



Australian Government

AusAID

30 October 2009

Request for Tender Period Offer

Economics Advisory Panel

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REQUEST FOR TENDER

ECONOMICS ADVISORY PANEL – PERIOD OFFER

AusAID is seeking proposals from Individuals and Organisations interested in providing services for the **Economics Advisory Panel**. If you, or your Organisation, choose to lodge a “**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 2 – Scope of Services**.

STRUCTURE OF THE RFT

The RFT is organised into four (4) parts. References in the RFT to Parts are to parts of this RFT. Part 1 details the Tender Conditions specific to this Period Offer. Part 2 specifies the Scope of the Services. Part 3 details Tender Conditions standard to all Period Offers. Part 4 is a draft copy of the Period Offer Deed Conditions including the standard schedules.

It is AusAID’s intention to contract on the basis of the Period Offer Deed Conditions provided in this RFT. Tenderers are encouraged to fully inform themselves of the Period Offer Deed when preparing their Tenders and to make any enquiries before the Tender enquiry closing date, referred to in **Clause 2, Part 3**.

AusAID accepts no responsibility for failure by any Tenderer to read, understand, or comply with any requirement of 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>

PART 1 – PERIOD OFFER SPECIFIC TENDER CONDITIONS

1. BACKGROUND

- 1.1 The Australian Agency for International Development (AusAID) is responsible for managing the Australian Government's official overseas aid program. AusAID is an autonomous body within the Department of Foreign Affairs and Trade. The objective of the Australian aid program is to advance Australia's national interest by assisting developing countries to reduce poverty and achieve sustainable development.
- 1.2 The main geographic focus of the bilateral aid program is in Papua New Guinea, Asia and the Pacific. Selected assistance is also given to South Asia, Africa and the Middle East. The five priority sectors for Australia's aid are Education, Health, Infrastructure, Rural Development and Governance. Gender and environment are the two key cross-cutting issues in the Australian aid program.
- 1.3 AusAID is seeking to establish an Economics Advisory Panel. It is expected that the Panel will comprise approximately 40 experts across the four Technical Expertise Categories either from individual entities or organisations. The purpose of the Economics Advisory Panel is to enhance the quality and effectiveness of Australia's aid program by providing high quality advice and analysis on economics-related issues to AusAID.
- 1.4 All AusAID sections and overseas posts will be able to contract members of the Panel for short-term assignments of varying duration. Australian Government Organisations (AGOs) may also avail themselves of the services of the Economics Advisory Panel in accordance with the Commonwealth Procurement Guidelines.
- 1.5 The establishment of the Economics Advisory Panel will contribute to program quality, policy development and development effectiveness by:
 - (a) Ensuring that economics-related issues within AusAID's initiatives are based on international good practice, Australian and regional lessons learned, and insights from other regions and donors;
 - (b) Assisting AusAID to keep up to date with trends and developments by building its knowledge base through participating in peer reviews, evaluations, research, sharing experience and knowledge in formal and informal ways, and assisting the agency to apply its knowledge practically in its programs; and
 - (c) Providing AusAID with timely access to world-class development economists.
- 1.6 It is anticipated that the Economics Advisory Panel will be operational by the beginning of financial year 2010-11, and will stand for a three (3) year period, with an option to extend for a further two (2) years.

2. GENERAL INFORMATION FOR TENDERERS

- 2.1 All Tenders must be submitted in English.
- 2.2 The Tender is open to individuals and organisations from all countries.

- 2.3 For the purpose of this RFT, Tenderers may either be an “Individual” nominating him/herself, or an “Organisation” such as an incorporated entity, partnership, government agency, or institution. An “Organisation” may nominate up to a maximum of twelve (12) people in respect of this Period Offer.

Tenderers Note: each person may only be nominated in one Tender, as either an Individual, or included with others in a Tender from an Organisation. Tenders containing personnel who are nominated in more than one Tender (including Tenders for more than one Organisation) may be regarded as nonconforming.

- 2.4 **Technical Expertise Categories:** Personnel may be nominated in any or all of the Technical Expertise Categories as detailed below:

	Technical Expertise Categories
A	Macroeconomic analysis and advice , including general country economic analysis, such as forecasting, especially in relation to growth, constraints and opportunities; analysis of country macroeconomic management; analysis of opportunities and constraints for pro-poor growth; and advice on improving the development and use of timely and reliable economic and social statistics to inform decision making.
B	Microeconomic analysis and advice on reform to state-owned enterprises; regulatory reform in sectors such as energy, telecommunications and aviation; labour market reform and development.
C	Trade analysis and advice for trade policy and accompanying structural reform, trade development and facilitation, and trade negotiation capacity building.
D	Private sector development for service industry development, creating a business enabling environment, and improving access to finance and microfinance.

- 2.5 **Preferred Tenderer(s):** AusAID may select as preferred Tenderer(s), the Tenderer(s) who best meet the requirements of the RFT on the basis of the tender assessment process. Preferred Tenderers may be required to provide specific electronic data and financial certification as detailed in their successful notification email or letter. Failure to return the required information by the stated deadline may result in the withdrawal of the offer of a Period Offer Deed.
- 2.6 **Period Offer Deed:** It is AusAID’s intention to contract on the basis of the Period Offer Deed contained in **Part 4**. Tenderers are encouraged to fully inform themselves of the Period Offer Deed when preparing their Tenders and to make any enquiries before the Tender enquiry closing date, referred to in **Clause 2, Part 3**.

Tenderers should be aware that one of the key benefits to AusAID of the Period Offer approach is that staff can issue a Services Order confident that a standard Period Offer Deed applies to all Service Providers in that sector. Accordingly, AusAID would be extremely reluctant to make any changes to the Draft deed contained in this RFT unless:

- (a) that Deed contained errors; or
- (b) it was AusAID's judgement that the proposed changes would benefit both AusAID and all successful tenderers (in which case AusAID would require that any revised Clauses would be included in all Deeds for the sector).

It will be presumed then that, by submitting a Tender, the Tenderer agrees to the Conditions of Tender, including the draft Period Offer Deed.

- 2.7 **Debriefing arrangements:** AusAID will provide Tenderers with a generic debriefing on the technical assessment of Tenders within 30 days of Tenderers receiving notification of the results of that assessment. AusAID will not provide any other form of debrief. The generic debrief will be available on the AusAID website: www.ausaid.gov.au/business/debrief.cfm. Tenderers may wish to review generic debriefings for previous Period Offer selections prior to preparing tenders.

3. TENDER ASSESSMENT PROCESS

- 3.1 AusAID reserves the right to undertake an initial short-list of Tenderers in accordance with the Selection Criteria as set out in **Clauses 6.4 to 6.6** of this **Part 1**.
- 3.2 Those Tenderers short-listed for further consideration will be assessed by a Technical Assessment Panel (TAP). The TAP will assess the technical capacity of Tenders based on the information provided in Tender Schedules including Tenderers' response to the Selection Criteria, performance at interview (where applicable), as well as performance information (where applicable). Material tendered in response to one selection criterion may be used in the evaluation of other selection criteria.
- 3.3 Following the final assessment and calculation of the final aggregate scores in accordance with **Clause 4 below** and consideration of other factors referred to in **Clause 8.6, Part 3** a recommendation to commence Period Offer Deed negotiations with the highest ranked tenderers will be made to the appropriate AusAID delegate.

4. SCORE WEIGHTINGS

- 4.1 The **technical assessment** of the proposal will account for **90%** of the overall score using the following formula:

$$\text{Technical Score} = \frac{\text{Tenderer's Weighted Technical Score (out of 100)}}{\text{Highest Weighted Technical Score (out of 100)}} \times 90\%$$

- 4.2 Following consideration of the technical merit of nominated personnel, a like-for-like price assessment will be undertaken by AusAID of the nominated personnel that are assessed by the Technical Assessment Panel (TAP) as technically suitable.
- 4.3 The like-for-like **price assessment** will represent **10%** of the overall score. The following formula for the scoring and ranking of nominated personnel on the basis of price will be used:

$$\text{Price Score} = \frac{\text{Bid Price of Lowest Priced Technically Suitable Bid}}{\text{Nominated Personnel's Bid Price}} \times 10\%$$

5. TENDER PARTICULARS

- 5.1 **Tender Closing Time:**
(Clauses 1.11 and 1.15, Part 3) 2:00pm local time in Canberra, Australian Capital Territory, Tuesday 15 December 2009
- 5.2 **Mode of Submission:**
(Clause 1.1, Part 3)
- Either**
- Electronically, via AusTender at <https://tenders.gov.au> before the tender Closing Time
- Or**
- Hard copy, by depositing in the AusAID Canberra Tender Box before the tender Closing Time:
Tender Box, Ground Floor, AusAID,
255 London Circuit, Canberra ACT 2602,
AUSTRALIA
- Note: business hours for hard copy lodgement in Tender Box are 8.30am to 5.00pm local time in Canberra, Australian Capital Territory excluding public holidays
- 5.3 **Number of Copies of Tender:**
(Clause 1.6, Part 3)
- For electronic tender lodgement**
Technical Proposal: One (1) electronic copy in PDF (Portable Document Format).
Financial Proposal: One (1) electronic copy in a separate file in PDF.
- For hard copy tender lodgement**
Technical Proposal: One (1) printed Original and four (4) copies.
Financial Proposal: One (1) printed Original, in a separate, sealed envelope.
CD: Containing one (1) electronic of both the technical proposal and the financial proposal in separate files.
- 5.4 **Endorsement of hard copy Tenders:**
(Clause 1.17, Part 3) “Tender for the Economics Advisory Panel – Period Offer”
- 5.5 **Tender Validity Period:**
(Clause 1.8, Part 3) 180 days

- 5.6 **Contact Person:**
(Clause 2.1, Part 3) All inquiries about the tender process must be made in writing (fax or email) to:
Name: Rebecca Clack
Fax: +61 (2) 6206 4885
Email: EconomicPO@ausaid.gov.au
- 5.7 **Page Limits:**
(Clause 6.2, Part 1) Response to Selection Criteria: five (5) pages each
Curriculum Vitae: four (4) pages each
Experience Data Sheets: max. four (4) examples of one (1) page each
- 5.8 **Attachments to the RFT:** The following documents are attached to this RFT in Microsoft Word format to facilitate preparation of tenders:
1. Tender Form (Tender Declaration)
2. Personnel Matrix
3. Curriculum Vitae (Template)
4. Experience Data Sheet (Template)
5. Financial Proposal (Prices template)
6. Tenderer's Submission Checklist

The Request for Tender and any associated documents are available from the AusTender website <https://tenders.gov.au>

6. TENDER SCHEDULE A – TECHNICAL PROPOSAL

Technical Proposal Formatting

- 6.1 The Technical Proposal must contain all the information described in **Clause 6.2 below** in the following format:
- (a) Front Cover stating:
 - (i) the Tenderer's name and whether it is a Tender from an Individual or an Organisation; and
 - (ii) the nominated contact person and contact details (e-mail address, phone and fax numbers);
 - (b) Responses to all Selection Criteria, CVs and all Attachments must be clearly labelled;
 - (c) Separate documentation meeting the requirements of **Clause 6.2(c) below** must be provided for each person under each Technical Expertise Category they are being nominated for;
 - (d) Proposals should be sorted in order of Technical Expertise Category. For organisations nominating more than one individual, responses should then be collated alphabetically within each Technical Expertise Category;

*For example: for Technical Expertise Category A the items specified in **Clauses 6.2(c) (i), (ii) and (iii) below** for Bobby Builder, then items (i), (ii) and (iii) for Ama Zucchini; followed by items (i), (ii) and (iii) for Bobby Builder, then items (i), (ii) and (iii) for Ama Zucchini for Technical Expertise Category B, and so on.*

- (e) All pages are to be on A4 paper and formatted:
 - (i) in a type font of no less than 12 point (except for the Financial Proposal where 10 point is permitted);
 - (ii) in single column;
 - (iii) with all page margins not less than 2.5cm;
 - (iv) securely bound (e.g. plastic spiral binding or multiple stapled). N.B: Ring-bind folders or arch files are not desirable; and
- (f) The Tender should 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.

Technical Proposal Content

6.2 The Technical Proposal must contain the following information in the following order:

- (a) **Tender Form (Tenderer Declaration)** as provided in **Attachment 1 of this Part**;
- (b) The **Personnel Matrix**, listing personnel being nominated in the Tender along with the Technical Expertise Category(ies) they are being nominated for, as provided in **Attachment 2 of this Part**;
- (c) For **each** nominated personnel and **each** Technical Expertise Category they are nominated for (as listed in the Personnel Matrix):
 - (i) statement addressing the **Selection Criteria**, no more than five (5) pages, in accordance with **Clauses 6.4 to 6.6 below**;
 - (ii) **Curriculum Vitae**, no more than four (4) pages, in accordance with **Clauses 6.7 to 6.11 below** and **Attachment 3 of this Part**; and
 - (iii) **Experience Data Sheets** (maximum four (4) of one (1) page each), described in **Clauses 6.12 and 6.13 below**, a copy is provided in **Attachment 4 of this Part**.

Personnel Matrix

6.3 Tenderers must complete the Personnel Matrix in the format provided at **Attachment 2 of Part 1**. Tenderers are advised:

- (a) to exercise due care in the completion of the Personnel Matrix, as the personnel and work categories being nominated for assessment will be extracted from the Personnel Matrix only (i.e. not Selection Criteria responses, Financial Proposals or CVs);

- (b) personnel may only be nominated in one Tender. That is, either as an Individual or in a Tender from an Organisation; and
- (c) an Organisation may nominate a **maximum** of twelve (12) personnel.

Selection Criteria

- 6.4 Tenderers must submit, for each person and Technical Expertise Category nominated, a statement addressing the six (6) Selection Criteria below. If a person is being nominated for multiple Technical Expertise Categories, separate responses must be submitted for each nominated Technical Expertise Category and tailored accordingly.
- 6.5 It is essential that each response explicitly address all of the Selection Criteria. Responses to the Selection Criteria should contain a heading clearly indicating which criterion is being responded to. Where one or more Selection Criteria are not explicitly addressed, that person may be deemed ineligible in relation to that Technical Expertise Category they are being nominated for.
- 6.6 Each statement addressing the Selection Criteria must not exceed five (5) pages in total.

Selection Criteria		Weighting
A	Strong and demonstrated theoretical and practical knowledge of international trends and issues in the nominated Technical Expertise Category and ability to apply this knowledge to AusAID programs.	40 %
B	Substantial demonstrated experience working in the nominated Technical Expertise Category in developing countries, particularly in Papua New Guinea/Pacific, Asia/Middle-East and Sub-Saharan Africa. Experience working with AusAID, other bilateral or multilateral donors, government, private sector, in NGOs, or in academia would be an advantage.	20 %
C	Substantial functional skills and experience across the range of development program tasks in the nominated Technical Expertise Category such as country and sectoral strategies; policy development; activity / program identification and design; monitoring review and evaluation; capacity assessment and training; research and analysis.	15 %
D	Excellent interpersonal skills for working in a variety of team settings in cross-cultural environments.	10 %
E	Demonstrated understanding of aid effectiveness principles and of issues relating to aid modalities and their application to development assistance programs, in particular to AusAID's country and regional development programs. Demonstrated understanding of AusAID's policies, including those on Gender and Development and Environment and how these need be integrated into economic policies and reforms.	10 %
F	Ability to respond promptly to AusAID requests; demonstrated capacity to provide appropriate office, administrative and financial support required for the satisfactory performance of the Services; and demonstrated capacity to prepare and produce high quality documents.	5 %

Curriculum Vitae (CV)

- 6.7 Tenderers must submit, for each person and Technical Expertise Category nominated, a signed CV in the format provided in **Attachment 3 of Part 1**. If a person is being nominated for multiple Technical Expertise Categories, then the equivalent number of CVs should be submitted and tailored accordingly.

- 6.8 CVs must be no longer than four (4) pages and include the Technical Expertise Category the person is applying for.
- 6.9 Tenderers must provide the name of two (2) referees (including day-time contact telephone numbers, firm and position held), who are able to comment on the work claimed by the nominated person. Referees may not be employed by AusAID or by the Tenderer. AusAID reserves the right to check with nominated referees.
- 6.10 The CV must be signed and dated by the personnel nominated and must include the certification provided in the template.
- 6.11 While an original signature on CVs is preferred, copies are allowed. However, Tenderers are reminded of their warranties (paragraph 3.3) and the potential consequences to their Tender (paragraph 3.4), as detailed in the Tender Form (**Attachment 1 of this Part**).

Experience Data Sheets

- 6.12 Tenderers must provide details of relevant activities or projects in which the nominee has been involved which demonstrate the nominee's ability to provide the Services required under the Technical Expertise Category. Tenderers must use the format provided in **Attachment 4 of Part 1**. This attachment must not contain more than four (4) examples per Technical Expertise Category and details of each activity must not exceed one (1) A4 page.
- 6.13 Tenderers must provide information in the Referees section of the Experience Data Sheets.

7. TENDER SCHEDULE B – FINANCIAL PROPOSAL

- 7.1 Tender Schedule B – Financial Proposal must contain all of the information required for each nominated person and be in the format detailed in this Clause.
- 7.2 It must:
- (a) be submitted in a separate sealed envelope, packaged with the Technical Proposal;
 - (b) 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;
 - (c) state clearly on the front cover:
 - (i) whether it is a Tender from an Individual or an Organisation; and
 - (ii) the Tenderer's name and the contact person's details (contact name, e-mail address, phone and fax numbers);
 - (d) be a fully costed fixed proposal for fee rates at current prices inclusive of:
 - (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 (including medical and medical evacuation insurance); and

- (iii) any superannuation liabilities;
 - (e) provide fixed daily fee rates for the Australian financial years set out in **Attachment 5 of this Part**;
 - (f) be exclusive of GST;
 - (g) be expressed in Australian dollars; and
 - (h) include all administrative support costs such as report and document preparation and printing, transcription, communication, and computer facilities both in Australia and Overseas.
- 7.3 In calculating their daily fee rates, Tenderers should be aware that AusAID calculates a single daily fee rate based on an eight hour working day. Any additional work undertaken within a 24 hour period cannot be claimed. For international travel, the Daily Fee Rate shall apply from the scheduled departure time of overseas travel via international transport.
- 7.4 Where less than eight (8) hours work is undertaken in a day the daily fee rate will be reduced on a pro rata basis based on an eight (8) hour day.

Superannuation Fund Details

- 7.5 Individual tenderers who are seeking to be engaged by AusAID not through a company, partnership or trust, and to whom AusAID would owe a superannuation contribution under the appropriate legislation if they were contracted must also include in their Financial Proposal the full name and address of a nominated complying Superannuation Fund or Retirement Savings Account and their membership number.
- 7.6 If such details and a completed electronic funds transfer form are not provided to AusAID by the preferred tenderer prior to the execution of the Period Offer Deed, AusAID shall make any relevant contributions in relation to the contractor to the Australian Government Employees Superannuation Trust (AGEST).
- 7.7 Where AusAID has an obligation under the Superannuation Guarantee legislation to pay a superannuation contribution to an individual, the contribution, which in 2008-09 is equivalent to 9% of the fee (excluding reimbursable costs), must be detailed separately in the invoice and will be deducted from the total fee.
- 7.8 The formula used to calculate the superannuation contribution will be:
- Total Fee (exclusive reimbursable costs)/ 109 * 9 = superannuation contribution
- Total Fee (exclusive reimbursable costs)/ 109 *100 = fee paid to the Contractor
- 7.9 **Reimbursable Expenses** are described in **Part 4, Schedule 2 – Daily Fee Rates and Reimbursable Expenses**.
- 7.10 **Extension of the Period Offer:** is described in **Clause 3.2 (Term of the Deed), Part 4, Period Offer Deed**. The inflator to be applied is described in **Part 4, Schedule 2 (Daily Fee Rates and Reimbursable Expenses)**.

Use of Information

- 7.11 Information provided in the Financial Proposal will be used for any financial assessment and for the like-for-like price assessment in the following manner:

The Average fee rate over six (6) Financial Years according to the following formula:

$$\text{Price for Assessment} = \frac{\text{Sum of the Total Daily Fee Rates for Each Financial Year}}{6}$$

- 7.12 Tenderers Note: AusAID's contracting preference is for outputs-based Service Orders, based on daily fee rates, with reimbursable costs separately payable.

ATTACHMENT 1 – TENDER FORM (TENDERER DECLARATION)

All Tenderers must complete in full the Tender Form (Tenderer Declaration). Failure to complete and sign the Tender Form (Tenderer Declaration), or failure to have the Tenderer's signature witnessed may result in the Tender being considered non-conforming.

The following one page checklist is provided as a guide and for your convenience. This checklist should not be included in your Tender.

Tenderers should ensure that they have included in the Tenderer Declaration:

- ☐ The name, address and, if not an Individual, the Organisation of the person making the declaration.
- ☐ The name of the Individual or Organisation for which the Tender is being tendered (***at Clause 1.1 – “Tenderer” means’. This should be the exact name of the legal entity that will appear on the Period Offer Deed should your Tender be successful.***
- ☐ The ABN (and can if the ABN does not include ACN), of the Tenderer (***at Clause 1.1).***
- ☐ The title of the person making the declaration (e.g. Company Director) (***at Clause 2.1).***
- ☐ Details of all Addenda issued to this RFT (***at Clause 5).***
- ☐ The address or Registered Office of the Tenderer, the address for service of notices (not a Post Office box), along with the Telephone Number and Fax Number of the Tenderer (***at Clause 6).***

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 nominated personnel have been approached and confirmed their availability, that no proposed team member is a current AusAID employee, and that AusAID has the authority to make the inquiries referred according to the CV certification.

3.4 I warrant that the Tenderer has used its best endeavours to ensure that all employees of the Tenderer, or of its agents or contractors, proposed as Contractor Personnel for the Contract are of good fame and character.

3.5 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.

- 3.6 I acknowledge and agree to the matters specified in **Clauses 12** (AusAID's Rights) and **13** (Tenderer's Acknowledgement) of Part 3.
- 3.7 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.
- 3.8 I acknowledge that this Tender will not be deemed to have been accepted except as specified in the RFT.
- 3.9 I understand that AusAID is not bound to accept the lowest priced or any Tender.
- 3.10 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.
- 3.11 **[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.
- 3.12 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 5** (Ineligibility to Tender) of **Part 3** 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.
- 3.13 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.
- 3.14 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.
- 3.15 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.

- 3.16 Neither the Tenderer nor any of its agents or contractors has an unsettled judicial decision against it relating to employee entitlements.
- 3.17 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.
- 3.18 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**.
- 3.19 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.
- 3.20 The Tenderer is genuinely competing for the Contract and its Tender is not a “cover bid”.
- 3.21 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.
- 3.22 I acknowledge that each party constituting the Tenderer is bound jointly and severally by this Tender.

4. 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 _____

5. 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

ATTACHMENT 2 – PERSONNEL MATRIX

Note: Ensure Technical Expertise Categories listed in the second column match the actual categories being offered as per **Clause 2.4 of this Part**.

Name of Personnel	Technical Expertise Category

ATTACHMENT 3 – CURRICULUM VITAE

Note: Please answer each question clearly and completely, *type or print in ink*. Read carefully and follow all directions.

1. Technical Expertise Category (select one)

A Macroeconomics	B Microeconomics	C Trade	D Private Sector
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2. Contact Details

Family Name:		First Name(s):	
Nationality:	Gender:	Date of Birth:	
Permanent Address:		Current Address:	
Telephone:		Telephone:	
Email:			

3. Countries of Work

List any countries where you have worked in a relevant role.

Country	Years / Months worked	
	From	To

4. Knowledge of Languages

What is your mother tongue? _____

Other Languages	Proficiency Level			
	Beginner	Intermediate	Advanced	Fluent
	Beginner	Intermediate	Advanced	Fluent
	Beginner	Intermediate	Advanced	Fluent
	Beginner	Intermediate	Advanced	Fluent
	Beginner	Intermediate	Advanced	Fluent

5. Education

Give full details of secondary, tertiary, post-graduate and other formal training obtained.

Name, Place and Country of Education Institution	Years Attended		Degrees and qualifications obtained	Main course of study
	From	To		

6. Professional Associations

List any professional associations of which you currently are a member.

7. Publications

List any significant publications you have written (do not attach).

8. Employment Record

Starting with your present post, list in *reverse order* relevant employment, including the name of your employer, the dates and a brief description of duties.

9. Referees

List the name of two referees, in addition to those identified in Section 10. These referees may not be employed by AusAID or by the Tenderer. AusAID reserves the right to check with nominated referees.

REFEREE 1 Name: Organisation: Position: Telephone: Email: Relationship to nominated person:	REFEREE 2 Name: Organisation: Position: Telephone: Email: Relationship to nominated person:
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10. Signed Statement

“I, *[insert name]*, declare that:

- a) the information provided in this CV is accurate and I 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;
- b) I am a person of good fame and character; and
- c) I am available to participate in the **Economic Advisory Panel – Period Offer** in the role in which I have been nominated in the Tender for the period or periods indicated in the Tender”.

Signature

Date

ATTACHMENT 4 – EXPERIENCE DATA SHEET

Name of Nominated Person:

Technical Expertise Category:

Project Name:		Country:	
Name of Client:		Project Location within Country:	
Company responsible for Project Management: (if applicable)		Approximate Value of Project (AUD):	
Start Date:	Completion Date:	Approximate Value of Services provided (AUD):	
Description of Project:			
Actual Services provided:			
Role:		Input: (days/months)	
Nominated Activity Referees:			
1. Name:		2. Name:	
Address:		Address:	
Email:		Email:	
Phone:		Phone:	

ATTACHMENT 5 – FINANCIAL PROPOSAL

Note:

1. The Daily Fee Rate is based on an eight hour working day. Any additional work undertaken within a 24 hour period cannot be claimed.
2. Where less than 8 hours work is undertaken in a day the daily fee rate will be reduced on a pro rata basis based on an 8 hour day.
3. For international travel the fee rate shall apply from the scheduled departure time of overseas travel via international transport, or as otherwise agreed by AusAID. For non-travelling periods, only actual weeks, days or hours worked (calculated using the pay rate specified in the relevant Services Order) will be payable. Overseas rates are exclusive of travel costs.
4. As the Term of the Deed may commence part way through the Financial Year allowance has been made for a sixth Daily Fee Rate to cover this.
5. The **Average Daily Fee Rate** is the average of the **Total Daily Fee Rates** for all six (6) Financial Years.

Name/s of Nominated Personnel	Financial Year 2009-10 Daily Fee Rate (AUD)	Financial Year 2010-11 Daily Fee Rate (AUD)	Financial Year 2011-12 Daily Fee Rate (AUD)	(Term of the Deed and Option Period) Financial Year 2012-13 Daily Fee Rate (AUD)	(Option Period) Financial Year 2013-14 Daily Fee Rate (AUD)	(Option Period) Financial Year 2014-15 Daily Fee Rate (AUD)	Average Daily Fee Rate (AUD)
Insert Name #1	(a) Insert Daily Fee Rate (GST Exclusive)	(a) Insert Daily Fee Rate (GST Exclusive)	(a) Insert Daily Fee Rate (GST Exclusive)	(a) Insert Daily Fee Rate (GST Exclusive)	(a) Insert Daily Fee Rate (GST Exclusive)	(a) Insert Daily Fee Rate (GST Exclusive)	—
	(b) Insert Superannuation Guarantee Levy amount (if applicable)	(b) Insert Superannuation Guarantee Levy amount (if applicable)	(b) Insert Superannuation Guarantee Levy amount (if applicable)	(b) Insert Superannuation Guarantee Levy amount (if applicable)	(b) Insert Superannuation Guarantee Levy amount (if applicable)	(b) Insert Superannuation Guarantee Levy amount (if applicable)	—
Total Daily Fee Rate	Insert total (a) + (b)	Insert total (a) + (b)	Insert total (a) + (b)	Insert total (a) + (b)	Insert total (a) + (b)	Insert total (a) + (b)	Insert average Total Daily Fee Rate
Escalation Rate (%)	—	Insert % increase from previous year	Insert % increase from previous year	Insert % increase from previous year	Insert % increase from previous year	Insert % increase from previous year	—
Add additional rows as needed							

ATTACHMENT 6 – 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.

TENDERER’S SUBMISSION CHECKLIST	Checked
Tenderer’s Declaration	
Has the Tenderer’s Declaration been completed and signed?	
For electronic lodgement, has one (1) electronic copy of the Tenderer’s Declaration been submitted in a separate file?	
For hard copy lodgement, has one (1) printed original of the Tenderer’s Declaration been submitted?	
Tender Schedule A: Technical Proposal and Attachments	
Has a separate response to the Selection Criteria been submitted for each individual nominated under each Technical Expertise Category?	
Is the response(s) to the Selection Criteria within the specified page limit?	
Does the response(s) to the Selection Criteria address each of the selection criteria individually?	
Where the Tenderer is an Organisation, does the Technical Proposal indicate the Tenderer’s nominated contact person and contact details on the cover page?	
Are the Selection Criteria and annexes: (a) in a type font of 11 or 12 point on A4 paper? (b) formatted with left and right page margins no less than 2.5cm and the 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 connect with AusAID?	
Is the Personnel Matrix in the required format?	
Have separate CVs and Experience Data Sheets been submitted for each individual nominated under each Technical Expertise Category?	
Are the Experience Data Sheets in the required format and within the specified page limit?	
Are the CVs in the required format?	
Are the CVs within the specified page limit and certified?	

TENDERER'S SUBMISSION CHECKLIST	Checked
Do the CVs include name and personal contact details?	
Do the CVs include the nationality and, if relevant, permanent residency status of the nominated personnel?	
Do the CVs include details of the professional qualifications of nominated personnel (if relevant), including institution and date of award?	
Do the CVs include details of recent relevant professional and development work experience, including the duration and extent of inputs?	
Have at least two (2) referees been nominated on the CV and has it been confirmed that they are: (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?	
Tender Schedule B: Financial Proposal	
Is the financial proposal in the required format?	
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: (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?	
Submission	
For electronic lodgement, has one (1) electronic copy of the Technical Proposal containing all parts and attachments been provided?	
For electronic lodgement, has one (1) electronic copy of the Financial Proposal been provided in a separate file?	
For hard copy lodgement, has one (1) printed original and four (4) copies of the Technical Proposal containing all parts and attachments been provided?	
For hard copy lodgement, has one (1) printed original of the Financial Proposal been provided in a separate, sealed envelope?	
For hard copy lodgement, has a CD containing one (1) electronic copy of the Technical Proposal containing all parts and attachments and one (1) electronic copy of the Financial Proposal in a separate file been provided?	

PART 2 – SCOPE OF SERVICES

Note to Tenderers:

This Schedule is specific to this Period Offer and is presented here as Part 2 of this RFT. It will appear as Schedule 1 in the consolidated Period Offer Deed.

Schedules 2, 3, 4, 5 and 6 are standard schedules and are attached in Part 4 of the RFT (Period Offer Deed).

SCHEDULE 1 – SCOPE OF SERVICES

Economics Advisory Panel – Period Offer

1. INTRODUCTION

- 1.1 The Australian Agency for International Development (AusAID) is responsible for managing the Australian Government's official overseas aid program. AusAID is an autonomous agency within the Department of Foreign Affairs and Trade. The objective of the Australian aid program is to advance Australia's national interest by assisting developing countries to reduce poverty and achieve sustainable development.
- 1.2 The main geographic focus of the bilateral aid program is in Papua New Guinea, Asia and the Pacific. Selected assistance is also given to South Asia, Africa and the Middle East.
- 1.3 The purpose of the Economics Advisory Panel is to enhance the quality and effectiveness of Australia's aid program by providing high quality advice and analysis on economics related issues to Posts, regional programs and program enabling areas. Period offer members (Contractors) will help guide the implementation of best-practice approaches and supplement AusAID's existing in-house advisory capacity where required.

2. OBJECTIVES

- 2.1 The objectives of the Economics Advisory Panel are to contribute to the program quality, policy development and development effectiveness of AusAID programs through:
 - (a) ensuring that economics related issues within AusAID's initiatives are based on international good practice, Australian and regional lessons learned, and insights from regional donors;
 - (b) assisting AusAID to keep up to date with trends and developments by building the Agency's knowledgebase through participating in peer reviews, evaluations, research, sharing experience and knowledge in formal and informal ways, and assisting the Agency to apply this knowledge practically throughout its programs; and
 - (c) providing AusAID with access to high quality, timely advice and access to economics analysts and networks.

3. SERVICES REQUIRED

- 3.1 AusAID requires Period Offer members to provide economics analysis and advice services for short-term assignments on an ad hoc basis. The duration of individual assignments may vary, from answering individual questions to longer term assignments including ones that may take place overseas, particularly in Papua New Guinea, the Pacific and Asia. Individual consultants may need to be available at short notice to provide services both in Australia and overseas.
- 3.2 The Contractors under this Period Offer will be required to provide advice, support, and capacity building services including, but not limited to:

- (a) providing in-depth quality advice on economics issues to AusAID on policy development, program strategy development and review, activity selection, design, appraisal and evaluation;
- (b) undertaking field missions in relation to AusAID development programs, either individually or as a member of a team;
- (c) providing short term ad hoc advice to country and regional programs and program enabling areas, including commenting on documents and participating in meetings;
- (d) assisting AusAID in-house advisers to distil and synthesise lessons learned on economics issues in the field, to improve the overall quality and impact of Australian aid activities; and
- (e) participating in, and contributing to, fora and training exercises based around a governance sub-theme, convened by AusAID program or policy areas.

3.3 The Contractors under this Period Offer will provide economics expertise in one or more of the following areas:

	Technical Expertise Categories
A	Macroeconomic analysis and advice , including general country economic analysis, such as forecasting, especially in relation to growth, constraints and opportunities; analysis of country macroeconomic management; analysis of opportunities and constraints for pro-poor growth; and advice on improving the development and use of timely and reliable economic and social statistics to inform decision making.
B	Microeconomic analysis and advice on reform to state-owned enterprises; regulatory reform in sectors such as energy, telecommunications and aviation; labour market reform and development.
C	Trade analysis and advice for trade policy and accompanying structural reform, trade development and facilitation, and trade negotiation capacity building.
D	Private sector development for service industry development, creating a business enabling environment, and improving access to finance and microfinance.

3.4 The Period Offer may not be used for the delivery of major, long-term training services or for project implementation.

3.5 It is anticipated that the members of the Economics Advisory Panel and representatives from AusAID may meet as necessary in Canberra. This would allow:

- (a) AusAID to update Specified Personnel on relevant aid program developments;
- (b) Specified Personnel to present on nominated issues and to engage with the Economics network; and

- (c) AusAID and Specified Personnel to review international and AusAID trends and developments, including possibly participating in Whole-of-Government discussions/forums.

4. REQUIREMENTS

- 4.1 The Contractor shall respond promptly (within three (3) working days of receipt of tasking) to AusAID requests for personnel, with an indication of whether the Specified Personnel is interested and available.
- 4.2 The Contractor shall provide the Specified Personnel to provide services as required by AusAID; substituted personnel will not be allowed.
- 4.3 On occasion, Specified Personnel may be required to work as part of a team comprising personnel obtained under Period Offer from other Contractors. The Contractor shall ensure the co-operation of all persons nominated as Specified Personnel with Personnel from other Contractors appointed by AusAID to undertake activities, including as a member of a team.
- 4.4 For interstate and overseas assignments, the Contractor is responsible for making all travel and accommodation arrangements to meet AusAID's requirements for the activity.
- 4.5 The Contractor shall provide appropriate office, administrative, IT and financial support for Specified Personnel.
- 4.6 Specified Personnel may be required to travel to Canberra before and/or after field missions, to prepare for and then present a piece of analytical/research work or to conduct training.
- 4.7 Specified Personnel will be required to provide advice on AusAID initiatives and activities based on international good practice, Australian and regional lessons learned, and insights from other regions and donors.
- 4.8 The Contractor shall ensure the availability of all persons nominated as Specified Personnel in Deed Schedule 5 of the Period Offer Deed to perform Services at the request and discretion of AusAID. AusAID may remove from the Period Offer Specified Personnel who are consistently unavailable when required and/or Contractors who are unable to provide Specified Personnel when required.
- 4.9 The Contractor shall monitor the performance of all persons nominated as Specified Personnel and ensure they meet performance standards prescribed in the Deed and performance standards specified in Services Orders to the highest standards.

5. ENGAGEMENT

- 5.1 The scope and duration of service for particular assignments will be agreed between AusAID and the Contractor through a Services Order at the time of each assignment.
- 5.2 AusAID gives no guarantee of any minimum amount of work that may be offered to the Contractor under this Period Offer.

6. REPORTS

- 6.1 Reports or other documentation required shall be as specified in the Services Order pursuant to the Period Offer Deed.
- 6.2 Satisfactory performance (and particularly timeliness and quality) of services as set out in the Services Order may be taken into account in awarding further work under these Period Offer Deeds and in selections for future AusAID work.
- 6.3 AusAID reserves the right to introduce a specific performance assessment system to the Period Offer Deeds at its discretion.

7. CONTRACTOR PERFORMANCE

- 7.1 Satisfactory performance (and particularly timeliness and quality) of services as set out in the Services Order may be taken into account in awarding further work under this Period Offer Deed and in selections for future AusAID work.
- 7.2 AusAID reserves the right to introduce a performance system to the Period Offer Deeds at its discretion.

8. SECURITY

- 8.1 Contractors should be aware that in some overseas locations security issues may need particular attention. It is the Contractor's responsibility to ensure the personal security of their personnel and the security of any equipment.

PART 3 – STANDARD TENDER CONDITIONS

Some of the 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://www.tenders.gov.au> before the **Closing Time** and in accordance with the tender lodgement procedures set out in **Annex B** 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 as described in **Tender Schedule A, Part 1** of this RFT. The technical proposal must address the selection criteria and include the required attachments specified in **Part 1**;
 - (b) the financial proposal as described in **Tender Schedule B, Part 1** of this RFT. The financial proposal must be submitted as a separate file, and for hard copy submissions, the financial proposal must be submitted in a separate sealed envelope; and
 - (c) the completed and signed Tenderer Declaration in the form specified in **Attachment 1 of Part 1** of this RFT.
- 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 4** 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 4** of this RFT).

- 1.9 A person or persons having authority to enter into a Period Offer Deed on behalf of the Tenderer must sign the Tender Declaration (**Attachment 1 of Part 1**).
- 1.10 AusAID may extend the **Closing Time** at its sole 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 B 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 Period Offer 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 Period Offer Deed Conditions; or
 - (b) wishes to make any enquiry, including seeking clarification, of the RFT, including of the Period Offer Deed 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 Date**.

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

3. LATE TENDERS

- 3.1 A Tender lodged after the **Closing Time** is a late Tender.
- 3.2 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**.
- 3.3 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.
- 3.4 A late Tenders that is rejected by AusAID will be returned to the Tenderer 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.

4. NON-CONFORMING TENDERS

- 4.1 Tenders will be regarded as non-conforming if they fail to conform with one or more of the requirements of the RFT.
- 4.2 Subject to **Clause 3** (Late Tenders) of **Part 3** of this RFT, AusAID reserves the right to seek clarification of non-conforming Tenders in accordance with **Clause 6 of this Part**.
- 4.3 AusAID reserves the right to remove pages that make a Tender technically non-conforming, in order to ensure that the tender technically conforms.
- 4.4 Subject to **Clause 3** (Late Tenders) of **Part 3** of this RFT, AusAID may, at its absolute discretion, assess or reject a non-conforming Tender.
- 4.5 AusAID will not enter into correspondence about a decision to assess or reject a non-conforming Tender.

5. INELIGIBILITY TO TENDER

- 5.1 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**”).

- 5.2 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.
- 5.3 AusAID will exclude any tender where the Tenderer is in breach of the warranty, or does not disclose any circumstance required under **Clause 5.2**. 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.
- 5.4 Tenderers should note that if they tender in breach of this **Clause 5**, or are subsequently listed on a World Bank List or Relevant List, AusAID may terminate any contract subsequently entered into with that Tenderer.
- 5.5 For the purpose of this **Clause 5**, 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.

6. CLARIFICATION OF TENDERS

- 6.1 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.
- 6.2 Clarifications provided to Tenderers by AusAID are on the terms of the RFT.
- 6.3 Failure to supply clarification to the satisfaction of AusAID may render the Tender liable to rejection.

7. AMENDMENT OF THE RFT

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

8. ASSESSMENT OF TENDERS

8.1 Tenders will be assessed on the following basis:

- (a) Technical: in accordance with Part 1 of this RFT (and includes the other factors described in **Clause 8.6 below** which in AusAID's opinion may impact upon the suitability of any Tenderer including the financial viability of any Tenderer); and
- (b) Financial: a like-for-like price assessment will be conducted in accordance with Part 1 of this RFT;

to achieve the best value for money outcome.

Technical Assessment

- 8.2 AusAID reserves the right to undertake an initial short-list of Tenderers in accordance with the Selection Criteria as set out in **Clauses 6.4 to 6.6 of Part 1** of the RFT.
- 8.3 Those Tenderers short-listed for further consideration will be assessed by the Technical Assessment Panel (the “**TAP**”) comprising AusAID representative(s) and independent specialists appointed at AusAID’s sole discretion. The TAP will assess Tenders based on the technical selection criteria specified in **Part 1** of the RFT.
- 8.4 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.
- 8.5 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**.
- 8.6 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 Period Offer Deed Conditions; and
 - (b) 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.

These other factors have not been allocated any specific weightings.

- 8.7 TAP members may adjust technical scores as a consequence of the consideration of past performance.

Financial Assessment

- 8.8 Following consideration of the technical merit of Tenders, a like-for-like price assessment will be undertaken by AusAID of the Tenders that are assessed by the Technical Assessment Panel (TAP) as technically suitable.
- 8.9 Scores will be calculated in accordance with **Clause 4** (Score Weightings) of **Part 1** of this RFT.
- 8.10 Tenderers should note that value for money determinations are made on a whole-of-life (of project) basis and that AusAID is not bound or required to accept the lowest priced Tender or any Tender.

Goods and Services Tax

- 8.11 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

- 8.12 The financial proposal must be inclusive of all necessary insurances required by the Period Offer Deed Conditions and for the performance of the Services. Notwithstanding the requirements of the Period Offer Deed, 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 Period Offer or earlier termination.

9. OWNERSHIP OF TENDERS AND RFT

- 9.1 All Tenders become the property of AusAID on lodgement.
- 9.2 Such intellectual property rights as may exist in the information contained in each Tender will remain the property of the Tenderer.
- 9.3 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.
- 9.4 Copyright in the RFT is reserved to AusAID.

10. CONFLICT OF INTEREST

- 10.1 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 for conflict of interest in relation to the activity.

- 10.2 If any actual or potential conflicts of interest arise for a Tenderer before entering into a Period Offer Deed 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.

11. TENDERING CONDUCT

- 11.1 Each Tenderer warrants that it has not engaged in collusive or anti-competitive practices with any other Tenderer in the preparation of its Tender.
- 11.2 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.

12. AusAID'S RIGHTS

- 12.1 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.
- 12.2 AusAID reserves the right to:
- (a) seek Tenders from any individual or 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 individual or 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.

13. TENDERER'S ACKNOWLEDGEMENT

13.1 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 or any RFT) unless and until Period Offer Deed 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, or any RFT issued subsequent to the evaluation of Tenders;
- (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;
- (d) the Tenderer grants to AusAID an option to extend the term of the Period Offer Deed for a period of up to 24 months (in multiples of whole months); and
- (e) The Tenderer acknowledges and agrees to the conditions as set out in the attached Period Offer Deed. AusAID does not anticipate major changes to this Deed.

14. DEBRIEFING OF TENDERERS

- 14.1 AusAID will provide Tenderers with a generic debriefing on the technical assessment of Tenders within 30 days of Tenderers receiving notification of the results of that assessment.
- 14.2 AusAID will not provide any other form of debrief.
- 14.3 AusAID will not enter into discussion or communications on the content of the tender debrief once it has been completed.

15. AUSTRALIAN GOVERNMENT AND AUSAID LAWS AND POLICIES

15.1 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.

15.2 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 Contractor acknowledges 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.

15.3 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.

15.4 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.

15.5 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.

15.6 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.

15.7 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.aisaid.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.aisaid.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.aisaid.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.aisaid.gov.au/publications/default.cfm>;
- (v) the policy *Procurement 30 Day Payment Policy for Small Business*. This document is available on AusAID's website at <http://www.aisaid.gov.au/business/contracting.cfm>; and
- (vi) any other policies published from time to time on <http://www.aisaid.gov.au> or as otherwise notified to Tenderers.

16. FURTHER REQUIREMENTS

- 16.1 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.
- 16.2 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.
- 16.3 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.

17. PERIOD OFFER DEED NEGOTIATIONS

- 17.1 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.

18. APPLICABLE LAW

- 18.1 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 – 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 4 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 4 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 4 – STANDARD PERIOD OFFER DEED CONDITIONS

Attached is a Draft Period Offer Deed. AusAID reserves the right to alter or amend the Period Offer Deed. However, AusAID does not anticipate major changes to the Deed.

Draft

PERIOD OFFER DEED

BETWEEN

COMMONWEALTH OF AUSTRALIA
represented by the Australian Agency for International Development
ABN 62 921 558 838

and

Name
ABN XX XXX XXX XXX

FOR

ECONOMICS ADVISORY PANEL

DEED made day of []

BETWEEN:

COMMONWEALTH OF AUSTRALIA represented by the Australian Agency for International Development (“AusAID”) **ABN 62 921 558 838** of the Department of Foreign Affairs and Trade

AND

Name **ABN xx xxx xxx xxx** of **Street Address** (the “Contractor”).

RECITALS:

- A. AusAID wishes to enter into an umbrella arrangement under which it may require the Contractor to supply Services from time to time.
- B. The Contractor wishes to enter into such an arrangement.
- C. The Contractor has expertise in the provision of the Services and has offered to provide the Services to AusAID from time to time for the period and upon and subject to the terms and conditions specified in this Deed.

OPERATIVE:

AusAID and the Contractor promise to carry out and complete their respective obligations in accordance with this Deed including Parts A and B.

Executed as a Deed

SIGNED for and on behalf of the	)
COMMONWEALTH OF AUSTRALIA	)
represented by the Australian Agency for	)
International Development by:	)
	Signature of Print Name
	FMA Act s44 Delegate
	Position

In the presence of:

.....	
Name of witness	Signature of witness
SIGNED for and on behalf of	
[Contractor’s Name] by:	

.....	
Signature of director or Contractor	Signature of director/secretary or witness

.....	
Name of director or Contractor	Name of director/secretary or witness
(Print)	(Print)

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PART A – STANDARD CONTRACT CONDITIONS

AusAID has developed standard conditions which are the foundation of our contracts for aid delivery. Recent substantive changes to these standard conditions are identified below. This information is provided to help contractors keep up to date with ongoing improvements to AusAID standard conditions. **Please note clause numbering of earlier changes is not updated when clauses are added or deleted later. References to clause headings however do not change.**

Addition of new Ombudsman Clause 35	14 Feb 2006
Amendment of sub-clause 27.3 of the Publicity Clause 27	17 Nov 2003
Addition of new Payment Clause 20.13	1 Oct 2003
Replacement of Insurance Clauses with new clauses 31.1, 31.2, 31.3 and 31.4	1 Oct 2003
Addition of new Publicity Clause 27.	9 Sept 2003
Addition of new paragraph to Payment Clause 20.12 in relation to contractors without ABNs	19 June 2003
Update of the website address of the Australian Public Service Commission in the definition of “APS Code of Conduct” and “APS Values” in Interpretation Clause 11.1	2 May 2003
Amendments to Compliance with Laws and Policies Clause 34 to take account of new <i>Environmental Management Guide for Australia's Aid Program</i>	21 Mar 2003

PERIOD OFFER DEED CONDITIONS

1. INTERPRETATION

1.1 Definitions

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

“**Contract**” means the periodic contract brought into existence on the issue of a Services Order contemplated by **Clause 4.2** (Formation of Periodic Contracts). Note this replaces the definition of “Contract” included in the Standard Conditions.

“**Effective Control**” means in relation to Partnerships:

- (a) control of the composition of the Contractor’s board of partners; and
- (b) control of more than half of the voting rights attaching to the partnership structure in the Contractor.

“**Fees**” means the fees for the Services set out in the relevant Services Order and calculated and determined by reference to **Schedule 2** (Daily Fee Rates and Reimbursable Expenses). Note this replaces the definition of “Fees” included in the Standard Conditions.

“**Offer Period**” means the term of the Deed as detailed in **Clause 3.1 below** and any extension pursuant to **Clause 3.2 below**.

“**Partner Country**” means the country, if not Australia, in which the Project is undertaken.

“**Party**” means AusAID or the Contractor.

“**Period Offer Deed**” or “**Deed**” means the umbrella arrangement under which AusAID may require Services to be supplied from time to time.

“**Project**” means the activity to be undertaken pursuant to the Services Order.

“**Services**” references in the context of the Deed, means the services described in **Schedule 1** in respect of which a Services Order may be issued by AusAID from time to time during the Offer Period.

References in the Contract to “**Services**” are to the services described in the Services Order. Note this replaces the definition of “Services” included in the Standard Conditions.

“**Services Order**” means an order issued in accordance with **Clause 4** (Formation of Periodic Contracts) and in the form provided in **Schedule 4**.

“**Specified Personnel**” means those personnel listed in **Schedule 5** that are specified in the relevant Service Order to perform the Services.

“**Standard Conditions**” means the contract conditions set out in **Part A of this Deed** that will be incorporated into any periodic contract.

1.2 General

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

- (a) a word denoting the singular number includes the plural number and vice versa;
- (b) a word denoting an individual or person includes a corporation, firm, authority, body politic, government or governmental authority and vice versa;
- (c) a word denoting a gender includes all genders; and
- (d) a reference to a recital, clause, Schedule or annexure is to a recital, clause, Schedule or annexure of or to this Deed.

1.3 Deed prevails

If there is any inconsistency (whether expressly referred to or to be implied from this Deed or otherwise) between the provisions of this Deed and those of the Schedules, the Schedules are to be read subject to this Deed and the provisions of this Deed prevail to the extent of the inconsistency.

2. PURPOSE OF THIS DEED

- 2.1 The purpose of this Deed is to establish a contractual regime for the periodic provision of the Services at the request and discretion of AusAID.

3. TERM OF THE DEED

- 3.1 This Deed sets out the three (3) year Offer Period during which the Contractor offers to supply and AusAID may require from time to time the provision of the Services and the contractual terms that regulate each supply of Services by the Contractor to AusAID beginning on the **Start Date**.
- 3.2 The Contractor grants to AusAID an option to extend the term of the Deed for a period of up to 24 months. The option must be exercised by notice in writing to the Contractor prior to the conclusion of the initial Offer Period referred to in **Clause 3.1 above**. Fees for any extension shall be in accordance with **Clause 1.6 of Schedule 2**.
- 3.3 AusAID shall not be required to issue any Services Order during the Offer Period.

4. FORMATION OF PERIODIC CONTRACTS

- 4.1 At any time during the Offer Period AusAID may issue a Services Order to the Contractor containing the information specified in **Clause 4.4 below**. Prior to issuing a Services Order, AusAID will establish that the appropriately qualified Specified Personnel are available to undertake the task and reach agreement with the Contractor on the terms of reference, the duration and overall cost of the proposed Services.
- 4.2 The issue of a Services Order by AusAID shall immediately bring into existence a periodic contract for the provision of the Services described in the Services Order.

- 4.3 The Contract formed by the issue of a Services Order incorporates the terms and conditions described in Standard Conditions and any additional clauses in Part B, explicitly referred to as Project Specific Conditions.
- 4.4 The Services Order must be substantially in the form set out in **Schedule 4** and contain the following information:
- (a) a description of the Services to be provided and milestones to be achieved;
 - (b) the Specified Personnel;
 - (c) the date of commencement of the Services;
 - (d) if relevant, the term of the periodic contract being the period in which the Services must be provided;
 - (e) the total amount payable, including the Fees and reimbursable costs;
 - (f) if applicable, details of any reimbursable costs due and payable to the Contractor;
 - (g) any particular performance standards applicable to the Services Order in addition to those prescribed in the terms and conditions; and
 - (h) reports to be provided.

5. NON-EXCLUSIVITY

- 5.1 The Contractor acknowledges and agrees that nothing in this Deed shall operate to constitute the Contractor an exclusive provider of the Services to AusAID.
- 5.2 The Contractor must, within the Fees, cooperate with any other contractor appointed by AusAID to ensure the integrated and efficient provision of all Services and must provide reasonable assistance to other contractors as AusAID may request.
- 5.3 The Contractor acknowledges and agrees that AusAID may during the Offer Period make available to other interested and relevant third parties (including other government departments or agencies and other aid agencies and donors), personal information such as name, contact details, sectoral expertise and CVs but excluding agreed fee rates of Specified Personnel.

6. DEED AMENDMENTS

- 6.1 For the purposes of amending this Deed the procedures established in Standard Conditions **Clause 15.2** (Contract Amendment) will also apply.

7. NOTICES

- 7.1 For the purposes of serving notices with respect to this Deed, to either Party of this Deed, the following procedures shall apply. A notice required or permitted to be given by one Party to another under this Deed 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).

7.2 For the purposes of this Deed, the addresses of each of the Parties shall be as set out below or any other address of which that Party may from time to time give notice in writing to each other Party:

AusAID

To: Period Offer Contracts Officer
Procurement and Agreement Services Section

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

Street Address: 255 London Cct
CANBERRA ACT 2601 AUSTRALIA

Facsimile: +61 (2) 6206 4885

Contractor

To: Name
Attention: Contact Person

Postal Address: Postal Address

Street Address: Street Address

Facsimile: Facsimile

8. SUBSTITUTION OF SPECIFIED PERSONNEL

- 8.1 The list of Specified Personnel contained in **Schedule 5** may, subject to AusAID's agreement, be amended from time to time during the Offer Period by a request from the Contractor. The request for substitution of personnel must be accompanied by each person's response to the Selection Criteria, Experience Data Sheets and certified CV as per the RFT for the Period Offer.
- 8.2 Personnel approved by AusAID must provide an electronic copy of their CV within 14 days of the written approval from AusAID.
- 8.3 An agreed change to the list of Specified Personnel shall be enacted in the form of a Deed of Amendment as described in Standard Conditions **Clause 15** (Contract Amendment).

9. ACQUIREMENT OF KNOWLEDGE

- 9.1 Specified Personnel are required to have a satisfactory knowledge of AusAID and its operations and interests.
- 9.2 The Contractor may not charge AusAID any fees for the acquisition of such knowledge.
- 9.3 AusAID will endeavour to keep the Contractor informed of significant developments within AusAID that are important to an understanding of AusAID.

10. CHANGE IN OWNERSHIP OF THE CONTRACTOR

- 10.1 The Contractor will be in default under the Deed if, without AusAID's prior written consent, Effective Control in the Contractor is changed by:
 - (a) a change in the ownership of the Contractor;
 - (b) the creation of, or amendment to, the partnership structure under which the Contractor must operate; or
 - (c) by any other arrangement.

11. COOPERATIVE AGENCY PROCUREMENT

- 11.1 Notwithstanding **Clause 5.3** of this Deed, Departments and Agencies of the Commonwealth of Australia (in addition to AusAID), may utilise this Period Offer and request Services and contact the Contractor for Services under this Period Offer Deed, in accordance with this Deed.

PART A – STANDARD CONTRACT CONDITIONS

12. INTERPRETATION

12.1 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).

"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* (Cth),

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 www.ausaid.gov.au/business.

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

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

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

"Contract Conditions" means the provisions contained in Part A **"Standard Conditions"** and Part B **"Project Specific 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.

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

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

"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.

"document" includes:

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

- (g) 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.

"Fees" means the fees for the Services, as the fees are 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:

- (h) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster;
- (i) acts of war (whether declared or not), invasion, acts of foreign enemies, mobilisation, requisition, or embargo;
- (j) acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution, or military usurped power, or civil war; and
- (k) 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, 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 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 Country" means the country (other than Australia) in which the Services are to be delivered in whole or in part.

"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).

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

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

"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.

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

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

"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.

12.2 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, except for this clause 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.

12.3 Counterparts of the Contract

The 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.

12.4 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.

12.5 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.

13. PROVISION OF SERVICES

13.1 In providing the Services, the Contractor must:

- (a) perform the Services at minimum to a standard which would be expected of a competent, experienced and professional contractor in like position to that of the Contractor under this Contract;
- (b) accept and implement AusAID's reasonable directions in relation to the management of the Project;
- (c) conduct itself in a manner consistent with the *Public Service Act 1999*, and in accordance with *APS Values* and the *APS Code of Conduct*;
- (d) subject to any flexibility permitted in the Contract, ensure all timing obligations included in the Contract are fully met;
- (e) 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;
- (f) not 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;
- (g) provide adequate support resources to secure the aims and objectives of the Project; and
- (h) seek to improve the quality, effectiveness and efficiency of the Services at every opportunity.

13.2 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.

13.3 The Contractor shall not by virtue of this Contract be, or for any purpose be deemed to be, and must not represent itself as being, an employee, partner or agent of AusAID.

14. NON-EXCLUSIVITY

14.1 The Contractor may not be the exclusive provider of services to AusAID similar to those provided under this Contract.

14.2 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.

15. CONTRACT AMENDMENT

- 15.1 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.
- 15.2 Changes to Contract Conditions or to the Services 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.

16. EXTENSION OF TIME

- 16.1 Subject to **Clause 16.5 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.
- 16.2 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; and
 - (e) use its best endeavours to continue to perform its obligations under the Contract.
- 16.3 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.
- 16.4 If AusAID approves a request, AusAID will prepare a Deed of Amendment approving the request and any conditions imposed by AusAID, for signature by both Parties.

- 16.5 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.
- 16.6 A notice of suspension, deletion or termination of the Contract under **Clause 16.5 above** takes effect on the date that the notification is received by the Contractor.
- 16.7 In the event of suspension, deletion or termination of Services or the Contract under **Clause 16.5 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.

17. ACCOUNTS AND RECORDS

- 17.1 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, including those involving foreign exchange transactions.
- 17.2 Accounts and records must be provided for inspection by AusAID immediately upon the request of AusAID.
- 17.3 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.

18. REPORTS

- 18.1 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.
- 18.2 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.
- 18.3 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.

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 of 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 No invoice for any period is to be submitted before the provision of any reports required by the Contract for the relevant period.
- 20.5 Subject to the Contract AusAID shall pay Reimbursable Costs within 30 days of receipt of a correctly-rendered invoice.
- 20.6 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 is based upon the calculation of Fees referred to in **Schedule 2**; and
 - (c) a authorized representative 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.

- 20.7 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.
- 20.8 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.
- 20.9 AusAID need not pay an amount that is disputed in good faith by AusAID until the dispute is resolved.
- 20.10 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.
- 20.11 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.
- 20.12 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.

In 2003 AusAID is required by the PAYG legislation to withhold 48.5% of the total amount payable to Contractors who do not have an ABN. Contractors can provide AusAID with a completed "Statement by a Supplier" if they consider that they are covered by one of the exceptions under the legislation and therefore AusAID would not have to withhold any money. The Statement is available on the Australian Tax Office (ATO) website as a form in relation to ABNs: <http://www.ato.gov.au/businesses/content.asp?doc=/content/38509.htm>

- 20.13 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. REDUCTION IN FEES FOR NON-PERFORMANCE

- 22.1 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 as is reasonably assessed by AusAID.

23. INTELLECTUAL PROPERTY RIGHTS

- 23.1 Subject to **Clause 23.2**, 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.
- 23.2 **Clause 23.1** 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 23.2** 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.
- 23.3 The Contractor warrants that any use of Contract Material by AusAID or others will not infringe any moral rights of authors with regards to the rights of attribution and integrity of authorship or the right against false attribution.
- 23.4 The Contractor must ensure that the Contract Material is used, copied, supplied or reproduced only for the purposes of this Contract.

24. CONFIDENTIALITY

- 24.1 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.
- 24.2 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.
- 24.3 This clause shall survive expiration or termination of this Contract.

25. PRIVACY

- 25.1 This clause applies only where the Contractor deals with Personal Information when, and for the purpose of, providing the Services.
- 25.2 The Contractor acknowledges that it is a 'contracted service provider' within the meaning of section 6 of the *Privacy Act 1988* (Cth) (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 Information Privacy Principle (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 subcontractor;
- (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.

25.3 The Contractor agrees to 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 the requirement in relation to subcontracts.

25.4 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 subcontractor under the subcontract provisions referred to in **Clause 25.3**.

25.5 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*.

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

26. AusAID USE OF CONTRACT INFORMATION

26.1 AusAID may disclose matters relating to the Contract, including the Contract and the names of sub-contractors as specified in **Clause 39.4 below**, except where such information may breach the *Privacy Act 1988*, to governmental departments and agencies, Ministers and Parliamentary Secretaries, and to Parliament, including responding to requests for information from Parliamentary committees or inquiries.

26.2 This clause shall survive termination or expiration of the Contract.

27. PUBLICITY

27.1 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.

27.2 The Contractor is encouraged to identify and implement appropriate opportunities for publicising the Project.

27.3 The Contractor must acknowledge the Australian Government contribution in publicity of any form relating to the Project. The Contractor must only use the Australian Government/AusAID logo (in-line version) to denote association with Australia, the Australia 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. TERMINATION FOR CONTRACTOR DEFAULT

28.1 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 ten (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* (Cth);
- (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 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;

- (l) 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;
- (m) is in breach of the warranty, regarding listing on a World Bank List or Relevant List, given the Statutory Declaration submitted by the Contractor with its tender leading to this Contract;
- (n) is, during the term of this Contract, listed on a World Bank List or Relevant List; or
- (o) is in breach of the warranty, regarding the good fame and character of Contractor Personnel, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract.

28.2 If this Contract is terminated under this Clause 28:

- (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 subcontracts).

29. TERMINATION FOR CONVENIENCE

29.1 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.

29.2 Where notice is given under **Clause 29.1** 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 subcontracts) arising in consequence of termination of this Contract under this **Clause 29**.

29.3 In the event of termination or reduction in scope under this **Clause 29**, subject to **Clause 29.4**, 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.

29.4 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 29**.

30. INDEMNITY

30.1 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.

30.2 The Contractor agrees that AusAID may enforce the indemnity in favour of the persons specified in **Clause 30.1 above** for the benefit of each of such persons in the name of AusAID or of such persons.

30.3 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.

30.4 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.

30.5 This indemnity shall survive termination or expiration of this Contract.

31. INSURANCE

31.1 The Contractor must arrange and maintain for the duration of the Contract:

- (a) adequate medical and dental insurance for Contractor Personnel who are engaged to operate outside their country of permanent residence; and

- (b) adequate insurance for medical evacuation and evacuation resulting from an insured event for all Contractor Personnel.

- 31.2 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.
- 31.3 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.
- 31.4 In the event of an insurance claim any deductible/excess payable shall be the responsibility of the Contractor.

32. CONFLICT OF INTEREST

- 32.1 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.
- 32.2 The Contractor must use best endeavours to ensure that a situation does not arise which may result in a conflict of interest. Where a conflict of interest, or a potential 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.

33. FRAUD

- 33.1 For the purpose of this clause, 'fraudulent activity' or 'fraud' means: Dishonestly obtaining a benefit by deception or other means.
- 33.2 The Contractor and its subcontractors must not engage in any fraudulent activity.
- 33.3 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*.
- 33.4 The Contractor is responsible for preventing and detecting fraud including fraud within those functions outsourced / performed by a subcontractor 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.
- 33.5 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 (e.g., 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.
- 33.6 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.
- 33.7 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.
- 33.8 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.
- 33.9 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.

33.10 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.

33.11 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.

34. COMPLIANCE WITH LAWS, GUIDELINES AND POLICIES

34.1 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.

34.2 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.ausaid.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 34.1**.

- 34.3 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.aisaid.gov.au/business/contracting.cfm>.
- 34.4 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 34**.
- 34.5 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 28**.
- 34.6 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.
- 34.7 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.aisaid.gov.au/publications/pdf/FINAL%20AusAID_Disability%20for%20All.pdf;
 - (c) Environment. AusAID is bound by the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999, which applies to all aid activities. The *Environmental Management Guide for Australia's Aid Program* can be found at: <http://www.aisaid.gov.au/keyaid/envt.cfm>. The Contractor must:
 - (i) ensure that environmental requirements specified in the Scope of Services are implemented, monitored and reported;
 - (ii) 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
- (iii) comply with all relevant environmental laws and regulations of the Partner Country.

35. INVESTIGATION BY THE OMBUDSMAN

- 35.1 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* (Cth).
- 35.2 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.
- 35.3 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.
- 35.4 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.
- 35.5 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.
- 35.6 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.
- 35.7 This clause shall survive expiration or termination of this Contract.

36. RESOLUTION OF DISPUTES

- 36.1 The Parties undertake to use all reasonable efforts in good faith to resolve any disputes which arise between them in connection with this Agreement. Subject to **Clause 20.9**

(Payment) and unless otherwise agreed by the Parties, the Parties shall at all times during the dispute proceed to fulfil their obligations under this Agreement.

37. NOTICES

37.1 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).

38. MISCELLANEOUS

38.1 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.

38.2 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.

38.3 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.

38.4 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.

38.5 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.

38.6 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.

38.7 Contra Proferentum

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.

38.8 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.

38.9 Anti-Corruption

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 use their best endeavours to ensure that all sub-contractors comply with this provision. Any breach of this clause shall be grounds for immediate termination of this Contract under Standard Conditions **Clause 28** (Termination for Contractor Default) by notice from AusAID.

PART B – PROJECT SPECIFIC CONDITIONS

39. SUBCONTRACTS

- 39.1 The Contractor must not subcontract the whole of its obligation under the Contract.
- 39.2 The Contractor must not subcontract any part of its obligation without the prior written consent of AusAID.
- 39.3 Notwithstanding any subcontract, the Contractor will remain fully responsible for performing the Contract.
- 39.4 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. Each sub-contract must include the right of AusAID to disclose the name of the sub-contractor, in accordance with **Clause 26.1** (AusAID Use of Contract Information) above.

40. SPECIFIED PERSONNEL

- 40.1 AusAID may give notice to the Contractor requiring the Contractor to remove any Specified Personnel from work in respect of the Services. The Contractor must promptly arrange for the removal of such Specified Personnel from work in respect of the Services and their replacement (if required) with Specified Personnel acceptable to AusAID.
- 40.2 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.
- 40.3 The Contractor must ensure that Specified Personnel are aware of, and use their best endeavours to ensure Specified Personnel comply with, the requirements of the Contract.
- 40.4 The Contractor must use their best endeavours to ensure that all Specified 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*.
- 40.5 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.
- 40.6 The Contractor must ensure the reasonable availability of all Specified Personnel during the term of the Contract.
- 40.7 The Contractor must use its best endeavours to ensure that persons nominated as Specified Personnel:
 - (a) are properly qualified for the tasks they are to perform;
 - (b) act in a fit and proper manner while they are carrying out work or performing duties under the Contract.

- 40.8 AusAID may request additional personnel proposed by the Contractor to work in connection with this periodic contract, and who are acceptable to AusAID.

41. WORKING IN-COUNTRY

- 41.1 The Contractor is responsible for the security of all Contractor Personnel and for taking-out and maintaining all appropriate insurances.
- 41.2 The Contractor must liaise and cooperate with AusAID, with the Project stakeholders, and the Australian Diplomatic Mission in or having responsibility for the Partner Country especially in relation to project security, personal safety and welfare matters.
- 41.3 The Contractor must use its best endeavours to ensure that all Contractor Personnel working in the Partner Country:
- (a) 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; and
 - (b) are adequately briefed and understand the environment and culture of the Partner Country.
- 41.4 The Contractor must use its best endeavours to ensure that all Contractor Personnel and their accompanying family members while in the Partner Country:
- (a) are aware of local laws, culture and customs in the Partner Country; and
 - (b) act in a fit and proper manner.
- 41.5 The Contractor must use its best endeavours to ensure that no Contractor Personnel or their accompanying family members become involved in the political affairs or interfere in the religious affairs of the Partner Country (unless citizens of the Partner Country).
- 41.6 AusAID may require Contractor Personnel to attend a meeting at the Australian Diplomatic Mission in or having responsibility for the Partner Country before the commencement of implementation.

42. NOTICES

- 42.1 For the purposes of serving notices with respect to the Contract, to either Party of the Contract, the following procedures shall apply. A notice required or permitted to be given by one Party to another under the 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).

- 42.2 For the purposes of the Contract, the address of a Party for giving a notice in writing shall be as specified in the Contract.

43. SUPERANNUATION GUARANTEE

AusAID only pays superannuation contributions when it engages individuals principally for their labour NOT through a company, partnership or trust. This includes services provided outside Australia where the individual contracted is an Australian resident for income taxation purposes and for services provided in Australia by non-Australian residents (known as “temporary resident employees”).

[Note to Tenderers: This Clause 43 (Superannuation Guarantee) will only be included in Period Offer Deeds where the contractor is contracted as an individual.]

- 43.1 A Superannuation Guarantee Contribution will be paid by AusAID, to a complying Superannuation Fund nominated by the Contractor, in accordance with the Superannuation (Productivity Benefit) Act Cth 1988 (PB Act).
- 43.2 Currently the stipulated level is 9% of the fee (excluding reimbursable costs) payable to the Contractor under this Agreement. The Fee is inclusive of the 9% superannuation contribution and will be separately paid at the time of payment.
- 43.3 The Contractor must include in their invoice for the Services, the following information with regards to the superannuation contributions: superannuation guarantee contribution amount; the full name and address of their nominated fund; and their membership number.

44. CHILD PROTECTION

- 44.1 The Contractor must comply with AusAID’s Child Protection Compliance Standards, which are specified in Attachment 1 of AusAID’s Child Protection Policy (<http://www.ausaid.gov.au/publications/pubs.cfm?Type=PubPolicyDocuments>). AusAID may audit the Contractor’s compliance with AusAID’s Child protection policy and child protection compliance standards. The Contractor must participate cooperatively in any reviews conducted by AusAID.
- 44.2 If the Child Protection Officer finds that the Contractor has failed to comply with AusAID’s Child Protection Compliance Standards, the Contractor must promptly, and at the cost of the Contractor, take such actions as are required to ensure compliance with the Compliance Standards.

[Note to Tenderers: This Clause 43.3 will only be included in Period Offer Deeds where the contractor is contracted as an individual.]

- 44.3 The Contractor must sign and return to AusAID, the Child Protection Code of Conduct at **Schedule 7** to this Deed.

SCHEDULE 1 – SCOPE OF SERVICES

Economics Advisory Panel – Period Offer

Note to Tenderers: Schedule 1 – Scope of Services is located at Part 2 of this RFT. In the consolidated Period Offer Deed it will appear here as Schedule 1.

SCHEDULE 2 – DAILY FEE RATES AND REIMBURSABLE EXPENSES

Economics Advisory Panel – Period Offer

Table 1 – Daily Fee Rates

Personnel	Financial Year 2009-10 Daily Fee Rate	Financial Year 2010-11 Daily Fee Rate	Financial Year 2011-12 Daily Fee Rate	Financial Year 2012-13 Daily Fee Rate

Table 2 – Daily Fee Rates (Option Period)

Personnel	Financial Year 2013-14 Daily Fee Rate	Financial Year 2014-15 Daily Fee Rate

1. FEES

- 1.1 Fee rates for the Services of the Contractor under this Deed, including any Services Order, shall be in accordance with **Table 1 – Daily Fee Rates** above.
- 1.2 The Daily Fee Rate is based on an eight hour working day. Any additional work undertaken within a 24 hour period cannot be claimed.
- 1.3 Where less than 8 hours work is undertaken in a day the daily fee rate will be reduced on a pro rata basis based on an 8 hour day.
- 1.4 For international travel, Daily Fee Rates apply from the scheduled departure time of overseas travel via international transport.
- 1.5 Fee rates are inclusive of all overheads, except those specifically listed as reimbursables, see below. **Note: Fees also include any superannuation liabilities.**
- 1.6 If AusAID exercises the option to extend the term of the Deed, in accordance with **Clause 3.2 (Term of the Deed) of Part A**, Daily Fee Rates to apply in the extension period shall be in accordance with **Table 2 – Daily Fee Rates (Option Period)** above.

2. REIMBURSABLE EXPENSES

- 2.1 Reimbursable Costs payable and a financial limitation for Reimbursable costs for each Services Order applicable to a specific assignment shall be specified in the relevant Services Order and shall be subject to the following conditions:
 - (a) **Airfares:** reimbursed at economy class for each flight sector of four (4) hours or less and business class for each flight sector greater than four (4) hours duration. 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. A ‘flight sector’ means from any one flight departure point to any one flight landing point;

- (b) **Compulsory Arrival and Departure Taxes, and Travel to and from Airport (e.g. taxis):** reimbursed at reasonable cost;
- (c) **Hotel Accommodation:** reimbursed at lesser of actual cost incurred or amount specified by AusAID;

[For the Information of Tenderers: reimbursed in accordance with standard “Reimbursable Travel rates for Contractors”, an internal AusAID document for reference by officers preparing Services Orders. Rates are specified for a variety of locations in Australia and overseas. The rates allow for 4 star standard accommodation, are derived from reputable sources, and are updated periodically].

- (d) **Travelling Allowance:** an agreed daily rate specified by AusAID towards the costs of meals and incidentals;

[For the Information of Tenderers: reimbursed in accordance with standard “Reimbursable Travel rates for Contractors”, an internal AusAID document for reference by officers preparing Services Orders. Rates are specified for a variety of locations in Australia and overseas. The rates allow for 4 star standard accommodation, are derived from reputable sources, and are updated periodically].

- (e) **Transport Costs:** reasonable costs directly relating to the Services and for project purposes only; and
- (f) **International Communication costs:** which are directly project related and which exceed those reasonably required as a part of normal business under the provision of **Clause 1.5 above**.

- 2.2 The Contractor must keep records of reimbursable costs incurred. The Contractor may be required to provide evidence (by way of receipt, tax invoice or otherwise) of actual reimbursable costs incurred. Such evidence may be requested with any tax invoice submitted to AusAID.
- 2.3 Where appropriate, the exchange rate used when calculating reimbursable costs payable, will be the exchange rate actually applied on the day the reimbursable cost is incurred.
- 2.4 If AusAID exercises its option to extend the term of the Deed, in accordance with **Clause 3.2** (Term of the Deed) of **Period Offer Deed Conditions**, reimbursable costs to apply in the extension period shall be payable as specified in this **Clause 2 of this Schedule 2**.

3. CLAIMS FOR PAYMENT

- 3.1 The Contractor’s tax invoice must be submitted when due pursuant to any Services Order issued under this Contract in a form identifiable with the Services and in accordance with **Standard Conditions** clause headed **Payment** in the Deed.
- 3.2 All claims for payment must be **made** to:

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

- 3.3 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. The Initiative Manager should be copied in on any electronic invoice submitted.
- 3.4 Invalid invoices will be returned to 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>

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 the Partner Country.
- B. The Recipient has been engaged by the Contractor to work under this Contract.
- 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

SCHEDULE 4 – FORM OF SERVICES ORDER

This Services Order is issued by AusAID in accordance with clause headed **Formation of Periodic Contracts** of the Period Offer Deed number *insert Period Offer number* between AusAID and *Name of Individual or Organisation, ABN XX XXX XXX* (“**Contractor**”) and brings into existence a periodic contract between AusAID and the Contractor for the provision of the Services detailed below subject to the terms and conditions set out in Parts A and B of the Deed.

1. INTERPRETATION

- 1.1 All terms used in this Services Order have the same meaning as is given to them in the Deed, unless the context otherwise requires.

2. TERM OF SERVICES ORDER

- 2.1 The term of this Services Order commences upon issue of this Services Order signed by AusAID being the date indicated at the end of this Services Order and continues until all obligations under this Services Order have been fulfilled or earlier notice of termination under this Services Order.
- 2.2 The Contractor must commence the Services [*choose the most appropriate* no later than / on] *insert Services Start Date* and must complete the Services by [*insert Services End Date*].

3. THE SERVICES

- 3.1 The Contractor shall provide the following Services:

Note that the description of the Services should provide sufficient detail that both you and the Contractor know what standard you are willing to accept. Make sure that the following simple questions are answered:

Who?: is to undertake the services and with whom do they need to consult?

What?: is to be done, what function/purpose will be served. Eg. if you are contracting for the production of a policy paper you may want recommendations for AusAID action backed by sufficient justification and consideration of alternatives for AusAID to make a decision.

When?: any necessary sequential timing of aspects of the activity, timing of outputs

Where?: eg: desk study or in-country or a combination of both

How?: any other criteria you may want to add to define satisfactory performance such as co-operative working relationships with counterparts?

(a)

(b)

4. REPORTING REQUIREMENTS

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

(a)

(b)

(c)

4.2 All reports must:

- (a) be provided in accordance with the specification under Standard Conditions clause headed **Reports**;
- (b) be accurate and not misleading in any respect;
- (c) be prepared as directed by AusAID;
- (d) be provided in the format and on the media approved or requested by AusAID;
- (e) not incorporate either the AusAID or the Contractor's logo;
- (f) be provided at the time specified in this Services Order; and
- (g) incorporate sufficient information which allows AusAID to monitor and assess the success of the Services in achieving the objectives of AusAID's Gender and Development Policy.

5. CONTRACTOR PERFORMANCE ASSESSMENT

5.1 The Contractor agrees that AusAID may issue a contractor performance assessment in relation to the Contract. The contractor performance assessment shall be substantially in accordance with the assessment sheet attached at Schedule 2 to this Services Order. The Contractor shall sign and return the completed contractor performance assessment together with any response the Contractor wishes to include.

6. SPECIFIED PERSONNEL

6.1 The Contractor shall provide the following Personnel:

Name of Personnel
<i>Insert name 1</i>
<i>Insert name 2</i>
<i>Insert name 3</i>

7. TOTAL AMOUNT PAYABLE

1. If AusAID is not required to pay a superannuation guarantee contribution; the following clause will apply:

The maximum amount payable by AusAID to the Contractor under this Service Order shall not exceed the sum of **AUD[Insert Amount – includes fees and reimbursable costs]** plus GST if any up to a maximum amount of **AUD[Insert 10 percent of the Agreement amount]**.

OR

2. If AusAID is required to pay a superannuation guarantee contribution; the following clause will apply:

The maximum amount payable by AusAID to the Contractor under this Service Order shall not exceed the sum of **AUD[Insert Amount (include fees and reimbursable costs)]** plus GST if any up to a maximum amount of **AUD[Insert 10 percent of the Agreement amount]**, and a Superannuation Guarantee Contribution payable (on fees only, excluding reimbursable costs) in accordance with **Clause 9 below**.

8. FEES PAYABLE TO THE CONTRACTOR

8.1 The **Fees / Personnel Fees (select as appropriate)**, exclusive of Superannuation Guarantee Contribution, shall be paid progressively as follows, within thirty (30) days of the satisfactory achievement of milestones or the acceptance by AusAID in writing of outputs, as the case requires:

Output Reference	Milestone No.	Milestone Description	Verifiable Indicators	Amount AUD

OR

8.2 Personnel Fees

The Personnel Fees (exclusive of Superannuation Guarantee Contribution) shall be paid progressively as follows:

- (a) 70% of the monthly billing rates (as detailed in **Table 1 below**) will be paid monthly on receipt of a monthly report certifying the Specified Personnel have been satisfactorily providing the Services as required; and

Table 1: Personnel Fees
(as per Schedule 2 of Period Offer number *Insert Period Offer number*).

PERSONNEL	DURATION (Days)		COST/RATE (AUD)		TOTAL FEE (AUD)
	Australia	Overseas	Australia	Overseas	

- (b) 30% of the monthly billing rate (as detailed in **Table 2 below**) will be paid progressively within thirty (30) days of the satisfactory achievement of milestones or the acceptance by AusAID in writing of outputs, as the case requires.

Table 2: Milestones / Outputs

Output Reference	Milestone No.	Milestone Description	Verifiable Indicators	Amount AUD

OR

8.3 Personnel Fees

For the performance of the consultancy Services described in this Services Order AusAID shall pay the Personnel Fees (exclusive of the Superannuation Guarantee Contribution) in accordance with the rates specified in **Table 1 below**.

Table 1: Personnel Fees
(as per Schedule 2 of Period Offer number *Insert Period Offer number*).

PERSONNEL	DURATION (Days)		COST/RATE (AUD)		TOTAL FEE (AUD)
	Australia	Overseas	Australia	Overseas	

8.4 Reimbursable Costs

AusAID shall pay the Contractor in arrears, subject to the receipt by AusAID of a correctly rendered invoice, for the following Reimbursable Costs up to a maximum amount of **AUD[Insert amount]**:

- (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) **Compulsory Arrival and Departure Taxes, and Travel to and from Airport:** reimbursed at cost;
- (c) **Hotel Accommodation:** reimbursed at lesser of actual cost incurred or AUD;
- (d) **Travelling Allowance:** An agreed daily rate of AUD towards the costs of meals and incidental;
- (e) **Hire of transport:** for project purposes only;
- (f) **International Communication costs:** which are directly project related.

9. SUPERANNUATION GUARANTEE (if applicable)

- 9.1 AusAID will, in accordance with legislative requirements, contribute to a complying Superannuation Fund or a pre-existing superannuation fund nominated by the Contractor at the percentage which is stipulated from time to time in the Superannuation (Productivity Benefit) Act Cth 1988.
- 9.2 Currently the stipulated level is 9% of the fee (excluding reimbursable costs) payable to the Contractor. The Fee is inclusive of the 9% superannuation contribution and will be separately paid at the time of payment.
- 9.3 The Superannuation Guarantee Contribution will be paid by AusAID under this Services Order Contract **insert number** and **title**. The Contractor must include the following details in their invoice for the Services, with regards to the Superannuation Guarantee Contributions:
- (a) Service Order Contract number;
 - (b) Superannuation Guarantee Contribution amount payable in accordance with this **Clause 9**;
 - (c) Full name and address of the Contractor's Superannuation Fund; and
 - (d) Contractor's membership number.
- 9.4 The amount of the Superannuation Guarantee Contribution payable by AusAID will be calculated as follows:
- | | | | | |
|---------------------------------------|---|---|---|---|
| Superannuation Guarantee Contribution | = | Personnel Fees (excluding Superannuation Guarantee Contribution and Reimbursable Costs) claimed by the Contractor in a correctly rendered invoice and payable in accordance with this Contract. | x | Percentage stipulated from time to time in the PB Act) (%). |
|---------------------------------------|---|---|---|---|
- 9.5 The current percentage stipulated in the PB Act is 9%.

10. CLAIMS FOR PAYMENT

- 10.1 Tax invoices must be submitted when due in accordance with this Services Order, in a form identifying the project/activity title, the Services Order number **00000/00**, and in accordance with Standard Conditions clause headed **Payment** of the Deed. Invoices must also contain the Payment Event number as notified by AusAID.
- 10.2 All claims for payment must be **made** to:
- Chief Finance Officer
Australian Agency for International Development
GPO Box 887
CANBERRA ACT 2601

- 10.3 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
- 10.4 Invalid invoices will be returned to 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>

11. NOTICES

- 11.1 Notwithstanding clause headed ‘**Notices**’ in the **Part B Project Specific Conditions** of the Period Offer Deed, for the purposes of this Services Order, the address of a Party shall be 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: Name,
Position, Section

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

Street Address: 255 London Cct
CANBERRA ACT 2601 AUSTRALIA

Facsimile: Fax

Contractor

To: Contractor's Name

Attention: Title First Name Surname

Postal Address: Postal Address

Street Address: Street Address

Phone/Facsimile: Fax

Issued for and on behalf of the **Commonwealth of Australia** represented by the Australian Agency for International Development by:

Signature of FMA Act s44 Delegate

In the presence of:

Name
(Print)

Signature of witness

Position, Section

Name of witness
(Print)

Dated: _____

SCHEDULE 5 – SPECIFIED PERSONNEL

Note to user: This table is to list all categories for this Period Offer. Where an individual has been successful, then the whole row should appear in bold. Where nobody has been successful, then N/A (in italics) is to be entered in the consultant(s) column.

Technical Expertise Categories		Specified Personnel
<i>e.g.</i>		
A	Macroeconomic analysis and advice	Bobby Builder
B	Microeconomic analysis and advice	N/A
	 etc.	

SCHEDULE 6 – CHILD PROTECTION CODE OF CONDUCT

I, **[insert name]**, agree that while implementing AusAID-funded aid activities, I will:

- treat children with respect regardless of race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status
- not use language or behaviour towards children that is inappropriate, harassing, abusive, sexually provocative, demeaning or culturally inappropriate
- not engage children in any form of sexual activity or acts, including paying for sexual services or acts
- wherever possible, ensure that another adult is present when working in the proximity of children
- not invite unaccompanied children into my home, unless they are at immediate risk of injury or in physical danger
- not sleep close to unsupervised children unless absolutely necessary, in which case I must obtain my supervisor's permission, and ensure that another adult is present if possible
- use any computers, mobile phones, or video and digital cameras appropriately, and never to exploit or harass children or to access child pornography through any medium (see also 'Use of children's images for work related purposes')
- refrain from physical punishment or discipline of children (excluding my own children)
- refrain from hiring children for domestic or other labour which is inappropriate given their age or developmental stage, which interferes with their time available for education and recreational activities, or which places them at significant risk of injury
- comply with all relevant Australian and local legislation, including labour laws in relation to child labour
- immediately report concerns or allegations of child abuse in accordance with appropriate procedures.

Use of children's images for work related purposes

When photographing or filming a child for work related purposes, I must:

- before photographing or filming a child, assess and endeavour to comply with local traditions or restrictions for reproducing personal images
- before photographing or filming a child, obtain consent from the child or a parent or guardian of the child. As part of this I must explain how the photograph or film will be used
- ensure photographs, films, videos and DVDs present children in a dignified and respectful manner and not in a vulnerable or submissive manner. Children should be adequately clothed and not in poses that could be seen as sexually suggestive
- ensure images are honest representations of the context and the facts
- ensure file labels do not reveal identifying information about a child when sending images electronically.

I understand that the onus is on me to use common sense and avoid actions or behaviours that could be construed as child abuse when implementing AusAID-funded activities.

Signed: _____

Date: _____