

.....
Signature of witness

.....
Name of witness
(*Print*)

SIGNED for and on behalf of)	
<i>[Subcontractor]</i> by:)	
)	
.....	
Director		Director/Secretary
Name of Director		Name of Director/Secretary
(<i>Print</i>)		(<i>Print</i>)

SIGNED for and on behalf of)	
<i>[Contractor]</i> by:)	
)	
.....	
Director		Director/Secretary
Name of Director		Name of Director/Secretary
(<i>Print</i>)		(<i>Print</i>)

SCHEDULE 5 - UNCONDITIONAL FINANCIAL UNDERTAKING

THIS DEED POLL made

20

BY:

[]

(the “Guarantor”)

FOR THE BENEFIT OF:

COMMONWEALTH OF AUSTRALIA (represented by the Australian Agency for International Development of the Department of Foreign Affairs and Trade (“AusAID”).

RECITALS:

- A. AusAID and *[to be inserted]* (hereinafter called the “Contractor”) have agreed to enter into a contract for the provision of services in [] (“the Contract”).
- B. The Contractor has agreed to provide to AusAID prior to execution of the Contract a performance security in respect of the services to be performed by the Contractor in accordance with the executed Contract.
- C. The Contractor has agreed that the performance security shall be in the form of an unconditional and irrevocable financial undertaking of [to be inserted] for the period of [to be inserted] (“the Undertaking”).
- D. The Guarantor has signed this Deed Poll at the request of the Contractor and in consideration of AusAID accepting the Undertaking.
- E. AusAID shall enter into the Contract with the Contractor on condition that the Contractor provides the Undertaking and the Guarantor signs this Deed Poll.

THE GUARANTOR DECLARES as follows:

- 1. The Guarantor unconditionally undertakes and covenants to pay to AusAID on demand without reference to the Contractor and notwithstanding any notice given by the Contractor to the Guarantor not to pay same, any sum or sums which may from time to time be demanded in writing by AusAID to a maximum aggregate sum of [].
- 2. The Guarantor’s liability under this Undertaking shall be a continuing liability and shall continue until payment is made under this Undertaking of the said maximum aggregate sum or AusAID notifies the Guarantor that this Undertaking is no longer required.
- 3. This Undertaking shall be governed by and construed in accordance with the laws for the time being in force in the Australian Capital Territory.
- 4. The Guarantor may at any time pay to AusAID the maximum aggregate sum or such lesser sum remaining after any part payment or payments, which payment shall discharge this Undertaking.

EXECUTED as a deed poll.

SIGNED, for and on behalf of **the**
GUARANTOR, **by:**

Signature of Director

Signature of Director/Secretary

Name of Director
(Print)

Name of Director/Secretary
(Print)

OR

SIGNED, for and on behalf of **the**
GUARANTOR **under power of attorney in**
the presence of:

Signature of attorney

Signature of witness

Name of attorney
(Print)

Name of witness
(Print)

Date of power of attorney

SCHEDULE 6 – PERFORMANCE GUARANTEE

THIS DEED OF GUARANTEE is made the _____ day of _____ 20____

BETWEEN **COMMONWEALTH OF AUSTRALIA** represented by the Australian Agency for International Development (‘**AusAID**’)

AND [_____] ABN [_____]

(‘**Guarantor**’)

RECITALS

- A. AusAID wishes to procure certain services.
- B. **Contractor's Name** ('**Contractor**') has agreed to supply the services to AusAID under the annexed Contract (the '**Contract**').
- C. The Guarantor agrees to provide the guarantees and indemnities appearing in this Deed.

AGREEMENT

1. The Guarantor guarantees to AusAID the performance of the obligations undertaken by the Contractor under the Contract on the conditions set out in this Deed.
2. If the Contractor (unless relieved from the performance of the Contract by AusAID expressly or by statute or by a decision of a tribunal of competent jurisdiction) fails to execute and perform its obligations under the Contract, the Guarantor shall, if required to do so by AusAID, complete or cause to be completed the obligations set out in, and in accordance with the conditions of, the Contract. If the Contractor commits any breach of its obligations, and such breach is not remedied by the Guarantor under this Deed and the Contract is then terminated for default, the Guarantor shall indemnify AusAID against losses, damages, costs and expenses directly incurred by reason of that default.
3. The Guarantor shall not be discharged or released or excused from this Deed by an arrangement made between the Contractor and AusAID with or without the consent of the Guarantor, or by any alteration, amendment or variation in the obligations assumed by the Contractor or by any forbearance whether as to payment, time, performance or otherwise. The guarantee by the Guarantor in this Deed to assume the obligations of the Contractor shall continue in force and effect until completion of all the Contractor's obligations under the Contract or until the completion of the undertakings under this Deed by the Guarantor.
4. The undertakings of the Guarantor under this Deed shall not exceed the obligations of the Contractor under the Contract. Any liability of the Guarantor shall be coextensive, but not in excess of any liability of the Contractor to AusAID under the Contract. The Guarantor shall be entitled to all rights, privileges and defences otherwise available, to the Contractor with respect to any such liability, including without limitation all provisions of the Contract relating to the limitation of liability and the resolution of disputes.
5. This Deed is subject to, and is to be construed in accordance with, the laws in force in the Australian Capital Territory and the parties agree that the courts of that Territory have jurisdiction to entertain any action in respect of, or arising out of, this Deed and the parties submit themselves to the jurisdiction of those courts.
6. For the purpose of this Deed, where an obligation of the Contractor under the Contract has not been performed, the Contractor shall be taken to have failed to perform that obligation notwithstanding that the Contractor has been dissolved or is subject to external administration procedures under chapter 5 of the *Corporations Law* or any other law.

7. The guarantee in this Deed is a continuing guarantee to AusAID until the obligations and liabilities of the Contractor under the Contract have in all respects been performed, observed and discharged.
8. The following notice arrangements apply:
 - (a) notice or other communication which may be given to or served on the Guarantor under this Deed shall be deemed to have been duly given or served if it is in writing, signed on behalf of AusAID and is either delivered by hand, posted or faxed or a copy transmitted electronically to the Guarantor or its agent at any registered office of the Guarantor or posted to the Guarantor's address set out above or such other address as is notified in writing to AusAID from time to time;
 - (b) a notice or other communication which may be given to or served on AusAID under this Deed shall be deemed to have been duly given or served if it is in writing, signed by or on behalf of the Guarantor and is either delivered by hand, posted or faxed or a copy transmitted electronically to AusAID at the address set out above or such other address as is notified in writing to the Guarantor from time to time;
 - (c) a notice sent by post shall be deemed to have been given at the time when, in due course of transmission, it would have been delivered at the address to which it is sent; and
 - (d) a notice sent by facsimile transmission or transmitted electronically shall be deemed to have been given when the machine on which the notice is sent reports that the notice has been transmitted satisfactorily.

SIGNED, for and on behalf of the)
COMMONWEALTH OF)
AUSTRALIA by:)

In the presence of:
 Name and Position
 Signature of witness **(Print)**

.....
 Name of witness (print)

SIGNED, for and on behalf of)
[Guarantor] by:)
)

.....
 Director Director/Secretary
 Name Name
(Print) **(Print)**

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