Australian Government

AusAID

6 June 2009

Request for Tender

Pakistan Scholarships Program

REQUEST FOR TENDER

Pakistan Scholarships Program

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

STRUCTURE OF THE RFT

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

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

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

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

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

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

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

AusAID Contracts Charter

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

SECTION 1 – PROJECT SPECIFIC TENDER AND CONTRACT CONDITIONS

PART 1 – PROJECT SPECIFIC TENDER CONDITIONS

1. TENDER PARTICULARS

Closing Time:
(Clauses 1.11 and 1.14, Part 5)

2.00 pm local time in Canberra
Australian Capital Territory, **Tuesday 21 July 2009**.

Mode of submission:
(Clause 1.1, Part 5)

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

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

Electronic Tender Lodgement Address:
(Clause 1.11, Part 5)

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

Canberra Tender Box Address:
(Clause 1.15, Part 5)

Tender Box, Ground Floor, AusAID,
255 London Circuit, Canberra ACT 2601, AUSTRALIA.

Business Hours for hard copy lodgment:
(Clause 1.15, Part 5)

Monday to Friday, 8.30 am to 5.00 pm
local time in Canberra, Australian Capital Territory
Excluding Public holidays.

File Format for Electronic Tenders:
(Clause 4.3, Annex C to Part 5)

PDF (Portable Document Format)

Number of Copies of Tender:
(Clause 1.6, Part 5)

For electronic tender lodgement
Tender Declaration: One (1) electronic copy in a separate file

Tender Schedule A – Technical Proposal: One (1) electronic copy containing all parts and annexes. The Tenderer's contact name, position and contact details (phone, email, fax) must be listed on the front cover of the Technical Proposal.

Tender Schedule B – Specified Personnel: One (1) electronic copy in a separate file. The Tenderer's contact name, position and contact details (phone, email, fax) must be listed on the front cover of this Tender Schedule.

Tender Schedule C - Financial Proposal: One (1) electronic copy in a separate file. The Tenderer's contact name, position and contact details (phone, email, fax) must be listed on the front cover of the Financial Proposal.

Tender Schedule D - Financial Assessment material: One (1) electronic copy in a separate file.

For hard copy tender lodgement

Tenderer Declaration: One (1) signed original, to be included with the Financial Proposal.

Tender Schedule A - Technical Proposal: One (1) printed Original containing all parts and annexes. The Tenderer's contact name, position and contact details (phone, email, fax) must be listed on the front cover of the Technical Proposal.

Tender Schedule B – Specified Personnel: One (1) printed original. The Tenderer's contact name, position and contact details (phone, email, fax) must be listed on the front cover of this Tender Schedule.

Tender Schedule C - Financial Proposal: One (1) printed Original, in a separate, sealed envelope. The Tenderer's contact name, position and contact details (phone, email, fax) must be listed on the front cover of the Financial Proposal.

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

One (1) CD containing the Tender Schedules A – D with the files specified as for electronic lodgment.

Endorsement of hard copy Tenders:
(Clause 1.17, Part 5) "**Tender for the *Pakistan Scholarships Program***."

Tender Validity Period:
(Clause 1.8, Part 5) 180 days

Contact Person:
(Clause 2.1, Part 5) Steven McLean
Fax: 61 2 6206 4885
Email address: pakistan.scholarships@ausaid.gov.au

Tender Enquiries:

(Clause 2, Part 5) Tender enquiries must be made before 5.00pm local Canberra Time, **Tuesday 7 July 2009**.

Page limits:

(Clauses 7.15 - 7.17, Part 5) Tender Schedule A – 12 pages plus annexes.
Tender Schedule B – Curriculum Vitae 5 pages each.

Information:

The following documents are attached:

1 Design Document (DD);

2 Word Versions of:

- A Tenderers Declaration;
- B Past Experience Form (Tender Schedule A, Annex 1); and
- C Financial Tables (Tender Schedule C).

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

2. PRE-TENDER BRIEFING

2.1 AusAID intends to hold a pre-tender briefing in Canberra at AusAID House, 255 London Circuit, on **Thursday 25 June 2009** commencing at 9.30am in Meeting Room GR5.

2.2 Tenderers planning to attend the pre-tender briefing are requested to send advanced notification by email, indicating the name of the organisation and the number of people planning to attend, to the attention of Steven McLean at the email address of pakistan.scholarships@ausaid.gov.au by 5.00pm on Friday 19 June. Interviews of a maximum of 10 minutes will be available after the pre-tender briefing but must be confirmed in advance.

3. ALTERNATIVE TENDERS

3.1 AusAID reserves the right to accept and consider alternative Tenders providing they:

(a) are submitted with a conforming Tender;

(b) clearly identify the differences and improvements offered in the alternative Tender;

(c) are fully costed; and

(d) are clearly marked with the name of the Project and the words "Alternative Tender".

3.2 Alternative Tenders will be considered only after completion of the technical assessment of conforming Tenders.

3.3 Only the alternative Tender of the preferred tenderer (following TAP assessment of conforming Tenders) will be assessed.

3.4 Alternative Tenders will be technically assessed against the selection criteria contained in this RFT.

4. SCORE WEIGHTINGS AND TENDER ASSESSMENT

4.1 Following consideration of the technical merit of Tenders, AusAID may invite selected tenderers' key personnel to interview. Tenderers are required to attend the interview at their own cost and may attend via teleconference. Tenderers not invited to interview will be notified that their bid will not be considered further.

4.2 Following technical assessment a separate value for money financial assessment will be conducted for short listed Tenders. This will be informed by an expert's assessment of Tenderers' financial proposals and by contractor performance information. The value for money assessment will consider:

(a) The technical ranking of Tenders;

(b) The overall cost of each Tenderers' bid;

(c) The Tenderers' Financial Proposal, including an assessment of any risks associated with the structure of the Financial Proposal;

(d) The overall past performance of each Tenderer;

(e) The Tenderers' ability to undertake work at the price tendered; and

(f) The Tenderers' financial capacity to meet its contractual obligations.

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

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

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

(a) a technical proposal that substantively and individually addresses the selection criteria provided in **Clause 5.4 of Part 1** taking into consideration "other factors" under **Clause 7.8 of Part 5**; and

(b) the required annexes included in **Clause 5.5 of Part 1**.

5.2 It is envisaged a total of 84 scholarships are to be awarded over the 2010 and 2011 calender years as per clause 4.1- 4.2 in Part 3, Scope of Services.

5.3 If directed by AusAID, provide the services as specified throughout Annex 1 Scope of Services, Part 3 for a limited number of ad hoc scholarships programs including but not limited to Carnegie Mellon University Scholarships Program (CMU-AusAID Scholarships Program) and the centre for Transnational Crime Prevention Scholarships Program (CTCP) as directed by AusAID.

5.4 **Selection Criteria**

SELECTION CRITERIA	**WEIGHTING**
A) Effective Management and Administration Capabilities	**25%**
i. Demonstrated capability to effectively manage and administer the Pakistan Scholarships Program, including financial management, human resource management, logistics, promotion and communication, performance management and monitoring and evaluation.	
B) Approach to Program Implementation	**45%**
i. Demonstrated understanding of the Pakistan development context (including human resource needs) and the Pakistan Scholarships Program objectives and approaches (10%) ii. Proposed approach to implementation including: a. Management of scholarships cycle (promotion, selection, mobilisation, in-Australia support, reintegration, monitoring and evaluation) that is in line with the Program objectives and targeted approach set out in the design (20%) b. Understanding of operational constraints and strategies for continuous improvement and further refining approaches over time (15%).	
C) Appropriateness of Team Composition to Implement the Program	**30%**
i. Demonstrated qualifications, skills and relevant experience of the Senior Scholarships Manager (20%) ii. Demonstrated qualifications, skills and experience across a team that is able to effectively and efficiently implement the Pakistan Scholarships Program (10%)	

The Selection Criteria will be assessed in conjunction with Annex 2 and Tender Schedule B.

5.5 **Annexes**

Annex 1 – Past Experience Form

Details of relevant activities or projects in which the Tenderer has been involved which demonstrate the Tenderer's ability to fulfil the objectives of the Project must be presented in the format outlined below. This annex must not contain more than three (3) examples and details of each activity must not exceed one (1) A4 page.

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

PAST EXPERIENCE FORM

Activity Name:			
Activity Value:			
Activity Location(s):			
Activity Duration			
Client/Donor:			
Year Completed:			
Brief description of the activity and the Organisation's role:			
Brief description of activity outcomes:			
Statement of the similarities between this activity and the requirements of the activity currently being tendered and how this activity supports your statements addressing the Selection Criteria:			
Nominated Activity Referees:			
1. Name:		2. Name:	
Address:		Address:	
Email:		Email:	
Phone:		Phone:	

Annex 2 – Staffing Resources Schedule

One bar chart will show the proposed inputs per team member for this project and indicate total person months or person days for the duration of the project (denoting a person as "part time" is not acceptable). For hard copy lodgement this chart may be presented on A3 paper.

The second bar chart will show the proposed inputs by each team member and indicate the total person months or person days for the duration of the Project. Both charts should clearly indicate total inputs of respective team members. For hard copy lodgement this chart may be presented on A3 paper.

Annex 3 – Mobilisation Plan

A detailed Mobilisation Plan (2 page limit) for the first 12 months of the Project. The Mobilisation Plan must include provision for:

(a) establishment of communication channels with AusAID, the Australian Diplomatic Mission and Stakeholders;

(b) a description of all obligations required to be performed by the Contractor to implement the Services, and their timing, including but not limited to;

(i) establishment of report preparation and delivery mechanisms;

(ii) establishment of financial control procedures;

(iii) establishment of all other management and administration requirements; and

(c) any other matters specified in the Scope of Services, **Part 3** of this RFT.

Annex 4 – Conflict of Interest

The tenderer must indicate whether it has any contractual or other relationship with any Australian training provider eligible to receive Australian scholarship awardees. The Tenderer must also develop a strategy for ensuring awardees are not improperly influenced in their choice of course and/or institution in relation to a particular institution. The Contractor will report to AusAID on an annual basis how these strategies have been implemented.

Annex 5 - Letters of Association

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

Annex 6 – Commonwealth Government Policies Compliance

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

6. TENDER SCHEDULE B – SPECIFIED PERSONNEL

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

(a) a list of proposed team members in the table format provided and in accordance with the instructions included in **Clauses 6.2 – 6.6** below;

(b) curriculum vitae for each proposed team member that conforms with the requirements outlined in **Clauses 7.16 and 7.17, Part 5**.

6.2 Proposed team members (at Tables 1 and 2 below) need to cover the required skill sets outlined at **9.2 of the Design Document**. The value for money assessment will include evaluation of the Specified Personnel and their total cost. At a minimum the team will be required to possess skills and experience in the following:

(a) Scholarships policy and administrative management;

(b) Systems management and administration;

(c) Communication and public relations;

(d) Financial management;

(e) Program/project management with an emphasis on analytical reporting;

(f) Monitoring and evaluation;

(g) Innovation and improvement; and

(h) Human resources development (optional).

6.3 Tenderers must provide the information in the Referees column of the Specified Personnel table in accordance with **Clauses 7.18 - 7.21, Part 5**.

6.4 The Commitments column in the Specified Personnel table must include details of proposed team members' commitments to other projects (both AusAID and others) for the period of the Project. In addition to existing commitments, tenderers must detail potential commitments. Potential commitments include nominations in any contemporaneous AusAID or other tenders. Where a proposed team member has an existing commitment to another AusAID project, Tenderers must also detail the duration of the position in the other AusAID project as reflected in the AusAID contract for that project.

6.5 Tenderers are reminded of the requirements of **Clause 8, Part 6** particularly in relation to the availability of specified personnel. AusAID will consider as materially inaccurate, and will therefore reject, any Tender which does not disclose the fact that a proposed team member has an existing and continuing commitment to another AusAID project.

6.6 AusAID's strong preference is that individuals with conflicting commitments are not included in Tenders. Where team members with conflicting commitments are nominated, AusAID will assess on a case-by-case basis the impacts of the personnel changes and may require further information from the Tenderer in relation to managing the transition.

6.7 Tenderers are reminded of the requirements of **Clause 19.2, Part 5** particularly in relation to providing police clearance certificates for all Project Personnel nominated in the Specified Personnel table for positions specified as working with children. ***[Note: you will need to identify the relevant positions by including the words "working with children" beneath the position title in the "position" column.]***

(a) Tenderers must request the required criminal record checks in sufficient time to ensure that police clearance certificates can be provided in accordance with **Clause 19.2, Part 5**.

(b) Tenderers should note that in Australia, national criminal record checks are available through the Australian Federal Police and take approximately 20 working days. The type of employment should be specified as 'overseas employment.' Overseas, different checking procedures apply in each country and may take six weeks or longer. Individuals need to give their consent to a criminal record check and should be informed of the purpose for which it will be used, including sighting by AusAID.

TABLE 1: SPECIFIED PERSONNEL – Long Term

Position	Name	Total Inputs in person months		Referee Contact Details		Commitments
		Home Base	O/s	#1	#2	
Contractor Representative – Senior Scholarships Manager						
Scholarships Manager						
Scholarship Administrative & Support Staff						
Tenderer to Specify (Optional)						

Note: Long Term Personnel – personnel engaged for more than 6 months over the life of the contract.

TABLE 2: SPECIFIED PERSONNEL – Short Term

Position	Name	Total Inputs in person days		Referee Contact Details		Commitments
		Home Base	O/s	#1	#2	
Australian Academic Advisor						
Tenderer to specify(Optional)						

Note: Short Term Personnel – personnel engaged for less than 6 months over the life of the contract.

7. TENDER SCHEDULE C - FINANCIAL PROPOSAL

7.1 **Tender Schedule C** - the financial proposal must contain the information required and in the format detailed in this clause.

7.2 It must:

(a) be a fully costed fixed price based on the outputs and/or inputs as specified in the Scope of Services, including:

(i) escalation and any allowance for foreign exchange rate variations;

(ii) necessary insurances required by the Contract Conditions and for the performance of the Services;

(b) be expressed in Australian dollars; and

(c) include detailed information on assumptions used in preparing the pricing.

7.3 Any escalators, foreign exchange rate variations, or other price risks, must be built into the fixed price proposal but separately disclosed as a single escalator factor. AusAID will not consider any "across the board" escalators subsequently applied to any rates or Project costs.

7.4 Information provided in the tables will be used for any financial assessment and for the value for money price assessment.

7.5 **Part 4** Draft Basis of Payment outlines the payment regime in detail. The Contract will include 4 categories of payments:

(a) Total Management Fee (TMF) paid as milestones;

(b) Reimbursable Long Term Personnel Costs:

(c) Reimbursable Short Term Personnel Costs;

Reimbursable Long and Short term Personnel Costs will be paid monthly in arrears.

(d) Reimbursable Administration, Equipment and Operational Costs

Reimbursable Project Administration, Equipment and Operational Costs will be paid on the basis of actual costs incurred for items listed in Table 4, Part 4 up to specified limits.

The final contract will include the following definition: "Project Administration, Equipment and Operational Costs (Table 4), means goods and services, such as office furniture, computers, transport, travel, communications, utilities and officer rent required by the Contractor for the day-to-day administration of the project". The purchase of these goods will <u>not</u> attract a procurement fee.

7.6 To facilitate understanding of the taxation in Pakistan please see the Umbrella MOU between GoP and GoA (extract of articles 10, 11 and 12) at Attachment 1 to this Part 1 of the RFT.

Financial Summary

7.7 Tenders will complete Table 3 below to provide a total tender amount in order to assist with a value for money assessment. Please note it is essential that the total number of person days is calculated for both Long and Short Term Personnel.

Table 3: Financial Summary

	Total Number of Person Days	**Years 1 & 2** (AUD)	**Year 3 (AUD)** *Including escalator*	**Year 4 (AUD)** *Including escalator*	**Total** (AUD)
Total Management Fee (TMF)	N/A				
Reimbursable Long Term Personnel Costs					
Reimbursable Short Term Personnel Costs					
Reimbursable Administration, Equipment & Operational Costs	N/A	2,211,750	TBA	TBA	

The Total Management Fee (TMF)

7.8 The TMF will comprise (but will not be limited to):

(a) All aspects of profit, including commercial margins for all personnel;

(b) All overheads;

(c) Financial management costs and financing costs, if any;

(d) All management support costs for all nominated personnel;

(e) Cost of any Contractor administrative and head office staff;

(f) Security costs for all personnel;

(g) Insurance, as required in accordance with Clauses 33 and 34 of Part B (Standard Contract Conditions) of the Contract;

(h) Taxation, as applicable;

(i) Health, Medivac, worker's compensation, liability and indemnity insurances;

(j) Costs, including financial costs and freight, associated with any subcontracting and procurement of goods and services;

(k) Any costs associated with tendering and subcontracting any services;

(l) Costs associated with quarterly contact with scholars while they are studying in Australia;

(m) All other costs not specified as Reimbursable Costs; and

(n) Allowances for risks and contingencies.

7.9 The Annual TMF, for years one (1) to two (2) inclusive of this Contract, is AUDxxx.

7.10 The Annual TMF is fixed for the first two (2) years of this contract and will be billed to AusAID on satisfactory achievement of Milestones as per Clause 4 of Part 4 of this RFT.

7.11 Should AusAID exercise its rights, under Clause 3 of Part A to extend the term of this Contract, the TMF applying to the Contract extension will be the Annual TMF specified in Clause 3.2 of this Schedule 2 with the following escalators applied:

Table 4: Total Management Fee Escalators

	Escalator
Year 3	*Specify A%*
Year 4	*Specify B%*

REIMBURSABLE PAYMENTS: LONG TERM PERSONNEL COSTS

7.12 AusAID shall reimburse the Contractor up to a maximum total of **AUDxxx** for Long Term Personnel Costs.

7.13 For each identified Long Term Personnel, AusAID shall pay the Contractor, monthly on a reimbursable basis in arrears, Monthly Fees up to the maximum amounts specified in **Table 5** below. Mobilisation and Demobilisation costs will be reimbursed at cost up to the maximum one-off amounts which apply to each position.

Table 5: Long Term Personnel Fee Rates

Position	Name	Monthly Fee (AUD)	Inputs (Months)	Mobilisation (AUD)	Demobilisation (AUD)	Financial Limitation (AUD)
Senior Scholarships Manager/Contractor Representative	*Specify*	*Specify*	*Specify*			
Scholarships Manager	*Specify*	*Specify*	48			
Scholarships Administrators and Support Staff (*Tenderers to specify number of positions, inputs and percentage time*)	*Specify*	*Specify*	*Specify*			
					TOTAL	

7.14 The Monthly Fee is:

(a) ***Inclusive*** of all personnel related taxes and levies incurred in Pakistan and Australia, except;

(i) GST for Services performed in Australia in accordance with Clause 21 of Part 6 (Goods and Services Tax);

(b) ***Inclusive*** of superannuation levy, if any, as appropriate;

(c) ***Inclusive*** of paid annual leave allowances of up to four (4) weeks per annum, to accrue on a pro rata basis per twelve months' continuous engagement on the Program (noting that leave allowances cannot be carried over from one twelve month period to another and must be taken in the twelve month period in which they fall due), including all leave costs such as airfares to and from Pakistan;

(d) ***Inclusive*** of accommodation, utilities and private transport costs;

(e) ***Inclusive*** of all escalators for the first two (2) years of the Program; but

(f) ***Exclusive*** of mobilisation/demobilisation costs (including airfares, in accordance with Clause 7.18 below), which will be reimbursed at cost (subject to reasonableness in arrears); and

(g) ***Exclusive*** of any profit, overheads, administration or management fee, or any other mark-up on the part of the Contractor.

7.15 Where Contractor leave entitlements for Long Term Personnel exceeds two (2) trips or a total of four (4) weeks per twelve month period, a satisfactory justification must be provided to AusAID of how the Contractor will ensure, during Specified Personnel absences, the continued quality of the Services.

7.16 If any personnel inputs have not been supplied in accordance with Table 1, the Contractor must, in its final claim for payment, reduce the amount claimed based on the number of days that any personnel have not provided the required inputs. The Contractor must include with the claim details of the inputs not provided, together with the amount of the reduction in the total cost for relevant personnel.

7.17 For the purpose of calculating part months where necessary, a full month is deemed to be 30 days. Part months will be pro rated on a daily basis.

7.18 The entitlement to reimbursement for travel costs is as follows:

(a) Business Class airfares for international travel; and

(b) Economy Class airfares for domestic travel; but

(c) In any event, international travel undertaken on an Economy Class airfare does not entitle the Contractor to claim for reimbursement of the equivalent Business Class airfare.

7.19 Should AusAID exercise its rights, under Clause 3 of Part 2 to extend the term of this Contract, the Long Term Personnel Costs applying to the Contract extension will be the rates specified in Table 5 above with the following escalators applied:

Table 6: Reimbursable Long Term Personnel Costs Escalators

	Escalator
Year 3	*Specify C%*
Year 4	*Specify D%*

The escalation rates specified in **Table 6** above apply to Monthly Fee Rates and Demobilisation costs but not to Mobilisation costs.

REIMBURSABLE PAYMENTS: SHORT TERM PERSONNEL COSTS

7.20 AusAID shall reimburse the Contractor up to a maximum total of **AUDxxx** for Short Term Personnel Costs.

7.21 For each Short Term Personnel, AusAID shall pay the Contractor, monthly on a reimbursable basis in arrears, a Daily Fee in accordance with the relevant rate(s) detailed in Table 7 below.

Table 7: Short Term Personnel Fee Rates

Position	**Name**	**Daily Professional Fee (AUD)**	**Inputs (Days)**	**No of Trips**	**Cost per Trip (AUD)**	**Financial Limitation (AUD)**
Australian Academic Adviser						
Tender to specify any others						

7.22 The Daily Fee for Short Term Personnel is:

(a) Based on a 5 day working week for home country inputs and a 7 day working week for in-Pakistan inputs;

(b) **Inclusive** of all personnel-related taxes and levies incurred in Pakistan and Australia, with the exception of GST for Services performed in Australia [refer to Clause 21 of the Standard Contract Conditions (Goods and Services Tax)]

(c) **Inclusive** of superannuation levy, if any, as appropriate

(d) **Inclusive** of all escalators for the full period of the Program; but

(e) **Exclusive** of any profit, overheads, administration or management fee, or any other mark-up on the part of the Contractor

7.23 The entitlement to reimbursement for travel costs is as follows:

(a) Business Class airfares for international Travel; and

(b) Economy Class airfares for domestic travel; **but**

(c) In any event, international travel undertaken on an Economy Class airfare does not entitle the Contractor to claim for reimbursement of the equivalent Business Class airfare.

7.24 Should AusAID exercise its rights, under **Clause 3** of Part 2 of the RFT to extend the term of this Contract, the Short Term Personnel Costs applying to the Contract extension will be the rates specified in Table 7 above with the following escalators applied:

Table 8: Reimbursable Short Term Personnel Costs Escalators

	Escalator
Year 3	*Specify E%*
Year 4	*Specify F%*

8. TENDER SCHEDULE D – FINANCIAL ASSESSMENT

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

Option 1
This option is mandatory for:

(a) those Tenderers who have not been subject to a financial assessment by AusAID in the 12 months preceding the date of release of this Tender; or

(b) those Tenderers who have been subject to a financial assessment by AusAID within the 12 months preceding the date of release of this Tender who have experienced a material change in financial position since the last financial assessment was completed by AusAID; or

(c) those Tenderers who have finalised their latest annual financial statements since the Tenderers last financial assessment by AusAID.

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

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

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

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

a) a balance sheet;

b) a profit and loss statement; and

c) a cashflow statement

each prepared on an accrual accounting basis.

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

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

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

<u>Option 2</u>

This option may be considered by a Tenderer where:

(a) a Tenderer has been subject to an AusAID financial assessment in the previous twelve months, except where the Tenderers latest annual financial statements have been finalised since the last financial assessment by AusAID; and

(b) the Tenderer can demonstrate to the satisfaction of AusAID that their financial circumstances have not materially changed since the time of the previous financial assessment.

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

1. the date of its most recent financial assessment and the name of the tender for which this assessment was undertaken;

2. an explanation of why a Tenderer believes a further financial assessment is not warranted; and

3. a statutory declaration declaring that the Tenderer's financial position has not altered materially since the date of the previous assessment.

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

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

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

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

The financial information of Tenderers will be treated confidentially.

Umbrella MOU between Government of Pakistan and Government of Australia extract of Articles 10, 11 & 12

Article 10

Personnel

In order to facilitate the engagement of Australian project personnel required to implement the Australian contribution the Government of the Islamic Republic of Pakistan shall in respect of such personnel:

(a) grant exemption from income taxes on salaries and allowances;

(b) grant exemption upon import or export from customs duties, other duties, taxes, levies and other charges of similar nature on personal and household effects of themselves and their dependants declared at their first entry into Pakistan;

(c) assist in clearance through Customs and other import or export controls of the goods mentioned in sub-paragraph(b);

(d) grant all rights and entitlements accorded to the aid personnel of any other donor country or organisation; and

(e) expedite the issue of all documentation required for the entry and exit of Australian project personnel and their dependants to and from Pakistan and the performance of the work of Australian project personnel.

Article 11

Motor Vehicles for Personal Use

1. Australian project personnel assigned to work in Pakistan for more than twelve months on an activity under this Agreement may import within the first six months of arrival in Pakistan, free from customs duties, other duties, taxes, levies and other charges of a similar nature, a vehicle that conforms to Pakistan motor vehicle regulations for personal use and use by dependants and may re-export that vehicle free from the above charges at the conclusion of the assignment.

2. If the vehicle is sold or otherwise disposed of to non-exempt entities or personnel, it shall be subject to the normal duties and other charges at the rate in force on the date that the exemption was given and on its entered value at the time of disposal.

Article 12

Australian Project Supplies

1. In respect of Australian project supplies the Government of the Islamic Republic of Pakistan shall:

(a) be responsible for all formalities of clearance including payment of import duties and other taxes;

(b) facilitate movement of such supplies by providing appropriate customs and wharfage facilities in the port closest to the site of the project; and

(c) provide expeditious transport to the site of the project.

2. Australian project supplies shall be available only for the purposes of the project and shall not be withdrawn from that use without the consent of the Australian Co- ordinating Authority.

PART 2 - PROJECT SPECIFIC CONTRACT CONDITIONS

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

CONTRACT

BETWEEN

COMMONWEALTH OF AUSTRALIA

represented by the Australian Agency for International Development

and

CONTRACTOR'S NAME

ABN XX XXX XXX XXX

FOR

PAKISTAN SCHOLARSHIPS PROGRAM

AusAID AGREEMENT NUMBER XXXX

CONTRACT made day of [ ]

BETWEEN:

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

AND

Contractor's Name ABN xx xxx xxx xxx of **Contractor's Head Office Street Address** (the "**Contractor**").

RECITALS:

A. AusAID requires the provision of certain Services for the purposes of **Project Name** (the "**Project**").

B. The Contractor has expertise in the provision of the Services and has offered to provide the Services to AusAID subject to the terms and conditions specified in this Contract.

OPERATIVE:

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

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

In the presence of:

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

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*** ***(Print)***	Name of director/secretary ***or witness*** ***(Print)***

STRUCTURE OF THE CONTRACT

This contract has two parts and seven (***revise as required***) schedules as follows:

Part A	Project specific contract conditions
Part B	Standard contract conditions
Schedule 1	Scope of Services
Schedule 2	Basis of Payment
Schedule 3	Deed of confidentiality
Schedule 4A	Variation order pro forma
Schedule 4B	Variation summary schedule
Schedule 5	Deed of Novation and Substitution
Schedule 6	Unconditional Financial Undertaking (***delete as required***)
Schedule 7	Performance Guarantee (***delete as required***)

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PART A – PROJECT SPECIFIC CONTRACT CONDITIONS

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

1. INTERPRETATION

1.1 Definitions

In this Contract, unless the context otherwise requires:

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

"Contractor Personnel" means the specified personnel nominated by the Contractor.

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

"**Long Term Personnel"** means an advisers/staff working for ***six*** months or longer on the Project.

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

"**Payment Milestone**" means a milestone identified in Clause 4 of Schedule 2 (Milestone Payments) and for which the Contractor is entitled to receive a payment in accordance with the Contract.

"**Related Corporation**" has the meaning set out in section 50 of the *Corporations Act 2001*.

"**Schedule of Rates**" means the rates in Clauses 5 and 6 of the Basis of Payment, Schedule 2.

"**Short Term Personnel** means any advisers /staff working on the Project for less than ***six*** months.

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

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

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

2. PROJECT COMMENCEMENT

2.1 The Contractor must commence the Services no later than **Start Date**, which date will be referred to as the Project Start Date.

2.2 The term of this Contract is deemed to have begun on the Project Start Date and continues until the final payment is made or earlier notice of termination under the Contract.

2.3 The Contractor must ensure that the Services commence in the Partner Country no later than ***insert date***.

3. OPTION TO EXTEND

3.1 This contract shall commence on the Project Start Date and shall continue in force for the period specified in Schedule 1 unless the option in Clause 3.2 is exercised or unless terminated earlier in accordance with the Contract.

3.2 The Contractor hereby grants to the Commonwealth an option to extend the term of the Contract for a period of up to 24 months. The option must be exercised by notice in writing to the Contractor prior to the date of completion of Year 2 as specified in Schedule 1 of the Contract. If this option to extend is exercised, the Contractor shall continue to provide the Services for the extended period on the terms and conditions contained in this Contract, except that this **Clause 3** shall no longer apply.

4. ACCOUNTS AND RECORDS

4.1 The statement of Project expenditure referred to in Standard Conditions **Clause 15.1(e)** (Accounts and Records) must be provided on a 6 monthly basis and must indicate:

(a) total expenditure of the Project to date;

(b) disaggregated expenditure for the Project to date identifying all categories of expenditure including the Fees component and Reimbursable items;

(c) total expenditure for the period of 6 months; and

(d) forward expenditure and expenses by category for the period of 6 month***s***.

5. NOTICES

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

AusAID

To:	Asutralian High Commission, Islamabad
Attention:	Senior Program Manager, Pakistan Scholarships Program
Postal Address:	Australian Agency for International Development PO Box 1046 Islamabad Pakistan
Street Address:	Constitution Avenue & Ispahani Road
	Diplomatic Enclave No.1, Sector G-5/4
	Islamabad
	Pakistan
Facsimile:	92 51 282 0418

Contractor*:*

To:	Contractor's Name
Attention:	Contact Person
Postal Address:	Contractor's Postal Address
Street Address:	Contractor's Head Office Street Address
Facsimile:	Contractor's Fax

6. MANAGEMENT SERVICES

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

(a) provide pre-mobilisation briefings to Contractor Personnel including Project Objectives and requirements, relevant contract obligations, service standards, roles and responsibilities, communication arrangements, key events and delivery timeframe, security issues, country and cultural environment, etc.

(b) decision-making within the Contractor's organisation and the advising of AusAID of decisions required by AusAID;

(c) pro-actively identifying and rectifying problems or recommending strategies to AusAID on how to rectify problems, which may arise in, or during the performance of, the Services;

(d) managing those risks which are the Contractor's responsibility under the Contract in accordance with the Risk Management Plan including in relation to Supplies after delivery and before their incorporation into the Project;

(e) attendance at briefings with AusAID and status reporting to AusAID on progress at the times required by AusAID;

7. ANNUAL PLAN

7.1 The Contractor must provide to AusAID, within 3 months of the Project Start Date, and by **5 January** in each following year of the Project, an Annual Plan which, before it is implemented, must be approved by AusAID.

7.2 The Annual Plan should be prepared in accordance with directions provided in writing by AusAID, must be consistent with this Contract and must include the following matters:

(a) the Contractor's plan for performance of the Services required for the period of the Annual Plan;

(b) the Contractor's proposed strategy for coordinating any Third Party Issues and for providing the Services in a flexible manner as is appropriate;

(c) a detailed budget for the period of the Annual Plan;

7.3 The Contractor must make amendments to the Annual Plan as reasonably requested by AusAID.

7.4 Within 30 days of receipt of the Annual Plan in accordance with **Clause 7.1 above** AusAID shall notify the Contractor in writing when a decision is likely to be made to reject or accept the Annual Plan. If such Annual Plan has not been approved or rejected within the stated period of 30 days AusAID shall give fair and reasonable consideration to granting an extension of time to the Contractor in respect of the performance of the Services.

7.5 Acceptance by AusAID of an Annual Plan does not represent a change to the Contract. The Contract may only be varied in accordance with the Standard Conditions **Clause 12** (Contract Amendments and Variation).

8. SUB-CONTRACTING

8.1 In addition to the Standard Conditions **Clause 11** (Sub-Contracting) the following conditions apply to sub-contracts entered into by the Contractor:

(a) the Contractor must obtain prior written approval of AusAID to sub-contracts with any party. In granting its approval AusAID may impose such conditions, which in AusAID's opinion are appropriate, in relation to a proposed sub-contract; and

(b) if AusAID objects to the Contractor's recommended sub-contractor, or AusAID nominates a particular sub-contractor, the Contractor must enter into an agreement with such other sub-contractor as directed by AusAID on the basis of remuneration approved by AusAID and provide AusAID with a copy of the executed sub-contract.

9. MEETINGS

9.1 The Contractor must attend meetings in AusAID Islamabad on a regular basis as requested by AusAID, to review or discuss the Contract including the following matters:

(a) the general progress of the Project;

(b) matters arising from the Contractors reports to AusAID;

(c) any issues arising as a result of communication by either Party with Stakeholders;

(d) any other Third Party Issues and the Contractor's proposal for resolution of any issue referred to in **(c) above**;

(e) any variations proposed to the Project including in relation to timing, whether or not any such variations have been agreed to by AusAID;

(f) Contract performance matters;

(g) the accuracy of invoices; and

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

9.2 AusAID may require an implementation briefing in Canberra prior to mobilisation. The Contractor and Scholarships Manager must attend this meeting. AusAID may also require the Scholarships Administration Co-ordinator and other specified personnel to attend a meeting at the Australian Diplomatic Mission in or having responsibility for the Partner Country before commencement of implementation.

9.3 The Contractor acknowledges and agrees that the costs of any meetings under this clause are included in the Fees. AusAID may determine the length of the meetings required, but AusAID expects that such meetings shall be for approximately 8 hours (excluding meal breaks).

10. GOVERNMENT TAXES, DUTIES AND CHARGES

10.1 Except to the extent referred to in this clause and Standard Conditions **Clause 21** (Goods and Services Tax), each Party must bear and is responsible for its own costs in connection with the preparation, execution, and carrying into effect of the Contract.

10.2 Except where the Contract, the Treaty between Australia and the Partner Country or the MOU provides otherwise, all taxes:

(a) imposed or levied in Australia or overseas during the term of the Contract in connection with the performance of the Contract; and

(b) which are not already included in the Fees payable by AusAID under the Contract,

must be paid by the Contractor.

10.3 The Contractor must bear and is responsible for all stamp duty and other fees, whether levied in Australia or in the Partner Country, on or in respect of:

(a) the Contract, the Project, and any sub-contracts entered into for the performance of the Services;

(b) the sale, purchase, lease, assignment, licence or transfer of any property under the Contract;

(c) the obtaining of any approvals, consents or authorisations in respect of the Project; and

(d) any instrument or transaction contemplated by or necessary to give effect to the Contract.

10.4 Subject to **Clause 10.7 below** if any new or existing government tax, duty or charge ("Changed Tax") levied in Australia or the Partner Country in connection with the performance of the Services under this Contract is introduced, increases, decreases or is removed in its entirety and this affects the cost to the Contractor of providing the Services, the Contractor must give AusAID:

(a) written notice of the increase, decrease or removal;

(b) written notice of the net effect of the Changed Tax on the cost of supplying the Services; and

(c) in the case of a decrease or a removal, any supporting evidence of the change and an explanation of its effect on the Fees,

as soon as practicable after the change in the Changed Tax is announced or the Contractor becomes aware of the increase, decrease or removal.

10.5 An increase in the Fees under **Clause10.4 above** shall not be approved and AusAID is not obliged to pay the amount claimed to be attributable to the change in the Changed Tax unless and until the Contractor provides AusAID with evidence of the net effect of the change in the Changed Tax on the cost of supplying the Services and AusAID is satisfied that:

(a) the claimed increase is actually attributable to that Changed Tax and takes into account reductions in any other Changed Tax; and

(b) the net change in the Changed Tax has affected the Fees for supplying the Services,

and the increase shall take effect from the date on which the Changed Tax became effective.

10.6 A decrease in Fees under **Clause 10.4 above** shall take effect from the date on which the change in the Changed Tax becomes effective.

10.7 The Contractor may claim a Changed Tax adjustment only once in respect of any change.

10.8 **Clause 10.4 above** does not apply to income tax, taxes on turnover or revenue or similar taxes imposed on or in respect of income, turnover or revenue.

11. INSURANCES

11.1 In addition to the Contractor's obligations regarding insurance detailed in Standard Conditions **Clause 34 Part B** (Insurance) the Contractor must ensure that:

(a) AusAID is notified immediately the Contractor becomes aware of any actual, threatened or likely claims under all of the insurances required by this Contract or any act or omission by the Contractor which could materially reduce the available limit of indemnity;

(b) AusAID is notified in writing whenever the insurer gives the Contractor a notice of cancellation of project-related insurances;

(c) in respect of public liability insurance and property insurance that:

(i) all insurance agreements and endorsements (with the exception of limits of liability) name, and operate as if there was a separate policy of insurance covering, AusAID, the Contractor and sub-contractors; and

(ii) failure by any insured to observe and fulfil the terms of the policy does not prejudice the insurance of any other insured;

(d) where AusAID is a joint insured under an insurance policy, the insurer waives all rights, remedies or relief to which it might become entitled by way of subrogation against AusAID; and

(e) all premiums are promptly paid.

11.2 The Contractor undertakes that it shall use its best endeavours to ensure that it commits no act or omission which renders any of the insurances required by this Contract to be effected by it, null and void or of less value.

11.3 In respect of the public liability insurance, Standard Conditions **Clause 34.1(a)** is amended as follows: the Contractor must ensure that the limit for each and every claim is $20 million.

12. IN COUNTRY MANAGEMENT

12.1 The Contractor acknowledges that AusAID intends to transfer management of this contract from AusAID Canberra to AusAID Islamabad. AusAID will notify the Contractor of the date of the transfer and after that date the Contractor shall deal with AusAID Islamabad in relation to the management of this Contract.

12.2 The Contractor acknowledges and agrees that any costs incurred by the Contractor arising out of the above transfer are included in the Fees.

13. REDUCTION IN FEES FOR NON-PERFORMANCE

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

14. LIQUIDATED DAMAGES

14.1 In addition to AusAID's other remedies either under the Contract or at law, where, through the act or omission of the Contractor, the performance of certain parts of the Services is not successfully completed by the relevant date specified in the Annual Plan or by the Payment Milestone dates specified in **Schedule 2**, and where no extension of time has been granted under Standard Conditions **Clause 13** (Extension of Time), the Contractor must pay the liquidated damages amount specified in **Schedule 2** in respect of each such day of delay, up to a limit of 180 days when the Contract may be terminated by AusAID under Standard Conditions **Clause 31** (Termination for Contractor Default).

14.2 The Contractor's responsibility to achieve Payment Milestones is essential for the successful implementation of the Project and the failure to achieve Payment Milestones in accordance with the Contract is likely to significantly prejudice achievement of the Project objectives and:

(a) cause AusAID significant political embarrassment;

(b) adversely affect Australia's relationship with the Partner Country;

(c) adversely affect public perceptions, both within Australia and internationally, of Australia's bilateral aid program; and

(d) undermine the diplomatic value to AusAID’s bilateral aid program with the Partner Country.

14.3 The Contractor agrees that:

(a) the obligation to pay liquidated damages under this clause is additional to AusAID's rights to withhold payment or part payment of Fees under the Contract; and

(b) the amount specified for liquidated damages represents a genuine pre-estimate of the value of loss likely to be suffered and that the issues specified in this clause are relevant in determining AusAID's loss.

14.4 AusAID and the Contractor acknowledge and agree that they are both Parties negotiating and contracting at arms length, have equal bargaining power, possess extensive commercial experience and expertise and are being advised by their own legal, accounting, financial, economic and other commercial professionals in relation to their rights and obligations under the Contract..

15. PERFORMANCE GUARANTEE

Note to Tenderers: AusAID reserves the right to include this clause and shall make a final determination on its inclusion pursuant to a financial assessment of the preferred tenderer.

15.1 The Contractor must, at its expense, provide to AusAID; within 10 Business Days of the Project Start Date, a performance guarantee executed by a guarantor delivered to AusAID, guaranteeing the performance by the Contractor of its obligations under the Contract, which must be substantially in the form appearing in **Schedule 7**.

PAKISTAN SCHOLARSHIPS PROGRAM
SCHEDULE 1: SCOPE OF SERVICES

1. BACKGROUND

1.1 The Pakistan Australian Development Scholarships (ADS) aim to contribute to long term development needs of Pakistan, to promote growth and stability, through opportunities to undertake full time study in Australia. The fields of study are targeted to address jointly agreed priority human resources development (HRD) needs, in line with Australia's bilateral aid program. ADS equips scholars with the skills and knowledge to drive change and to influence the development outcomes of Pakistan.

1.2 The Pakistan ADS cycle commencing in 2010, through a single intake, will have an increased focus on the designated priority sectors of; maternal, neonatal and child health services; basic education services; rural development and food security. The program will also target public sector reform and improved standards of governance in both public and private sectors.

1.3 In addition to ADS, three other AusAID scholarship types have previously been available in Pakistan. These are the Carnegie Mellon Scholarships Program (CMU-AusAID Scholarships Program), the Centre for Transnational Crime Prevention Scholarships Program (CTCP) and the Agriculture Sector Linkages Program (ASLP). In 2008 11 CMU-AusAID scholarships and 3 ASLP scholarships were awarded to scholars from Pakistan for January 2009 intake. The CTCP had its final intake in 2008 academic year and the other two scholarship Programs had their final intake for the 2009 academic year and no further intakes are planned, however small numbers of targeted scholarships may be offered in the future.

1.4 In previous years AusAID also offered scholarships under the Australia Pakistan Scholarships Program – these scholarships have now been merged with the ADS.

1.5 As part of the Pakistan ADS Program, AusAID will also offer additional modest levels of support to a small number of disadvantaged candidates, under the 'Foundation Awards' initiative, as described in **Clause 5.21** below.

1.6 This Scope of Services covers selected management and administration functions for the Pakistan Scholarship Program. The services required are the activities related to promotion, advertising, pre-selection, placement, student mobilisation, student re-integration, monitoring and evaluation (M&E) and strengthening ADS outcomes and supporting the development and running of a more effective Alumni network.

2. PROGRAM DESCRIPTION

2.1 The goal, purpose and objectives for the Pakistan scholarships programs are:

2.2 ***Goal:*** *T*o improve sustainable, pro-poor service delivery and governance, primarily within the three designated priority sectors: ((i) maternal, neonatal and child health services (Millennium Development Goals 4 and 5), (ii) basic education services (MDG 2) & (iii) rural development and food security (MDG 1)), in Baluchistan, FATA and NWFP.

2.3 ***Purpose:*** To improve technical and leadership capacity of men and women working in federal and provincial governments, non-profit civil society, and the private sector primarily within three designated priority sectors in Baluchistan, FATA and NWFP, and increase the visibility of the ADS program.

Scholarship Objectives: (for the period 2009-13)

The above Purpose will be achieved by providing Pakistan with AusAID scholarship alumni who can make personal and institutional contributions to Pakistan under the following four objectives:

2.4 **Objective 1. Within federal and provincial government agencies**: AusAID Alumni increasing the development and application of appropriate policy and practice for service delivery in the three designated sectors, particularly those within the priority provinces. The three designated sectors are (i) maternal, neonatal and child health services (MDGs 4 and 5),(ii) basic education services (MDG 2) & (iii) rural development and food security (MDG 1). The three priority provinces are Baluchistan, FATA and the NWFP

2.5 **Objective 2. Within non-profit civil society and development organisations:**

(a) AusAID Alumni increasing advocacy and engagement with Government, particularly in the three designated sectors and targeted provinces.

(b) AusAID Alumni increasing the development and application of appropriate policy and practices in relation to service delivery, particularly in the three designated sectors and targeted provinces.

2.6 **Objective 3. Within commercial private sector organisations:** AusAID Alumni increasing the development and application of appropriate policy and practice relating to corporate governance and delivery of services.

2.7 **Objective 4. Increased visibility of the AusAID scholarship program in Pakistan.**

Cross-Cutting Targets

2.8 In the process of meeting the Goal and Objectives, the following cross-cutting targets will be taken into account by the Contractor to improve both access and equity across the program. Each of the following percentages will be taken as the average across the initial two year contract period. The Contractor will collect and collate data regarding the following indicators and provide this information to AusAID at the completion of each ADS cycle. The targets are:

(a) 50% of scholarship applications received are from females, 50% of scholarships awarded to females

(b) 50% of applications received and 50% of awardees are from public sector organisations

(c) 40% of applications received and 40% of awardees are from civil society organisations

(d) 10% of applications received and 10% awardees are from the commercial private sector

(e) Amongst public sector ADS awardees:

(i) 60% will work in the designated priority sectors (Profile 1) and 60% of these people will be from (IE people born and raised) in the three priority provinces of Baluchistan, NWFP and FATA

(ii) 40% will work on public sector governance and reform (Profile 2) and 60% of these will be from the three priority provinces of Baluchistan, NWFP and FATA

(f) Amongst civil society ADS awardees (Profile 3)

(i) 60% will work within the designated sectors and 60% will be from the three priority provinces of Baluchistan, NWFP and FATA;

(g) Amongst private sector ADS awardees (Profile 4) 75% will be from the three priority provinces of Baluchistan, NWFP and FATA;

(h) 5% of applications and 5% of awardees are from people living with disabilities (including those who wish to study courses and / or certification awards that relate directly to caring for the disabled).

3. PROGRAM DURATION, PHASING AND LOCATION

3.1 The duration of the contract will be for two (2) years and is expected to be from August 2009 to August 2011, with an option to extend for up to a further twenty four (24) months.

3.2 The decision to exercise the options under **Clause 3** of Part A of the Contract shall be made at AusAID's sole and absolute discretion.

3.3 The Program's office is to be located in Islamabad, Pakistan. The office facilities will be established within 4 weeks of the Program Start Date.

3.4 In the event that the Contractor is temporarily required to leave Pakistan at the direction of AusAID, the Contractor may be required to manage the Program at an alternative location, in the absence of an in-country presence. If this situation eventuates the Contractor will, in accordance with **Clause 12** of the Standard Conditions of the Contract, provide AusAID with its proposal for performing the Variation and its detailed costings of the amount payable to it under **Schedule 2, (Clause 7)** if it is increased or decreased as a result of the Variation.

4. PROGRAM SIZE

4.1 In 2008, 87 scholarships were awarded and 73 mobilised (for commencement at Australian universities in January 2009) from a total of 770 applications received. In 2009, the program aims to award 42 scholarships for students commencing at Australian universities in January 2010.

4.2 AusAID reserves the right to alter the number of scholarships offered. In the event that the overall number of scholars mobilised increases (or decreases) by more than 20% in any academic year, this will act as the trigger for a contract variation. The base line for the numbers will be the estimated 2010 and 2011 intake figures i.e. approximately **84** scholarships over the two years.

4.3 In accordance with **Clause 12** of the Standard Conditions of the Contract, the Contractor will provide AusAID with its proposal for performing the Variation and its detailed costing of the amount payable to it under **Schedule 2, (Clause 7)** if it is increased or decreased as a result of the Variation.

5. SERVICES

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

5.2 Provide staff, facilities and equipment to undertake all relevant planning, coordination, liaison, and administration necessary for effective implementation of the Pakistan Scholarships Program.

ADS Candidate Profiles

5.3 AusAID has developed four ADS candidate profiles that align with the objectives for the program and clearly identify the characteristics/attributes of the candidates that AusAID is seeking (Annex 2). The profiles will be updated annually by the Contractor under instruction from AusAID (see Annex 1 to this Schedule1, Table 1, row A4).

5.4 The Contractor will use the ADS candidate profiles to target applicants from the identified priority groups, with a view to making progress against the objectives of the Program.

Promotion

5.5 The Contractor will provide promotion and advertising services as specified in Annex 1 to this Schedule 1, Table 1, row A4 and rows B1 – B7.

5.6 The Contractor will develop, for AusAID approval, a Scholarship Promotion and Communications Plan, which is consistent with Australian Scholarships Communications Guide. The plan will have a focus on increasing the visibility, impact and equity of AusAID's scholarships and will include:

(a) Targeting approach – describing the proposed approach to identifying organisations that align with ADS Candidate profiles (see Annex 2) and strategies for effectively engaging with these organisations;

(b) Promotion and advocacy plan – describing proposed approaches/methods to proactively seek eligible applications under the ADS Candidate profiles (including the approach for 'Foundation Award' candidates (as described in **Clause 5.21**) and any other advertising/communication approaches;

(c) Arrangements and procedures for communication and reporting to AusAID and other stakeholders; and

(d) Outline of proposed strategies for increased participation of women in ADS, as described in **Clause 5.11**.

5.7 The Contractor will implement activities approved by AusAID under the Scholarship Promotion and Communications Plan.

5.8 On acceptance of the Scholarship Promotion and Communications Plan, and in cooperation with AusAID, the Contractor will prepare a Scholarship Planning Guide to assist scholars and their agency/organisations in the preparation of scholarship applications.

5.9 By 15 December each year, the Contractor in consultation with AusAID will develop an annual ADS Calendar of Key Dates for the upcoming scholarship cycle, providing targets and deadlines for the selection, preparation and

placement of ADS scholars. The Contractor will provide the ADS Calendar of Key Dates to key agencies, partners and included on relevant websites and distribution networks as part of promoting and clarifying the Australian scholarship opportunities and criteria.

5.10 The Contractor will develop and maintain a Pakistan ADS scholarship website – the website will contain at a minimum information on AusAID scholarships program, the relevant application forms, application closing dates, frequently asked questions (FAQ's), up-to-date links to the relevant AusAID and other government department websites and all eligible Australian institutions and their relevant course information. This must be done through appropriate links with the global AusAID Scholarships website or other relevant websites such as the study in Australia site.

5.11 The Contractor will work with AusAID to develop strategies and methods that increase the participation of women in ADS, this could include, but is not limited to:

(a) Conducting a survey of current and previous scholarship holders, as well as (importantly) those women who were unsuccessful in their ADS application, as part of identifying barriers and constraints.

(b) Using the Alumni network to promote the ADS opportunities, as these returned scholars are often well connected across Pakistan and are equipped to provide information and advice on potential candidates;

(c) Highlighting the "family friendly" aspect of the ADS and the ability for the scholar to be accompanied by children and partner, including receiving Australia Visa application support for any accompanying family member;

(d) Promoting the quality of housing, children's education and the safety of living and studying in Australia: anecdotal evidence suggests these are three key areas of concern for women and their families;

(e) Identifying, where relevant, any in-Australia support networks of Pakistani students studying in different cities / institutions, so that greater avenues of support are open to newly-arrived ADS scholars;

(f) Email and follow up contact to NGOs, women's universities and GOP agencies as part of spreading the information so that it reaches the maximum number of eligible women. This includes using notice boards and posters to promote ADS opportunities to people from diverse backgrounds, and to emphasize its development rationale and its Australian identity; and

(g) Making use of relevant provincial weekend newspapers (in Urdu) as well as using FM radio and local associations / NGOs, as part of making women aware of ADS opportunities in the designated sectors.

Process Applications, Short listing and Selection

5.12 The Contractor will use the eligibility and selection criteria specified in the ADS Candidate profiles (see Annex 2 to this Schedule 1) as the basis of processing and short listing applications.

5.13 The Contractor will seek ADS applications from target organisations within government, civil society and the private sector (as identified in the Promotion and Communications Plan) and will encourage applicants to submit applications through their employer.

5.14 The Contractor will pilot a feedback scheme, as part of the application process. The Contractor will request applicants to complete a 'feedback slip' that will provide information on the applicants organisation, applicants details, date application was submitted, individual the application was submitted to and any issues encountered with the application process. The Contractor will use this feedback to identify any issues in the application process.

5.15 Applicants will be required to submit the following documentation with their application, three passport size photographs, copy of National Identity Card (NIC) and passport, attested copies of educational transcripts and degrees, employment letters, personal statement and research proposal (if applicable).

5.16 Prior to the opening of the ADS selection process the Contractor will develop a Reintegration Plan template and disseminate the template to target institutions, agencies, and organisations. Short listed candidates will be required to submit a Reintegration Plan which will include details about where and how the applicant plans to make an effective contribution to future development in Pakistan. It will be a complete plan of action to be undertaken by the applicant upon return to Pakistan.

5.17 The Contractor will develop, for AusAID approval, guidelines for the identification and consideration of potential 'Foundation Award' candidates (as defined in **Clause 5.21**), in the standard short listing and selection processes.

5.18 The Contractor will provide services related to facilitating and processing scholarship applications as specified in Annex 1 to this Schedule 1, Table 1, rows C1 – C9.

5.19 The Contractor provide scholarship shortlisting services as specified in Annex 1 to this Schedule 1, Table 1 rows D1 – D20.

5.20 The Contractor provide scholarship selection process services as specified in Annex 1 to this Schedule 1, Table 1 rows E1 – E21.

"Foundation Awards" Initiative

5.21 The Contractor will develop guidelines, for AusAID approval, for the Pakistan Scholarships 'Foundation Awards' initiative, which aims to broaden access to ADS and improve equity of awards, for example to include more women, people from remote locations, people with disabilities and disadvantaged minorities. The Foundation Awards guidelines will include deliberate measures to remove barriers and actively encourage suitable candidates from these groups to apply for ADS, with some additional assistance if needed to enable them to meet the required English language and academic standards.

5.22 The Foundation Award guidelines will cover criteria for identification of potential candidates, processes for short listing and selection of Foundation Award applicants and promotional and communications approaches consistent with the approaches set out in the Pakistan Scholarships Program Design Document. The Contractor will ensure that the Foundation Awards are managed for maximum efficiency, effectiveness and synchronicity with the annual ADS cycle.

5.23 The Contractor will provide support for Foundation Award awardees to undertake short-term in-country English Language Training and/or other ADS preparatory training as approved by AusAID. In these cases the Contractor will assist AusAID to identify suitable "off the shelf" courses/providers available locally and facilitate the identified scholars attendance at the course including payment of course fees and scholars' living allowance. The Contractor will provide services as described in Annex 1 to this Schedule 1, Table 1, rows F1 – F12.

Placement

5.24 The Contractor will provide placement services as specified in Annex 1 of Schedule 1 of this contract, Table 1 rows G1 – G14.

5.25 The Contractor will provide information on Australian and regional higher education institutions, as well as the range of programs and awards that are available in Australia. In addition, the Contractor will provide specialist academic support and assistance, through a well qualified consultant (Academic Adviser) with extensive knowledge of the Australian higher education sector, in order to assist each short-listed candidate to identify the most appropriate and relevant course in Australia.

Visa Processing, Pre-Departure and In-Australia Support

5.26 The Contractor will provide scholarship awardees with visa processing, pre-departure preparation and ad-hoc in-Australia support as specified in Annex 1 to this Schedule 1, Table 1, rows H1 – H11 and rows I1 – I24.

5.27 The Contractor must work with staff from the Department of Immigration and Citizenship (DIAC) and the relevant in-country Visa support provider and systems, making suitable arrangements to facilitate the efficient and timely processing of all AusAID scholarship Visa applications.

5.28 The Contractor will conduct annual Pre-Departure Briefings for departing Awardees. The Pre-Departure Briefing program and schedule will be developed in consultation with AusAID and be approved by AusAID. The Pre-Departure Briefing will include, but not be limited to the following topics: scholarship goals and objectives, including the role of scholarships in the Australian aid program to Pakistan; scholarship terms and conditions, including information on scholarship entitlements; arrival in Australia, customs and quarantine, cultural adjustment and information on living in Australia; immigration procedures and family entry conditions; and services provided by Australian institutions available to awardees.

5.29 The Contractor shall obtain electronic copies of the pre-departure information provided by universities (with hard copies forwarded directly to the students). The Contractor will facilitate timely receipt of this information by students, and monitor the quality of the information supplied.

Reintegration, Monitoring and Evaluation and Alumni

5.30 Provide services relating to scholarship awardees' return to Pakistan, reintegration, alumni and monitoring and evaluation as specified in Annex 1 to this Schedule 1, rows J1 – J12 and K1, K3.

5.31 The Contractor will ensure the achievements of the scholars are acknowledged on return to Pakistan. The Contractor will ensure that scholars have the opportunity to relate their experience in Australia both for their own benefit and to inform future improvements to Pakistan ADS over time.

5.32 In order to further strengthen agency understanding of the ADS and the process of reintegration, at the completion of the initial year of the contract, the Contractor will identify the key agencies, associations and organisations that have supported the scholar's application and reintegration plan. Using this data as a base, the Contractor will liaise with AusAID Post and develop a list of the senior HRD representative from key agencies / organisations who will subsequently be invited to an annual 1-day workshop in Islamabad. The Contractor, in consultation with AusAID will arrange all logistics for and facilitate the workshop. The purpose of the workshop is to explain the ADS scholarships in relation to HRD priorities and profiles and to reinforce the importance of the reintegration strategy for returning scholars.

5.33 The Contractor will develop a Monitoring and Evaluation Strategy and system based on the draft M&E Framework provided in the Pakistan Scholarships Design Document.

5.34 The Contractor will develop and conduct a small number of tracer studies under AusAID guidance to capture information on scholarship outcomes for a range of individual awardees. Tracer Studies will be tailored for Pakistan's scholarship context and local development priorities. The number and objective of tracer studies will be discussed and agreed with AusAID.

5.35 The Contractor will undertake case studies to evaluate how awardees have contributed to capacity building in their particular fields, organisations, institutions or groups. It is estimated that four case studies may be undertaken each year across the Pakistan scholarships program. The number, target and content of the case studies will be discussed and agreed with AusAID.

5.36 AusAID's Australian Scholarships Group is currently developing an overarching Monitoring and Evaluation approach for Scholarships. The Contractor will ensure the Pakistan Scholarships Monitoring and Evaluation Strategy and system are consistent with directions contained in this document (to be provided by AusAID).

5.37 The Contractor will maintain student record /profile up to date on AusAID Student Information Management Online (SIMON) and Online Application Scholarships Information System (OASIS), including contact details once scholars return to their home country. In addition the Contractor is expected to develop and maintain a database of the scholars including name, sex, field and institution of study, scholarship duration etc. Details of the database will be negotiated with the successful tenderer.

5.38 The Contractor will take a leading role in establishing and maintaining the Alumni network, as well as supporting the organisation of technical and social events that promote and strengthen the Alumni's relevance to Pakistan's development. This will include developing and maintaining an Alumni database; providing support to the Alumni association; working with AusAID Post and the Alumni themselves to facilitate and support alumni events and technical/social activities. The Contractor will review the previous Australian Alumni association experience in Pakistan and propose a structure that provides more incentives for Alumni association membership. It is proposed that Alumni activities will involve both academic/ professional development activities as well as complementary social/networking events.

5.39 The Contractor will encourage awardees to join the Alumni association before they leave for study in Australia. Annually the Contractor will develop a Pakistan scholarships alumni newsletter, showcasing successful alumni and highlighting relevant professional events/opportunities. The Contractor will distribute the newsletter to awardees in Australia and the Alumni network.

5.40 Opportunities to engage Alumni in scholarship processes will be explored / promoted, including use of members of ADS selection panels, involvement in pre-departure briefings and ongoing involvement in M&E and the mentoring of scholars, both pre and post award.

5.41 AusAID is currently undertaking a review of AusAID scholarship alumni associations in the Asia Pacific region, with a view to developing a global Australian Scholarship Alumni Network. The Contractor will keep Alumni support activities under review and will adapt the systems and procedures, as necessary, to accommodate AusAID's wider strategy for Alumni when it is implemented.

Other Scholarships Programs

5.42 If directed by AusAID, provide the services as specified throughout Annex 1 to this Schedule 1, Table 1 for a limited number of ad hoc scholarships programs including but not limited to Carnegie Mellon University Scholarships Program (CMU-AusAID Scholarships Program) and the Centre for Transnational Crime Prevention Scholarships Program (CTCP), as directed by AusAID.

5.43 The Table below outlines the process and indicative dates and deadlines for the ADS Program in Pakistan.

Key ADS Dates and Deadlines.

Note: The shaded areas in the table indicate where the Foundation Awards fit into the ADS selection process.

Key ADS Milestones	Date to be Completed	Notes / Explanation
Agree on Overall ADS numbers	o Scholarships available for January 2010 intake: 42 ADS (27 APSP+ 15 ADS) o Scholarships available for January 2011 intake: 42 ADS (27 APSP and 15 ADS) o Scholarships available for January 2012 intake: Between 20 - 40 ADS.	AusAID to advise the MC of priorities and develop the specific ADS preferred scholar profiles. The on-going level of ADS from 2012 will be determined in discussions with the GoP. The quantity and type of future awards will be informed by progress in delivering this design.
Promote ADS Scholarships	All promotional activities to agencies, civil society organizations and NGOs to be finalized by the end of February each year.	In agreed media, promotional activities that target agencies, organizations and associations. This targeting takes into account the designated sectors and the priority Provinces.
Application Closing Date	April each year	Two months from the date of calling for applications.
Vetting and Short listing applicants	Mid April to mid May each year	15 working days

Key ADS Milestones	Date to be Completed	Notes / Explanation
Initial Foundation Award nominations for consideration	Mid April to mid May each year	From the short listing, an initial group of applications set aside as potential candidates for Foundation Awards.
The Preliminary ADS Selection Process	May each year	Three days to dispatch letters to the short-listed candidates
Conduct ADS interviews	Early June each year	One week for interviews – 10 interviews/day
Arrange placement with Australian Institutions	To be finalized by the third week of July each year	This requires the MC to have a good understanding of Australia's university sector and to have no conflict of interest in any placement decisions.
From the unsuccessful ADS interviewees, identify any to be considered for Foundation Awards	Mid June	This second group of potential Foundation Award candidates to be combined with those identified previously (i.e. at the short listing stage).
Selection Process for those candidates being considered for Foundation Awards	July	The Foundation Award short listing and interview process to determine exactly what form of short-term support is required by the individual, in order for them to meet the ADS eligibility requirements. Before initiating the Foundation Award support, medical checks should be conducted for these candidates.
Initiate the Foundation Award for each successful candidate	July	Put in place the local program that will be used to provide the Foundation Awardees with the skills and knowledge necessary to meet the full ADS requirements.
Lodge Visa applications for ADS scholars (and accompanied)	August each year	Minimum 4 months required for visa processing, so applications must be lodged in first week of August each year. There is a significant time required to process the Visas to Australia. In addition, candidates who want their family to accompany them from the start of the scholarship must secure an NOC from the University. University policies usually require that families join students two months after the student's arrival in Australia.
Pre Departure Briefing for scholars	First week of December each year	Involve Alumni and returned ADS scholars in the pre-departure activities and for mentoring etc.
Mobilisation of scholars to Australia	January each year	Ensure that all arrangements are in place in Australia and confirm that the universities have made support arrangements.

Key ADS Milestones	Date to be Completed	Notes / Explanation
Selection process for those candidates who have completed their Foundation Awards	Preferably around January (April at latest), when the Foundation Awards have been completed	Once the Foundation Awards are completed, the candidates will need to pass the same selection criteria as all other ADS scholars. Once the successful ones have been identified and selected, they will join the next ADS cohort in second semester in the next academic year.

6. SPECIFIED PERSONNEL

6.1 The Contractor will provide the following personnel for the duration of the Contract.

Name	Position

7. MANAGEMENT ARRANGEMENTS

7.1 AusAID's Islamabad Country Office will be the primary point of contact for the Contractor.

7.2 The Contractor will appoint a Senior Scholarships Manager/Contractor Representative and Scholarships Manager (whose responsibilities include managing ADS activities, the Foundation Awards and M&E) based in Islamabad, plus appropriate administrative staff to meet the requirements of the Program.

7.3 The Contractor must ensure all program personnel undergo appropriate security and referee checks, including police checks, to ensure they are appropriate and of good character. All checks are the responsibility of the Contractor with the cost borne by the Contractor and must be undertaken prior to the finalisation of personnel placements. The Contractor must confirm all personnel already engaged by the Contractor were checked thoroughly prior to their appointment.

7.4 At the commencement of the Contract the Contractor's personnel will attend a five (5) day workshop in Islamabad. The workshop will provide Contractor's personnel with all templates, standard documentation, processes and requirements for the scholarship management in each country, including

training on SIMON and OASIS. The program will move from the general to the specific, including:

(a) Days 1-2: General information and management requirements: the AusAID scholarship structure; quality measures and requirements; security and confidentiality; gender; scholarship eligibility criteria; AusAID's global and regional reporting requirements; progress of SIMON and OASIS;

(b) Days 3-5: Specific issues in Pakistan, context and arrangements, key contacts; existing templates and how they can be further developed; and the communication channels. This period will also include initial discussions on the Alumni and on the measurement of impact, through a range of methods including tracer studies and case studies.

7.5 At the completion of the workshop the Contractor will take on responsibility for further training of their personnel, in the key elements of the scholarship management across the full cycle.

7.6 The Contractor will develop, in consultation with AusAID, an Inception Plan that details the progressive handover of responsibilities/activities from AusAID to the Contractor, with all specified activities being managed by the Contractor within two months of the Project Start Date.

7.7 The Contractor will develop a Risk Management Plan and report on management of risk in the Annual Plan/Report.

7.8 The Contractor will cooperate fully with any Independent Review that may be commissioned by AusAID.

8. REPORTING REQUIREMENTS

8.1 The Contractor must also provide the following reports by the date indicated, in electronic copy and one (1) hard copy:

(a) **Scholarship Promotion and Communications Plan,** as described in Clause 5.6 of this Schedule 1, to be submitted four (4) months from the Project Start Date then updated by 05 January each year.

(b) **First Annual Plan** to be produced within three (3) months of the Project Start Date. The Annual Plan will be the foundation for monitoring the management efficiency of the Program. Annual Plans will be provided in a format as directed by AusAID. The first Annual Plan and each subsequent Annual Plan will include:

(i) Work Plan/Budget (including ADS Calender of Key Dates);

(ii) Staffing plan, including strategies to monitor and assess staff performance;

(iii) Monitoring and Evaluation Framework/Plan;

(iv) Risk Management Plan; and

(v) Gender Equality and Social Inclusion Strategy.

(c) **Second and Subsequent Annual Plans and Report** by 05 January each year. These will include all of the requirements of the First Annual Plan and additionally will report on the following elements of the Program for the previous year:

(i) Promotion/Selection/Placement/Mobilization: including the features of each annual recruitment round detailing promotion, selection and screening activities (with clear dis-aggregation of data by gender, location, fields of study, indicated area of development contribution) and lessons / continuous improvement approaches to incorporate into future promotion and selection rounds. Additional information will be collected on the scholars Australian placement experience and outcomes for the past years performance.

(ii) Update of the Scholarship Promotion, Communications Plan

(iii) Foundation Award English Language Training: including the progress and achievements of those Foundation Award scholars who have undertaken the formal ELT and then succeeded in gaining an ADS place, as well as the broader implications for the program through introducing the Foundation Awards.

(iv) Academic outputs: including:

(A) Information to be collected from universities, tracking scholars' progress during the study in Australia, by semester, noting in particular deferrals, extensions, suspensions, upgrades and drop-outs, together with individual course outcomes highlighting high achievers, those students who may be at risk and measures taken to mitigate the situation.

(B) Details of completed scholarships, including information on pass/failure rates, with an analysis of the reasons for failure and suggestions for areas where improvements could be achieved.

(C) Details of post-graduation monitoring activities, focusing on recording of returned graduates in each year, locations of resumption of employment on return and information on expected areas of contributions to development from initial employment taken up by the graduates. This will include details of activities arranged in association with Alumni association(s).

(v) Reintegration**:** including any lessons learned in relation to returning scholars and outcomes, use of reintegration plans and the annual reintegration workshop.

(vi) Monitoring and Evaluation**:** including progress towards achievement of program outcomes based on data collected from the M&E tools (including case studies and tracer studies); and

(vii) Updated risk management arrangements.

(d) Six Monthly Reports including:

(i) Relevant information on student progress (e.g. exception issues such as courses being failed, extensions requested etc);

(ii) ADS selection process progress; and

(iii) Awardee status information.

(e) **Brief Exception Reports**: Immediately upon identification of any unforeseen problems arising in the Program that may have a detrimental effect on the Program, particularly in relation to the achievement of the objectives of the Program. One electronic copy of the Exception Report should be sent to the AusAID Activity Manager. Where possible, these Exception Reports should include a proposed solution and/or strategy.

(f) **Monitoring and Evaluation Strategy,** as described in **Clauses 5.33** to of this Schedule 1, to be submitted three (3) months from the Project Start Date.

(g) **Quality at Implementation** (QAI) Reporting – the Contractor will be required to provide data/information to assist AusAID to complete annual QAI reports. Format of the report will be provided by AusAID.

(h) **Program Completion Report (PCR)** not later than three months prior to the Completion date. This will detail and assess the activities and performance of the program against the objectives outlined in this Schedule 1, Scope of Services.

(i) Provide any other information in relation to the Program including student statistics from the database developed and other sources as deemed necessary, when required by AusAID.

8.2 All reports must:

(a) be provided in accordance with the specification under Standard Condition Clause headed “Reports";

(b) be accurate and not misleading in any respect;

(c) be prepared in accordance with directions provided by AusAID;

(d) allow AusAID to properly assess progress under the Contract;

(e) be provided in the format, number and on the media approved or requested by AusAID;

(f) not incorporate either the AusAID or the Contractor’s logo;

(g) be provided at the time specified in this Schedule; and

(h) incorporate sufficient information to allow AusAID to monitor and assess the success of the Services in achieving the objectives of AusAID’s policy framework.

9. STANDARDS OF SERVICE

Quality Assurance

9.1 The Contractor shall provide the Services to a standard which would be expected of a competent, experienced and professional organisation and in accordance also with all applicable industry or professional standards or requirements.

9.2 All Scholarship outputs must comply with the AusAID ADS Manual and guidelines.

9.3 The Contractor will develop a Quality Assurance (QA) Plan and related QA manual. This will encompass a continuous quality enhancement principle for all aspects of the scholarship management. The Contractor will monitor implementation, self-assessing performance in all countries and provide feedback to staff in order to improve service delivery.

Annual Contractor Performance Assessment

9.4 The Contractor will participate in an annual Contractor performance assessment/continuous improvement meeting with AusAID. The Contractor will adapt and improve their operations and systems in response to outcomes

of this annual assessment. The Contractor will be assessed against the performance indicators as outlined in the Table below, based on feedback provided by the Post.

Managing Contractor Performance Criteria and Indicators

Criteria	Performance Indicators
1. Personnel Performance	All Contractor personnel: • Act professionally and with integrity, and produce high quality work; ie: means technically appropriate, relevant to needs, appropriately presented, clear and timely. • Communicate with AusAID and other stakeholders in a clear, transparent and effective manner; • Deliver outputs on time.
2. Program Management	• Good working relationships with AusAID Post and consistency of service levels. • Finances are soundly and transparently managed and financial reporting meets AusAID requirements. • Reports are clear, constructive, timely and meet the expectations of AusAID. • Responsiveness to the reporting, management and planning needs of AusAID. • Ongoing monitoring and evaluation is undertaken effectively and is being analysed and reflected in continuous improvement by the implementing team.
3. Communication / Coordination	• Clear management arrangements and effective communication between all Contractor Personnel and between the Contractor Personnel and AusAID. • Personnel take proactive steps to ensure effective communication and working relationships with all stakeholders. • Management identifies and reports any major difficulties in communication/ stakeholder relationships to AusAID as they arise.
4. Scholar Management	• Scholarship promotional, management and monitoring processes implemented effectively and efficiently. • Proactive steps are taken to improve promotional, management and monitoring processes, in consultation with AusAID. • Target number of students mobilised efficiently and on time, including attention to cross cutting scholarship issues of gender, disability, access and equity (including the oversight of Foundation Awards) as well as an effective pre-departure briefing (PDB) which involves relevant Alumni presentations. • Ongoing quarterly contact maintained with ADS scholars in Australia.

Criteria	Performance Indicators
	• All documents, applications, responses, scholar acceptances and the PDB carried out on time and required information recorded in the database. • Effective and appropriate counselling and placement of scholars in courses relevant to their academic needs and program objectives, with scholars in a cross-section of Australian institutions / universities. • Information on scholar return: provide advice to AusAID Post of any issues. • The Contractor addresses improved access and equity as part of ADS promotion.
5. Alumni	• Alumni established and functioning. • Alumni data base provides AusAID with up-to-date information and data on returned scholars. • The Contractor provides AusAID with suggestions and methods to enhance the relevance of the Alumni and its engagement with ongoing and returned scholars. • Alumni engaged in ADS activities as mentors and supporters.
6. ADS Promotion	• Appropriate Australian Government and AusAID identity and acknowledgement is maintained. • ADS are more visible as Australian development scholarships differentiated from the scholarships programs of other donors in Pakistan • Innovative avenues and methods used to promote the scholarship opportunities to a more diverse group of potential candidates in line with the ADS purpose and objectives.
7. Risk Management	• Management issues are identified and resolved in a timely manner and/or reported to AusAID for decision where relevant. • Management provides sound analysis of risks and develops and applies effective risk management measures. • Personnel respond effectively to new or changed environments or requirements from AusAID.
8. Cross-cutting targets	• Progress against cross-cutting targets (as specified in Clause 2.8) • Effective strategies in place to facilitate gender equality in scholar application processes and selection. • Foundation Awards established, with evidence of progress/results documented.

Conflict of Interest

9.5 The Contractor is required to indicate whether they have any contractual or other relationship with any Australian training provider eligible to receive Australian scholarship awardees. The Contractor must also develop a strategy for ensuring awardees are not improperly influenced in their choice of course and/or institution either in relation to a particular institution. The Contractor will report to AusAID on an annual basis how these strategies have been implemented.

Transparency

9.6 It is crucial the management of the Australian scholarships remains transparent, fair and equitable. The Contractor will report immediately any instance of potential interference, whether in writing or verbal. This will be reported to the AusAID officer in the Islamabad Post.

Australian Identity

9.7 The Contractor will ensure that the AusAID identity remains high in all aspects of the scholarship cycle and that the relevant guidelines for branding and use of the AusAID logo are applied. That includes the ADS promotion, administration, general management, communications, pre-departure materials and the various monitoring activities are all clearly being carried out by the Contractor on behalf of the Australian Government and AusAID.

9.8 The Pakistan ADS website should be accessible through both the global Australian Development Scholarships website and the Australian High Commission Pakistan website, with a banner that clearly promotes the ADS as an Australian Government and AusAID initiative.

ANNEX 1 TO SCHEDULE 1

Table 1: Pakistan Scholarships Program tasks and responsibilities

Note: the activities listed in the Annex are not exhaustive. They are provided to give an indication of the types of activities involved in each stage of the scholarship implementation and management processes.

	Specific Scholarship Activity	Responsibility	Comments / Notes
A	Partner Government (PG) Involvement		
A.1	Discussion with GOP on policy considerations, priority sectors and lessons learned. Review selection criteria and weightings	AusAID Post	Within the framework of the ADS and the APSP MOU arrangements
A.2	Advise GOP Partners in writing of the upcoming commencement of the ADS round	AusAID Post	Involves AusAID working with the EAD and HEC
A.3	Discussions with PG/Partner Institutions to confirm ADS priorities and agree on the specific profiles for the following year ADS	AusAID Post	Important that the ADS profile is clear enough to act as a guide to applicants for the specific fields available
A.4	Promote and distribute the ADS profiles for agreed specialist / priority areas / scholar attributes	Managing Contractor	Under instructions from AusAID develop draft ADS profiles for agreed specialists / sectors
A.5	Finalise priorities and weighting, and provide to Contractor	AusAID Post	To be provided to the MC annually
B	ADS Advertisement and Promotion	Responsibility	Comments / Notes
B.1	Prepare the Pakistan ADS Promotion and Communications Plan for AusAID endorsement, in line with equity and access principles	Managing Contractor	Plan to reflect the ADS profiles as well as any lessons learned from the previous ADS scholarship cycle
B.2	Develop the ADS agency / organisational promotional activities and methods for AusAID endorsement	Managing Contractor	Includes consideration of Foundation Awards, scope of promotional campaign and lesson from other agencies / HEC
B.3	Approve promotional approach, content and methods that include promoting the ADS to a more diverse group of potential candidates as well as attracting quality candidates.	AusAID Post	
B.4	Targeted advertisement and promotional activities (including information sessions) with emphasis on sectors, quality, gender	Managing Contractor	In English Language and Urdu papers that provide coverage at the Provincial level. Use FM Radio etc to extend awareness
B.5	Advise Provincial institutions, NGOs and agencies of the opportunities, especially for women	Managing Contractor	Includes university faculty, UN and other agencies in Provinces, NGOs (ie Aga Khan Foundation)
B.6	Develop and maintain information for a ADS Pakistan Scholarship Website	Managing Contractor	Provide the update material for the Australian High Commission website in a timely manner

	Specific Scholarship Activity	Responsibility	Comments / Notes
B.7	The MC will identify the key agencies, associations and organisations that have supported scholars' applications and reintegration plans	Managing Contractor	The MC will liaise with AusAID Post and develop a list of the senior HRD representatives from key agencies/organisations who will subsequently be invited to a 1-day workshop in Islamabad.
C	ADS Applications	Responsibility	Comments / Notes
C.1	Receive the ADS Applications for processing	Managing Contractor	Around 700 applications were received in 2008 and 900 in 2009.
C.2	Record details in secure MS data base for all applications received	Managing Contractor	Applications stamped on date of receipt, name, serial number assigned to applications. enter in Excel sheet.
C.3	Store / maintain any hardcopy ADS applications in secure location	Managing Contractor	The MC must ensure security and make sure staff are fully aware of confidentially requirements.
C.4	Respond to any queries relating to the receipt of applications	Managing Contractor	Maintain a log of the queries and responses as part of the ADS database
C.5	Processing of feedback slips by MC	Managing Contractor	The results of the pilot will be summarised by the MC, in terms of how many feedback slips were actually received, any anomalies between the slips and the applications received and whether the use of the slips has added value to transparency.
C.6	Check applications for completeness and compliance with requirements	Managing Contractor	Where appropriate, follow up applicants if is a clear omission that excludes an otherwise quality candidate
C.7	Develop list of eligible applications for consideration	Managing Contractor	On an ad-hoc basis AusAID will review sample of the ADS applications to test MC eligibility decisions
C.8	Verify eligible applicant's qualifications, IELTS with relevant authorities	Managing Contractor	Before the short listing the ADS candidate can include their estimated IELTS level. An IELTS test will be required for all short-listed applicants, with the cost paid by the MC
C.9	Upload hard copy applications into OASIS database (from 2011 for Jan 2012 intake)	Managing Contractor	
D	ADS Shortlisting	Responsibility	Comments / Notes
D.1	Identify / recommend, for AusAID approval an independent person/panel for short-listing	Managing Contractor	Provide 2-3 candidates. Must be fully independent from the MC and GOP and have experience in ADS context
D.2	Approve independent panel members	AusAID Post	
D.3	After approval from AusAID, contract independent shortlisting panel member/s to undertake shortlisting process	Managing Contractor	Provide panel members with all required profiles and applicant data
D.4	Brief the short-listing panel members on ADS and Pakistan requirements	AusAID Post	
D.5	Provide resources / office space for shortlisting	Managing Contractor	

	Specific Scholarship Activity	Responsibility	Comments / Notes
D.6	Provide policy considerations, develop /discuss selection criteria & weightings	AusAID Post	
D.7	Provide selection criteria template / marking sheets that align with profiles	AusAID Post	
D.8	Enter data from template into OASIS (from 2011)	Managing Contractor	
D.9	Arrange short-listing meetings and venue	Managing Contractor	Liaise with AusAID for security, access and required support arrangements.
D.10	Secretariat services for short-listing meeting	Managing Contractor	Confidentiality and the security of information is essential for all MC staff to observe.
D.12	Chair and oversee the short-listing process	AusAID Post	
D.13	Enter short-listed candidates details onto the data base	Managing Contractor	
D.14	Include potential Foundation Awards candidates on separate cohort list and advise	Managing Contractor	AusAID and the short-listing panel agree on potential Foundation Awards candidates for consideration (See Section F)
D.15	Advise successful short-listed ADS applicants by secure mail	Managing Contractor	
D.16	Advise unsuccessful ADS applicants by secure mail	Managing Contractor	
D.17	Arrange for IELTS test for short listed applicants (if they do not have a recent test score)	Managing Contractor	
D.18	Provide support for short-listed candidates on making the best choice for the Australian university / course, as well as support in developing a Reintegration Plan linked to the course and area of work.	Managing Contractor	
D.19	Produce ADS short-listing summary / report, including the Foundation Awards candidates	Managing Contractor	The Foundation Awards candidates to be advised that they were unsuccessful in ADS shortlisting but still possibility of being selected for support
D.20	Provide GOP with outcome of shortlisting	AusAID Post	
E	ADS Selection Process	Responsibility	Comments / Notes
E.1	Recommend external selection panel members for AusAID endorsement	Managing Contractor	Panel members include: GoP, A based staff and local staff dealing with scholarships
E.2	Contract external panel members after AusAID approval	Managing Contractor	Contact and confirm participation of interview panel members
E.3	Invite GoP representatives to attend final selection	AusAID Post	
E.4	Clarify role of GoP members in the selection process	AusAID Post	
E.5	Arrange for the ADS interviews and organise the logistics	Managing Contractor	
E.6	Provide approved templates and scoring sheets	AusAID Post	

	Specific Scholarship Activity	Responsibility	Comments / Notes
E.7	Sight original copies of qualifications, IELTS during interview process	Managing Contractor	
E.8	Develop / review interview questions and approach including the Reintegration Plan selection criteria	AusAID Post	MC to make it clear to all shortlisted applicants that the Reintegration Plan is an important selection factor
E.9	Develop written test for shortlisted candidates	Short listing consultant	
E.10	Chair and conduct ADS interviews	AusAID Post	
E.11	Provide secretariat service for interview process	Managing Contractor	Minutes should be taken of all Scholarships Selection Panel meetings and signed by the Chairperson of each meeting and the entire interview process should be documented in order to deal with any disputes in decision making.
E.12	Determine ADS ranking system	AusAID Post-Interview panel	Prepare excel sheet showing scores and rankings. Finalize applicant's rankings.
E.13	Endorse ADS selection outcomes	AusAID Post	
E.14	Advise successful ADS candidates by secure mail	Managing Contractor	
E.15	Advise unsuccessful ADS candidates by secure mail	Managing Contractor	
E.16	Reimbursement of travel and accommodation and meal allowance for interview participants	Managing Contractor	
E.17	Provide feedback to candidate if required	Managing Contractor	
E.18	Acting on the advice of the interview / selection panel, include any potential candidates for Foundation Awards into the existing cohort.	Managing Contractor	Nominated Foundation Awards candidates from ADS interview process added to those identified at the short-listing stage. This combined group are the cohort for Foundation Awards consideration
E.19	Advise PG of the outcomes and candidates	AusAID Post	
E.20	Update successful candidate data on data-base	Managing Contractor	
E.21	Provide AusAID with a detailed report on selection process, outcomes and lessons learnt	Managing Contractor	
F	ADS "Foundation Awards" Initiative	Responsibility	
F.1	Identify and nominate candidates from the ADS short-listing and the interviews that fit agreed Foundation Awards profile and provide to AusAID	AusAID Post-Interview panel	The combined cohort to be provided with information on the Foundation Awards process and selection parameters
F.2	Consider each of the Foundation Awards candidates against the profile and recommend acceptance or exclusion for the courses / training	AusAID Post-Interview panel	This implies candidate met all profiled criteria for ADS except those skills or knowledge that requires support

	Specific Scholarship Activity	Responsibility	Comments / Notes
F.3	Arrange for a medical for all proposed Foundation Awards candidates	Managing Contractor	The Foundation Awards candidate will need to pass the normal health check required for an Australian Visa, before seeking Foundation Awards support
F.4	Identify suitable course providers that will deliver the Foundation Awards initiative to meet the agreed skills and knowledge for the Foundation Awards cohort	Managing Contractor	
F.5	After endorsement from AusAID, match the Foundation Awards cohort with local institutions and contract the specific support programs	Managing Contractor	
F.6	Provide agreed support / stipend to the Foundation Awards candidates while they are undertaking their course.	Managing Contractor	
F.7	Maintain contact with the Foundation Awards providers and the cohort to monitor progress and any problems	Managing Contractor	Important to monitor progress and to maintain contact in relation to support being provided
F.8	Advise AusAID of the completion of the Foundation Awards support courses and the outcomes of the IELTS and any other test	Managing Contractor	Includes the individual outcomes of the IELTS test scores and the potential departure / courses to be applied for
F.9	Selection process including interview, and final decision on inclusion of Foundation Awards candidates into the ADS program	AusAID Post	The selection will involve a small selection panel that follows the same format as the ADS mainstream cycle
F.10	When instructed, include the Foundation Awards candidates into the ADS placement and mobilisation cycle.	Managing Contractor	
F.11	Arrange a modest graduation ceremony for all Foundation Award participants	Managing Contractor	Present everyone with a "certificate of participation" and announce successful applicants for scholarships
F.12	Provide a summary of the Foundation Awards cohort and their results / planned deployment for AusAID	Managing Contractor	The successful Foundation Awards cohort will join in the next academic year for which the scholarship is offered
G	ADS Placement in Australia	Responsibility	Comments / Notes
G.2	Further to D.18, confirm that course choice is consistent with objectives in reintegration plan.	Managing Contractor	MC will need to have expertise and understanding of Australia's university sector and available programs, and be in regular communication with the universities about current course content.
G.4	Input ADS data into SIMON (or OASIS) from ADS application forms	Managing Contractor	
G.5	Request the University Placements though SIMON (or OASIS)	Managing Contractor	
G.6	Further to D.18 and G.2, send the completed ADS applications to the universities	Managing Contractor	

	Specific Scholarship Activity	Responsibility	Comments / Notes
G.7	Upgrade a reserve ADS scholar if a university placement fails	Managing Contractor	
G.8	Download offer / student contract from SIMON (or OASIS)	Managing Contractor	
G.9	Section 44 approval before sending the offer letter and contract to the awardees	AusAID Post	
G.10	Send out ADS offer and two copies of student contract to the successful awardees	Managing Contractor	
G.11	Receive signed acceptances back from the ADS awardees and make sure all information has been included	Managing Contractor	
G.12	Enter student acceptance on SIMON (or OASIS)	Managing Contractor	
G.13	Facilitate contact between ADS scholars and the confirmed universities in Australia	Managing Contractor	
G.14	Liaise with Partner Governments / Agencies to highlight ADS scholar plans as part of the HRD program within the Partner agency	AusAID Post	
H	Arrange Immigration Visas	Responsibility	Comments / Notes
H.1	Provide confirmation of central coordination point for the MC with Foundation Awards Candidates	AusAID Post	
H.2	Provide Visa forms and checklist to successful candidates (at the time sending letters to successful candidates after the interview round)	Managing Contractor	Sending the visa forms and checklist in advance will give time to the awardees to prepare for submitting their visa applications
H.3	Support applicant to complete the Visa application	Managing Contractor	Confirm with Foundation Awards candidates key requirements and any constraints, so that applicants are fully aware of all requirements
H.4	Check all information aligns with the required Visa documents	Managing Contractor	
H.5	Facilitate medical checks for scholars and (if accompanied) for their families	Managing Contractor	
H.6	Provide completed forms and application to Foundation Awards Candidates	Managing Contractor	It is important that all requirements of Foundation Awards Candidates are met, to avoid delays or any duplication of effort
H.7	Arrange family Visas for accompanied ADS students	Managing Contractor	Inform students of the procedure + University family arrival date
H.8	Liaise with Foundation Awards Candidates on Visa applications	Managing Contractor	If scholar accompanied, ensure all family Visa applications are submitted with the scholar's application.
H.10	Liaise with University Student Contact Officer (SCO) regarding student arrival	Managing Contractor	Where possible, arrange for arrival of scholar to be advised to other Pakistan ADS at that university

	Specific Scholarship Activity	Responsibility	Comments / Notes
H.11	Advise scholar and AusAID if Visa applications rejected	Managing Contractor	When Visa granted, courier passport, original docs, photograph from PDB and departure letter to applicants
I	Pre-Departure and In-Australia	Responsibility	Comments / Notes
I.1	Identify best price travel for ADS students	Managing Contractor	Use only recognised travel agents and reliable methods of ticketing
I.2	Advise scholar of preferred route and flight dates	Managing Contractor	
I.3	Adapt and refine the ADS Pre Departure Briefing (PDB) materials for AusAID's endorsement	Managing Contractor	
I.4	Inform candidates about PDB details	Managing Contractor	
I.5	Arrange PDB scholar / AusAID logistics and venue	Managing Contractor	
I.6	Facilitate participation at PDB for awardees from outside capital cities and facilitate participation of ADS returned students to act as facilitators during the PDB	Managing Contractor	
I.7	Arrange for scholar's dependent spouse to attend PDB if required	Managing Contractor	
I.8	Provide PDB presentation session and Q & A	AusAID Post	
I.9	Create handouts for the PDB and gain AusAID endorsement	Managing Contractor	
I.10	Distribute the specific Pre-Departure kits from Universities to those scholars that will attend them	Managing Contractor	
I.11	Prepare Foundation Awards media release and organise the means of release for AusAID's approval	Managing Contractor	
I.12	Arrange for press-release / publicity for the ADS cohort travelling to Australia	Managing Contractor	
I.13	Reimbursement of travel, accommodation and provision of meal allowance-PDB	Managing Contractor	
I.14	Finalise all departure / logistics arrangements	Managing Contractor	
I.15	Inform each university of the scholars' arrival details	Managing Contractor	Needs to be provided in advance so that the Universities are able to arrange for airport pick and temporary accommodation services
I.16	Confirm to AusAID when the scholars have arrived in Australia and the commenced course	Managing Contractor	
I.17	Maintain quarterly contact and respond to adhoc queries from scholars while they are in Australia	Managing Contractor	By maintaining contact with the scholars, an opportunity to quickly respond to problems or serious issues. The SCO should be copied in all student correspondence with the MC while the student is in Australia.

	Specific Scholarship Activity	Responsibility	Comments / Notes
I.18	Deal with requests for extensions or variations in consultation with AusAID	Managing Contractor	
I.19	Decide on any scholarship extensions or variations	AusAID Post / AusAID Canberra	Seek advice from ASG Canberra for difficult cases and seek approval from PG for the public sector candidates.
I.20	Advise the university SCO of any ADS scholarship variation decisions	Managing Contractor	
I.22	Provide a summary of the scholar return dates to Pakistan	Managing Contractor	This will be discussed with AusAID in relation to re-entry focus and also Alumni potential
I.23	Provide scholars with Alumni information while they're in Australia	Managing Contractor	
I.24	Provide a report to AusAID every 6 months and provide exception reports when appropriate	Managing Contractor	
J	ADS Return to Pakistan / Alumni	Responsibility	Comments / Notes
J.1	Inform / meet PG institutions and AusAID in relation to ADS scholar planned return	Managing Contractor	Return details are entered by the University and AusAID Post is informed through an email from SIMON
J.2	Confirm scholars' return dates to Pakistan	Managing Contractor	Provide advance notice to AusAID; confirm actual returns to Pakistan and immediately notify AusAID regarding any non-returns; maintain statistics on annual scholar return rates.
J.3	Acknowledge the return of each successful scholar	Managing Contractor	Each ADS scholar who returns to Pakistan via Islamabad will be met at the airport by a staff member of the MC
J.4	Arrange a short de-brief with returned scholars	Managing Contractor	Gather information and advice for other potential scholars; their proposed reintegration now that they have returned to Pakistan; as well as any opportunities for their personal participation via the re-launched Alumni.
J.5	Discuss HRD and Reintegration Plan with GOP / institutions prior to scholar's return (if applicable)	Managing Contractor	To be conducted in liaison with AusAID as part of strengthening potential impact
J.6	Enter scholar contact details on data base/OASIS	Managing Contractor	
J.7	Establish and maintain Alumni data base and provide summary information to AusAID	Managing Contractor	The previous Alumni details can be included as part of revitalising the organisation
J.8	Host / facilitate Alumni events (social and professional)	AusAID Post	Discuss with AusAID potential events of activities that can support and advocate the Alumni
J.9	Develop and distribute Alumni newsletter (six-monthly)	Managing Contractor	Send by email to all Alumni, all Pakistan ADS studying in Australia and to agreed GOP / NGO agencies
J.10	Establish and maintain an M&E system for scholarship management	Managing Contractor	

	Specific Scholarship Activity	Responsibility	Comments / Notes
J.11	As requested by AusAID, develop/conduct tracer studies of sample scholars who have returned to Pakistan	Managing Contractor	To include follow up on Reintegration Plans and conducted on a reimbursable basis as instructed by AusAID
J.12	As requested by AusAID, develop and conduct case studies to highlight impact and contribution of the ADS	Managing Contractor	
K	Other	Responsibility	Comments / Notes
K.1	Provide reports and M&E data as required under the SOS and / or as requested by AusAID	Managing Contractor	
K.2	Conduct Annual MC performance review	AusAID Post	On the anniversary of contract commencement
K.3	Provide summary data to AusAID for its global scholarship reporting requirements	Managing Contractor	Required by AusAID in Feb / March each year

ANNEX 2 OF SCHEDULE 1 - SCHOLAR PROFILES

Profile 1: Public Sector Policy Makers and Practitioners in the Designated Priority Sectors

Profile 1 -	**Public Sector Policy Makers and Practitioners in the Designated Priority Sectors**
Purpose	Within federal and provincial government agencies employing AusAID Alumni: Increased application of appropriate policy, practice and resource allocation for service delivery in the three designated sectors particularly those within the priority provinces. (Refer Clause 2.4, Schedule 1)
Outputs	o Short-listed candidates: 30% of overall scholarship number o Scholarships available: 13 (30% of overall scholarship number) o Gender split: 7 scholarships reserved for female candidates. o Targets for three designated sectors: 100 % (i.e. 30% of overall scholarships number must be awarded to candidates applying for courses that fall under the designated priority sectors) o Targets for priority provinces: 60% (i.e. of the 13 scholarships available, 8 scholarships (60% of 13) must be awarded to candidates working in the priority provinces)
Relevant Outcome:	Increase in the number of qualified Government officials, particularly those working within the relevant designated sectors and preferably posted in the priority provinces, adding value to relevant policy, practice and resource allocation.
Eligible Groups/Areas	This profile includes applicants who are employed in public institutions at the Federal or Provincial levels working on the designated sectors, with a focus on the priority provinces. This will include applicants who are mid level Government employees who can demonstrate the potential to influence policy, or who are practitioners working, facilitating or delivering services in the designated sectors. It is likely, but not essential, that candidates identified with a potential influence on policy making will return to key positions from where they will be able to influence reforms in the designated sectors. It is likely, but not essential, that candidates identified as practitioners under this profile will return to and work in the priority provinces. Female candidates will be strongly encouraged to apply and a separate reserve quota allocated for women from the public sector.
Strategies to gain Applications	o Target relevant Ministries at Federal and Provincial levels working on the designated sectors and provide application forms to HR departments, encouraging internal advertisement and support of applications by

Profile 1 -	**Public Sector Policy Makers and Practitioners in the Designated Priority Sectors**
	targeted institutions o Where possible, conduct promotional activities, including direct presentations, to selected Ministries, including in the priority provinces o Targeted advertisements in national and provincial media inviting applications through public sector organizations, with a less preferred option of applying directly. o Provide access to hard-copy application information packs and advice on web-based application forms option
Selection Criteria	o be an employee of a Federal or Provincial Ministry working in the designated priority sector o be applying for a course that falls under the designated sectors under this profile o meet the general minimum eligibility criteria and submit a personal statement o have a minimum of two years relevant work experience in the public sector preferably working in the priority provinces o have achieved or be able to demonstrate the capacity to reach IELTS 6.5 o the degree to which the personal statement clearly articulates how the new skills could add value to policy, practice and resource allocation for service delivery in the three designated sectors
Support Service Options	o Cost of IELTS course met for shortlisted candidates o Relevant information is available on the website (application form, frequently asked questions, timeline for scholarships cycle, and assistance on how to fill in the application form). o All queries are responded to within 3 to 4 working days. o All queries are responded to at the end of presentation sessions o Hard copy application packs are made available to federal and provincial public sector institutions o Post selection: provide contact of public sector alumni o Foundation Award candidates: EL Training as required to meet minimum 6.5 IELTS or the entrance requirement for English of the selected course of study. o Foundation Award candidates: Arrangements for direct assistance for candidates to complete applications o Foundation Award candidates: Additional time for, pre-departure training in academic study, English for Academic Purposes and adapting to Australian living / culture environment.

Profile 2: Public Sector Reformers and Leaders

Profile 2 -	Public Sector Reformers and Leaders
Purpose	Within federal and provincial government agencies employing AusAID Alumni: Increased application of appropriate policy, practice and resource allocation in relation to sustainable, pro-poor development.
Outputs	o Short-listed candidates: 20% of overall scholarship number o Scholarships available: 8 (20% of overall scholarship number) o Gender split: 4 scholarships reserved for female candidates. o Targets for priority provinces: 60% (i.e. of the 8 scholarships available, 5 scholarships (60% of 8) must be awarded to candidates working in or on matters related to the priority provinces)
Relevant Outcome:	Increase in the number of qualified Government officials, working on adding value to relevant policy, practice and resource allocation in governance fields.
Eligible Groups/Areas	This profile includes applicants who are mid to senior level Government employees, at Federal or Provincial level, who can demonstrate the motivation and capacity to promote systemic governance reforms in the civil sector that result in improved policy practice and resource allocation relevant to sustainable, pro-poor development. Applicants will come from central Ministries at federal or provincial level, and be able to demonstrate the capacity to substantively influence government policy Candidates must demonstrate their commitment and ability to return to key positions where they will be able to make direct contributions to changes in governance related policy. Female candidates will be strongly encouraged to apply and a separate reserve quota allocated for women from the public sector.
Strategies to gain Applications	o Target central Ministries at Federal and Provincial levels and provide application forms to HR departments, encouraging internal advertisement and support of applications by targeted institutions o Where possible, conduct promotional activities, including direct presentations, to selected Ministries o Targeted advertisements in national and provincial media inviting applications through public sector organizations, with a less preferred option of applying directly.
Selection Criteria	o Be an employee of a central Ministry at Federal or Provincial level o be applying for a course that falls under Governance (e.g. Public Administration and Management, Development Management, Development Administration, Public Sector Financial Management, Social Administration, Taxation Studies) o meet the general minimum eligibility criteria and submit a personal statement

Profile 2 -	Public Sector Reformers and Leaders
	o have a minimum of five years relevant work experience in the public sector o have achieved or be able to demonstrate the capacity to reach IELTS 6.5 o The degree to which the personal statement clearly articulates how the new skills could add value to government administration that benefits poverty reduction and is persuasive about motivation to sustain the commitment to make the contribution.
Support Service Options	o Cost of IELTS course met for shortlisted candidates o Relevant information is available on the website (application form, frequently asked questions, timeline for scholarships cycle, and assistance on how to fill in the application form). o All queries are responded to (generic e-mail address) within 3 to 4 working days. o Hard copy application packs are made available to federal and provincial public sector institutions o Post selection: provide contact of public sector alumni

Profile 3: Non-profit Civil Society/Development Workers or Associates

Profile 3 -	Non-profit Civil Society/Development Workers or Associates
Purpose	Within non-profit civil society and development organisations utilising AusAID alumni: o Increased levels of advocacy and engagement with Government in promoting sustainable, pro-poor development, particularly in the three designated sectors and targeted provinces. o Improved levels and standards of service delivery particularly in the three designated sectors and targeted provinces.
Outputs	o Short-listed candidates: 40% of overall scholarship number o Scholarships available: 17 (40% of overall scholarship number) o Gender split: 9 scholarships reserved for female candidates. o Targets for designated sectors: 60 % (i.e. 60% of the 17 scholarships awarded must be awarded to candidates working within the designated priority sectors) o Targets for priority provinces: 60% (i.e. of the 17 scholarships available, 60% must be awarded to candidates working in the priority provinces)
Relevant Outcome:	Increase in the number of qualified Non-profit civil society and development workers, working within the relevant designated sectors and/or posted to priority areas, adding value to increased levels of advocacy and engagement with Government in promoting sustainable, pro-poor development Increase in the number of qualified Non-profit civil society and development workers, working within the relevant designated sectors and/or posted to priority areas contributing to improvement in the levels and standards of service delivery particularly in the three designated sectors in the targeted provinces.
Eligible Groups/Areas	This profile includes applicants who may be employed or are closely associated with (e.g. volunteers, associates, etc), non-profit civil society/development organizations. This includes organizations involved in social mobilisation and advocacy for the needs and interests of Pakistan's poorest and most marginalised groups, including women, people from ethnic minority groups, people from rural areas and those with disabilities. Priority will be given to those who are working to promote more inclusive and equitable development in the designated sectors and/or priority areas. This profile includes people who are involved in advocacy and engagement with Government in promoting sustainable, pro-poor development, particularly in the three designated sectors This profile includes people who are involved in improvement in the level and standard of service delivery particularly in the three designated sectors in the priority provinces.
Strategies to gain Applications	o Identify non-profit civil society and development organisations that offer the best opportunity for poverty reduction through improved levels of advocacy and service delivery, including in the targeted areas. Provide

Profile 3 -	Non-profit Civil Society/Development Workers or Associates
	hard copy application forms and encourage organisations to identify employees and active volunteers associated with the target profiles. o Place advertisement in national newspapers inviting applications through civil society or development Organizations with a less preferred option of applying directly (volunteers should not apply through the open category). o Deliver, where possible, direct presentations during visits to selected rural locations in the priority provinces o Provide hard-copy application information packs and advice on web-based application forms option
Selection Criteria	o be applying for a course that falls under the designated sectors under this profile o meet the general minimum eligibility criteria and submit a personal statement o have a minimum of two years relevant work experience in the development sector o can demonstrate a commitment to reach IELTS 6.5 o the degree to which the personal statement clearly articulates how the new skills could add value to improvement in the level and standard of service delivery particularly in the three designated sectors and in promoting sustainable, pro-poor development
Support Service Options	o Cost of IELTS course met for shortlisted candidates o Relevant information is available on the website (application form, frequently asked questions, timeline for scholarships cycle, and assistance on how to fill in the application form). o All queries are responded to (generic e-mail address) within 3 to 4 working days. o All queries are responded to at the end of presentation sessions o Hard copy application packs are made available to relevant organizations and candidates applying independently o Foundation Award candidates: ELT as required to meet minimum 6.5 IELTS or the entrance requirement for English of the selected course of study. o Foundation Award candidates: Arrangements for direct assistance for candidates to complete applications o Foundation Award candidates: Additional time for, pre-departure training in academic study, English for Academic Purposes and adapting to Australian living / culture environment.

Profile 4: Private Sector reformers and promoters of growth

Profile 4 -	Private Sector reformers and promoters of pro-poor growth
Purpose	Within commercial private sector organisations employing AusAID alumni: Improved standards of corporate governance and delivery of services associated with sustainable, pro-poor development.
Outputs	o Short-listed candidates: 10% of overall scholarships number o Scholarships available: 4 (10% of overall scholarships number) o Targets for priority provinces: 75% (i.e. of the 4 scholarships available, 3 must be awarded to candidates working in the priority provinces)
Relevant Outcome:	Increase in the number of private sector employees working on adding value to standards of corporate governance and contributing to the improved delivery of services associated with sustainable, pro-poor development.
Eligible Groups/Areas	This profile includes applicants employed in Commercial Private Sector Organisations who can demonstrate a commitment and clear plan as to how their qualification will enable them to add value to standards of corporate governance and contributing to the improved delivery of services associated with sustainable, pro-poor development.
Strategies to gain Applications	o Target relevant industry peak bodies o Place advertisement in national newspapers inviting applications
Selection Criteria	o be applying for a course that is relevant to improved corporate Governance and links to sustainable, pro-poor development. o meet the general minimum eligibility criteria and submit a personal statement o have an outstanding academic background o have a minimum of two years of work experience in the relevant field o have an excellent command over the English Language as indicated by at least an overall current IELTS Band of 7.0 with no band less than 6.0 o the degree to which the personal statement clearly articulates how the new skills could add value to improved corporate governance and to the improved delivery of services associated with sustainable, pro-poor development.
Support Service Options	o Relevant information is available on the website (application form, frequently asked questions, timeline for scholarships cycle, and assistance on how to fill in the application form). o All queries are responded to (generic e-mail address) within 3 to 4 working days. o Pre-departure training in adapting to Australian living/ culture environment

SCHEDULE 2: BASIS OF PAYMENT
AUSAID PAKISTAN SCHOLARSHIPS PROGRAM

1. **TOTAL AMOUNT**

1.1 The total amount payable by AusAID to the Contractor shall not exceed the sum of **AUDxxx** plus GST if any up to a maximum amount of **AUDxxx.**

1.2 AusAID shall not be liable for any Costs or expenditure incurred by the Contractor in excess of this amount.

2. **PAYMENT STREAMS**

2.1 For the performance of the Services described in the Contract, AusAID shall pay the Contractor as follows:

(a) The fixed **Total Management Fee (TMF)** in accordance with **Clause 3** of this Schedule 2 and paid as Milestone Payments in accordance with **Clause 4** of this Schedule 2, up to a maximum total amount of **AUDxxx**;

(b) **Reimbursable Long Term Personnel Costs**, in accordance with **Clause 5** of this Schedule 2, up to a maximum total amount of **AUDxxx**;

(c) **Reimbursable Short Term Personnel Costs**, in accordance with **Clause 6** of this Schedule 2, up to a maximum total amount of **AUDxxx**; and

(d) **Reimbursable Administration, Equipment and Operational Costs**, in accordance with **Clause 7** of this Schedule 2, up to a maximum total amount of **AUDxxx**.

3. **THE TOTAL MANAGEMENT FEE (TMF)**

3.1 The TMF will comprise (but will not be limited to):

(a) All aspects of profit, including commercial margins for all personnel;

(b) All overheads;

(c) Financial management costs and financing costs, if any;

(d) All management support costs for all nominated personnel;

(e) Cost of any Contractor administrative and head office staff;

(f) Security costs for all personnel;

(g) Insurance, as required in accordance with **Clauses 33 and 34** of Part B (Standard Contract Conditions) of the Contract;

(h) Taxation, as applicable;

(i) Health, Medivac, worker's compensation, liability and indemnity insurances;

(j) Costs, including financial costs and freight, associated with any subcontracting and procurement of goods and services;

(k) Any costs associated with tendering and subcontracting any services;

(l) Costs associated with quarterly contact with scholars while they are studying in Australia;

(m) All other costs not specified as Reimbursable Costs; and

(n) Allowances for risks and contingencies.

3.2 The Annual TMF, for years one (1) to two (2) inclusive of this Contract, is **AUDxxx**.

3.3 The Annual TMF is fixed for the first two (2) years of this contract and will be billed to AusAID on satisfactory achievement of Milestones as per **Clause 4** to this Schedule 2**.**

3.4 Should AusAID exercise its rights, under **Clause 3** of Part A to extend the term of this Contract, the TMF applying to the Contract extension will be the Annual TMF specified in **Clause 3.2** of this Schedule 2 with the following escalators applied:

(a) A% for Year 3 of this Contract; and

(b) B% for Year 4 of this Contract.

4. MILESTONE PAYMENTS

4.1 AusAID shall pay the Contractor the TMF in instalments known as Milestone Payments. The Milestone Payments payable by the Commonwealth to the Contractor shall not exceed the sum of **A$xxxxx**, plus GST, if any, to a maximum of **A$xxxxxx**.

4.2 The Milestone Payments will be payable to the Contractor progressively, within thirty (30) days of AusAID's acceptance of the satisfactory achievement of the Milestones specified in **Table 1** below and subject to the provisions of **Clause 20** of Part B.

Table 1: Milestone Payments

No.	Description	Due Date	Verifiable Indicator	Financial Limitation (A$)
1	1st Annual Plan	3 months from Project Start Date	Acceptance by AusAID	30% of total management fee (TMF)
2	Scholarship Promotion and Communication Plan	4 months from Project Start Date	Acceptance by AusAID	10% of TMF
3	Six Monthly Report	8 months from Project Start Date	Acceptance by AusAID	10% of TMF
4	2nd Annual Plan	5th January 2011	Acceptance by AusAID	20% of TMF
5	Six Monthly Report	31st July 2011	Acceptance by AusAID	10% of TMF
7	Program Completion Report	3 months prior to the contract end date	Acceptance by AusAID	20% of TMF
			TOTAL	TMF

4.3 AusAID's assessment of the Contractor's achievement of Milestones may be informed by independent review in accordance with **Clause 17** of Part B.

5. REIMBURSABLE PAYMENTS: LONG TERM PERSONNEL COSTS

5.1 AusAID shall reimburse the Contractor up to a maximum total of **AUDxxx** for Long Term Personnel Costs.

5.2 Long Term Personnel are personnel engaged for more than six (6) months over the life of the contract.

5.3 For each identified Long Term Personnel, AusAID shall pay the Contractor, monthly on a reimbursable basis in arrears, Monthly Fees up to the maximum amounts specified in **Table 2** below. Mobilisation and Demobilisation costs will be reimbursed at cost up to the maximum one-off amounts which apply to each position.

Table 2: Long Term Personnel Fee Rates

Position	Name	Monthly Fee (AUD)	Inputs (Months)	Mobilisation (AUD)	Demobilisation (AUD)	Financial Limitation (AUD)
Senior Scholarships Manager/Contractor Representative	*Specify*	*Specify*	*Specify*			
Scholarships Manager	*Specify*	*Specify*	48			
Scholarships Administrators and Support Staff (*Tenderers to specify number of positions, inputs and percentage time*)	*Specify*	*Specify*	*Specify*			
					TOTAL	

5.4 The Monthly Fee is:

(a) ***Inclusive*** of all personnel-related taxes and levies incurred in Pakistan and Australia, except;

(i) GST for Services performed in Australia in accordance with **Clause 21** of Part 6 (Goods and Services Tax);

(b) ***Inclusive*** of superannuation levy, if any, as appropriate;

(c) ***Inclusive*** of paid annual leave allowances of up to four (4) weeks per annum, to accrue on a pro rata basis per twelve months' continuous engagement on the Program (noting that leave allowances cannot be carried over from one twelve month period to another and must be taken in the twelve month period in which they fall due), including all leave costs such as airfares to and from Pakistan;

(d) ***Inclusive*** of accommodation, utilities and private transport costs;

(e) ***Inclusive*** of all escalators for the first two (2) years of the Program; **but**

(f) ***Exclusive*** of mobilisation/demobilisation costs (including airfares, in accordance with **Clause 5.8** below), which will be reimbursed at cost (subject to reasonableness in arrears); and

(g) ***Exclusive*** of any profit, overheads, administration or management fee, or any other mark-up on the part of the Contractor.

5.5 Where Contractor leave entitlements for Long Term Personnel exceeds two (2) trips or a total of four (4) weeks per twelve month period, a satisfactory

justification must be provided to AusAID of how the Contractor will ensure, during Specified Personnel absences, the continued quality of the Services.

5.6 If any personnel inputs have not been supplied in accordance with **Table 2**, the Contractor must, in its final claim for payment, reduce the amount claimed based on the number of days that any personnel have not provided the required inputs. The Contractor must include with the claim details of the inputs not provided, together with the amount of the reduction in the total cost for relevant personnel.

5.7 For the purpose of calculating part months where necessary, a full month is deemed to be 30 days. Part months will be pro rated on a daily basis.

5.8 The entitlement to reimbursement for travel costs is as follows:

(a) Business Class airfares for international travel; and

(b) Economy Class airfares for domestic travel; **but**

(c) In any event, international travel undertaken on an Economy Class airfare does not entitle the Contractor to claim for reimbursement of the equivalent Business Class airfare.

5.9 Should AusAID exercise its rights, under **Clause 3** of Part A to extend the term of this Contract, the Long Term Personnel Costs applying to the Contract extension will be the rates specified in **Table 2** above with the following escalators applied:

(a) C% for Year 3 of this Contract; and

(b) D% for Year 4 of this Contract.

5.10 The escalation rates specified in **Clause 5.9** above apply to Monthly Fee Rates and Demobilisation costs but not to Mobilisation costs.

6. REIMBURSABLE PAYMENTS: SHORT TERM PERSONNEL COSTS

6.1 AusAID shall reimburse the Contractor up to a maximum total of **AUDxxx** for Short Term Personnel Costs.

6.2 Short Term Personnel are personnel engaged for less than six (6) months over the life of the contract.

6.3 For each Short Term Personnel, AusAID shall pay the Contractor, monthly on a reimbursable basis in arrears, a Daily Fee in accordance with the relevant rate(s) detailed in **Table 3** below.

Table 3: Short Term Personnel Fee Rates

Position	Name	Daily Professional Fee (AUD)	Inputs (Days)	No of Trips	Cost per Trip (AUD)	Financial Limitation (AUD)
Australian Academic Adviser						
Tender to specify any others						

6.4 The Daily Fee for Short Term Personnel, is:

(a) Based on a 5 day working week for home country inputs and a 7 day working week for in-Pakistan inputs;

(b) ***Inclusive*** of all personnel-related taxes and levies incurred in Pakistan and Australia, with the exception of GST for Services performed in Australia [refer to **Clause 21** of the Standard Contract Conditions (Goods and Services Tax)];

(c) ***Inclusive*** of superannuation levy, if any, as appropriate;

(d) ***Inclusive*** of all escalators for the full period of the Program; **but**

(e) ***Exclusive*** of any profit, overheads, administration or management fee, or any other mark-up on the part of the Contractor.

6.5 The entitlement to reimbursement for travel costs is as follows:

(a) Business Class airfares for international travel; and

(b) Economy Class airfares for domestic travel; but

(c) In any event, international travel undertaken on an Economy Class airfare does not entitle the Contractor to claim for reimbursement of the equivalent Business Class airfare

6.6 Should AusAID exercise its rights, under **Clause XX** of Part A to extend the term of this Contract, the Short Term Personnel Costs applying to the Contract extension will be the rates specified in **Table 3** above with the following escalators applied:

(a) E% for Year 3 of this Contract; and

(b) F% for Year 4 of this Contract.

7. REIMBURSABLE PAYMENTS: ADMINISTRATION, EQUIPMENT AND OPERATIONAL COSTS

7.1 AusAID shall reimburse the Contractor up to a maximum total of **AUD2, 211,750** for Administration, Equipment and Operational Costs.

7.2 The Contractor will be reimbursed on the basis of the actual cost incurred for items identified as reimbursable, up to the maximum amounts specified in **Table 4** below. The actual cost will be exclusive of any costs that are included in the TMF in accordance with **Clause 3** of this Part.

Table 4: Administration, Equipment and Operational Costs

Item	Unit	No. of Units	Cost per Unit (AUD)	Financial Limitation (AUD)
Inception Workshop	lump sum	-	-	**11,000**
M&E and ALUMNI				
M&E System establishment	lump sum	-	-	60,000
M&E database/ongoing costs	monthly	24	3,200	76,800
Review of M&E system	lump sum	-	-	47,200
Tracer Study Costs	lump sum	-	-	44,000
Case Study Costs	lump sum	-	-	22,000
Alumni database	lump sum	-	-	70,000
Alumni Newsletter	6 monthly	4	30,000	120,000
Alumni support and events	lump	-	-	84,000
Returning ADS Scholar debrief	Lump sum	-	-	42,000
Subtotal (Monitoring and Evaluation)				**566,000**
EQUIPMENT AND OPERATING COSTS				
Office Operating Costs	monthly	24	7,143.50	171,444
Office Equipment	lump	-	-	55,000
Courier Costs	monthly	24	1,500	36,000
Transport Costs – travel to provinces	quarterly	8	5,000	40,000
Transport costs – local transport	monthly	24	3,496	83,906
Communications	monthly	24	2,400	57,600
Website Maintenance	monthly	24	1,600	38,400
Subtotal (Operating Costs)				**482,350**
SCHOLARSHIPS COSTS				
Advertising/Promotion	annual	2	58,000	116,000
Shortlisting and Selection Panel costs	annual	2	84,000	168,000

Item	Unit	No. of Units	Cost per Unit (AUD)	Financial Limitation (AUD)
Scholar Medicals	scholar	90	300	27,000
IELTS Testing	lump	-	-	46,800
Scholar PDB travel	scholar	70	1,200	84,000
Scholar travel to Australia	scholar	90	3,300	297,000
Foundation Awards support costs	lump	-	-	395,200
HRD Reintegration Workshop	annual	2	9,200	18,400
Subtotal (scholarship costs)				**1,152,400**
			TOTAL	**2,211,750**

7.3 In accordance with **Clause 7.2** above, the Contractor will be entitled to reimbursement for reasonable expenses incurred in respect of Reimbursable Administration, Equipment and Operational Costs, subject to:

(a) Details of the items purchased or expenses incurred contained in a quarterly payment invoice prepared in accordance with **Clause 11** of Part B; and

(b) Original receipts and invoices maintained to substantiate any claim.

7.4 When expenditure reaches 80% of the limits specified in **Table 4** the Contractor must advise AusAID of the remaining commitments and must ensure that the upper limits are not exceeded.

7.5 The Contractor may vary the sums assigned against individual line items in **Table 4**, within the overall financial limitation of this payment stream and subject to AusAID's written approval. Changes to the value of individual line items will not require a variation to this Contract.

7.6 The Contractor must notify AusAID in writing of the intended changes to the descriptions of individual line items. Any changes will be subject to AusAID's written approval. Such changes will not require a variation to this Contract.

7.7 The Contractor must maintain a Register of Assets in accordance with **Clause 10** of Part 6 in the format described in **Annex 1** to this Part 4.

7.8 **Table 4** includes an amount which may be payable to the Contractor for Unallocated Activities. These Unallocated Activities will require the prior written approval of AusAID and may include the costs of administering the pre-departure arrangements for additional AusAID students. Payment for these Unallocated Activities is conditional upon certification by the Contractor that activity outcomes have been met.

7.9 Should AusAID exercise its rights, under **Clause 3** of Part 2 to extend the term of this Contract, the Reimbursable Administration, Equipment and Operational Costs applying to the Contract extension will be subject to agreement between AusAID and the Contractor.

8. CLAIMS FOR PAYMENT

8.1 The Contractor's claims for payment shall be submitted when due pursuant to this Part 4 in accordance with the Standard Contract Conditions clause headed Payment in the Contract, and shall be submitted in a form identifiable with the services.

8.2 Claims for payment should include reference to the relevant Payment Event Number that will be issued by AusAID.

8.3 Invoices involving foreign exchange transactions must be made in the equivalent Australian dollar amount, converted at an exchange rate which is calculated in accordance with appropriate accounting standards and as entered by the Contractor in their general ledger..

8.4 All claims for payment shall be made to:

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

8.5 Tax invoices should be sent to the above address. Alternatively AusAID will accept electronic tax invoices. These can be sent to accountsprocessing@ausaid.gov.au

8.6 A copy (electronic or hard copy) of the invoice should also be forwarded to the Activity Manager.

8.7 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

ANNEX 1 to SCHEDULE 2 - ASSETS REGISTER

Identification Number	Description of Asset	Purchase Reference	Purchase date	Purchase Price	Date & Location Received	Remarks – including disposal action & price received

SECTION 2 – STANDARD TENDER AND CONTRACT CONDITIONS

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PART 5 – STANDARD TENDER CONDITIONS

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

1. DOCUMENTS THAT MUST BE LODGED

1.1 Tenders must be lodged either:

(a) Electronically, via AusTender at https://tenders.gov.au before the **Closing Time** and in accordance with the tender lodgement procedures set out in **Annex C to this Part** and on AusTender; or

(b) Physically, by depositing by hand in the Canberra Tender Box before the **Closing Time**.

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

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

(a) the technical proposal which includes:

(i) **Tender Schedule A** addressing the selection criteria and including the required annexes in the form specified in **Part 1**; and

(ii) **Tender Schedule B** providing details of Specified Personnel in the form specified in **Part 1**;

(b) The financial proposal in the form specified in **Part 1 Tender Schedule C**. For electronic submissions, **Tender Schedule C** must be submitted as a separate file, and for hard copy submissions, **Tender Schedule C** must be submitted in a separate sealed envelope;

(c) The financial assessment material in the form specified in **Part 1** Tender Schedule D. For electronic submissions, **Tender Schedule D** must be submitted as a separate file, and for hard copy submissions, **Tender Schedule D** must be submitted in a separate sealed envelope; and

(d) The completed and signed Tenderer Declaration in the form specified in **Annex B of this Part**.

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

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

1.6 The Tenderer must submit the number of copies specified in the Tender Particulars (**Part 1 Clause 1** of this RFT). Different numbers of copies may be required for hard copy lodgement and for electronic lodgement.

1.7 Tenders submitted by facsimile or email will not be considered.

1.8 It is a condition of this RFT that each Tender must remain valid and available for acceptance by AusAID for the **Tender Validity Period** specified in the Tender Particulars (**Part 1 Clause 1** of this RFT).

1.9 A person or persons having authority to lodge the Tender and enter into a contract on behalf of the Tenderer must sign the Tenderer Declaration (**Annex B of this Part**).

1.10 AusAID may extend the **Closing Time** at its sole and absolute discretion, and will issue an Addendum notifying any decision to extend.

Conditions Applying to Electronic Tender Lodgement

1.11 Electronic tenders must be lodged electronically via the Australian Government Tender System, AusTender, at https://www.tenders.gov.au before the **Closing Time** and in accordance with the tender lodgement procedures set out in **Annex C of this Part** and on AusTender.

1.12 Where there is any inconsistency between the tender lodgement procedures set out on AusTender and those set out in this RFT, this RFT will prevail.

1.13 Tenders not submitted in accordance with **Clause 1.11** will be excluded from evaluation.

1.14 It is the responsibility of tenderers to ensure that their infrastructure including operating system and browser revision levels meet the minimum standards as defined on AusTender. Neither AusAID nor the Commonwealth takes any responsibility for any problems arising from tenderers' infrastructure and/or Internet connectivity.

Conditions Applying to Hard Copy Tender Lodgement

1.15 For hard copy lodgement, the Tenderer is responsible for the delivery of their Tender. The Tender must be placed in AusAID's **Canberra Tender Box**. The Tender must be delivered during **Business Hours** by the **Closing Time**. Failure to submit a Tender in accordance with this clause may render the Tender liable to rejection.

1.16 The Original Tender document and any copies requested should be bound using a plastic comb binding, and should contain no plastic page separators.

1.17 The Tender should be endorsed with the name of the Project and marked: "Tender Box: Attention **Contact Person.**" The Tenderer's postal address and fax number should be provided on the outside of the Tender.

2. TENDERER ENQUIRIES

2.1 Any enquiries that Tenderers may have must only be directed to the **Contact Person** specified in the Tender Particulars.

2.2 If a Tenderer:

(a) finds any discrepancy, error or omission in the terms and conditions of the RFT, including of the Contract Conditions; or

(b) wishes to make any enquiry, including seeking clarification, of the RFT, including of the Contract Conditions,

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

2.3 AusAID will respond to any Tenderer enquiries no later than 7 days prior to the **Closing Time**.

2.4 AusAID reserves the right to issue or publish answers to any Tenderer enquiries to all Tenderers.

3. LATE TENDERS

Conditions Applying to Tenders Lodged Electronically

3.1 A Tender lodged electronically is a **Late Tender** in accordance with the conditions specified in **Clause 6, Annex C of this Part** and will be excluded from evaluation.

3.2 For tenders submitted electronically, the time displayed on AusTender is deemed to be the correct time and will be the means by which AusAID will determine whether Tenders lodged electronically have been lodged by the **Closing Time**.

3.3 The judgement of AusAID as to the time a Tender has been lodged electronically will be final.

Conditions Applying to Tenders Lodged in Hard Copy

3.4 A hard copy Tender lodged after the **Closing Time** is a late Tender.

3.5 AusAID will admit to evaluation a Tender that was received late solely due to AusAID mishandling. AusAID mishandling does not include mishandling by a courier or mail service provider engaged by a Tenderer to deliver their Tender. It is the responsibility of tenderers to ensure that their Tender is dispatched in sufficient time for it to be received by AusAID by the **Closing Time**.

3.6 Late Tenders that are rejected by AusAID will be returned to tenderers unopened, except in cases where a Tender must be opened to identify the return address of the Tenderer or to establish which tender process the Tender was for.

3.7 If a Tender is taken to be late, the Tenderer may be asked to provide explanatory evidence in an appropriate form to the **Contact Person** specified in the Tender Particulars.

4. NON-CONFORMING TENDERS

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

4.2 AusAID reserves the right to seek clarification of non-conforming Tenders in accordance with **Clause 5 of this Part**.

4.3 Subject to **Clause 3 (Late Tenders) of this Part**, AusAID may, at its absolute discretion, assess or reject a non-conforming Tender.

4.4 AusAID will not enter into correspondence about a decision to assess or reject a non-conforming Tender.

5. CLARIFICATION OF TENDERS

5.1 AusAID reserves the right to seek clarification of any Tender. Tenderers must:

(a) respond to any request for clarification within the time period specified by AusAID;

(b) ensure that additional information provided answers AusAID's enquiry and is fully consistent with the Tender submitted by the Tenderer; and

(c) not seek to change any aspect of their Tender by providing additional information to AusAID.

5.2 Clarifications are provided on the terms of the RFT.

5.3 Failure to supply clarification to the satisfaction of AusAID may render the Tender liable to rejection.

6. AMENDMENT OF THE RFT

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

7. ASSESSMENT OF TENDERS

7.1 Tenders will be assessed on the following basis:

(a) technical, which includes the other factors described in **Clause 7.8 of this Part** which in AusAID's opinion may impact upon the suitability of any Tenderer including the financial viability of any Tenderer; and

(b) financial

to achieve the best value for money outcome.

7.2 Tenderers should note that value for money determinations are made on a whole-of-life basis and that AusAID is not bound or required to accept the lowest priced Tender or any Tender.

Technical Assessment

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

7.4 AusAID may invite a Tenderer (shortlisted or otherwise) to give AusAID a short presentation and be interviewed by the TAP. Specified Personnel, such as the proposed in-country team leader and the project director, will be required to attend at the presentation. If Specified Personnel are unable to attend, a teleconference presentation may be arranged. Specified Personnel will be required to answer any questions asked by the TAP. The TAP

will be convened in Canberra and the costs of the Tenderer's (and its personnel's) attendance must be borne by the Tenderer.

7.5 Tenderers should note that failure by a Tenderer or proposed Specified Personnel to attend the presentation (either in person or via teleconference) may disadvantage the Tender.

7.6 TAP members are required to maintain the "commercial-in-confidence" nature of the proceedings of the TAP meeting. TAP members must not discuss matters relating to the technical assessment of any tender with any party. Tenderers must not make contact with any members of the TAP, outside any TAP meeting, and any such contact will be considered a breach of confidentiality and may result in AusAID rejecting the tender of the Tenderer concerned.

7.7 AusAID reserves the right to take into account in the assessment of this Tender the past performance of the Tenderer or any proposed personnel contained in the Tender in accordance with **Annex A of this Part**.

7.8 In making its assessment the TAP or AusAID may have regard to other factors relevant to the suitability, capacity and qualifications of a Tenderer including but not limited to:

(a) the Tenderer's ability to comply with AusAID policies referred to in this RFT and the Tenderer's ability to comply with the **Contract Conditions**;

(b) the resourcing of Tenders;

(c) information obtained from any source which is relevant to the capacity of the Tenderer or any proposed personnel to perform the Services and achieve the Project goals and objectives. Such information may be the result of inquiries made by AusAID; and

(d) the Tenderer's demonstrated understanding of the cultural environment of the Project.

These other factors have not been allocated any specific weightings.

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

Goods and Services Tax

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

Insurances

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

Project Vehicles

7.12 For the purposes of this clause, "Project Vehicles" are defined as vehicles paid for by AusAID, remain the responsibility of the Contractor for the term of the Project and that are provided primarily for Contractor Personnel use for Project activities. Vehicles purchased by the Project, but handed over to the Partner Country immediately (where maintenance and insurance are Partner Country responsibilities and Contractor Personnel do not use the vehicles or only use them on an exceptional basis) are not considered Project Vehicles for the purposes of requiring a financial contribution by the Contractor.

7.13 In consideration of the Contractor being entitled to use Project Vehicles for non-project use the Contractor must contribute $250.00 for each Project Vehicle for each month of the Project. The contribution will be deducted by the Contractor and must be clearly identified on the Contractor's invoices.

7.14 The Contractor must abide by the following requirements with regards to Project Vehicles:

(a) Project demands must always take precedence over private use;

(b) the Contractor must ensure that any persons driving the Project Vehicle must have a current valid international or Partner Country drivers license for the class of Project Vehicle;

(c) the Contractor is responsible for ensuring Project Vehicles are appropriately insured;

(d) the Contractor is responsible for ensuring that seat belts are fitted and must make every effort to ensure that they are worn at all times by drivers and all passengers;

(e) the Contractor is responsible for any costs incurred in the event of an accident while the Project Vehicle is being privately used; and

(f) the Contractor must ensure that Project Vehicles are serviced in accordance with manufacturer's requirements.

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

Technical proposal format

7.15 The technical proposal must:

(a) indicate the Tenderer's nominated contact person and contact details on the cover page;

(b) be in a type font of no less than 12 point on A4 paper;

(c) have left and right page margins of no less than 2.5 cm, and top and bottom page margins of no less than 3 cm, excluding headers, footers and page numbers;

(d) not have the AusAID logo or any other representation or mark which may indicate that the Tenderer is in any way related to or connected with AusAID; and

(e) be no longer than the page limit detailed in the Tender Particulars (inclusive of tables, diagrams or graphs), but exclusive of required annexes.

Curricula vitae

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

(a) name and personal contact details (this can be an email address or phone number);

(b) nationality and if relevant permanent resident status;

(c) professional qualifications, including institution and date of award; and

(d) details of recent relevant professional and development work experience, including the duration and extent of inputs.

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

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

(a) the information provided in this CV is accurate and hereby authorise the Commonwealth to make whatsoever inquiries it may consider reasonable and necessary to undertake in the course of the Tender assessment in relation to the information I have provided in this CV or any other matter which may relate to my suitability for the position for which I have been nominated; and

(b) I am available to participate in the Project in the role in which I have been nominated in the Tender for the period or periods indicated in the Tender".

(c) I have not been convicted of an offence of, or relating to, bribery of a public official, nor am I subject to any proceedings which could lead to such a conviction.

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

Referees

7.18 Tenderers must nominate at least two (2) referees who can provide an objective assessment of the quality of relevant and recent work performed by the organisation (if the Annex titled Past Experience Forms is used) or the proposed team member (regarding Tender Schedule B). Referees who can supply character references only are not sufficient.

7.19 Tenderers must ensure that nominated referees do not have an actual or potential conflict of interest when acting as a referee. In particular, Tenderers must ensure that referees:

(a) are not an employee of, or the holder of a current executive office (or similar position) within the organisation of, or do not have a business in association with, the Tenderer or a subsidiary organisation of the Tenderer;

(b) are not included in the Tender as proposed team members; and

(c) are not AusAID employees.

7.20 Tenderers must further ensure that nominated referees:

(a) are available to be contacted in the 3 week period after the **Closing Time**; and

(b) are able to provide comments in English.

7.21 AusAID reserves the right to check with nominated referees and with other persons as AusAID chooses, the accuracy of the information and quality of work performed.

8. JOINT VENTURES AND CONSORTIUMS

8.1 AusAID intends to contract with a single legal entity.

8.2 In the case of a joint venture or consortium that does not constitute a single legal entity, AusAID will contract with the lead joint venture or consortium member that is required to be nominated by the tenderer.

8.3 Tenders by a joint venture or consortium must be submitted on the basis that details on the activities to be performed and responsibility assumed by each party of the joint venture or consortium must be clearly specified in the body of the text in **Tender Schedule A**.

8.4 AusAID may require parent company guarantees from the parent companies of parties to a joint venture or consortium.

9. ASSOCIATES AND OTHER SUB-CONTRACTORS

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

9.2 Tenders involving Associates will be assessed on the basis of that arrangement. Tenders must include:

(a) details on the activities to be performed and responsibilities assumed by each party where Associates are involved must be described in the body of the text of **Tender Schedule A**; and

(b) assurance to AusAID from an authorised representative of the Associate of their corporate commitment to and involvement in the Project in the form of a single page Letter of Association in a separate annex to **Tender Schedule A**.

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

9.3 In addition to Associates, Tenderers are required to include detailed information on other work to be sub-contracted (excluding Specified Personnel) and proposed sub-contractors, where these are reasonably known at the time of the Tender and have expressed their willingness to be involved in the Project. These details must also be included in a separate annex to **Tender Schedule A** in the form described in **Clause 9.4 below**.

9.4 Letters in which organisation's express their willingness to be involved with the Tenderer in the Project as a sub-contractor must be limited to a single page per organisation and include details on the broad skills or areas in which the organisation may add value.

9.5 Tenderers note: AusAID contracts assign full responsibility for all sub-contracted Services to the contractor.

10. OWNERSHIP OF TENDERS AND RFT

10.1 All Tenders become the property of AusAID on lodgement.

10.2 Such intellectual property rights as may exist in the information contained in each Tender will remain the property of the Tenderer.

10.3 The Tenderer authorises AusAID to copy, adapt, amend, disclose, including to AusAID contractors and advisers, or do anything else necessary, in AusAID's sole discretion, to all materials including that which contains intellectual property rights of the Tenderer or other parties contained in the Tender.

10.4 Copyright in the RFT is reserved to AusAID.

11. CONFLICT OF INTEREST

11.1 Tenderers must:

(a) identify any actual or potential conflict of interest; and

(b) the procedures they intend to implement for dealing with, any actual or potential conflicts of interest,

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

11.2 If any actual or potential conflicts of interest arise for a Tenderer before entering into a Contract for the Services, AusAID may:

(a) enter into discussions to seek to resolve such conflict of interest; or

(b) disregard the Tender submitted by such a Tenderer; or

(c) take any other action that AusAID considers appropriate.

12. TENDERING CONDUCT

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

12.2 If a Tenderer is found to have made false or misleading claims or statements, or receives improper assistance or improperly obtains confidential information, AusAID reserves the right to reject at any time, any Tender lodged by or on behalf of that Tenderer.

13. INELIGIBILITY TO TENDER

13.1 A Tenderer is ineligible to tender where the Tenderer or any subcontractor of the Tenderer is listed by the World Bank in its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at www.worldbank.org (the "**World Bank List**").

13.2 Tenderers warrant by submitting a tender that the Tenderer, and any subcontractor of the Tenderer, are not listed on a World Bank List. Tenderers must also state in their tender whether the Tenderer or any subcontractor of the Tenderer is listed on any similar list maintained by any other donor of development funding ("**Relevant List**") or are subject to any proceedings which could lead to listing on a World Bank List or listing on any Relevant List. Tenderers must also immediately notify AusAID where the Tenderer or any of their subcontractors becomes listed on a World Bank List or Relevant List, or subject to proceedings which may lead to such a listing, after the tender is submitted to AusAID.

13.3 AusAID will exclude any tender where the Tenderer is in breach of the warranty, or does not disclose any circumstance required under **Clause 13.2**. AusAID also reserves the right to exclude any tender, where the Tenderer or a subcontractor of the Tenderer becomes listed on a World Bank List or Relevant List, or is subject to proceedings which could lead to such a listing.

13.4 Tenderers should note that if they tender in breach of this **Clause 13**, or are subsequently listed on a World Bank List or Relevant List, AusAID may terminate any contract subsequently entered into with that Tenderer.

13.5 For the purpose of this **Clause 13**, a reference to a Tenderer or a subcontractor of a Tenderer, includes any company in the same group as the Tenderer or the subcontractor (including but not limited to, related bodies corporate of the Tenderer or subcontractor within the meaning of the *Corporations Act 2001*) and parties with whom the Tenderer or subcontractor is associated in respect of this Tender.

14. AusAID's RIGHTS

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

14.2 AusAID reserves the right to:

(a) seek Tenders from any organisation;

(b) accept or reject any Tender;

(c) terminate, extend or vary its procurement process for the Services;

(d) request clarification in relation to a Tender;

(e) seek information or negotiate with any organisation that has not been invited to submit a Tender;

(f) terminate negotiations with the preferred Tenderer and commence negotiations with any other Tenderer;

(g) evaluate Tenders as AusAID sees appropriate; and

(h) negotiate with any one or more Tenderers.

15. TENDERER'S ACKNOWLEDGEMENT

15.1 A Tender is submitted on the following basis:

(a) no legal obligation or agreement whatsoever is intended to be or is created between AusAID and any Tenderer by virtue of the tender process (including but not limited to statements contained in this RFT) unless and until contract negotiations are completed and a formal written agreement acceptable to AusAID is entered into and executed by an authorised officer of AusAID and by the successful Tenderer, if any;

(b) the Tenderer acknowledges and agrees that AusAID, its employees, agents and advisers are not, and will not be responsible, or liable for the accuracy or completeness of any information contained in this RFT; and

(c) the Tenderer is responsible for all costs of and incidental to the preparation and delivery of the Tender, including obtaining this RFT, or any subsequent stage of the procurement process, including answering any queries and providing any further information sought by AusAID.

16. DEBRIEFING OF TENDERERS

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

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

17. COMPLIANCE WITH LAWS, GUIDELINES AND POLICIES

17.1 Freedom of Information

(a) The *Freedom of Information Act 1982* gives members of the public rights of access to official documents of the Australian Government and its agencies. The *Freedom of Information Act 1982* extends, as far as possible, the right of the Australian community to access information (generally documents) in the possession of the Australian Government, limited only by considerations of the protection of essential public interest and of the private and business affairs of persons in respect of whom information is collected and held by departments and public authorities.

(b) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Freedom of Information Act 1982* on their participation in this RFT process and any subsequent contract.

17.2 Privacy

(a) The *Privacy Act 1988* establishes a national scheme providing, through codes of practice adopted by private sector organisations and the National Privacy Principles, for the appropriate collection, holding, use, correction, disclosure and transfer of personal information by private sector organisations.

(b) The Draft Contract provides that the Contractor will comply with the *Privacy Act 1988*, including the Information Privacy Principles and the National Privacy Principles whether or not the Contractor is an organisation subject to the *Privacy Act 1988*.

(c) The Tenderers acknowledge that the *Privacy Act 1988* reflects the principles of the International Covenant on Civil and Political Rights and OECD Guidelines, in particular, the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data.

(d) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Privacy Act 1988* on their participation in this RFT process and any subsequent contract.

17.3 Access by Australian National Audit Office

(a) Attention of Tenderers is drawn to the *Auditor-General Act 1997* which provides the Auditor-General, or an authorised person, with a right to have, at all reasonable times, access to information, documents and records.

(b) In addition to the Auditor-General's powers under the *Auditor-General Act 1997*, the Draft Contract provides that the Contractor will provide the Auditor-General, or an authorised person, access to information, documents, records and agency assets, including those on the Contractor's premises. Such access will apply for the term of the contract and for a period of seven years from the date of expiration or termination.

(c) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Auditor-General Act 1997* on their participation in the RFT process and any subsequent contract.

17.4 Access by Ombudsman

(a) Attention of Tenderers is drawn to the *Ombudsman Act 1976* which gives Australians access to a government officer, known as an ombudsman, who investigates complaints from the public about government agencies and their operations and decisions, and reports on ways in which they may be resolved.

(b) In addition to the ombudsman's powers under the *Ombudsman Act 1976*, the Draft Contract provides that the Contractor will provide the ombudsman, access to information, documents, records and agency assets, including those on the Contractor's premises. Such access will apply for the term of the contract and for a period of seven years from the date of expiration or termination.

(c) Tenderers should obtain, and will be deemed to have obtained, their own advice on the impact of the *Ombudsman Act 1976* on their participation in the RFT process and any subsequent contract.

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

(a) Australian Government policy prevents AusAID from entering into contracts with suppliers who are currently named as non compliant under the *Equal Employment Opportunity for Women in the Workplace Act 1999* (EEO Act).

(b) AusAID will exclude from consideration any Tender from a Tenderer who is named or whose subcontractor is named as not complying with the EEO Act.

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

(a) AusAID will exclude from consideration any Tender from a Tenderer who is listed:

(b) by the Minister for Foreign Affairs under the *Charter of the United Nations Act 1945* and/or listed in regulations made under Division 102 of the *Criminal Code Act 1995* (Cth). Further information about listed persons and entities is available from the Department of Foreign Affairs and Trade website at www.dfat.gov.au/icat/UNSC_financial_sanctions.html and from http://www.nationalsecurity.gov.au/

(c) by the World Bank on its "Listing of Ineligible Firms" or "Listings of Firms, Letters of Reprimand" posted at www.worldbank.org (the "World Bank List") and/or any similar list maintained by any other donor of development funding.

17.7 Other Australian Government and AusAID Policies

(a) Tenderers should familiarise themselves with AusAID policies including:

(i) the policy *Gender Equality in Australia's Aid Program – Why and How* (March 2007). This document is available on AusAID's website at http://www.ausaid.gov.au/publications/default.cfm;

(ii) AusAID's policy on the environment as set out in the *Environmental Management Guide for Australia's Aid Program*. This document is available on AusAID's website at http://www.ausaid.gov.au/keyaid/envt.cfm.

(iii) AusAID's *Child protection policy*, in particular the child protection compliance standards at Attachment 1 to the policy. This document is available on AusAID's website at http://www.ausaid.gov.au/publications/default.cfm.

(iv) any other policies published from time to time on http://www.ausaid.gov.au or as otherwise notified to Tenderers.

18. FURTHER REQUIREMENTS

18.1 Tenderers should be aware that current employees of AusAID cannot be included in Tenders for AusAID projects. Former AusAID employees may be included in Tenders if doing so does not represent a breach of conflict of interest. See AusAID's Frequently Asked Questions website for further information: www.ausaid.gov.au/business/frequent.cfm.

18.2 Tenderers should note that the Commonwealth Procurement Guidelines require that Commonwealth agencies must not enter into agreements with suppliers who have had a judicial decision against them (not including decisions under appeal) relating to employee

entitlements and who have not paid the claim. AusAID will reject submissions from tenderers in this position.

18.3 Tenderers must keep any discussions or contact with AusAID in connection with the Tender, the RFT and any contract negotiations confidential. Any unauthorised approach by a Tenderer to an AusAID officer or discussion of matters pertaining to the procurement process will be considered a breach of confidentiality.

19. CONTRACT NEGOTIATIONS

19.1 AusAID may select, as preferred Tenderer, the Tenderer(s) who best meet the requirements of the RFT on the basis of the tender assessment process.

19.2 The preferred Tenderer(s) must within 14 days of written notification from AusAID that it has been selected as preferred Tenderer, provide AusAID with originals of Police Clearance Certificates for all Personnel nominated in their Tender in positions specified in the Specified Personnel Table (**Clause 6, Part 1**) as working with children.

(a) Police Clearance Certificates must be provided for each country in which the individual has lived for 12 months or longer over the last five years, and for the individual's country of citizenship;

(b) Police Clearance Certificates must be dated no earlier than 12 months before the Tender Closing Time;

(c) If any required Police Clearance Certificates are not provided to AusAID in accordance with **Clause 19.2** above, AusAID may exercise its right, specified at **Clause 14.2** above, to terminate negotiations with the preferred Tenderer and commence negotiation with any other Tenderer. AusAID recognises that in limited instances it may prove impossible to obtain a reliable Criminal Record Check, and will take non-provision of a Criminal Record Check into account upon request;

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

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

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

19.5 Enhancements to the Scope of Services included in the Tender in accordance with the selection criteria should be costed into the fixed price quote for the purposes of the like-for-

like price assessment. Where AusAID has instructed that the like-for-like price assessment is to be based on indicative values, the Tenderer must clearly specify all cost implications of enhancements proposed in the Tenderer's technical proposal.

20. CONTRACT PLANS

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

21. APPLICABLE LAW

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

ANNEX A - AUSAID USE OF PERFORMANCE INFORMATION

1. AusAID reserves the right to take into account in the assessment of this Tender the past performance, in previous AusAID and non-AusAID activities, or activities of:

   (a) any Tenderer; and

   (b) any member of the proposed personnel,

   in its capacity as:

   (c) contractor, consultant or sub-contractor;

   (d) an associate or employee of a contractor, consultant or sub-contractor; or

   (e) a joint venture partner.

2. AusAID may:

   (a) include in the assessment any contractor performance information contained in any internal AusAID contractor performance reporting systems in relation to performance of the Tenderer or proposed management, administrative and Project personnel on previous AusAID activities, providing the contractor has seen the report and has had reasonable opportunity to comment; and

   (b) take into account relevant performance information provided by external referees in relation to a Tenderer or proposed personnel member obtained by AusAID as a result of inquiries made within the previous 12 months.

3. AusAID reserves the right to use any relevant information obtained in relation to a Tenderer or proposed personnel member obtained either during the Tender period or within the previous 12 month period by providing it to the Technical Assessment Panel (TAP) or to any other relevant person for the purposes of Tender assessment, and such information may be taken into account in the course of assessment of the Tender by the TAP and AusAID. Where information has been received in accordance with paragraph 2 (a) above, this may also be introduced into the TAP process.

4. AusAID may, at any time, make independent inquiries of:

   (a) any person or entity which it reasonably believes to have actual knowledge of the performance of the Tenderer or proposed personnel member/s on a previous project or activity, whether or not that person or entity is nominated in the Tender as a referee for the Tenderer or proposed personnel member; and

   (b) any Commonwealth Government department, agency or other government entity in Australia whether Commonwealth or State, or any other country, including law enforcement agencies in relation to a person who is proposed for inclusion in a Tender or a Tenderer.

5. AusAID may request a Tenderer to provide additional or clarifying information in relation to information obtained during the assessment process following the **Closing Time** for the purpose of assessment of the Tender.

6. Information obtained as a result of inquiries made by AusAID in relation to performance on previous activities will be sought on a confidential basis and AusAID shall not be obliged to disclose the content or source of prior performance information about a Tenderer or individual to any person.

7. AusAID shall not be liable upon any claim, demand, proceeding suit or action by any Tenderer or any proposed personnel member in relation to any matter, thing or issue arising out of or in any way in relation to the collection of information from any source or the use of any information collected pursuant to this Annex in the Tender assessment process.

ANNEX B – TENDERER DECLARATION

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

1. **DEFINITIONS**

1.1 In this declaration:

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

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

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

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

2. **BASIS OF DECLARATION**

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

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

3. **THE OFFER**

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

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

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

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

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

3.6 I agree:

(a) that the Tenderer will be bound by this Tender for the Tender Validity Period of 180 days after the **Closing Time**; and

(b) that this Tender may be accepted by AusAID at any time before the expiration of that period or any additional period to which we may agree.

3.7 I acknowledge that this Tender will not be deemed to have been accepted except as specified in the RFT.

3.8 I understand that AusAID is not bound to accept the lowest priced or any Tender.

3.9 I warrant that in preparing the Tender for the Services the Tenderer did not act in any way which did or could have had the effect of reducing the competitiveness of the tender process for the Services. In particular I warrant that the Tenderer did not engage in:

(a) any discussion or correspondence with other tenderers concerning the amount of the Tender;

(b) any collusive tendering or other anti-competitive practices with any of the other Tenderers or any other person; or

(c) any conduct or have any arrangement or arrive at any understanding with any of the other Tenderers.

3.10 **[This clause applies to government owned Tenderers only.]** I warrant that in preparing the Tender, the Tenderer has complied with the principles of competitive neutrality**.**

3.11 I warrant that the Tenderer, and any subcontractor of the Tenderer are not:

(a) listed on a World Bank List as referred to in **Clause 13** (Ineligibility to Tender) of **Part 5** of this RFT;

(b) listed on any similar list maintained by any donor of development funding (Relevant List), or:

(c) subject to any proceedings which could lead to listing on a World Bank List or listing on a Relevant List.

3.12 Neither the Tenderer nor any of its employees, agents or contractors have been convicted of an offence of, or relating to bribery of a public official, nor are they subject to any proceedings which could lead to such a conviction.

3.13 I undertake that the Tenderer will not permit any of its employees, agents or contractors, to work with children if they pose an unacceptable risk to children's safety or well being.

3.14 No employees of the Tenderer, or its agents or contractors, who have been nominated in Project positions that involve working with children, have been convicted of a criminal offence relating to child abuse, nor are they subject to any proceedings which could lead to such a conviction.

3.15 Neither the Tenderer nor any of its agents or contractors has an unsettled judicial decision against it relating to employee entitlements.

3.16 Neither the Tenderer nor any of its employees, agents or contractors had knowledge of the technical proposal or the Tender Price for the Services of any other tenderer prior to the Tenderer submitting its Tender for the Services.

3.17 Neither the Tenderer nor any of its employees, agents or contractors disclosed the technical proposal or the Tender Price for the Services submitted by the Tenderer to any other tenderer who submitted a tender for the Services or to any other person or organisation prior to the **Closing Time**.

3.18 Neither the Tenderer nor any of its employees, agents or contractors provided information to any other tenderer, person or organisation, to assist another tenderer for the Services to prepare a tender known in the building and construction industry as a "cover bid", whereby the Tenderer was of the opinion or belief that another tenderer did not intend to genuinely compete for the Contract.

3.19 The Tenderer is genuinely competing for the Contract and its Tender is not a "cover bid".

3.20 Prior to the Tenderer submitting its Tender for the Services neither the Tenderer nor any of its employees, agents or contractors entered into any Contract, agreement, arrangement or understanding that the successful Tenderer for the Services would pay any money, or would provide any other benefit or other financial advantage, to or for the benefit of any other tenderer who unsuccessfully tendered for the Tender.

3.21 I acknowledge that each party constituting the Tenderer is bound jointly and severally by this Tender.

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*

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

1. AUSTENDER, THE AUSTRALIAN GOVERNMENT ONLINE TENDER SYSTEM

1.1 AusTender is the online tendering system for Australian Government Agencies. AusTender allows tenderers to download tender documentation and upload tender responses. Tenderers must first register with AusTender at https://www.tenders.gov.au.

1.2 Access to and use of AusTender is subject to terms and conditions. Tenderers must agree to comply with those terms and conditions and any applicable instructions, processes, procedures and recommendations as advised on AusTender.

1.3 It is the responsibility of tenderers to ensure that their infrastructure including operating system and browser revision levels meet the minimum standards as defined on AusTender. Neither AusAID nor the Commonwealth take any responsibility for any problems arising from tenderers' infrastructure and/or Internet connectivity.

1.4 Tenderers must inform themselves concerning all security measures and other aspects of the AusTender technical environment. Tenderers must make their own assessment of the AusTender system prior to using it for any matter related to this RFT and no responsibility will be accepted by AusAID arising in respect of any use or attempted use by any party of AusTender.

2. REGISTERED TENDERERS AND NOTICES

2.1 In the event that AusAID elects to vary or supplement this RFT or change the conditions of tender, it will make reasonable efforts to inform tenderers in accordance with this **Clause 2**.

2.2 Tenderers may be informed by notices and other information issued as addenda posted on the webpage for this RFT on AusTender.

2.3 Tenderers who have registered and downloaded the tender documentation will be notified by AusTender via email of any addenda issuance. It is in the interest of tenderers to ensure they have correctly recorded their contact details prior to downloading tender documentation. If tenderers have not recorded their details correctly, they should amend their details and download the tender documentation again.

2.4 Tenderers are required to log in to AusTender and collect addenda as notified.

2.5 The Commonwealth will accept no responsibility if a tenderer fails to become aware of any addendum notice which would have been apparent from a visit to the AusTender page for this RFT.

2.6 If a tenderer has obtained tender documentation other than from AusTender, they must visit AusTender, register as a user and download the tender documentation for this RFT.

3. AUSTENDER HELP DESK

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

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

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

4. PREPARING TO LODGE A TENDER ELECTRONICALLY

Virus Checking

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

Tender File Formats, Naming Conventions and Sizes

4.2 Tenderers must lodge their tender in accordance with the requirements set out in this **Clause 4** for file format/s, naming conventions and file sizes. Failure to comply with any or all of these requirements may result in the tender not uploading successfully and/or may eliminate the bid from consideration.

4.3 AusAID will accept tenders lodged in the **File Formats for Electronic Tenders** specified in the Tender Particulars (**Clause 1 of Part 1** of this RFT).

4.4 The tender file name/s must:

(a) incorporate the tenderer's company name

(b) reflect the various parts of the bid they represent, where the tender comprises multiple files;

(c) not contain \ / : * ? " < > | characters. Check your files and re-name them if necessary; and

(d) not exceed 100 characters.

4.5 Tender files:

(a) must not exceed a combined file size of 5 megabytes per upload;

(b) should be uploaded from a high level directory on a tenderer's desktop, so as not to impede the upload process; and

(c) should be zipped (compressed) together for transmission to AusTender.

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

(a) transmit the tender files as a compressed (zip) file not exceeding 5 megabytes; and/or

(b) lodge the tender in multiple uploads ensuring that each upload does not exceed 5 megabytes and clearly identify each upload as part of the tender.

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

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

Scanned or Imaged Material, including Statutory Declarations

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

5. ELECTRONIC LODGEMENT PROCESS

5.1 Before submitting an electronic tender, tenderers must:

(a) ensure their technology platform meets the minimum requirements identified on AusTender;

(b) refer to AusTender's Help guidance, if required, on uploading tenders;

(c) take all steps to ensure that the tender is free from anything that might reasonably affect useability or the security or operations of AusTender and/or AusAID computing environment;

(d) ensure that the tender does not contain macros, script or executable code of any kind unless that specific material has previously been approved in writing by AusAID; and

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

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

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

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

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

6. LATE TENDERS, INCOMPLETE TENDERS AND CORRUPTED FILES

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

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

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

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

7. PROOF OF LODGEMENT

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

7.2 Failure to receive a receipt means that lodgement has not completed successfully. Where no receipt has been issued by AusTender, the attempted lodgement will be deemed to have been unsuccessful. Tenderers should refer to **Clauses 5.2 and 5.5** above.

8. AUSTENDER SECURITY

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

8.2 Tenderers acknowledge that:

(a) lodgement of their tender on time and in accordance with these conditions of tender is entirely their responsibility; and

(b) AusAID will not be liable for any loss, damage, costs or expenses incurred by tenderers or any other person if, for any reason, a tender or any other material or communication relevant to this RFT, is not received on time, is corrupted or altered or otherwise is not received as sent, cannot be read or decrypted, or has its security or integrity compromised.

PART 6 - STANDARD CONTRACT CONDITIONS

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

PART B – STANDARD CONTRACT CONDITIONS

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PART B – STANDARD CONTRACT CONDITIONS

1. INTERPRETATION

1.1 Definitions

In this Contract, unless the context otherwise requires:

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

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

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

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

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

(a) is designated by AusAID as confidential; or

(b) the Contractor knows or ought to know is confidential;

(c) is comprised in or relating to the Contract Material, the Data, any Intellectual Property of AusAID or third parties where the third party Intellectual Property is made available by or on behalf of AusAID, or the internal management and structure of the Department of Foreign Affairs and Trade, AusAID or the Commonwealth of Australia;

(d) is personal information under the *Privacy Act 1988*, but does not include this Contract or information which:

(e) is or becomes public knowledge other than by breach of this Contract or any other confidentiality obligation; or

(f) has been independently developed or acquired by the Contractor, as established by written evidence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"**Document**" includes:

(a) any paper or other material on which there is writing or printing or on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them; and

(b) a disc, tape or other article, or any material, from which sounds, images, writings or messages are capable of being reproduced with or without the aid of any other article or device.

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

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

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

(a) acts of God, lightning strikes, earthquakes, floods, storms, explosions, fires and any natural disaster;

(b) acts of war (whether declared or not), invasion, acts of foreign enemies, mobilisation, requisition, or embargo;

(c) acts of public enemies, terrorism, riots, civil commotion, malicious damage, sabotage, rebellion, insurrection, revolution, or military usurped power, or civil war; and

(d) contamination by radio-activity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel, radio-active toxic explosion, or other hazardous properties of any explosive nuclear assembly or nuclear component of such assembly.

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

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

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

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

"**NAA**" means National Archives of Australia.

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

"**Party**" means AusAID or the Contractor.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

General

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

(e) the contractual obligations of the Parties must be interpreted and performed in accordance with the Contract as a whole;

(f) Contract clause headings are for convenience only and shall not be taken into consideration in the interpretation or construction of the Contract;

(g) 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;

(h) a word denoting the singular number includes the plural number and vice versa;

(i) a word denoting an individual or person includes a corporation, firm, authority, body politic, government or governmental authority and vice versa;

(j) a word denoting a gender includes all genders;

(k) a reference to a recital, clause, Schedule or annexure is to a recital, clause, Schedule or annexure of or to this Contract;

(l) 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);

(m) 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;

(n) “shall” and “must” denote an equivalent positive obligation;

(o) 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

(p) a reference to "dollars" or "$" is to an amount in Australian currency.

1.2 **Counterparts of the Contract**

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

1.3 **Contract prevails**

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

1.4 **Inconsistency**

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

2. SCOPE OF CONTRACT

2.1 The Contract sets out the terms and conditions on which the Contractor agrees to secure the aims and objectives of the Project supplying, or procuring the supply of, the provision of the Services.

2.2 The activities to be performed and responsibilities assumed by the Contractor are detailed in **Schedule 1**.

2.3 Neither the Contractor, nor Contractor Personnel or Associates, shall by virtue of this Contract be, or for any purpose be deemed to be, and must not represent themselves as being, an employee, partner or agent of AusAID.

3. AUSAID'S OBLIGATIONS

3.1 AusAID must:

(a) make payments to the Contractor in accordance with the Contract; and

(b) perform, fulfill, comply with, submit to and observe the terms and conditions of the Contract, which are to be performed, fulfilled, complied with, submitted to or observed by AusAID.

4. NON-EXCLUSIVITY

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

4.2 The Contractor must cooperate with any other service provider appointed by AusAID to ensure the integrated and efficient carrying on of the Project and must provide such reasonable assistance to other service providers as AusAID may reasonably request.

5. PROVISION OF SERVICES

5.1 In providing the Services, the Contractor must:

(a) perform the Services as described in **Schedule 1** for the term of the Contract, unless the Contract is terminated earlier;

(b) accept and implement AusAID's reasonable directions in relation to the management of the Project;

(c) use its best endeavours to ensure the spirit and intent of the Project are fully met by the Services, including acting within the spirit and intent of the Treaty, MOU or Subsidiary Arrangement;

(d) liaise and cooperate with AusAID, with the stakeholders, and the Australian Diplomatic Mission in or having responsibility for the Partner Country especially in relation to security, personal safety and welfare matters;

(e) subject to any flexibility permitted in the Contract, ensure all timing obligations included in the Contract are fully met;

(f) within the term of the Contract assist AusAID in the maintenance and ongoing implementation of the Services, including monitoring and evaluating the Services to

ensure results accord with the aims of the Project, and provide necessary handover assistance to any subsequent service provider and to the Partner Country;

(g) ensure that the Services are provided to a standard which shall promote Australia's international reputation and standing as a source of skill and expertise in the provision of international assistance;

(h) perform the Services in a manner which, as far as possible, establishes and maintains a harmonious, cooperative and effective working relationship with stakeholders and any personnel from the Partner Country involved in the Project;

(i) if a Risk Management Plan for the Project has not been prepared prior to the Project Start Date, the Contractor must prepare a Risk Management Plan within 30 days after the Project Start Date. If requested by AusAID, the Contractor will make the Risk Management Plan available to AusAID;

(j) whether a Risk Management Plan is prepared under paragraph (i) above, or was prepared prior to the Project Start Date (for example, as part of the Contractor's tender for the Project or as part of the Project Design Document or similar document), the Contractor must maintain and update the Risk Management Plan, as necessary, to ensure that at all times it adequately reflects Project risks and includes risk-minimisation strategies. The Contractor must promptly advise AusAID of any significant risks in accordance with **Clause 6 below**. The Contractor must also ensure the Risk Management Plan contains provisions for advance notification of AusAID of risks that may lead to disruption or delay of the Project;

(k) liaise with, and obtain all necessary consents, approvals and authorisations from any public and other authorities in the Partner Country;

(l) provide adequate support resources to secure the aims and objectives of the Project;

(m) be responsive to the changing needs and environment of the Partner Country; and

(n) seek to improve the quality, effectiveness and efficiency of the Services at every opportunity.

5.2 Without limiting its other obligations and liabilities under this Contract, the Contractor must remedy at its cost any failure to comply with its obligations to perform the Services in accordance with this Contract as soon as practicable after becoming aware of the failure.

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

6. EARLY NOTIFICATION

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

7. CONTRACTOR PERSONNEL

7.1 The Contractor must ensure that Contractor Personnel are aware of, and must use its best endeavours to ensure Contractor Personnel comply with, the requirements of the Contract.

7.2 The Contractor must use its best endeavours to ensure that all Contractor Personnel conduct themselves in a manner consistent with the *Public Service Act 1999*, and in accordance with *APS Values* and the *APS Code of Conduct*.

7.3 The Contractor must use its best endeavours to ensure that no Contractor Personnel or their accompanying family members:

(a) become involved in the political affairs of the Partner Country (unless citizens of the Partner Country);

(b) interfere in the religious affairs of the Partner Country (unless citizens of the Partner Country); or

(c) share information known as a result of their work on, or relationship to, the Project,

in a way that a reasonable person could foresee may be detrimental to the relationship between the Australian and Partner Governments.

7.4 The Contractor must not employ a currently serving Commonwealth employee in any capacity in connection with the Services without the prior written approval of AusAID.

7.5 The Contractor must ensure that media advertisements placed by the Contractor for personnel to fill a Project position acknowledge that the Project is funded by AusAID as part of the Australian Government's official overseas aid program.

7.6 AusAID may give notice to the Contractor requiring the Contractor to remove any Contractor Personnel from work in respect of the Services. The Contractor must promptly arrange for the removal of such Contractor Personnel from work in respect of the Services and their replacement (if required) with Contractor Personnel acceptable to AusAID.

7.7 The Contractor must advise AusAID promptly in writing of any change in the circumstances of any Contractor Personnel that, in the Contractor's reasonable opinion, is likely to affect AusAID's assessment of the person under the Contract.

7.8 The Contractor must advise AusAID immediately in writing if any Contractor Personnel is arrested for, or convicted of, criminal offences relating to child abuse, or for accessing or possessing child pornography. AusAID may require Contractor Personnel under formal investigation in relation to such criminal offences to be suspended from duty or transferred to other duties during the investigation.

7.9 AusAID may give notice to the Contractor requiring the Contractor to temporarily suspend from duty, or transfer to other duties, any Contractor Personnel who are under criminal or internal investigation in relation to child abuse or accessing or possessing child pornography. The Contractor must comply promptly with any such notice.

8. SPECIFIED PERSONNEL

8.1 The Contractor must provide all Specified Personnel for the Project and for the minimum periods specified in **Schedule 1**.

8.2 During the minimum periods specified in **Schedule 1**, the Long Term Advisers included in the Specified Personnel must be exclusively dedicated to the Project and only perform the duties required under this Contract unless otherwise agreed in writing by AusAID.

8.3 The Contractor must use its best endeavours to ensure that persons nominated as Specified Personnel:

(a) are of good fame and character;

(b) are properly qualified for the tasks they are to perform;

(c) are certified as fit and healthy by a legally qualified medical practitioner to work in the Partner Country, and have received the necessary medical advice, including that on vaccinations and other preventive medical assistance allowing them to undertake work in-country in a safe manner;

(d) are adequately briefed and understand the environment and culture of the Partner Country; and

(e) act in a fit and proper manner while they are carrying out work or performing duties under the Contract.

8.4 The Contractor must use its best endeavours to secure the availability of Specified Personnel for the term of the Contract. If a change to Specified Personnel is required the Contractor must provide AusAID with not less than 3 months prior written notice of such change except where circumstances beyond the reasonable control of the Contractor make the giving of such notice impracticable. Any proposed change to the Specified Personnel must only be made after written consent from AusAID and in accordance with the procedure set out in **Clause 8.8 below**.

8.5 Subject to **Clause 8.4 above**, Specified Personnel may be temporarily absent from the Project. Where Specified Personnel are unavailable for work in respect of the Contract, for any period in excess of 2 weeks, the Contractor must notify AusAID in writing immediately and, if requested, must provide replacement personnel acceptable to AusAID and the Partner Government at no additional charge and at the earliest opportunity and for the duration of the absence.

8.6 The costs incurred by the Contractors in providing temporary substitute personnel due to the absence of Specified Personnel are the responsibility of the Contractor.

8.7 The Contractor must advise AusAID promptly in writing of any change in the circumstances of any Specified Personnel that, in the Contractor's reasonable opinion, is likely to affect AusAID's assessment of the person under the Contract.

8.8 Before appointing Specified Personnel to the Project, the Contractor must obtain AusAID's written approval. In seeking approval of proposed Specified Personnel the Contractor must provide to AusAID:

(a) the full names, dates of birth, and nationalities of proposed personnel and their accompanying dependants;

(b) a statement demonstrating that the proposed personnel has the demonstrated skills and capacity to undertake the job specification of the position and duration of the proposed appointment;

(c) a copy of the proposed person's curriculum vitae certified as accurate by the person and showing recent and relevant experience and formal qualifications including dates of award; and

(d) assurances that the nominated personnel has no existing commitments (defined in relation to the commitments of the position and not the individual's commitment to a particular organisation), to other AusAID projects that will suffer detriment if accepted on this Project. If this is not the case AusAID may require further information before assessing the individual's suitability.

8.9 If the Contractor is unable to provide acceptable replacement Specified Personnel with equivalent qualifications and experience AusAID may seek a reduction in fees.

8.10 This clause is a fundamental term of the Contract, such that breach shall entitle AusAID to terminate the Contract in accordance with **Clause 31** and sue for damages.

9. PROJECT VEHICLE CONTRIBUTION

9.1 For the purposes of this clause, "Project Vehicles" are defined as vehicles paid for by AusAID, remain the responsibility of the Contractor for the term of the Project and that are provided for Project activities. Vehicles purchased by the Project, but handed over to the Partner Country immediately (where maintenance and insurance are Partner Country responsibilities and Contractor Personnel do not use the vehicles or only use them on an exceptional basis) are not considered Project Vehicles for the purposes of requiring a financial contribution by the Contractor.

9.2 In consideration of the Contractor being entitled to use Project Vehicles for non-project use the Contractor must contribute $250.00 for each Project Vehicle for each month of the Project. The contribution will be deducted by the Contractor and must be clearly identified on the Contractor's invoices.

9.3 The Contractor must abide by the following requirements with regards to Project Vehicles:

(a) Project demands must always take precedence over private use;

(b) the Contractor must ensure that any persons driving the Project Vehicle must have a current valid international or Partner Country drivers license for the class of Project Vehicle;

(c) the Contractor is responsible for ensuring Project Vehicles are appropriately insured;

(d) the Contractor is responsible for ensuring that seat belts are fitted and must make every effort to ensure that they are worn at all times by drivers and all passengers;

(e) the Contractor is responsible for any costs incurred in the event of an accident while the Project Vehicle is being privately used; and

(f) the Contractor must ensure that Project Vehicles are serviced in accordance with manufacturer's requirements.

10. PROCUREMENT SERVICES

10.1 In procuring all Supplies, the Contractor must:

(a) determine what Supplies are required for proper implementation of the Services and advise AusAID;

(b) keep AusAID informed of ongoing requirements for Supplies in connection with the Project;

(c) implement procedures so that procurement is undertaken in a manner that is consistent with the Commonwealth Procurement Guidelines, in particular, observing the Core Principle of achieving value for money and the supporting principles;

(d) maintain complete and accurate records documenting the procedures followed in procuring, and the particulars of Supplies; and

(e) use its best endeavours to ensure Supplies are maintained including taking appropriate steps to ensure that manufacturers' warranties of Supplies are secured and warranty conditions followed.

10.2 The Contractor shall bear the loss or damage in respect of Supplies until handover of Supplies to the Partner Government.

10.3 The Contractor must use its best endeavours to ensure all Supplies are free from defects in design, material, manufacture or workmanship. The Contractor must replace defective Supplies under warranty provisions or at its own cost.

10.4 The Contractor shall establish and maintain a Register of Assets which shall record any non-consumable Supplies valued at $2,000 or more, which at a minimum contains the following information: reference identification number (which may be for example, a serial number, engine number or chassis number); description of the asset; date of procurement; cost; location; current status; and disposal or handover details.

10.5 The Register of Assets and associated documentation such as import documents, invoices and warranties shall be subject to audit by or on behalf of AusAID at any time and from time to time.

10.6 The Contractor must use the Supplies for purposes permitted under this Contract only and must ensure that the Supplies at all times remain free from any Encumbrance.

11. SUB-CONTRACTING

11.1 The Contractor may not sub-contract the whole of the Services. The sub-contracting of parts or elements of the performance of the Services is subject to compliance with the following requirements:

(a) the sub-contracting of any of the Services shall not relieve the Contractor from any responsibility under this Contract;

(b) the Contractor must implement procedures that are consistent with the principles of the Commonwealth Procurement Guidelines for the engagement of all sub-contracting of the Services, with the exception of Associates;

(c) the Contractor must ensure that sub-contracts include equivalent provisions regarding the Contractor’s relevant obligations under this Contract. In particular sub-contractors must:

(i) comply with relevant and applicable laws, regulations and development policies, including AusAID's *Child protection policy* (http://www.ausaid.gov.au/publications/pubs.cfm?Type=PubPolicyDocuments) and child protection compliance standards (Attachment 1 to the policy), both in Australia and in the Partner Country;

(ii) be insured to at least the minimum of their statutory obligations and that they carry all commercially prudent insurances for the activities to be undertaken as part of the Services;

(iii) be bound by the same obligations regarding **Clauses 15** (Accounts and Records), **18** (Audits), **19** (Access to Premises), **26** (Privacy), and **35.4** (Anti-corruption) **below** and as required by Project Specific Conditions **Clause 3** (Accounts and Records) as the Contractor; and

(iv) be bound by appropriate obligations in relation to ongoing software licensing, computer maintenance requirements and handover arrangements to the Partner Country;

(d) if requested by AusAID, the Contractor must provide to AusAID an executed Deed of Novation and Substitution in the form at **Schedule 5** (Deed of Novation), contemporaneously with or within 10 Business Days of execution of the sub-contract by the Contractor;

(e) the sub-contract must include the right of AusAID, in the event of AusAID issuing a notice of substitution under the Deed of Novation at **Schedule 5** (Deed of Novation), to further novate the sub-contract to another contractor;

(f) the Contractor must maintain up-to-date records of the names of all sub-contractors engaged by the Contractor to perform part of the Services. If requested by AusAID, the Contractor must, within five (5) working days, provide to AusAID a copy of the records of sub-contractors' names, in the format specified by AusAID. The sub-contract must include the right of AusAID to disclose the name of the sub-contractor, in accordance with **Clause 27 (AusAID Use of Contract Information) below**;

(g) the Contractor must maintain records as to the performance of each of the sub-contractors engaged by the Contractor including details of any defects in such performance and the steps taken to ensure compliance with the Contract and provide to AusAID if requested; and

(h) if requested by AusAID, the Contractor must provide to AusAID a copy of any proposed or executed sub-contract.

11.2 The obligations of **Clause 11.1 above** apply equally to Associates.

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

12. CONTRACT AMENDMENTS AND VARIATION

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

Contract Amendment

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

Contract Variation

12.3 AusAID or the Contractor may propose variations to the manner of providing the Services or changes to the Project, at any time for the purpose of improving the delivery of the Services or, the efficiency, cost-effectiveness and development impact of the Services. These changes shall be subject to a "Variation Order" as described below.

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

12.5 The Variation Proposal must include specific identification of the proposed change, associated cost implications, a cost/benefit and risk analysis, including of developmental impact improvements, a general plan for implementation of the change and a projected time schedule.

12.6 No proposed variation must take effect unless it is in writing, titled a "Variation Order" and signed by AusAID. A summary of changes effected by Variation Orders will be maintained in the form set out in **Schedule 4B** (Variation Summary Schedule).

Costing Variations

12.7 If AusAID approves the Contractor's Variation Proposal including any increase or decrease in the amount payable, implementation shall be effected by issuing a Variation Order in the form of **Schedule 4A** and the Contractor must promptly perform the variation.

12.8 If AusAID does not approve the Contractor's cost estimate in the Variation Proposal and appropriate rates on which to cost the variation are not included in **Schedule 2**, the Parties undertake to negotiate a fair and reasonable amount within 20 Business Days.

12.9 In the event that the Parties cannot resolve a reasonable amount within 20 Business Days, either Party may seek to have an independent third party appointed pursuant to **Clause 39** (Resolution of Disputes), to determine a reasonable amount and the Parties agree that they shall be bound by that determination.

12.10 If AusAID does not approve the Contractor's cost estimate in the Variation Proposal and there are appropriate rates included in **Schedule 2**, AusAID may nevertheless issue a Variation Order requiring the Contractor to carry out the variation in the form of **Schedule 4A** and subject to the appropriate rates and fees detailed **Schedule 2**.

12.11 Where no agreement can be reached, AusAID reserves the right to perform itself, or engage another service provider to perform, the services which were the subject of the Variation Proposal.

Omission of Services

12.12 AusAID may issue a Variation Order omitting any part, though not the whole, of the Services. AusAID shall notify the Contractor in writing of its determination in respect of

the valuation of the omitted services. The value of the omitted Services will be determined in accordance with **Schedule 2** having regard to:

(a) the Services omitted from the Contract;

(b) any particular Payment Milestone affected by the omission;

(c) other relevant payments; and

(d) the extent of the work and/or inputs already performed or provided by the Contractor in respect of any such Payment Milestones.

12.13 AusAID will not be liable upon any claim by the Contractor as a result of any part of the Services being omitted, whether or not AusAID performs the omitted Services itself, or engages another service provider to carrying out the omitted Services.

12.14 If the Contractor disagrees with AusAID's determination of the value of the omitted Services, based on the rates included in **Schedule 2**, the Parties undertake to negotiate fair and reasonable amount within 20 Business Days.

12.15 In the event that the Parties cannot resolve a reasonable amount within 20 Business Days, either Party may seek to have an independent third party appointed pursuant to **Clause 39** (Resolution of Disputes), to determine a reasonable amount and the Parties agree that they shall be bound by that determination.

Suspension and rescheduling of Services

12.16 AusAID may issue a Variation Order directing the Contractor to:

(a) suspend for such time as AusAID thinks fit, the progress of the whole or any part of the Services; or

(b) reschedule the performance of Services to a time determined by AusAID.

AusAID does not have a duty to exercise this right for the benefit of the Contractor.

12.17 If the suspension or rescheduling is due to:

(a) an act, default or omission of the Contractor or Contractor Personnel, the Contractor will not be entitled to any Costs or Losses arising from the suspension; or

(b) any other cause:

(i) the Contractor will be entitled to be paid any extra reasonable Costs incurred by it as a result of the suspension subject to the Contractor taking reasonable steps to mitigate the extra Costs incurred;

(ii) AusAID's liability under the payments provisions of **Schedule 2** shall, in the absence of an agreement to the contrary, abate proportionately to the reduction in the Services.

12.18 Upon receipt of a Variation Order suspending part or all of the Services, the Contractor must:

(a) stop work as specified;

(b) take all reasonable steps to minimise any Loss resulting from the suspension and to protect Supplies and Contract Material; and

(c) continue work on any part of the Services not affected by the suspension.

12.19 The Contractor must promptly recommence the performance of the Services when so directed by AusAID.

13. EXTENSION OF TIME

13.1 Subject to **Clause 13.6 below** neither AusAID nor the Contractor shall be in breach of the Contract to the extent that performance of their Contract obligations is prevented by any of the following causes ("**Relevant Causes**") that arise during the term of the Contract:

(a) a Force Majeure Event;

(b) a significant change in circumstances beyond the control of the Contractor;

(c) an Australia-wide or Partner Country-wide industrial dispute; or

(d) a change in the laws of Australia or the Partner Country that directly impacts on the provision of the Services.

13.2 Where in the Contractor's reasonable opinion there is likely to be a delay in the Contractor's discharging an obligation under the Contract because of a Relevant Cause the Contractor must:

(a) immediately notify AusAID in writing when the Contractor considers any event or circumstance may cause a delay and the estimated period of delay or likely period of delay;

(b) give details of the likely effect on the Project and any Contractual implications;

(c) take all reasonable steps to mitigate the effects of any delay and make written recommendations of additional strategies to avoid or mitigate the effects of the event;

(d) request in writing an extension of time which the Contractor considers reasonable in all the circumstances in the form of a Variation Proposal in accordance with **Clause 12.5 above**; and

(e) use its best endeavours to continue to perform its obligations under the Contract.

13.3 AusAID must give consideration to the Contractor's recommendations and request for an extension of time and as soon as practicable after receiving the request notify the Contractor in writing whether it has determined that a Relevant Cause has occurred and whether all or part of the request has been granted. AusAID's approval of a request may be granted subject to conditions.

13.4 If AusAID approves in writing a request, the approval should be titled a "Variation Order" and recorded in the Variation Schedule, **Schedule 4B** (Variation Summary Schedule). The Contract shall be deemed to have been varied accordingly.

13.5 Even if the Contractor has not given notice under **Clause 13.2 above**, where AusAID considers that a delay has arisen, in whole or in part, because of an act or omission on the

part of AusAID, its employees or agents, AusAID may, by notice in writing to the Contractor, extend the time for performance of the relevant obligation of the Contractor.

13.6 Where AusAID has determined that a Relevant Cause has occurred, and the Contractor's inability to perform its obligations due to a Relevant Cause exceeds 45 Business Days, AusAID may:

(a) notify the Contractor that the Contract is suspended for a specified period of time; or

(b) delete part of the Services; or

(c) immediately or thereafter terminate the Contract in whole or in part by providing notice in writing to the Contractor.

13.7 A notice of suspension, deletion or termination of the Contract under **Clause 13.6 above** takes effect on the date that the notification is received by the Contractor.

13.8 In the event of suspension, deletion or termination of Services or the Contract under **Clause 13.6 above** the Contractor may claim, Fees for Services performed as payable under **Schedule 2**, prior to the date of suspension, deletion or termination, on a pro rata basis and Costs that are reasonably and properly incurred by the Contractor in connection with the Contract to the extent to which those Costs are unavoidable as a direct consequence of the suspension, deletion or termination of the Contract in accordance with this clause. Any Cost must be substantiated to AusAID and must not include loss of profits or any other form of expectation loss.

14. HANDOVER

14.1 The Contractor must within 12 months of the Project Start Date draft a Handover Plan which includes all the functions to be performed to hand over the Project to the Partner Country in a manner which ensures the Partner Country is able to continue the Project and in particular to manage ongoing maintenance requirements as well as any other matters specified in **Schedule 1** and provide a copy to AusAID.

14.2 The Contractor must make changes to the Handover Plan as reasonably requested by AusAID and update the Handover Plan as necessary during the Project but at least annually and 6 months before the end of the Contract.

14.3 The Contractor must ensure that a finalised Handover Plan is provided to AusAID within seven (7) days of any early termination of the Project, or one month prior to the expected completion of the Project.

14.4 The Contractor must provide all reasonable assistance and cooperation necessary to, on expiration or termination of the Contract, facilitate the provision of the Services by AusAID or an alternative service provider. In particular the Contractor must:

(a) deliver to AusAID or its nominee complete copies of all the Data, in a form and on a media approved by AusAID, and any other AusAID property including the Supplies held or used by the Contractor;

(b) either destroy or deliver to AusAID all copies of AusAID Confidential Information as required by AusAID;

(c) if requested by the Partner Country, facilitate the assignment to the Partner Country of sub-contracts relating to Supplies, including for licensing and support of information technology and any construction work maintenance;

(d) vacate the Project Office where this has been supplied by AusAID or the Partner Country;

(e) co-operate with AusAID and, if requested, AusAID's nominee, and provide reasonable assistance relating to the transfer of any contracts to AusAID, its nominee or the Partner Country;

(f) provide all information necessary for an alternative service provider to assume provision of the Services;

(g) continue the provision of the Services for as long as reasonably requested by AusAID on the terms and conditions of the Contract;

(h) cooperate with AusAID and any other service provider in the ongoing provision of services similar to the Services; and

(i) allow AusAID to audit compliance with this clause.

15. ACCOUNTS AND RECORDS

15.1 The Contractor must at all times maintain full, true, separate and up-to-date accounts and records in relation to the Fees, Supplies and the Services. Such accounts and records must:

(a) record all receipts and expenses in relation to the Supplies and Services, including those involving foreign exchange transactions;

(b) be kept in a manner that permits them to be conveniently and properly audited;

(c) enable the extraction of all information relevant to this Contract;

(d) contain details of the disposition of Supplies as agreed to by AusAID such as replacement, write-off or transfer to the Partner Country; and

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

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

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

16. REPORTS

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

16.2 The Contractor is responsible for any extra costs occasioned by any clarifications, discrepancies, errors or omissions in reports provided to AusAID or other information

supplied in writing by the Contractor, provided such discrepancies, errors or omissions are not due to inaccurate information supplied in writing to the Contractor by AusAID.

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

17. REVIEWS

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

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

17.3 Reviews may be conducted of:

(a) the efficiency and effectiveness of the Contractor's operations in relation to the provision of the Services, including procurement and risk management procedures;

(b) the accuracy and reliability of the Contractor's financial management systems;

(c) the Contractor's compliance with their obligations under the Contract in relation to foreign exchange transactions;

(d) the accuracy of the Contractor's reports in relation to the provision of the Services;

(e) the Contractor's compliance with AusAID's *Child protection policy* and child protection compliance standards (Attachment 1 to the policy);

(f) the Contractor's compliance with its Contractor Personnel, confidentiality and privacy obligations; or

(g) any other matters relevant to the performance of any Services including user satisfaction.

17.4 Each Party must bear its own costs of any such reviews conducted by or on behalf of AusAID.

17.5 The requirement for, and participation in, reviews does not in any way reduce the Contractor's responsibility to perform its obligations in accordance with this Contract.

18. AUDITS

18.1 Where AusAID has reasonable concerns regarding the Contractor's financial management systems AusAID must provide the Contractor with written notification of those concerns and what action is required of the Contractor. This may include:

(a) that the Company Director must provide a Statutory Declaration confirming that they have sighted the necessary supporting documentation and confirm the veracity of the claim for payment;

(b) providing AusAID with additional documentation to support the claim for payment; or

(c) a direction that the Contractor engage an independent, suitable organisation to undertake an audit of those financial management systems, including invoicing procedures and practices.

18.2 The Contractor must respond to any notice received under **Clause 18.1 above** within 14 days.

18.3 Where the Contractor does not respond within 14 days, or the response does not alleviate AusAID's concern, AusAID reserves the right, if it has not already done so, to direct the Contractor to provide AusAID with certification from an independent auditor as described in **Clause 18.1(c) above**.

18.4 If AusAID directs the Contractor to undertake an independent audit under this clause:

(a) the terms of reference must be agreed in writing by AusAID;

(b) the audit must be undertaken according to the standards of the professional body relevant to the particular audit and those standards must be detailed in the terms of reference;

(c) the Contractor will bear the total cost of the audit; and

(d) AusAID will not make any further payments owed to the Contractor pending certification of the reliability of the Contractor's financial management systems and the veracity of the invoicing procedures and practices.

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

19.1 The Contractor must grant AusAID and/or its nominees (including the Auditor-General or the Privacy Commissioner or their delegates), access to the Contractor's premises, the Data, records, accounts and other financial material or material relevant to the Services, however and wherever stored, in the Contractor's or its sub-contractors' custody, possession or control, for inspection and copying.

19.2 Such access must be available to AusAID and its nominees:

(a) during the hours of 9 am and 5 pm on a Business Day;

(b) except in the case of a breach of this Contract, subject to reasonable prior notice; and

(c) at no additional charge to AusAID.

19.3 In the case of documents or records stored on a medium other than in writing, the Contractor must make available on request such reasonable facilities as may be necessary to enable a legible reproduction to be created at no additional cost to AusAID.

19.4 This clause applies for the term of this Contract and for a period of seven (7) years from the date of its expiration or termination.

20. PAYMENT

20.1 AusAID must make payment of the Fees within 30 days of:

(a) AusAID's acceptance of the satisfactory completion of the Services or relevant Payment Milestone as specified in **Schedule 2**; and

(b) receipt of a correctly rendered invoice.

20.2 It is AusAID corporate practice to inform Contractors as soon as reasonably possible, and in any case within 30 days of receipt of notice of the completion of an identified output or provision of a report whether or not that output or report is accepted.

20.3 The Fees are fixed for the term of the Contract unless varied in accordance with the Contract.

20.4 The Contractor must make all foreign exchange transactions at arms length and at commercially competitive rates. Supporting documentation must be retained in accordance with Standard Conditions **Clause 15.1** (Accounts and Records) and may be audited by AusAID in accordance with Standard Conditions **Clause 17** (Reviews).

20.5 Where the Contractor is entitled to reimbursement for expenditure in a currency other than Australian dollars under this Contract, the Contractor must invoice AusAID for the equivalent Australian dollar amount as recorded by the Contractor in their general ledger converted at an exchange rate which is calculated in accordance with appropriate accounting standards.

20.6 No invoice for any period is to be submitted before the provision of any reports required by the Contract for the relevant period.

20.7 Subject to the Contract AusAID shall pay Reimbursable Costs within 30 days of receipt of a correctly-rendered invoice.

20.8 An invoice is correctly rendered if:

(a) the invoice details all Services provided against the Fees and records the amount payable in respect of each category of Services described in the Contract;

(b) the invoice details the Contractor's monthly contribution toward Project Vehicles in accordance with **Clause 9.2**;

(c) the invoice is based upon the calculation of Fees referred to in **Schedule 2**; and

(d) a company director of the Contractor, or their delegate has certified that the invoice:

(i) has been correctly calculated;

(ii) that the Services included in it have been performed in accordance with this Contract; and

(iii) in the case of Reimbursable Costs that these costs have been paid.

20.9 If an invoice is found to have been rendered incorrectly, any underpayment or overpayment shall be recoverable by or from the Contractor, as the case may be and, without limiting recourse to other available remedies may be offset against any amount subsequently due from AusAID to the Contractor.

20.10 A payment by AusAID is not an admission of liability. In the event that AusAID makes a payment for the completion of a Payment Milestone or the procurement of Supplies or

inputs that AusAID subsequently learns have not been completed to the quality or performance specifications required or provided as required, the payment shall be deemed an overpayment and recoverable from the Contractor. Without limiting recourse to other available remedies, the overpayment may be offset against any amount subsequently due to the Contractor.

20.11 AusAID need not pay an amount that is disputed in good faith by AusAID until the dispute is resolved.

20.12 AusAID need not pay any amount due to the Contractor until the Contractor delivers to AusAID a written statement which satisfies the requirements of section 127 of the *Industrial Relations Act 1996* (NSW) or the requirements of similar State or Territory legislation, in relation to the payment of employees or sub-contractors of the Contractor who were engaged in the performance of the Contract.

20.13 Except as otherwise specified in this Contract, the Fees are inclusive of all costs, expenses, disbursements, levies and taxes and the actual costs and expenses incurred by the Contractor in providing the Services.

20.14 If the Contractor does not have an Australian Business Number (ABN), AusAID, in accordance with the relevant provisions of the Pay as You Go (PAYG) legislation, shall be required to withhold a prescribed proportion of the amount payable to the Contractor under the Contract, unless the exceptions under Division 12 of the PAYG legislation apply.

20.15 AusAID will make all amounts payable to the Contractor under this Contract into a bank account nominated by the Contractor. The Contractor must provide AusAID with the necessary details as soon as possible following execution of this Contract. Requests to change bank account must be provided to AusAID with 45 days notice.

21. GOODS AND SERVICES TAX

21.1 Except as provided by this clause, all taxes, duties and charges imposed or levied in Australia in connection with the performance of this Contract shall be borne by the Contractor or its sub-contractor(s), as the case requires.

21.2 The amount shown against each item in **Schedule 2** is the 'value' of the 'periodic supplies' to be made under this Contract, as these terms are used in the *A New Tax System Act 1999* (Cth).

21.3 The amount payable under the Contract for each supply listed in **Schedule 2** is the value of that supply plus any GST payable by the Contractor under the GST legislation. Payment by AusAID to the Contractor of the GST shall be subject to the Contractor providing AusAID with a valid Tax Invoice issued in accordance with the relevant provisions of the GST legislation and regulations.

21.4 The total amount of GST payable by the Contractor, and for which the Contractor seeks payment from AusAID, in respect of any supply shall be shown as a separate item on the Tax Invoice.

21.5 AusAID shall not pay to the Contractor any amount referable to GST, except as provided in this clause.

22. INTELLECTUAL PROPERTY RIGHTS

22.1 Subject to **Clause 22.2**, the title to all Intellectual Property rights in or in relation to Contract Material shall vest upon its creation in AusAID. If required by AusAID, the Contractor must bring into existence, sign, execute or otherwise deal with any document which may be necessary to enable the vesting of such title or rights in AusAID.

22.2 **Clause 22.1** does not affect the ownership of Intellectual Property in any Prior Material incorporated into the Contract Material, but the Contractor grants to AusAID a permanent, irrevocable, royalty-free worldwide, non-exclusive licence to use, reproduce, adapt and otherwise exploit such Prior Material in conjunction with the Contract Material. The licence granted under this **Clause 22.2** includes the right of AusAID to sub-licence any of its employees, agents or contractors to use, reproduce, adapt and otherwise exploit the Prior Material incorporated into the Contract Material for the purposes of performing functions, responsibilities, activities or services for, or on behalf of, AusAID.

22.3 The Contractor must ensure that the Contract Material is used, copied, supplied or reproduced only for the purposes of this Contract.

22.4 The Contractor must deliver all Contract Material to AusAID or to the Partner Government counterpart agency as may be directed in writing by AusAID.

23. INTELLECTUAL PROPERTY RIGHTS INDEMNITY

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

24. MORAL RIGHTS

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

25. CONFIDENTIALITY

25.1 Subject to this clause, the Contractor must not, without the prior written approval of AusAID, make public or disclose to any person any AusAID Confidential Information. In giving written approval, AusAID may impose such terms and conditions as in AusAID's opinion are appropriate.

25.2 The Contractor must take all reasonable steps to ensure Contractor Personnel do not make public or disclose the AusAID Confidential Information and must promptly notify AusAID of any unauthorised possession, use or disclosure of AusAID Confidential Information.

25.3 The Contractor must ensure that any Contract Personnel who will have access to AusAID Confidential Information complete a written undertaking in the form set out at **Schedule 3**, relating to the non-disclosure of that information.

25.4 The Contractor may disclose AusAID Confidential Information:

(a) to its legal advisers in order to obtain advice in relation to its rights under this Contract, but only to the extent necessary for that purpose;

(b) to the extent required by law or by a lawful requirement of any government or governmental body, authority or agency having authority over the first-mentioned party; or

(c) if required in connection with legal proceedings,

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

25.5 The Contractor must not transfer AusAID Confidential Information outside Australia, except to the Partner Country, or allow parties outside Australia to have access to it, without the prior approval of AusAID.

25.6 The Contractor must use AusAID Confidential Information held, acquired or which the Contractor may have had access to in connection with this Contract only for the purposes of fulfilling its obligations under this Contract. Upon expiry or earlier termination of this Contract the Contractor must either destroy or deliver to AusAID all AusAID Confidential Information, as required by AusAID.

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

26. **PRIVACY**

26.1 This clause applies only where the Contractor deals with Personal Information when, and for the purpose of, providing the Services.

26.2 In this clause, the terms 'agency', 'Information Privacy Principles' (IPPs), and 'National Privacy Principles' (NPPs) have the same meaning as they have in section 6 of the *Privacy Act 1988*.

26.3 The Contractor acknowledges that it is a 'contracted service provider' within the meaning of section 6 of the *Privacy Act 1988* (the Privacy Act), and agrees in respect of the provision of the Services:

(a) to use or disclose Personal Information obtained during the course of providing the Services, only for the purposes of this Contract;

(b) not to do any act or engage in any practice that would breach an IPP contained in section 14 of the Privacy Act, which if done or engaged in by an agency, would be a breach of that IPP;

(c) to carry out and discharge the obligations contained in the IPPs as if it were an agency under that Act;

(d) to notify individuals whose Personal Information the Contractor holds, that complaints about acts or practices of the Contractor may be investigated by the Privacy Commissioner who has power to award compensation against the Contractor in appropriate circumstances;

(e) not to use or disclose Personal Information or engage in an act or practice that would breach section 16F of the Privacy Act (direct marketing), a NPP (particularly NPPs 7 to10) where that section or NPP is applicable to the Contractor, unless:

(i) in the case of section 16F – the use or disclosure is necessary, directly or indirectly, to discharge an obligation under this Contract; or

(ii) in the case of a NPP – where the activity or practice is engaged in for the purpose of discharging, directly or indirectly, an obligation under this Contract, and the activity or practice which is authorized by this Contract is inconsistent with the NPP;

(f) to disclose in writing to any person who asks, the content of the provisions of this Contract (if any) that are inconsistent with a NPP binding a party to this Contract;

(g) to immediately notify AusAID if the Contractor becomes aware of a breach or possible breach of any of the obligations contained in, or referred to in, this clause, whether by the Contractor or any sub-contractor;

(h) not to transfer such information outside Australia, except to the Partner Country, or to allow parties outside Australia or the Partner Country to have access to it, without the prior approval of AusAID; and

(i) to ensure that any employee of the Contractor who is required to deal with Personal Information for the purposes of this Contract is made aware of the obligations of the Contractor set out in this clause.

26.4 The Contractor agrees to ensure that any sub-contract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the sub-contractor has the same awareness and obligations as the Contractor has under this clause, including the requirement in relation to sub-contracts.

26.5 The Contractor agrees to indemnify AusAID in respect of any loss, liability or expense suffered or incurred by AusAID which arises directly or indirectly from a breach of any of the obligations of the Contractor under this clause, or a sub-contractor under the sub-contract provisions referred to in **Clause 26.4 above**.

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

27. AusAID USE OF CONTRACT INFORMATION

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

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

28. PUBLICITY

28.1 The Contractor must identify and implement appropriate opportunities for publicising the Project.

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

28.3 The Contractor must only use the Australian Government/AusAID logo (in-line version) to denote association with Australia, the Australian Government or AusAID in any publicity or other project related materials. The Contractor must comply with the "AusAID Logo Guidelines for Managing Contractors" at all times, including when advertising for sub-contractors or personnel. The Guidelines are available from the AusAID Business website.

28.4 The Contractor shall, if appropriate, erect a sign at each Project site that acknowledges the contributions of the Australian and Partner Governments. Such signs shall in all cases be discussed and agreed between AusAID and the Partner Government. Signs should use the Australian Government/AusAID logo (in-line version). No independent project or program logos or emblems are to be used. Contractor signs may also be displayed, but not in greater number or prominence than acknowledgments to either the Australian or Partner Governments.

29. WARRANTIES

29.1 The Contractor represents and warrants that it has made its own assessment of all information made available to the Contractor in respect of the Services and sought appropriate professional advice concerning:

(a) any information, statements or representations;

(b) the regulatory regime applicable to the delivery of the Services both in Australia and in the Partner Country;

(c) the assumptions, uncertainties and contingencies which may affect the future business of the Services; and

(d) the impact that a variation in future outcomes may have on any Services.

29.2 Subject to any law to the contrary, and to the maximum extent permitted by law, AusAID, its employees, agents and advisers each disclaim all liability for any Losses (whether foreseeable or not) suffered by any other person acting on any part of the information made available to the Contractor in respect of the Service, whether or not the loss arises in connection with any negligence, default or lack of care on the part of AusAID, its employees, agents or advisers or any other person or any misrepresentation or any other cause.

29.3 The Contractor warrants that it shall have full corporate power and authority to enter into, perform and observe its obligations under this Contract and that the execution, delivery and performance of this Contract shall be duly and validly authorised by all necessary corporate action.

30. PERSONNEL SECURITY

30.1 The Contractor is responsible for the security of Contractor Personnel and for taking out and maintaining appropriate insurances in respect of Contractor Personnel.

30.2 The Contractor is responsible for the immediate development and implementation of a Security Plan to ensure the safety and security of Contractor Personnel. The Security Plan

should incorporate prevention strategies and response plans, including evacuation plans where appropriate. The Contractor shall submit a copy of the Security Plan to AusAID prior to mobilisation in the Partner Country. The Contractor shall review and update the Security Plan whenever considered necessary by the Contractor and shall submit the revised document to AusAID.

30.3 The Contractor must keep abreast of the security situation in the Partner Country including where relevant having regard to travel advisories and notices including those issued by the Australian Department of Foreign Affairs and Trade. The Australian advisories and notices are available at: www.dfat.gov.au

30.4 The Contractor acknowledges and confirms that, notwithstanding any other provisions of the Contract:

(a) it is not the function or responsibility of AusAID or any person acting or purporting to act on behalf of AusAID, to comment on or approve the Contractor's Security Plans; and

(b) the Contractor has not entered the Contract based on any representation, statement or assurance by AusAID or any person acting or purporting to act on behalf of AusAID, in respect of the safety or security of the Contractor, Contractor Personnel or any person acting on behalf of the Contractor, in the Partner Country or in any other location.

31. TERMINATION FOR CONTRACTOR DEFAULT

31.1 In addition to any other rights or remedies it has at law or in equity or under this Contract, AusAID may, by notice in writing to the Contractor terminate this Contract, with effect from the date in the notice, if the Contractor:

(a) commits a breach of this Contract and:

(i) that breach is not capable of remedy;

(ii) fails to remedy that breach within **[10]** Business Days (or such further time as AusAID may, in its absolute discretion, specify), after receiving a notice from AusAID requiring the Contractor to remedy the breach; or

(iii) does not commence to remedy that breach, within a reasonable time (having regard to the nature of the breach) after being given notice by AusAID requiring the Contractor to remedy the breach;

(b) becomes, or in AusAID's reasonable opinion is likely to become, bankrupt, insolvent or otherwise financially unable to fulfil its obligations under this Contract;

(c) becomes subject to one of the forms of external administration provided for in Chapter 5 of the *Corporations Act* 2001;

(d) is wound up by resolution or an order of the court;

(e) ceases to carry on business;

(f) makes an assignment of its estate for the benefit of creditors or enters into any arrangement or composition with its creditors or has a receiver and manager appointed on behalf of debenture holders or creditors;

(g) suffers any execution against its assets having, or which in AusAID's reasonable opinion is likely to have, an adverse effect on its ability to perform this Contract;

(h) ceases to hold any licence, qualification, approval, authority or consent required for the Contractor to comply with its obligations under this Contract (except to the extent that this is outside the Contractor's reasonable control);

(i) assigns its rights otherwise than in accordance with the requirements of this Contract;

(j) suffers a change in Control which in AusAID's reasonable opinion may adversely affect the Contractor's ability to perform the Services under this Contract;

(k) is in breach of the warranty, regarding listing on a World Bank List or Relevant List, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract;

(l) is, during the term of this Contract, listed on a World Bank List or Relevant List;

(m) is in breach of the warranty, regarding convictions or proceedings relating to an offence of, or relating to, bribery of a public official, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract;

(n) is in breach of the warranty, regarding unsettled judicial decisions relating to employee entitlements, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract;

(o) is, during the term of this Contract, convicted of an offence of, or relating to, bribery of a public official. In this paragraph (n) the Contractor includes Contractor Personnel; or

(p) is in breach of the warranty, regarding convictions or proceedings relating to an offence of, or relating to, child abuse, given in the Tenderer Declaration submitted by the Contractor with its tender leading to this Contract.

31.2 If this Contract is terminated under this **Clause 31**:

(a) subject to this Contract, the parties are relieved from future performance of this Contract, without prejudice to any right of action that has accrued at the date of termination;

(b) subject to this Contract, all licences and authorisations granted to the Contractor by AusAID under this Contract terminate immediately despite anything to the contrary contained in the relevant licence or authorisation;

(c) the AusAID Confidential Information, Supplies and any other property supplied or given to the Contractor by AusAID pursuant to this Contract must be immediately returned to AusAID;

(d) AusAID is not obliged to make any further payments (including the payment of Fees) to the Contractor. However, AusAID may, in its absolute discretion, consider making a payment to the Contractor in such amount and upon such terms as AusAID determines is appropriate in the circumstances; and

(e) the Contractor will indemnify and hold AusAID harmless against any Losses, costs and expenses arising out of or in connection with the termination or any breach of this Contract by the Contractor (including those arising from affected sub-contracts).

32. TERMINATION FOR CONVENIENCE

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

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

(a) comply with all directions given by AusAID;

(b) cease or reduce (as applicable) the performance of work under the Contract; and

(c) immediately do everything possible to mitigate its Losses, and all other loss, costs (including the costs of its compliance with any directions) and expenses in connection with the termination (including those arising from affected sub-contracts) arising in consequence of termination of this Contract under this **Clause 32**.

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

(a) Fees, as payable under **Schedule 2**, for Services performed prior to the termination, on a pro rata basis; and

(b) Costs that are:

(i) directly attributable to the termination or reduction in scope of this Contract; and

(ii) in AusAID's opinion, reasonably and properly incurred by the Contractor in connection with the Contract,

to the extent that such Costs are substantiated to AusAID.

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

33. INDEMNITY

33.1 The Contractor must at all times indemnify AusAID, its employees, agents and contractors (except the Contractor) ("**those indemnified**") from and against any Loss or liability whatsoever suffered by those indemnified or arising from any claim, suit, demand, action or proceeding by any person against any of those indemnified where such Loss or liability was

caused or contributed to in any way by any wilfully wrongful, unlawful or negligent act or omission of the Contractor, or any Contractor Personnel in connection with this Contract.

33.2 The Contractor agrees that AusAID may enforce the indemnity in favour of the persons specified in **Clause 33.1 above** for the benefit of each of such persons in the name of AusAID or of such persons.

33.3 The indemnity in this clause is reduced to the extent that the Loss or liability is directly caused by AusAID, its employees or contractors (except the Contractor), as substantiated by the Contractor.

33.4 The Contractor is responsible for all risks associated with the Data, the Supplies and any AusAID property while in the possession or control of the Contractor.

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

34. INSURANCE

34.1 The Contractor must arrange and maintain for the duration of the Contract unless otherwise specified:

(a) public liability insurance with a limit of at least $5 million for each and every claim which covers:

(i) loss of, or damage to, or loss of use of any real or personal property; or

(ii) personal injury to, illness (including mental illness) or death of any person arising from the performance of the Contract;

(b) motor vehicle third party property damage insurance;

(c) workers' compensation insurance:

(i) which fully insures the Contractor for any amount it becomes liable to pay under any statute relating to workers' or accident compensation or for employer's liability at common law;

(ii) to be effected in the Partner Country as well as every state or territory in Australia where the Contractor Personnel normally reside or in which their contract of employment was made; and

(iii) which, where possible at law extends to indemnify AusAID as principal for AusAID's liability to persons engaged by the Contractor.

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

(d) property insurance covering any Contract Material, Supplies and the reinstatement of any Data while in the care, custody or control of the Contractor for its full replacement value;

(e) professional indemnity insurance to cover the Contractor's obligations under this Contract. The Contractor’s professional indemnity policy must respond to claims

arising under the *Trade Practices Act (Cth)* 1974, in regard to this Contract. The Contractor may obtain the insurance on an annual basis if necessary, but must maintain the necessary insurance each year until the expiration of three (3) years after the full Term of the Contract or earlier termination of the Contract;

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

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

34.2 The Contractor must, within 14 days after a request by AusAID, provide for any insurance policy: a certificate of currency, a list of exclusions; and the amount of excess payable.

34.3 Neither the effecting of insurance nor any failure to effect such insurance shall in any way limit, reduce or otherwise affect any of the obligations, responsibilities and liabilities of the Contractor under the other provisions of this Contract or at law.

34.4 In the event of an insurance claim any deductible/excess payable shall be the responsibility of the Contractor.

35. CONFLICT OF INTEREST

Conflict of Interest

35.1 The Contractor warrants that, at the date of signing this Contract, no conflict of interest exists or is likely to arise in the performance of its obligations under this Contract.

35.2 The Contractor must use best endeavours to ensure that a situation does not arise which may result in a conflict of interest. The Contractor must not engage in any activity, subject to **Clause 35.3 below**, that may result in a conflict of interest arising or continuing.

35.3 Where a conflict of interest arises in the performance of the Contractor's obligations under this Contract, the Contractor must notify AusAID immediately, and may request permission from AusAID to undertake the work despite that conflict of interest.

Anti-Corruption

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

36. FRAUD

36.1 For the purpose of this clause, 'fraudulent activity' or 'fraud' means: Dishonestly obtaining a benefit by deception or other means.

36.2 The Contractor and its sub-contractors must not engage in any fraudulent activity.

36.3 The Contractor must prepare a fraud risk assessment and zero tolerance fraud control strategy. These must contain appropriate fraud prevention, detection, investigation and reporting processes and procedures that comply with the *Commonwealth Fraud Control Guidelines*.

36.4 The Contractor is responsible for preventing and detecting fraud including fraud within those functions outsourced / performed by a sub-contractor or under any other arrangement established by the Contractor relating to the management or administration of AusAID provided funds. The Contractor is responsible for ensuring that its staff and its subcontractors' staff are responsible and accountable to the Contractor for preventing and reporting any fraud or suspected fraud as part of their routine responsibilities.

36.5 The Contractor must report in writing within 5 working days to AusAID any detected, suspected, or attempted fraudulent activity involving AusAID provided funds. Where a matter is reported in writing to AusAID by a Contractor, the advice must provide where known:

(a) the name of the Project under which AusAID funding is being provided;

(b) name of any personnel or subcontractors involved;

(c) the allegation(s), including a chronological account of the facts giving rise to the allegation(s);

(d) the names of the suspected offender(s) (where known);

(e) details of witnesses;

(f) copies of relevant documents;

(g) references to any relevant legislation;

(h) a nominated contact officer;

(i) any other relevant information (eg, political sensitivities, any other party or agency that has been informed, involved or that can assist with investigations); and

(j) the current status of any inquiries commenced by the Contractor.

36.6 The Contractor must, in consultation with AusAID, develop and implement a strategy to investigate the detected, suspected or attempted fraud based on the principles set out in the *Australian Government Investigations Standards* which are available from AusAID when a demonstrated need to distribute them exists. The Contractor will be responsible for the conduct of the investigation. Any investigator appointed by the Contractor should possess the minimum qualifications specified in the *Commonwealth Fraud Control Guidelines.* Before engaging a qualified investigator, the Contractor may consult with AusAID regarding the appointment and may request assistance from AusAID in meeting the actual costs of a qualified investigator. Provided that the Contractor has consulted with AusAID before engaging an investigator, AusAID may in its absolute discretion agree to meet some or all of those costs.

36.7 AusAID reserves the right to appoint its own investigator, conduct the investigation, conduct a concurrent investigation or refer the allegations to the appropriate law enforcement agencies or any other person or entity AusAID deems appropriate in Australia or in the partner countries for investigation. In this instance the Contractor shall provide all assistance that may be required at the Contractor's sole expense.

36.8 Following the conclusion of an investigation, where the investigation finds the Contractor, an employee of the Contractor or a subcontractor of the Contractor has acted in a fraudulent manner, the Contractor shall:

(a) where money has been misappropriated, pay to AusAID or the project the full value of the AusAID funds that have been misappropriated; or

(b) where an item of property has been misappropriated, either return the item to AusAID or the project or if the item cannot be recovered or has been damaged so that it is no longer usable, replace the item with one of equal quality.

36.9 Following the conclusion of an investigation, where the investigation finds that a party other than the Contractor, an employee of the Contractor or a subcontractor of the Contractor, has acted in a fraudulent manner, the Contractor shall at the Contractor's cost:

(a) make every effort to recover any AusAID funds or funded property acquired or distributed through fraudulent activity, including without limitation, one or both of the following:

(i) taking recovery action in accordance with recovery procedures, including civil litigation, available in the Partner Country. Before commencing any recovery action, the Contractor may consult with AusAID regarding the proposed course of action and may request assistance from AusAID in meeting the costs of the recovery action. Provided that the Contractor has consulted with AusAID before commencing recovery action, AusAID may in its absolute discretion agree to meet some or all of those costs.

(ii) referring the matter to the relevant Partner Country police or other authorities responsible for prosecution of fraudulent activity.

(b) keep AusAID informed, in writing, on a monthly basis, of the progress of the recovery action.

36.10 If the Contractor considers that after all reasonable action has been taken to recover the funds or funded property and full recovery has not been achieved or recovery has only been achieved in part, the Contractor may seek approval from AusAID that no further recovery action be taken. The Contractor must provide to AusAID all information, records and documents required by AusAID to enable the AusAID delegate to make a decision on whether to approve non-recovery of funds or funded property.

36.11 In the event that any investigation finds that the contractor, an employee of the Contractor or a subcontractor of the Contractor has been involved in any fraudulent activity, or in the event that AusAID discovers that a suspected, attempted or detected fraud has not been reported to AusAID, AusAID, at AusAID's sole discretion, reserves the right to:

(a) Terminate the Contract with the Contractor, in which event, AusAID shall not be liable to the Contractor for any claim, demand, proceeding suit or action by the Contractor, and the Contractor shall indemnify, defend and hold harmless AusAID from any claim, demand, proceeding suit or action from any party or individual resulting from such termination; and / or.

(b) Not enter into any further agreement with the Contractor until such time as AusAID is satisfied that any recommended changes to the Contractor's management and procedures have been made in order to prevent any further fraudulent activity from occurring and to ensure timely reporting of suspected, attempted or detected fraud to AusAID.

36.12 Clauses 36.6, 36.7, 36.8, 36.9 and 36.10, shall survive expiration of this Contract in relation to:

a) any fraud detected by the Contractor before the date of expiry of this Contract but the Contractor had not commenced an investigation under clause 36.6 before that date,

b) any investigation commenced by the Contractor under clause 36.6, but not completed, before the date of expiry of this Contract, and

c) any investigation commenced by AusAID under clause 36.7, but not completed, before the date of expiry of this Contract

37. COMPLIANCE WITH LAWS, GUIDELINES AND POLICIES

37.1 The Contractor must at all times have regard to and comply with, and use its best endeavours to ensure that all Contractor Personnel comply with, the laws in Australia, the Partner Country and applicable laws of other countries.

37.2 A list, as amended from time to time, of Australian laws that may apply to the delivery of developmental aid to foreign countries can be found on the AusAID website: http://www.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 37.1**.

37.3 The Contractor and all Contractor Personnel must at all times have regard to and operate in accordance with relevant guidelines, as amended from time to time, and listed on the AusAID website: http://www.ausaid.gov.au/business/contracting.cfm.

37.4 The Contractor must notify AusAID of any material breach by the Contractor or Contractor Personnel of a law or guideline referred to in this **Clause 37**.

37.5 On becoming aware of a material breach by the Contractor or Contractor Personnel of a law or guideline, whether or not such a breach is notified to AusAID by the Contractor, AusAID may, in addition to any other rights available to AusAID, terminate this Contract under **Clause 31**.

37.6 The Contractor must in carrying out its obligations under this Contract comply with those laws in relation to organisations and individuals associated with terrorism, including 'terrorist organisations' as defined in Division 102 of the *Criminal Code Act 1995 (Cth)* and listed in regulations made under that Act and regulations made under the *Charter of the UN Act 1945 (Cth)*. The Contractor must ensure that funds provided under this Contract do not provide direct or indirect support or resources to organisations and individuals associated with terrorism. If, during the course of this Contract, the Contractor discovers any link whatsoever with any organisation or individual associated with terrorism it must inform AusAID immediately.

37.7 The Contractor must when providing any Services and procuring the Supplies have regard to and operate in accordance with Australian policies on developmental aid to foreign countries including:

(a) the policy Gender Equality in Australia's Aid Program – Why and How (March 2007);

(b) Child protection, in particular the child protection compliance standards at Attachment 1 to AusAID's *Child protection policy*;

(c) Environment. AusAID is bound by the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*, which applies to all aid activities. The Contractor must:

1. ensure that environmental requirements specified in the Scope of Services are implemented, monitored and reported;

2. comply with AusAID's Environmental Management System outlined in the *Environmental Management Guide for Australia's Aid Program*, including:

   a. assess and manage all actual or potential environmental impacts, both direct and indirect, to avoid or mitigate negative impacts and promote positive impacts;

   b. report regularly on any such impacts as required by the Scope of Services; and

3. comply with all relevant environmental laws and regulations of the Partner Country.

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

38. INVESTIGATION BY THE OMBUDSMAN

38.1 In carrying out the Services, the Contractor, and an employee or subcontractor of the Contractor, may be a "Commonwealth service provider' under section 3BA of the Ombudsman Act 1976.

38.2 The Contractor must use its best endeavours, and must ensure that employees and subcontractors of the Contractor use their best endeavours, in undertaking the Services, not to engage in conduct that:

(a) would, if the Contractor or an employee or subcontractor were an officer of AusAID, amount to a breach of duty or to misconduct; or

(b) should be brought to the attention of the principal officer of AusAID.

38.3 If the Commonwealth Ombudsman commences an investigation of conduct of the Contractor, as a Commonwealth service provider, the Contractor, at the cost of the Contractor, must cooperate with the investigator including:

(a) providing all documentation required by the investigator,

(b) making Contractor Personnel available to assist the investigator and

(c) allowing the investigator, at any reasonable time of the day, to enter a place occupied by the Contractor and carry on the investigation at that place.

38.4 If the Ombudsman brings evidence to the notice of AusAID concerning the conduct of the Contractor, or of an employee or subcontractor of the Contractor, the Contractor must, at the cost of the Contractor, take whatever remedial action is required by AusAID or by the Ombudsman to rectify the situation.

38.5 The Contractor must ensure that any subcontract entered into for the purpose of fulfilling its obligations under this Contract contains provisions to ensure that the subcontractor has the same awareness and obligations as the Contractor has under this clause, including this requirement in relation to subcontracts.

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

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

39. RESOLUTION OF DISPUTES

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

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

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

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

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

40. NOTICES

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

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

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

(c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice

had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

41. MISCELLANEOUS

41.1 Waiver

The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that Party by this Contract does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Contract.

41.2 Liability of Party

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

41.3 Entire agreement

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

41.4 Severance

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

41.5 Assignment

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

41.6 Governing Law and Jurisdiction

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

41.7 Contra 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.

41.8 False and Misleading Information

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

Authority for EFT Direct Credit Payment

Domestic:
http://newintranet.ausaid.gov.au/sites/contracttemplates/documents/1/AUTHORITY%20FOR%20EFT%20DIRECT%20CREDIT%20PAYMENT%20-%20DOMESTIC.dot

International:
http://newintranet.ausaid.gov.au/sites/contracttemplates/documents/1/AUTHORITY%20FOR%20EFT%20DIRECT%20CREDIT%20PAYMENT%20INTERNATIONAL.dot