Australian Government

AusAID

4 April 2009

Request for Tender

AusAID South Asia Scholarships Program

REQUEST FOR TENDER

AusAID South Asia Scholarships Program

AusAID is seeking proposals from organisations interested in providing services for the AusAID South Asia 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**).

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**.

This RFT supersedes any other information or advice provided by AusAID in relation to the Services.

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, **20 May 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 1.14, Part 5)	Tender Box, Ground Floor, AusAID, 255 London Circuit, Canberra ACT 2601, AUSTRALIA.
Business Hours for hard copy lodgement: (Clause 1.15, Part 5)	Monday to Friday, 8.30 am to 5.00 pm local time in Canberra, Australian Capital Territory 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** **Tenderer 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 and 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 and 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 and 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 and 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 and 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 and fax) must be listed on the front cover of the Financial Proposal. **Tender Schedule D - Financial Assessment material**: One (1) printed copy in a separate sealed envelope. **One CD**, containing the files specified as for electronic lodgement.
Endorsement of hard copy Tenders: (Clause 1.16, Part 5)	"**Tender for the AusAID South Asia Scholarships Program**."
Tender Validity Period: (Clause 1.8, Part 5)	180 days
Contact Person: (Clause 2.1, Part 5)	Melanie Warburton Fax: + 61 2 6206 4885 Email address: southasiascholarships@ausaid.gov.au
Tender Enquiries: (Clause 2, Part 5)	Tender enquiries must be made before 5.00pm local time Canberra Australian Capital Territory **6 May 2009**.
Page limits: (Clauses 7.15 and 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: Design Document (DD) Word Versions of: 1. Tenderers Declaration; 2. Past Experience Form (Tender Schedule A, Annex 1); and 3. Financial Tables (Tender Schedule C). The Request for Tender and any associated documents are available from the AusTender website https://tenders.gov.au

2. TENDER BRIEFING

2.1 AusAID intends to hold a briefing for interested tenderers in **Canberra**, on **21 April 2009, 10.00am, location to be confirmed**.

2.2 Tenderers planning to attend the pre-tender briefing are requested to send advanced notification to the Contact Person be fax or email, indicating the name of the organisation and the number of people planning to attend, by 5.00pm **14 April 2009**.

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

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

4.2 Following consideration of the technical merit of Tenders, AusAID may invite selected tenderers' key personnel to interview. Tenderers are required to attend interview at their own cost and may attend via teleconference. AusAID does not intend to interview personnel from any more than four (4) tenderers, and tenderers not invited to interview will be notified that their bid will not be further considered.

4.3 Following the technical assessment, and interviews, if any, like-for-like price assessment will be undertaken by AusAID of the proposals that are assessed by the Technical Assessment Panel (TAP) as technically suitable.

4.4 The like-for-like price assessment will represent **10**% of the overall score. The following formula for the scoring and ranking of Tenders on the basis of price will be used:

$$\textit{Price Score} = \frac{\textit{Bid Price of Lowest Priced Technically Suitable Bid}}{\textit{Tenderer's Bid Price}} \text{ X } \textbf{\textit{10}}\textit{\%}$$

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

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 5.2 of this Part** taking into consideration "other factors" under **Clause 7.8, Part 5**; and

(b) the required annexes included in **Clause 5.3 of this Part**.

5.2 **Selection Criteria**

(1) Appropriate Management Capabilities **Weighting 25%**

Demonstrated management and administrative capability especially regarding financial management; planning, administration, logistics, coordination throughout the region; and staff management capability.

This criterion will be assessed in conjunction with Annex 1 and Tender Schedule B.

(2) Approach to Program Implementation **Weighting 45%**

Demonstrated understanding of the Program objectives and proposed approaches and strategies for:

- Communications and promotion (10%);
- Regional Coordination/management and consistency and risk management (15%);
- Scholarship cycle/process management and monitoring (10%); and
- Reintegration of scholars including Alumni engagement and support, HRD planning and evaluation of scholarship outcomes (10%);

This criterion will be assessed in conjunction with Annexes 1, 2 and 3.

(3) Appropriateness of Team Composition to Implement the Program **Weighting 30%**

- Demonstrated skills and experience of the Regional Coordinator (20%); and
- Demonstrated skills, experience and mix of other key team members as appropriate for implementation (10%).

This criterion will be assessed in conjunction with Annex 2 and Tender Schedule B.

5.3 **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 **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 must 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 each country** for the duration of the Project. Both charts should clearly indicate inputs of team members in each country of the Program and in total. For hard copy lodgement this chart must be presented on A3 paper.

Annex 3 – Mobilisation Plan

A 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 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 - 6.5** below; and

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

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

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

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

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

TABLE 1 - SPECIFIED PERSONNEL – Long Term

Position	**Name**	**Total Inputs in person months**		**Referee Contact Details**		**Commitments**
		Home Base	**O/s**	**#1**	**#2**	
Regional Coordinator	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Bangladesh Country Scholarship Coordinator	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Bhutan Country Scholarship Coordinator	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
India Country Scholarship Coordinator	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*

Position	Name	Total Inputs in person months		Referee Contact Details		Commitments
		Home Base	O/s	#1	#2	
Maldives Country Scholarship Coordinator	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Nepal Country Scholarship Coordinator	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Sri Lanka Country Scholarship Coordinator	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*

Note: Long Term Personnel means personnel engaged for more than 6 months over the life of this Contract.

TABLE 2 - SPECIFIED PERSONNEL – Short Term

Position	Name	Total Inputs in person months		Referee Contact Details		Commitments
		Home Base	O/s	#1	#2	
Tenderer to specify						
Tenderer to specify						
Tenderer to specify						

Note: Short Term Personnel means personnel engaged for less than 6 months continuously over the life of this Contract.

6.6 Tenderers are reminded of the requirements of **Clause 18.2, 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.

(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 18.2, Part 5**.

(b) Tenderers should note that in Australia, national criminal record checks are available through the Australian Federal Police and take around 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.

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 Attachment 1.

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. 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 the financial assessment and for the like-for-like 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; and
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 not attract a procurement fee.

(e) Tracer and Case Studies

Personnel Costs

7.6 Tenderers must detail in the financial proposal under Tender Schedule C, Tables 2 and 3, leave entitlements of nominated Specified Personnel. Where annual recreation leave entitlements exceed 2 trips or a total of 4 weeks per 12 month period, a justification must also be provided along with a narrative description of how the Tenderer will ensure, during Specified Personnel absences, the continued quality of Services. Tenderers should note that leave entitlements and the management strategy may be assessed by the TAP or AusAID as part of the technical assessment process. AusAID reserves the right to negotiate leave entitlements should AusAID consider them excessive.

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.

Option 2

This option may be considered by a Tenderer where:

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

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

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

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

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

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

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

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

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

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

The financial information of Tenderers will be treated confidentially.

TENDER SCHEDULE C – FINANCIAL TABLES

Table 1 – Like-for-like Assessment

	Years 1 -3	Year 4 including escalator	Year 5 including escalator	Total (AUD)
Total Management Fee (TMF)				
Long Term Personnel				
Short Term Personnel				
Reimbursable Administration, Equipment and Operational Costs	4,572,405	TBA	TBA	
Tracer and case Studies	142,500	TBA	TBA	
Total maximum Contract value including any extension period				*

Note: Reimbursable Administration, Equipment and Operational Costs for Years 4 and 5 will be agreed with AusAID if the option to extend as per Clause 3 of Part A of the draft Contract (Part 2 of this RFT) is exercised.
* "Tenderer's Bid Price"

Table 2 – Long Term Fee Rates

Position	**Name**	**Monthly Fee**	**Inputs**	**Mobilisation Costs**	**Demobilisation Costs**	**Financial Limitation**
		(AUD)	**(Months)**	**(AUD)**	**(AUD)**	**(AUD)**
Regional Coordinator	*Specify*	*Specify*	36	*Specify*	*Specify*	*Specify*
Bangladesh Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Bhutan Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
India Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Maldives Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Nepal Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Sri Lanka Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Scholarships Support Staff (*Tenderers to specify number of positions, inputs and percentage time*)	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
					TOTAL	

Note: Long Term Personnel means personnel engaged for more than 6 months over the life of this Contract.

Table 3 – Short Term Fee Rates

Position	**Name**	**Daily Professional Fee (AUD)**	**Inputs (Days)**	**Financial Limitation (AUD)**
Tender to specify	*Specify*	*Specify*	*Specify*	*Specify*
Tender to specify	*Specify*	*Specify*	*Specify*	*Specify*
Tender to specify	*Specify*	*Specify*	*Specify*	*Specify*
Tender to specify	*Specify*	*Specify*	*Specify*	*Specify*

Note: Short Term Personnel means personnel engaged for less than 6 months continuously over the life of this Contract.

PART 2 - PROJECT SPECIFIC CONTRACT CONDITIONS

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

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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 Adviser**" or "**LTA**" or "**Long Term Personnel**" or means an adviser 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.

"**Region**" means the six countries in South Asia covered by this Contract, namely Bangladesh, Bhutan, India, Maldives, Nepal and Sri Lanka.

"**Regional Coordinator**" means the specified person nominated in **Clause 6 of Schedule 1**.

"**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.

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

"**Stakeholders**" means recognised by AusAID, 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 ***insert 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 3 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. NOTICES

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

AusAID

To:	Australian High Commission, Dhaka
Attention:	Senior Program Manager, South Asia Scholarships Program
Postal Address:	Australian Agency for International Development 184 Gulshan Avenue Gulshan-2 Dhaka – 1212 Bangladesh
Street Address:	184 Gulshan Avenue Gulshan-2 Dhaka – 1212 Bangladesh
Facsimile:	880 2 8823794

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

5. MANAGEMENT SERVICES

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

(a) provide pre-mobilisation briefings to Contractor Personnel including Project Objectives and requirements, relevant contract obligations, services 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; and

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

6. MID TERM REVIEW

6.1 AusAID will conduct a mid-term review (MTR) early in the third quarter of year three. The MTR will assess the outcomes of outsourcing scholarship management and the performance of the Contractor, and will make recommendations to AusAID on a possible extension of the Contract for a further 24 months.

6.2 The Contractor must:

(a) co-operate with and assist in any way requested by the MTR Team in the performance of its review exercise;

(b) co-operate with and assist the MTR Team by providing all necessary information and Contractor Personnel and ensuring its Contractor Personnel are available and willing to assist in answering inquiries or requests for information in respect of the performance of the Services; and

(c) provide to the MTR Team copies of all reports, notices, information or other Project material which the Team reasonably requires to fully and efficiently perform its monitoring and review as soon as practicable after such material is produced or received by the Contractor.

7. ANNUAL PLAN

7.1 The 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; and

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

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

7.3 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.

7.4 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. MEETINGS

8.1 The Contractor must attend meetings in AusAID Dhaka 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.

8.2 AusAID may require an implementation briefing in Canberra prior to mobilisation. The Regional Coordinator must attend this meeting. AusAID may also require the Country Scholarship Coordinator 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.

8.3 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).

9. GOVERNMENT TAXES, DUTIES AND CHARGES

9.1 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.

9.2 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.

9.3 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.

9.4 Subject to **Clause 9.7 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.

9.5 An increase in the Fees under **Clause 9.4 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.

9.6 A decrease in Fees under **Clause 9.4 above** shall take effect from the date on which the change in the Changed Tax becomes effective.

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

9.8 **Clause 9.4 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.

10. INSURANCES

10.1 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.

10.2 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. 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.

11.1 The Contractor must, at its expense, provide to AusAID if requested; 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**.

PART 3 – DRAFT SCOPE OF SERVICES

AUSAID SOUTH ASIA SCHOLARSHIPS PROGRAM

Note to Tenderers: This **Part 3** of the RFT will appear as Schedule 1 of the final Contract.

DRAFT SCHEDULE 1 – SCOPE OF SERVICES

AUSAID SOUTH ASIA SCHOLARSHIPS PROGRAM

1. BACKGROUND

1.1 The Australian Scholarships program is a key delivery mechanism and integral part of the Australian Government's development cooperation program across South Asia. AusAID funded scholarships in South Asia (including: Bangladesh, Bhutan, India, Maldives, Nepal, and Sri Lanka) include:

(a) The **Australian Development Scholarships (ADS),** which aims to contribute to long term development needs of Australia's partner countries to promote growth and stability. They provide opportunities to undertake full time undergraduate or postgraduate study in Australia, with fields of study targeted to address the priority human resource and development needs of recipient countries, in line with Australia's bilateral aid program. ADS equips scholars with the skills and knowledge to drive change and influence the development outcomes of their own country through obtaining tertiary qualifications at participating Australian higher education institutions and technical colleges. For further information on ADS see http://www.ausaid.gov.au/scholar/default.cfm

(b) **The Australian Leadership Awards (ALA)** scholarships, which aims to develop leadership and build partnerships and linkages within the Asia-Pacific. They are intended for those who are already leaders or have the potential to assume leadership roles that can influence social and economic policy reform and development outcomes, both in their own countries and the Asia-Pacific region. The ALA program comprises Scholarships and Fellowships. Applicants compete with other high achievers from the Asia-Pacific region for a limited number of scholarships. For further information on ALA see http://www.ausaid.gov.au/scholar/default.cfm

1.2 In South Asia approximately 500 ADS have been offered in the past five years, and around 102 were ALAs offered in 2007 and 2008. The country details of the AusAID scholarships are: The country details of the AusAID scholarships are:

Bangladesh	ADS and ALA
India	ALA only
Nepal*	ALA only
Bhutan	ADS and ALA
Sri Lanka	ADS and ALA
Maldives	ADS and ALA

(*For Nepal, it is anticipated that ADS will be reinstated in 2010 to enable scholarship holders to commence studies in 2011. At this stage, the number of scholarships expected to be awarded in 2011 will be around 10 subject to funding availability.)

1.3 Other scholarship programs supported in selected countries in the region include Carnegie Mellon Scholarships Program (CMU-AusAID) and the Centre for Transnational Crime

Prevention Scholarships Program (CTCPSP). In 2008 three CMU-AusAID scholarships and no CTCPSP scholarships were awarded to scholars from South Asia countries covered by this contract. It is anticipated that the number of scholarships offered under these two schemes in the South Asia region over the period of this contract will be very small. The Contractor is expected to provide support and management services to any continuing or newly awarded CMU-AusAID and CTCPSP scholarships.

1.4 This Scope of Services covers selected management and administrative functions for AusAID's scholarship program, delivered in six countries – Bangladesh, Bhutan, India, Maldives, Nepal and Sri Lanka. The services required include scholarship promotion and selection, placement of students into Australian universities, student mobilisation, and working with AusAID to develop monitoring and evaluation (M&E) strategy and system, and strategies for assisting students return to their home countries and workplaces.

2. PROGRAM DESCRIPTION

Goal and Objectives

2.1 The goal and objective for the South Asia scholarships program are:

(a) Goal: Australian scholarship awardees contribute to poverty reduction and sustainable development in South Asia.

(b) Objective: Improved capacity in priority fields, disciplines and organisations in South Asia, via increased access to higher professional and technical knowledge and linkages with individuals and institutions within the region and Australia.

2.2 Priority fields, disciplines, partner organisations and unique requirements will be determined by each AusAID country program, in the context of the overarching South Asia Regional Framework.

2.3 The Contractor will support AusAID and the scholarships program to achieve the objective of the program and contribute to the longer term goal.

Expected Core Outcomes of the Scholarship Programs

2.4 Key outcomes of the AusAID South Asia scholarships program include:

(a) Awardees develop higher level professional and technical skills relevant to their area of expertise;

(b) Awardees return to their home country and reintegrate back into the workforce successfully;

(c) Awardees practice good leadership, apply new skills and nurture partnerships with institutions in the region and Australia;

(d) Awardees apply their skills to contribute to the improved capacity of their organisations/institutions; and

(e) An active and effective Australian scholarships alumni association is operating in South Asia.

3. PROGRAM DURATION, PHASING AND LOCATION

3.1 The duration of the contract will be for three years from the Project Start Date to [**Insert date**] June 2012, with an option to extend for up to a further twenty four (24) months.

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

3.3 The Program's head office is to be located in Dhaka, Bangladesh, with appropriate representation/office facilities in Bhutan, India, Maldives, Nepal and Sri Lanka established within 4 weeks of the Program Start Date.

4. PROGRAM SIZE

4.1 In 2008, around **102** ADS scholarships were awarded and mobilised from a total of 325 applications received in the South Asia region. Additionally **49** ALA scholarships were awarded and mobilised from a total of 364 applications. ADS award numbers and ALA target shortlist numbers will be set annually by AusAID. In 2008, three CMU-AusAID scholarships and no CTCPSP scholarships were awarded to students from the Region.

4.2 AusAID reserves the right to alter the number of scholarships offered. The Contractor is expected to provide support and management services to any new type of scholarships that may be funded by AusAID. The base line for the numbers will be the 2008 awarded scholarship figures as outlined in Clause 4.1 above. In the event that the overall number of scholars mobilised increases (or decreases) by more than 20% in any academic year, as compared to 2008, this will act as the trigger for a contract variation.

4.3 In accordance with Clause 12 of the Standard Conditions of the Contract, the Contractor will provide AusAID with a detailed costed proposal to manage the changed number of scholars for mobilisation.

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 AusAID South Asia Scholarships Program, in Bangladesh, Bhutan, India, Maldives, Nepal and Sri Lanka.

Promotion

5.3 Undertake activities related to AusAID South Asia Scholarships promotion and advertising as specified in Annex 1 to this Schedule 1. Table 1, rows B1 – B8 and Table 2, rows B1 - B5.

5.4 The Contractor will develop a Scholarship Promotion and Communications Plan, based on the Australian Scholarships Communications Guide and methods used by each Post (copies of Guide and methods used by each Post will be provided to the successful tenderer). The plan will focus on increasing the profile, impact and equity of AusAID's scholarships. The Plan will include:

(a) Arrangements and procedures for communication and reporting to AusAID at each South Asian location and internally (between Contractor office locations);

(b) Approach to communicating with other stakeholders;

(c) Promotional plan – proposed methods/media, approaches to ensure that the spread of advertising enables maximum opportunity for targeted, eligible people to apply;

(d) Targeting approach – approaches to match the number and type of scholarships available with the target audience (as defined by AusAID); and

(e) Strategies to address gender and equity, Australian identity, and any potential corruption issues.

5.5 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 Partner government managers to prepare scholarship applications.

5.6 By 1st February of each year, the Contractor in consultation with AusAID will also develop an annual ADS/ALA Calendar of Key Dates for the upcoming scholarship cycle, providing targets and deadlines for selection, preparation and placement of ADS and ALA scholars. Under instruction from AusAID, the Contractor will provide the ADS/ALA Calendar to key agencies and partners, and will ensure that it is available on relevant websites and distribution networks.

Development of Website

5.7 The Contractor will develop and maintain a South Asia ADS scholarship website – the website will contain at a minimum information on AusAID scholarships program, the relevant application forms, application and closing dates, up-to-date links to the relevant AusAID and other government department websites, such as Department of Foreign Affairs and Trade, Department of Immigration and Citizenship, and Department of Education , Employment and Workplace Relations (a full list of websites will be confirmed) and all eligible Australian institutions and their course information. This must be done through appropriate links with the global AusAID Scholarships website and other websites such as the study-in-Australia site.

Process Applications, Shortlisting and Selection

5.8 Provide application services as specified in Annex 1 to this Schedule 1, Table 1, rows C1 - C11 and Table 2, rows C1 – C6.

5.9 Provide shortlisting services as specified in Annex 1 to this Schedule 1, Table 1 rows D1 - D17, and Table 2, rows D1 – D17.

5.10 Provide selection services as specified in Annex 1 to this Schedule 1, Table 1 rows E1 – E26, and Table 2, rows E1 – E24.

5.11 AusAID may request that short-term in-country English Language Training (ELT) be provided to a limited number of targeted scholars. In these cases the Contractor will identify and, subject to AusAID approval, contract with local ELT providers to deliver "off the shelf" ELT to selected participants. The Contractor will facilitate participants'

attendance at ELT and ensure that scholars' living allowance is paid while they are undertaking ELT.

Placement

5.12 Provide placement services as specified in Annex 1 to this Schedule 1, Table 1 rows F1 – F14, and Table 2, rows F1 – F8.

5.13 The Contractor will provide information on Australian higher education institutions, and the range of programs and awards that are available in Australia, in order to assist the successful candidates to make choices for their study in Australia.

Visa Processing, Pre-Departure and In-Australia Support

5.14 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 (row G1 – G10 and row H1 – H22) and Table 2 (rows G1 – G10 and rows H1 – H22).

5.15 The Contractor must work with staff from the Department of Immigration and Citizenship (DIAC) and the relevant in-country Visa support provider and systems to enable efficient and timely processing of AusAID scholarship Visa applications.

5.16 The Contractor must conduct annual scholar Pre-Departure Briefings in each country including providing information from Australian universities for departing Awardees. The Pre-Departure Briefing program and schedule will be developed in consultation with AusAID and must be approved by AusAID. The program must include time for AusAID presentation. The Pre-Departure Briefing will include, but not be limited to the following topics: scholarship objectives; scholarship terms and conditions, including information on stipends; family entry conditions and services provided by Australian institutions available to awardees; and post award expectations.

5.17 The Contractor shall request electronic copies of information provided by universities (with hard copies forwarded directly to the students). The Contractor will facilitate timely receipt of this information by students.

Monitoring and Evaluation

5.18 Undertake services as specified in Annex 1 to this Schedule 1, Table 1 (rows I1 – I7) and Table 2 (rows I1 – I7).

5.19 The Contractor will develop a Monitoring and Evaluation Strategy and system based on the draft M&E Framework provided in the Design Document; this will include working with each AusAID South Asia country program to develop country specific indicators and key performance management information based on priorities within that country program.

5.20 AusAID's Australian Scholarships Group has developed guidance on Monitoring and Evaluation of AusAID scholarship programs. The Contractor will ensure the South Asia Scholarships Monitoring and Evaluation Strategy and system are consistent with directions contained in this document (to be provided by AusAID to the successful tenderer).

5.21 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 students including name, sex, field and institution of study, scholarship duration etc. Details of the database will be negotiated with the successful tenderer.

5.22 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 South Asia's scholarship context and local development priorities. The number and objective of tracer studies will be discussed and agreed with AusAID. AusAID will issue a tasking note for each agreed Tracer Study subject to approval of the Contractor's costed proposal.

5.23 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 South Asia scholarships program. The number, target and content of the case studies will be discussed and agreed with AusAID. AusAID will issue a tasking note for agreed case studies subject to approval of the Contractor's costed proposal.

Reintegration

5.24 The Contractor, under the guidance of AusAID, will develop a Reintegration Strategy including strategy on trialling of HRD and career planning approaches, to support re-entry of scholars into their institutions/organisations. The Reintegration Strategy should be linked to organisational HRD plans where applicable and will become part of the overall management process for the scholarship program highlighting (to scholars and to organisations) the importance of career and agency planning as part of maximising scholarship impact over time.

5.25 Upon acceptance by AusAID, the Contractor must implement the Reintegration Strategy. Subject to AusAID acceptance of the Reintegration Strategy and the Contractors' costed proposal for implementation, the Contract will be amended in accordance with Clause 12 of the Standard Conditions of Contract.

Alumni

5.26 The establishment of AusAID scholarship alumni networks to support the long-term objectives of the scholarships program is an important agenda for AusAID. AusAID wishes to develop a global Australian Scholarship Alumni Network to strengthen the scholarship program and maximise development impacts at the local, regional and national level. AusAID's Scholarship Alumni Network Implementation Plan is expected to commence in the first half of 2009. Under the guidance of AusAID, the Contractor will develop an Alumni Plan for South Asia including the Alumni objectives, establishment and maintenance approaches, scope of alumni activities, sustainability strategies, critical risk factors and proposed mitigation actions, and costs. The Alumni Plan should be developed in light of the identified development foci for each country in South Asia and should be linked directly with the broader AusAID Alumni Network Implementation Plan. (Details of the AusAID Alumni Network Implementation Plan will be discussed with the successful tenderer.)

5.27 Upon AusAID acceptance of the Contractor's Alumni Plan, the Contractor will take a leading role in establishing and maintaining the Alumni Network. This could include developing and maintaining an Alumni database; providing support to returned awardees to establish an Alumni association in each country; working with AusAID Post and the Alumni themselves to facilitate and support alumni events and professional networking activities. Subject to AusAID acceptance of the Alumni Plan and the Contractors' costed proposal for implementation, the Contract will be amended in accordance with Clause 12 of the Standard Conditions of Contract.

Other Scholarships Program

5.28 Provide the services as specified in Annex 1 to this Schedule 1, (including A to I of Table 1 for a limited number of ad hoc scholarships programs including but not limited to Carnegie Mellon Scholarships Program (CMU-AusAID) and the Centre for Transnational Crime Prevention Scholarships Program (CTCPSP).

6. BANGLADESH ADS PROGRAM

6.1 As part of the Bangladesh ADS program 20 scholarships are set aside each year for indigenous people from the Chittagong Hill Tracts (CHT). For candidates from CHT the Contractor will not be required to undertake any promotional activities (as this is managed by the UNDP) unless requested by AusAID. The Contractor will be required to undertake all other services specified in Clause 5 of this Schedule 1 and Annex 1 to this Schedule 1, Table 1 (not including B1 – B6) for CHT applicants.

7. SPECIFIED PERSONNEL

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

Name	**Position**

8. MANAGEMENT ARRANGEMENTS

8.1 AusAID Dhaka Post will be the primary point of contact for the Contractor.

8.2 The Contractor will provide an appropriate mix of full and part-time Contractor Personnel located in a suitably equipped program support office in Dhaka and in the other countries in the region to deliver essential management services related to the scholarships program. The support offices will be in accessible locations and of sufficient standard to reflect the high profile of the Australian Government's scholarships program. The Contractor is expected to appoint staff with roles as broadly indicated in Annex 2 to this Schedule 1.

8.3 At the commencement of the Contract the Contractor's personnel will attend a two-week training activity in Dhaka. AusAID will provide the venue and all training materials. The Contractor will be responsible for ensuring the attendance and logistics of its key personnel and relevant support staff. The workshop program will include training on SIMON and OASIS and will move from the general to the specific, including:

(a) Week1: 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; introduction to the functionality of SIMON and OASIS;

(b) Week 2: Specific Country-based issues, context and arrangements, key contacts; existing templates; communication channels. This detailed information will be delivered by the AusAID Post staff member attending the workshop on behalf of that country's scholarship program.

8.4 Following the 2-week workshop AusAID will hand over ADS/ALA responsibilities for all six countries. The handover will be completed in accordance with a hand-over plan that the Contractor will develop in consultation with AusAID, but no later than within two months of the Project Start Date.

8.5 At the completion of the workshop the Contractor must take on responsibility for further training of its personnel, at all country locations, in the key elements of the scholarship management across the full cycle.

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

9. CONTACT DETAILS

9.1 AusAID contact details for country specific matters:

Bangladesh:

To: Australian High Commission, Dhaka
Attention: Senior Program Manager, South Asia Scholarships Program
Address: Australian Agency for International Development
184 Gulshan Avenue
Gulshan-2
Dhaka – 1212
Bangladesh
Facsimile: 880 2 8823794

Bhutan and India:

To: Australian High Commission, New Delhi
Attention: Senior Program Manager, South Asia Scholarships Program
Address: Australian Agency for International Development
1/50 – G, Shantipath
Chanakyapuri

New Delhi - 21
P.O. Box 5210
New Delhi 110021
India
Facsimile: 91 11 26887492

Maldives and Sri Lanka:

To: Australian High Commission, Colombo
Attention: Senior Program Officer, South Asia Scholarships Program
Address: Australian Agency for International Development
21 Gregory's Road
Colombo 7
Sri Lanka
Facsimile: 94 11 2696468

Nepal:

To: Australian Embassy, Kathmandu
Attention: Country Manager, South Asia Scholarships Program
Address: Australian Agency for International Development
P.O. Box 879
Bansbari
Kathmandu
Nepal
Facsimile: 977 1 4371533

10. REPORTING REQUIREMENTS

10.1 The Contractor must also provide the following reports by the date, in electronic copy and two (2) hard copies:

(a) **Scholarship Promotion and Communications Plan,** as described in Clause 5.4 of this Schedule 1, to be submitted six (6) months from the Project Start Date then updated by 1st February each year as part of the Annual Plan.

(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 and ALA Calender of Key Dates);

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

(iii) Monitoring and Evaluation Framework/Plan;

(iv) Updated Risk Management Plan.

(c) **Second and Subsequent Annual Plans and Report** by 1st February 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: including the features of each annual recruitment round detailing promotion, selection and screening activities (with clear dis-aggregation of gender, location, fields of study, indicated area of development contribution) and lessons / continuous improvement approaches to promotion/selection/placement for incorporation into future selection rounds.

(ii) Update of the Scholarship Promotion and Communications Plan.

(iii) English Language Training (ELT): including the progress of scholars who are undertaking ELT, the effect of making ELT available to select participants and the contribution of ELT to program objectives.

(iv) Academic outputs: including:

(A) Information to be collected from universities, tracking scholars' progress during their 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 (if available), 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.

(v) Tracer Studies: report on any tracer studies conducted during the reporting period.

(vi) Case Studies: report on any case studies conducted during the reporting period.

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

(viii) 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) Selection process progress.

(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. Exception Reports may take the form of an e-mail and will be entitled "South Asia ADS – Exception Report".

(f) **Monitoring and Evaluation Strategy,** as described in Clauses 5.18 to 5.23 of this Schedule 1, to be submitted 10 months from the Project Start Date.

(g) **Reintegration Strategy ,** as described in Clauses 5.24 to 5.25 of this Schedule 1, to be submitted 8 months from the Project Start Date.

(h) **Alumni Plan,** as described in Clauses 5.26 to 5.27 of this Schedule 1, to be submitted 9 months from the Project Start Date.

(i) **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.

(j) **Program Completion Report (PCR)** not later than three months prior to the Completion date. The Contractor must detail and assess the activities and performance of the program against the objectives outlined in this Schedule of Services.

(k) Provide any other information in relation to the Program including student statistics from the data base developed and maintained by the Contractor and other sources as deemed necessary, when required by AusAID.

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

10.2 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 including AusAID's Gender Equality Framework.

11. STANDARDS OF SERVICE

Quality Assurance

11.1 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.

11.2 All Scholarship outputs must comply with AusAID ADS and ALA Manuals and guidelines.

Annual Contractor Performance Assessment

11.3 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 Posts in each country.

Managing Contractor Performance Indicators and Criteria

Performance Indicator	Criteria
1. Personnel Performance	All Contractor personnel: o Act professionally and with integrity, and produce work in accordance with AusAID ADS and ALA manuals and guidelines; o Communicate with AusAID and other stakeholders is clear, transparent and effective manner; o Deliver outputs on time.
2. Program Management	o Good working relationships with each AusAID Post, effective coordination across the region and consistency of service levels across the region. o Finances are soundly and transparently managed and financial reporting meets AusAID requirements. o Reports are clear, constructive and timely and meet the expectations of AusAID. o Responsiveness to the reporting, management and planning needs of AusAID. o Ongoing monitoring and evaluation is undertaken effectively and is being analysed and reflected in continuous improvement by the implementing team.
3. Communication / Coordination	o Clear management arrangements and effective communication between Contractor Personnel in each location. o The "Scholarship Planning Guide" and "ADS / ALA Calendar of Key Dates" are developed and disseminated to appropriate networks and stakeholders. o Personnel take proactive steps to ensure effective communication and

Performance Indicator	Criteria
	working relationships with all stakeholders. o Management identifies and reports any major difficulties in communication/ stakeholder relationships to AusAID as they arise.
4. Scholar Management	o Scholarship promotional, management and monitoring processes implemented effectively and efficiently. o Target number of students mobilised efficiently and on time within each country, including attention to cross cutting scholarship issues of gender, access and equity (including the oversight of any targeted ELT training) as well as an effective pre-departure briefing (PDB) which involves relevant Alumni presentations. o All documents, applications, responses, scholar acceptances and the PDB carried out on time and required information recorded in the database. o Effective and appropriate counseling and placement of scholars in courses relevant to their academic needs, with scholars in a cross-section of Australian institutions / universities. o Information on scholar return and advise AusAID Post of any issues.
5. Reintegration and Alumni	o Reintegration Strategy developed and accepted by AusAID. o Alumni Plan developed and accepted by AusAID.
6. Profile	o Appropriate Australian Government and AusAID profile and acknowledgement is maintained. o Alternative avenues and methods used to promote the scholarship opportunities to a broader group of potential candidates.
7. Risk Management	o Personnel respond effectively to new or changed environments or requirements from AusAID. o Management issues are identified and resolved in a timely manner and/or reported to AusAID for decision where relevant. o Management provides sound analysis of risks and develops and applies effective risk management measures.

Transparency

11.4 It is crucial that the management of the Australian scholarships remains transparent, fair and equitable and is seen to be so. The Contractor will report immediately any instance of perceived interference or attempts to inappropriately influence selection processes, whether in writing or verbal. The Contractor must report any suspected instances to the relevant AusAID officer in the country Post, as well as the senior AusAID officer in Dhaka in an Exception Report (Clause 10.1(e)).

Australian Identity

11.5 The Contractor will ensure that the AusAID profile remains high in all aspects of the scholarship cycle. That includes the ADS/ALA 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.

	Table 1. Specific ADS Activity	Primary Responsibility			
A.	Partner Government (PG) Involvement	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
A.1	Discussion with PG on policy considerations, priority sectors and lessons learned from previous intake. Review selection criteria and weightings	AusAID Post	AusAID Post	AusAID Post and PG	AusAID Post and PG
A.2	Advise PG in writing of the upcoming opening of the ADS round	AusAID Post	AusAID Post	AusAID Post	AusAID Post
A.3	Discussions with PG/Partner Institutions to confirm ADS priorities	AusAID Post	AusAID Post	AusAID Post	AusAID Post
A.4	Finalise priorities and weighting, and provide to Contractor	AusAID Post	AusAID Post (Provide to PG)	AusAID Post	AusAID Post
B.	ADS Promotion	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
B.1	Develop Annual Promotion and Communications Plan for AusAID endorsement, in line with equity and access principles				
B.2	Develop promotional activities and methods for AusAID endorsement				
B.3	Approve promotional approach, content and methods	AusAID Post	AusAID Post	AusAID Post	AusAID Post
B.4	Place Advertisements and undertake range of promotional activities (including information sessions) with emphasis on gender and minority groups				
B.5	Develop Scholarship Planning Guide				
B.6	Develop ADS/ALA Calendar of Key Dates				
B.7	Develop and maintain ADS Scholarship Website				
B.8	Distribute information packs as required				
C.	ADS Applications	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
C.1	Receive Full ADS Applications for processing		PG		
C.2	Record details in secure MS data base for all applications received		PG		
C.3	Store / maintain any hardcopy ADS applications in secure location		PG		

	Table 1. Specific ADS Activity	Primary Responsibility			
C.4	Respond to any queries relating to the receipt of the applications		PG		
C.5	Check applications for completeness and compliance with requirements		PG		
C.6	Develop list of eligible applications for consideration		PG		
C7	Verify eligible applicant's qualifications, IELTS with relevant authorities		PG		
C.8	Arrange for IELTS examination			n/a	n/a
C.9	Check that applicants meet the stated course IELTS requirements				
C.10	Reimburse IELTS test costs	For successful CHT candidates	n/a	n/a	n/a
C.11	Upload hard copy applications into OASIS database (from 2010)				
D.	ADS Shortlisting	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
D.1	Identify/recommend independent person/panel for short-listing		n/a		
D.2	Approve independent consultant for short-listing	AusAID Post	n/a	AusAID Post	AusAID Post
D.3	Contract independent shortlisting panel members				
D.4	Brief the short-listing consultant(s) on requirements	AusAID Post / Contractor	n/a	AusAID Post / Contractor	AusAID Post / Contractor
D.5	Provide resources / office space for the shortlisting process		n/a		
D.6	Provide policy considerations, develop/ discuss selection criteria & weightings	AusAID Post	AusAID Post in consultation with RGOB	See A.1	See A.1
D.7	Provide selection criteria template / marking sheets		PG		
D.8	Enter data from template into database (OASIS from 2010)				
D.9	Arrange short-listing meetings and the venue		PG		
D.10	Secretariat services for short-listing meeting		PG		

	Table 1. Specific ADS Activity	Primary Responsibility			
D.11	Invite Partner Government representatives to attend shortlisting	AusAID Post	n/a	AusAID Post to Sign off	AusAID Post to Sign off
D.12	Chair and oversee the short-listing process	AusAID Post	AusAID Post/PG	AusAID Post	AusAID Post
D.13	Enter short-listed candidates details onto the data base				
D.14	Advise successful short-listed ADS applicants by secure mail		PG		
D.15	Advise unsuccessful ADS applicants by secure mail		PG		
D.16	Produce ADS short-listing summary / report		PG		
D.17	Provide Partner Gov with outcome of shortlisting	n/a	n/a	AusAID Post to Sign off	AusAID Post to Sign off
E.	Selection Process	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
E.1	Recommend external selection panel members for AusAID endorsement		n/a		
E.2	Contract external panel members after AusAID approval		n/a		
E.3	Invite Partner Government representatives to attend	AusAID Post	PG invites AusAID	AusAID Post to Sign off	AusAID Post to Sign off
E.4	Clarify the role of PG members	AusAID Post	AusAID provide suggestions	AusAID Post	AusAID Post
E.5	Arrange for the ADS interviews and logistics		PG		
E.6	Provide approved templates and scoring sheets		PG shares with AusAID		
E.7	Sight original copies of qualifications, IELTS during interview process		PG		
E.8	Contract English Language (EL) Consultant (if requested)				
E.9	Develop interview questions and approach	AusAID Post/Consultant	PG involving AusAID	AusAID Post and PG	AusAID Post and PG
E.10	Develop written EL test for shortlisted candidates	EL Consultant	n/a	for AusAID approval	for AusAID for approval

	Table 1. Specific ADS Activity	Primary Responsibility			
E.11	Conduct EL written test for shortlisted candidates		n/a		
E.12	Mark written test and provide results to the panel	EL Consultant	n/a		
E.13	Chair and conduct ADS interviews	AusAID Post	AusAID Post/PG	AusAID Post	AusAID Post
E.14	Provide secretariat service for interview process		PG		
E.15	Determine ADS ranking system	AusAID Post	PG in consultation with AusAID	A.1 and prepare the ranking list	A.1 and prepare the ranking list
E.16	Endorse ADS selection outcomes	AusAID Post	AusAID Post	AusAID Post	AusAID Post
E.17	Provide details of IELTS scores to AusAID for those who just missed score				
E.18	Identify any targeted applicants who are eligible for ELT in country	AusAID Post	AusAID Post	AusAID Post	AusAID Post
E.19	Arrange any short-term ELT program for applicants as approved by Post				
E.20	Provide AusAID with pre-and post IELTS scores for consideration				
E.21	Advise successful ADS candidates by secure mail		PG (through website)		
E.22	Advise unsuccessful ADS candidates by secure mail		PG (through website)		
E.23	Provide feedback to interview candidates if required		PG		
E.24	Advise PG of the outcomes and candidates	AusAID Post/Contractor	n/a	n/a	n/a
E.25	Update successful candidate data on data-base				
E.26	Provide a detailed report on selection process, outcomes and lessons learnt		PG/contractor		
F.	ADS Placement	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
F.1	Facilitate ADS application form and information session		n/a		

	Table 1. Specific ADS Activity	Primary Responsibility			
F.2	Provide information to assist candidate in choice of university / course		PG/contractor		
F.3	Receive University application forms for ADS candidates				
F.4	Input ADS data into SIMON (or OASIS)				
F.5	Request the University Placements though SIMON (or OASIS)				
F.6	Send completed applications to the agreed university				
F.7	Upgrade reserve scholar if a university placement fails		PG/contractor		
F.8	Download offer/student contract from SIMON (or OASIS)				
F.9	Section 44 approval after student course confirmation	AusAID Post	AusAID Post	AusAID Post	AusAID Post
F.10	Send out ADS offer/student contract to the successful awardees	Send after AusAID Sign Off	Send after AusAID Sign Off	Send after AusAID Sign Off	Send after AusAID Sign Off
F.11	Receive signed acceptances back from the awardees				
F.12	Enter student acceptance on SIMON (or OASIS)				
F.13	Facilitate contact between scholars and the universities				
F.14	Liaise with Partner Governments/Agencies to confirm awardee HRD plans		AusAID Post		
G.	Immigration Visas	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
G.1	Provide notice, seek confirmation of central coordination point with DIAC/Contracted Visa Agent	AusAID Post	AusAID Post	AusAID Post	AusAID Post
G.2	Provide Visa forms and checklist to successful candidates				
G.3	Support applicant to complete Visa application				
G.4	Check all information aligns with required documents				
G.5	Facilitate medical checks for scholars and their families				

	Table 1. Specific ADS Activity	Primary Responsibility			
G.6	Provide completed forms and application to DIAC/Contracted Visa Agent				
G.7	Arrange family Visas for accompanied students				
G.8	Liaise with DIAC/Contracted Visa Agent on Visa applications	AusAID and contractor			
G.9	Liaise with University Student Contact Officer (SCO) regarding student arrival				
G.10	Advise scholar and AusAID if Visa applications rejected				
H.	Pre-Departure and In-Australia	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
H.1	Identify best price travel for ADS students and book flights including payment for airfares		Travel agent in house (appointed by DFAT)		
H.2	Advise scholar of the travel / flight details		Travel agent in house		
H.3	Adapt Pre Departure Briefing materials for AusAID endorsement		AusAID Post		
H.4	Inform candidates about PDB details and requirements		PG		
H.5	Arrange PDP logistics and venue		PG		
H.6	Facilitate participation at PDB for awardees from outside capital cities.		PG		
H.7	Arrange for dependent spouse to attend PDB if required		PG		
H.8	Provide PDB presentation session and Q&A	With AusAID Post	AusAID Post	AusAID Post and PG	AusAID Post and PG
H.9	Create scholar handouts and gain AusAID endorsement		AusAID Post		
H.10	Distribute the specific Pre-Departure kits from Universities		AusAID Post		
H.11	Prepare media release and means of release for AusAID approval	AusAID	PG		
H.12	Arrange press-release / publicity for the cohort to Australia		PG		
H.13	Finalise all departure / logistics arrangements		travel agent/Contractor		

	Table 1. Specific ADS Activity	Primary Responsibility			
H.14	Inform university of the scholar arrival details				
H.15	Confirm that scholar has arrived in Australia and commenced course				
H.16	Respond to adhoc queries from scholars while they are in Australia		PG		
H.17	Deal with requests for extensions or variations in consultation with AusAID				
H.18	Decide on any scholarship extensions or variations	AusAID Post / AusAID Canberra	AusAID Post / AusAID Canb/PG	AusAID Post / AusAID Canb/PG	AusAID Post / AusAID Canb/PG
H.19	Advise the Student Coordination Officer of any variation decisions		AusAID Post		
H.20	Provide summary of the scholar return dates to home country				
H.21	Provide scholars with Alumni information while they're in Australia (if applicable)				
H.22	Provide 6 monthly reports to AusAID and provide exception reporting when appropriate				
I.	ADS Return and M&E	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES
I.1	Inform/meet PG/institutions and AusAID of scholars planned return details		PG		
I.2	Confirm scholar's return and provide debrief to students on their return where appropriate		PG/contractor		
I.3	Discuss HRD Plan with PG/institutions prior to scholar's return (if applicable)		PG/contractor		
I.4	Enter scholar contact details on the data base developed and maintained by the Contractor and OASIS				
I.5	Establish and maintain an M&E system for scholarship management				
I.6	In consultation with AusAID, develop/conduct tracer studies of sample scholars				
I.7	In consultation with AusAID, develop and conduct case studies				

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

	Table 2. Specific ALA Activity	Primary Responsibility					
		BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
A.	Partner Government (PG)/WoG Involvement						
A.1	Advise PG/Local Institutions of the upcoming opening of the ALA round	AusAID Post	AusAID Post	Contractor prepare information for AusAID Post	Contractor prepare information for AusAID Post	AusAID Post	PG n/a, institutions - AusAID Post
A.2	Advise WoG partners at Post about ALA schedule for upcoming round	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post
B.	ALA Promotion	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
B.1	Develop Annual Marketing & Communications Plan for AusAID endorsement		AusAID Post				AusAID Post
B.2	Develop promotional activities and methods for AusAID endorsement		AusAID Post				AusAID Post
B.3	Approve promotional approach, content and methods	AusAID	AusAID	AusAID	AusAID	AusAID	AusAID
B.4	Place Advertisements and undertake promotional activities		AusAID Post				AusAID Post
B.5	Distribute ALA information packs as required						
C.	ALA Applications	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
C.1	Respond to any queries relating to the receipt of applications						
C.2	Receive hard copy applications						
C.3	Upload hard copy applications into OASIS database						
C.4	Record details in MS data base for applications received						
C.5	Store ALA applications in secure location						
C.6	Determine applicant's eligibility and update in OASIS						

	Table 2. Specific ALA Activity	Primary Responsibility					
D.	ALA Shortlisting	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
D.1	Verify applicants' qualifications, referee reports, IELTS test results						
D.2	Identify/recommend independent person/panel for short-listing process		n/a				n/a
D.3	Approve independent consultant for short-listing	AusAID Post	n/a	AusAID Post	AusAID Post	AusAID Post	n/a
D. 4	Contract independent panel members		n/a				n/a
D.5	Brief the short-listing consultant on criteria and methods	AusAID Post	n/a	AusAID Post	AusAID Post	AusAID Post	n/a
D.6	Arrange short-listing meetings and venue		PG				
D.7	Provide resources / office space for shortlisting		AusAID Post/PG			AusAID Post	AusAID Post
D.8	Provide policy considerations, discuss selection criteria and weightings	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post
D.9	Provide selection criteria template/marking sheets						
D.10	Enter data from template into OASIS						
D.11	Chair and oversee the short-listing process	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post
D.12	Provide secretariat service for shortlisting process						
D.13	Update short-listed candidates detail on data base						
D.14	Advise successful short-listed ALA applicants by secure mail						
D.15	Advise unsuccessful ALA applicants by secure mail						
D.16	Produce ALA short-listing summary / report						
D.17	Provide a copy of shortlisted candidates to each Post						
E.	Selection Process	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA

	Table 2. Specific ALA Activity	Primary Responsibility					
E.1	Confirm number of recommended candidates to be forwarded to Canberra for South Asia region	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post
E.2	Recommend external selection panel members for AusAID endorsement		n/a				n/a
E.3	Contract external panel members after AusAID approval		n/a				n/a
E.4	Arrange for the ALA interviews and logistics						
E.5	Contract English Language Consultant						
E.6	Provide approved templates and scoring sheets						
E.7	Develop interview questions	AusAID Post/Consultant	AusAID Post	In consultation with AusAID Post	In consultation with AusAID Post	AusAID Post/Consultant	AusAID Post
E.8	Develop written EL test for shortlisted candidates	Consultant in ELP	Consultant in ELP	In consultation with AusAID Post	In consultation with AusAID Post	Consultant	Consultant in ELP
E.9	Mark written test and provide results to panel	Consultant in ELP	Consultant in ELP			Panel	Consultant in ELP
E.10	Sight candidates' original qualifications, IELTS papers etc					n/a	
E.11	Chair and conduct ALA interviews	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post
E.12	Provide secretariat service for interview process						
E.13	Finalise country ALA application rankings					Panel	
E.14	Endorse ALA country rankings	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post
E.15	Finalise Sth Asia rankings	Counsellor	Counsellor	Counsellor	Counsellor	Counsellor	Counsellor
E.16	Endorse ALA recommendations and forward to Canberra	Counsellor	Counsellor	Counsellor	Counsellor	Counsellor	Counsellor
E.17	Provide detailed report on selection process, outcomes, lessons learnt.						
E.18	Interdepartmental Selection Panel (ISP) presides over all applications	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra
E.19	List of scholarship awardees forwarded to Posts	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra

	Table 2. Specific ALA Activity	Primary Responsibility					
E.20	Update successful candidate data on OASIS	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra
E.21	Advise successful ALA candidates by secure mail	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff
E.22	Advise unsuccessful ALA candidates by secure mail	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff
E.23	Inform ASG Canberra if a scholar declines their award						
E.24	Upgrade a reserve scholar if scholar declines award	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra
F.	ALA Placement	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
F.1	Section 44 approval after student course confirmation	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra
F.2	Request for Placement though OASIS						
F.3	Create student contracts through OASIS						
F.4	Send out ALA offer/student contract to awardees						
F.5	Receive signed acceptances back from awardees						
F.6	Enter student acceptance on SIMON (or OASIS)						
F.7	Facilitate contact between scholars and universities						
F.8	Liaise with awardees' workplace to confirm HRD plans (if applicable)						
G.	Immigration Visas	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
G.1	Provide notice, confirm coordination point with DIAC / contract Visa Agent	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post	AusAID Post
G.2	Provide Visa forms and checklist to successful candidates						
G.3	Support applicant to complete Visa application						
G.4	Check all information aligns with required documents						
G.5	Facilitate medical checks for scholars and their families						

	Table 2. Specific ALA Activity	Primary Responsibility					
G.6	Provide completed forms and application to DIAC/contracted Visa Agent						
G.7	Arrange for family Visas if accompanying student	AusAID letter of support	AusAID letter of support	AusAID letter of support	AusAID letter of support	AusAID letter of support	AusAID letter of support
G.8	Liaise with DIAC/contracted Visa Agent on Visa applications	with AusAID				with AusAID	
G.9	Liaise with SCO regarding student arrival in Australia						
G.10	Advise scholar and AusAID if Visa applications rejected						
H.	Pre-Departure and In-Australia	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
H.1	Identify best price travel for ALA students and book flights including payment of airfares		n/a				Travel agent in house (appointed by DFAT)
H.2	Advise scholar of travel and flight details		n/a				Travel agent in house
H.3	Adapt PDB materials for AusAID endorsement						
H.4	Inform candidates about PDB details						
H.5	Arrange PDB logistics and the appropriate venue						
H.6	Facilitate participation at PDB for awardees from outside capital cities.						
H.7	Arrange for dependent spouse to attend if required						
H.8	Provide presentation session and Q&A	AusAID Post/Contractor	AusAID Post/Contractor	AusAID Post/Contractor	AusAID Post/Contractor	AusAID Post/Contractor	AusAID Post/Contractor
H.9	Create scholar handouts and gain AusAID endorsement						
H.10	Distribute Pre-Departure kits from the specific Universities						
H.11	Prepare media release for AusAID approval						

	Table 2. Specific ALA Activity	Primary Responsibility					
H.12	Arrange press-release / publicity for the ALA cohort	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff	AusAID Signoff
H.13	Finalise all departure / logistics arrangements		n/a				n/a
H.14	Inform university of scholar arrival details						
H.15	Confirm scholar arrived in Australia and commenced (report to AusAID)						
H.16	Respond to adhoc queries from scholars while they are in Australia						
H.17	Deal with requests for extensions or variations in consultation with AusAID						
H.18	Decide on extensions or variations to scholarship conditions	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra
H.19	Advise the Student Coordination Officer of decisions	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra	ASG Canberra
H.20	Provide summary of scholar return dates						
H.21	Provide scholars with Alumni information while they're in Australia (if applicable)						
H.22	Provide 6 monthly report to AusAID and provide exception reporting when appropriate						
I.	ALA Return and M&E	BANGLADESH	BHUTAN	SRI LANKA	MALDIVES	NEPAL	INDIA
I.1	Inform AusAID of scholars planned return details						
I.2	Confirm scholar's return arrangements and provide debrief to students on their return where appropriate						
I.3	Discuss HRD Plan with scholar prior to their return (if applicable)						
I.4	Enter scholar contact details on the data base developed and maintained by the Contractor and OASIS						
1.5	Establish and maintain an M&E system						

	Table 2. Specific ALA Activity	Primary Responsibility					
I.6	In consultation with AusAID, develop/conduct tracer studies for sample of scholars						
I.7	In consultation with AusAID, develop and conduct case studies						

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

AusAID South Asia Scholarships Program – Positions Descriptions (Indicative)

REGIONAL COORDINATOR (Reports to AusAID)

- Provide strategic and operational management of the Program.
- Provide successful delivery of services and ensure services levels are consistent and high quality.
- Provide strategic and technical direction and advice as required, including risk management and quality assurance.
- Oversee the development of M&E system, reintegration strategies including systematic approach to HRD planning, and the development of the Alumni Plan in response to emerging AusAID corporate initiatives/requirements.
- Participates in all key discussions with AusAID.
- Approve and ensure timely delivery of all Contractor program documentation and reports.
- Maintain productive working relationships with AusAID and program stakeholders.
- Ensure clear management arrangements and effective communication between all Contractor Personnel and with AusAID in each location.

COUNTRY SCHOLARSHIP COORDINATORS (Reports to the Regional Coordinator)

- Provide effective and efficient delivery of individual country activities including liaison with relevant AusAID staff and supervise day-to-day program management and administration ensuring processes are accurate, timely and transparent.
- Provide support to the Regional Coordinator in preparing program documentation and reports.
- Manage the pre-departure briefings for the scholars.
- Manage the country support office including administrative systems and procedures ensuring that accounting, record-keeping and reporting requirements are satisfactory.
- Provide effective secretarial support to AusAID when required such as during scholarships selection and mid-term review.
- Under the direction/supervision of the Regional Coordinator, contribute to the development of M&E systems, reintegration strategies, Alumni Plan and manage the effective implementation of the relevant country activities.
- Administration of country specific activities such as English Language Training.

SCHOLARSHIP SUPPORT STAFF (Report to Country Scholarship Coordinators)

- Provide administrative support to Country Scholarships Coordinator in Program delivery including program promotion, documentation, the receipt of applications, data entry and retrieval, preparation of program reports, and communication with scholars.

- Other duties as directed by the Country Scholarship Coordinators

PART 4 – DRAFT BASIS OF PAYMENT

AUSAID SOUTH ASIA SCHOLARSHIPS PROGRAM

Note to Tenderers: This **Part 4** of the RFT will appear as Schedule 2 of the final Contract.

SCHEDULE 2 – DRAFT BASIS OF PAYMENT

AUSAID SOUTH ASIA SCHOLARSHIPS PROGRAM

Note to Tenderers: This **Part 4** of the RFT will appear as Schedule 2 of the final Contract.

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 **AUD4,572,405**.

(e) **Tracer and Case Studies**, in accordance with **Clause 8** of this Schedule 2, up to a maximum total amount of **AUD142,500.00**.

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) All other costs not specified as Reimbursable Costs; and

(m) Allowances for risks and contingencies.

3.2 The Annual TMF, for years one (1) to three (3) inclusive of this Contract, is **AUDxxx**.

3.3 The Annual TMF is fixed for the first three (3) 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 in accordance with the successful tenderers financial proposal Tender Schedule C.*

Item	**Year 4** **Including escalator**	**Year 5** **Including escalator**
Total Management Fee (TMF)		
Long Term Personnel Fee Rates		
Short Term Personnel Fee Rates		
Reimbursable Admin, Equipment & Operational		
Tracer and Case Studies		

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 **AUDxxx**, plus GST, if any, to a maximum of AUDxxx.

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 (AUD)**
1	1st Annual Plan	3 months from Project	Acceptance in writing	

No.	Description	Due Date	Verifiable Indicator	Financial Limitation (AUD)
		Start Date	by AusAID	
2	Scholarship Promotion and Communication Plan	6 months from Project Start Date	Acceptance in writing by AusAID	
3	Reintegration Strategy	8 months from Project Start Date	Acceptance in writing by AusAID	
4	Alumni Plan	9 months from Project Start Date	Acceptance in writing by AusAID	
5	Six Monthly Report	9 months from Project Start Date	Acceptance in writing by AusAID	
6	Monitoring and Evaluation Strategy	10 months from Project Start Date	Acceptance in writing by AusAID	
7	2nd Annual Plan	1st February 2010	Acceptance in writing by AusAID	
8	Six Monthly Report	30th August 2010	Acceptance in writing by AusAID	
9	3rd Annual Plan	1st February 2011	Acceptance in writing by AusAID	
10	Six Monthly Report	30th August 2011	Acceptance in writing by AusAID	
11	Program Completion Report	3 months prior to the contract end date	Acceptance in writing by AusAID	
			TOTAL	

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 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)
Regional Coordinator	*Specify*	*Specify*	36	*Specify*	*Specify*	*Specify*
Bangladesh Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*

Position	Name	Monthly Fee (AUD)	Inputs (Months)	Mobilisation (AUD)	Demobilisation (AUD)	Financial Limitation (AUD)
Bhutan Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
India Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Maldives Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Nepal Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Sri Lanka Country Scholarship Coordinators	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
Scholarships Support Staff (*Tenderers to specify number of positions, inputs and percentage time*)	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*	*Specify*
					TOTAL	

Note: Long Term Personnel means personnel engaged for more than 6 months over the life of this Contract.

5.3 The Monthly Fee is:

(a) **Inclusive** of all personnel-related taxes and levies incurred in Bangladesh, India, Sri Lanka, Nepal, Bhutan, Maldives 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 the South Asia region;

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

(e) **Inclusive** of all escalators for the first three (3) years of the Program; but

(f) **Exclusive** of mobilisation/demobilisation costs (including airfares, in accordance with Clause 5.7 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.

5.4 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.

5.5 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.

5.6 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.

5.7 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.

5.8 Airfares reimbursed at economy class for each flight sector of four (4) hours or less and business class for each flight sector greater than four (4) hours duration. Any travel undertaken at cheaper rates (eg discount fares) does not entitle the Contractor to reimbursement of the cost of any higher class of travel. Travel must be via the most direct and cost effective route. A 'flight sector' means from any one flight departure point to any one flight landing point

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 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)**	**Financial Limitation (AUD)**
Tender to specify				
Tender to specify				
Tender to specify				
Tender to specify				

Note: Short Term Personnel means personnel engaged for less than 6 months continuously over the life of this Contract.

6.3 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-South Asia inputs;

(b) **Inclusive** of all personnel-related taxes and levies incurred in Bangladesh, India, Sri Lanka, Nepal, Bhutan, Maldives 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. REIMBURSABLE PAYMENTS: ADMINISTRATION, EQUIPMENT AND OPERATIONAL COSTS

7.1 AusAID shall reimburse the Contractor up to a maximum total of **AUD4,572,405.00** 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			**122,500**
M&E				
M&E System establishment	lump sum			42,000
M&E database/ongoing costs	monthly	36	3,200	115,200
Subtotal (Monitoring and Evaluation)				**157,200**
REGIONAL OPERATING EXPENSES				
Regional travel	Bi-Annual	6	8,800	52,800
Communication	Monthly	36	900	32,400
Consumables	Monthly	36	1,500	54,000
Subtotal (Regional Operating Expenses)				**139,200**
BANGLADESH OPERATING COSTS				
Contribution to office operating costs				178,000
Transport Costs – local transport and within Bangladesh				154,200

Item	Unit	No. of Units	Cost per Unit (AUD)	Financial Limitation (AUD)
Communications	Monthly	36	565	30,000
Subtotal (Bangladesh Operating Costs)				**362,200**
BANGLADESH SCHOLARSHIPS COSTS				
Advertising/Promotion	Annual	3	24,000	72,000
Scholar Medicals	Scholar	210	480	100,800
Visa Processing costs	Scholar	210	25	5,250
IELTS Testing	Test	180	400	72,000
Local ELT for target scholars	Scholar	9	16,000	144,000
Selection Panel Member costs	Week	6	32,600	195,600
Scholar PDB travel	Scholar	210	1,120	235,200
ALA Courier Costs				18,000
Scholar travel to Australia	Scholar	210	3,000	630,000
Subtotal (Bangladesh Scholarship Costs)				**1,472,850**
INDIA, NEPAL AND BHUTAN OPERATIONAL COSTS				
Regional Travel	Lump			32,400
Office Equipment	Lump			23,810
India Contribution to Office operating costs	Monthly	36	2,250	64,800
India Local Transport	Monthly	36	900	25,920
India Communications	Monthly	36	400	11,520
Bhutan Contribution to Office operating costs	Monthly	36	1,100	31,680
Bhutan Local Transport	Monthly	36	600	17,280
Bhutan Communications	Monthly	36	400	11,520
Nepal Contribution to Office operating costs	Monthly	36	1,100	39,600
Nepal Local Transport	Monthly	36	600	21,600
Nepal Communications	Monthly	36	400	11,520
Subtotal (India, Nepal and Bhutan Operational Costs)				**291,650**
INDIA, NEPAL AND BHUTAN SCHOLARSHIPS COSTS				
Advertising/Promotion	Annual	3	24,000	72,000
Scholar Medicals	Scholar	129	480	61,920
Visa Processing costs	Scholar	129	25	3,225
IELTS Testing	Test	126	400	50,400
Local ELT for target scholars	Scholar	6	16,000	96,000
Selection Panel Member costs	Week	3	32,600	97,800
Scholar PDB travel	Scholar	129	1,120	144,480

Item	Unit	No. of Units	Cost per Unit (AUD)	Financial Limitation (AUD)
ALA Courier Costs	Annual	3	9,000	27,000
Scholar travel to Australia	Scholar	129	3,000	387,000
Subtotal (India, Nepal and Bhutan Scholarships Costs)				**939,825**
SRI LANKA AND MALDIVES OPERATIONAL COSTS				
Regional Travel	Lump sum			32,400
Office Equipment	Lump sum			23,810
Sri Lanka Contribution to Office operating costs	Monthly	36	1,350	48,600
Sri Lanka Local Transport	Monthly	36	320	11,520
Sri Lanka Communications	Monthly	36	400	14,400
Maldives Contribution to Office operating costs	Monthly	36	1100	39,600
Maldives Local Transport	Monthly	36	350	12,600
Maldives Communications	Monthly	36	400	14,400
Subtotal (Sri Lanka and Maldives Operational Costs)				**197,330**
SRI LANKA AND MALDIVES SCHOLARSHIPS COSTS				
Advertising/Promotion	Annual	3	24,000	72,000
Scholar Medicals	Scholar	114	480	54,720
Visa Processing costs	Scholar	114	25	2,850
IELTS Testing	Test	54	400	21,600
Local ELT for target scholars	Scholar	9	16,000	144,000
Selection Panel Member costs	Week	6	16,300	97,800
Scholar PDB travel	Scholar	114	1,120	127,680
ALA Courier Costs	Annual	3	9,000	27,000
Scholar travel to Australia	Scholar	114	3,000	342,000
Sub-total (Sri Lanka and Maldives Scholarships costs)				**889,650**
			TOTAL	**4,572,405**

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 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.

7.5 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.

7.6 The Contractor may not vary lines items between country allocations.

7.7 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.

7.8 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.

7.9 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.

7.10 **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.

7.11 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. TRACER AND CASE STUDIES

8.1 AusAID will pay the cost of Tracer and Case Studies as outlined in Clauses 5.22 and 5.23 of Schedule 1 up to a maximum total of **AUD142,500.00**.

9. CLAIMS FOR PAYMENT

9.1 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.

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

9.3 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.

9.4 All claims for payment shall be made to:

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

9.5 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

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

9.7 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

ASSETS REGISTER

IDENTIFICATION NUMBER	DESCRIPTION OF ASSET	PURCHASE REFERENCE	PURCHASE DATE	PURCHASE PRICE	DATE RECEIVED LOCATION	REMARKS INCLUDING DISPOSAL ACTION & PRICE RECEIVED

SCHEDULE 3 - DEED OF CONFIDENTIALITY

THIS DEED POLL is made on the day of [ ]

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

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

RECITALS

A. AusAID and **Contractor's Name** (the "**Contractor**") have entered into a Contract for the purpose of a project in **Country**.

B. The Recipient has been engaged by the Contractor to work on the project.

C. The Recipient will, in carrying out that work, be given access to Confidential Information.

D. AusAID requires the Recipient to enter into this Deed in relation to use of Confidential Information.

THE RECIPIENT DECLARES AS FOLLOWS:

1. **INTERPRETATION**

In this Deed:

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

(a) is designated by AusAID as confidential; or

(b) the Recipient knows or ought to know is confidential,

and includes to the extent that it is confidential:

(c) information comprised in or relating to any Intellectual Property of AusAID or third parties where the third party Intellectual Property is made available by or on behalf of AusAID;

(d) information relating to the internal management and structure of the Department of Foreign Affairs and Trade, AusAID or the Commonwealth of Australia;

(e) the Data; and

(f) personal information under the *Privacy Act 1988*;

but does not include information which:

(g) is or becomes public knowledge other than by breach of this Deed or other obligation of confidentiality; or

(h) has been independently developed or acquired by the Recipient as established by written evidence.

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

2. **NON DISCLOSURE**

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

3. **RESTRICTION ON USE**

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

4. **DELIVERY UP OF DOCUMENTS**

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

5. **SURVIVAL OF OBLIGATIONS**

5.1 The obligations in this Deed are perpetual.

EXECUTED as a deed poll.

SIGNED, by the Recipient in the presence of:	))	…….. Signature of
…….. Signature of witness		…….. Name of witness ***(Print)***

SCHEDULE 4A – VARIATION ORDER PRO FORMA

VARIATION ORDER NO.
FOR CONTRACT

between

COMMONWEALTH OF AUSTRALIA
represented by
The Australian Agency for International Development (AusAID)

and

CONTRACTOR'S NAME
ABN #

in relation to

CONTRACT TITLE

VARIATION ORDER No. # UNDER CLAUSE # OF CONTRACT #

TO: CONTRACTOR – ***insert Name***

FROM: AusAID

1. This Variation Order is given pursuant to Standard Condition clause headed **Amendments and Variation** in the Contract.

2. The Contract ***Schedule 1 and/or Schedule 2*** is varied as follows:

EITHER ***detail here under the headings of:***

3. **SERVICES**
4. **COMMENCEMENT AND COMPLETION OF SERVICES**
5. **REPORTING REQUIREMENTS**

OR ***where variation requires a reissue of Schedules 1 and/or 2. Use paragraphs 6 and/or 7 as appropriate.***

6. Delete Schedule 1, Scope of Services and replace with the attached Scope of Services.

7. Delete Schedule 2, Basis of Payment and replace with the attached Basis of Payment.

8. There will be an ***increase/decrease/no change*** of $x,xxx.xx in the financial limit of this Contract for the performance of these Services.

9. In all other regards you are required to carry out the Services as described in the Contract.

Yours sincerely

FMA Section 44 Delegate
Insert date

NOTE TO USER:
It is not necessary for the Contractor to sign the Variation Order. However, you must act in good faith by ensuring that the Contractor agrees to the changes before issuing the Variation Order. As with Amendments, Variation Orders must be cleared by Procurement Management Group (PMG) and AusAID's Senior Legal Adviser or AusAID's Legal Officer before being issued. See 'MINUTE Clearance (Variation Order)' on the Contract Templates Sharepoint.

The delegate must sign two originals of the Variation Order. One original is sent to the Contractor. One copy needs to be made. The copy must be retained by the Activity Manager (Canberra or Post). The AusAID original copy is sent to RMC for inclusion on the original Contract File. (DELETE this note before issuing the Variation Order).

SCHEDULE 4B - VARIATION SUMMARY SCHEDULE

The Contract has been varied in accordance with Standard Condition clause headed **Amendments and Variation** of the Contract on the following dates relating to:

Variation Order #	**Date signed by AusAID**	**Very Brief Summary of variation**	**Increase/Decrease in financial limit**	**Adjusted Financial Limit**

SCHEDULE 5 – DEED OF NOVATION AND SUBSTITUTION

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

BETWEEN:

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

AND:

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

AND:

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

WHEREAS:

A. AusAID is concerned to ensure that the Services under the Contract are properly delivered.

B. The Subcontractor is a subcontractor to the Contractor for the Services.

C. The Subcontractor and Contractor have agreed with AusAID to novate the Subcontract to AusAID in the event that AusAID exercises its right under **Clause 31** and **32** of the Contract.

D. The Subcontractor agrees that AusAID may novate the Subcontract to another Contractor at its sole and absolute discretion in the event that AusAID has exercised its right under **Clause 31** and **32** of the Contract.

NOW THIS DEED WITNESSES AS FOLLOWS:

1. **DEFINITIONS**

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

"**Commencement Date**" has the same meaning as in the Contract;

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

"**Deed**" means this Deed of Novation;

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

"**Party**" means AusAID, the Subcontractor or the Contractor;

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

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

2. **APPLICATION OF DEED**

The Contractor and the Subcontractor agree that:

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

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

This Deed commences on the Commencement Date of the Subcontract.

3. **NOVATION**

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

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

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

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

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

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

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

4. **RELEASE**

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

5. **FURTHER ASSURANCES**

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

6. **DISCHARGE**

Neither the Subcontractor nor the Contractor are discharged or released or excused from this Deed by an arrangement made between the Contractor and the Subcontractor prior to

the issue of a notice of substitution with, by any change to the Subcontract, or by any forbearance whether as to payment, time or otherwise.

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

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

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

7. **NOTICES**

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

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

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

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

Address of Party

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

AusAID

To: **Desk Name**

Attention: Country Program Manager

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

Facsimile: **Desk Fax**

Contractor

To: **Contractor's Name**

Attention:

Address: **Contractor's Address**

Facsimile: **Contractor's Fax**

Subcontractor

To:

Attention:

Address:

Facsimile:

8. **LAWS**

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

9. **WARRANTY**

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

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

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

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

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

10. **GENERAL**

Counterparts

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

Attorneys

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

Further Assurance

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

Assignment

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

EXECUTED as a Deed.

SIGNED, for and on behalf of the **COMMONWEALTH OF AUSTRALIA** in the presence of:	)))	…….. Signature
…….. Signature of witness		
…….. Name of witness ***(Print)***		
SIGNED for and on behalf of ***[Subcontractor]*** by:	)))	
……..		……..
Director Name of Director ***(Print)***		Director/Secretary Name of Director/Secretary ***(Print)***
SIGNED for and on behalf of ***[Contractor]*** by:	)))	
……..		……..
Director Name of Director ***(Print)***		Director/Secretary Name of Director/Secretary ***(Print)***

SCHEDULE 7 – PERFORMANCE GUARANTEE

THIS DEED OF GUARANTEE is made the day of 20

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

AND **[ ]** ABN **[ ]**

('**Guarantor**')

RECITALS

A. AusAID wishes to procure certain services.

B. **Contractor's Name** ('**Contractor**') has agreed to supply the services to AusAID under the annexed Contract (the '**Contract**').

C. The Guarantor agrees to provide the guarantees and indemnities appearing in this Deed.

AGREEMENT

1. The Guarantor guarantees to AusAID the performance of the obligations undertaken by the Contractor under the Contract on the conditions set out in this Deed.

2. If the Contractor (unless relieved from the performance of the Contract by AusAID expressly or by statute or by a decision of a tribunal of competent jurisdiction) fails to execute and perform its obligations under the Contract, the Guarantor shall, if required to do so by AusAID, complete or cause to be completed the obligations set out in, and in accordance with the conditions of, the Contract. If the Contractor commits any breach of its obligations, and such breach is not remedied by the Guarantor under this Deed and the Contract is then terminated for default, the Guarantor shall indemnify AusAID against losses, damages, costs and expenses directly incurred by reason of that default.

3. The Guarantor shall not be discharged or released or excused from this Deed by an arrangement made between the Contractor and AusAID with or without the consent of the Guarantor, or by any alteration, amendment or variation in the obligations assumed by the Contractor or by any forbearance whether as to payment, time, performance or otherwise. The guarantee by the Guarantor in this Deed to assume the obligations of the Contractor shall continue in force and effect until completion of all the Contractor's obligations under the Contract or until the completion of the undertakings under this Deed by the Guarantor.

4. The undertakings of the Guarantor under this Deed shall not exceed the obligations of the Contractor under the Contract. Any liability of the Guarantor shall be coextensive, but not in excess of any liability of the Contractor to AusAID under the Contract. The Guarantor shall be entitled to all rights, privileges and defences otherwise available, to the Contractor with respect to any such liability, including without limitation all provisions of the Contract relating to the limitation of liability and the resolution of disputes.

5. This Deed is subject to, and is to be construed in accordance with, the laws in force in the Australian Capital Territory and the parties agree that the courts of that Territory have jurisdiction to entertain any action in respect of, or arising out of, this Deed and the parties submit themselves to the jurisdiction of those courts.

6. For the purpose of this Deed, where an obligation of the Contractor under the Contract has not been performed, the Contractor shall be taken to have failed to perform that obligation

notwithstanding that the Contractor has been dissolved or is subject to external administration procedures under chapter 5 of the *Corporations Law* or any other law.

7. The guarantee in this Deed is a continuing guarantee to AusAID until the obligations and liabilities of the Contractor under the Contract have in all respects been performed, observed and discharged.

8. The following notice arrangements apply:

   (a) notice or other communication which may be given to or served on the Guarantor under this Deed shall be deemed to have been duly given or served if it is in writing, signed on behalf of AusAID and is either delivered by hand, posted or faxed or a copy transmitted electronically to the Guarantor or its agent at any registered office of the Guarantor or posted to the Guarantor's address set out above or such other address as is notified in writing to AusAID from time to time;

   (b) a notice or other communication which may be given to or served on AusAID under this Deed shall be deemed to have been duly given or served if it is in writing, signed by or on behalf of the Guarantor and is either delivered by hand, posted or faxed or a copy transmitted electronically to AusAID at the address set out above or such other address as is notified in writing to the Guarantor from time to time;

   (c) a notice sent by post shall be deemed to have been given at the time when, in due course of transmission, it would have been delivered at the address to which it is sent; and

   (d) a notice sent by facsimile transmission or transmitted electronically shall be deemed to have been given when the machine on which the notice is sent reports that the notice has been transmitted satisfactorily.

SIGNED, for and on behalf of the **COMMONWEALTH OF AUSTRALIA** by:	)))	
In the presence of:		……..
……..		Name and Position ***(Print)***
Signature of witness		
……..		
Name of witness (print)		
SIGNED, for and on behalf of ***[Guarantor]*** by:	)))	
……..		……..
Director Name ***(Print)***		Director/Secretary Name ***(Print)***

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**. Late tenders that have been lodged electronically 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 (for each form 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. AUSTRALIAN GOVERNMENT AND AUSAID LAWS 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 Contractor acknowledges that the Privacy Act 1988 reflects the principles of the International Covenant on Civil and Political Rights and OECD Guidelines, in particular, the OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data.

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

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 7, Part 1**) as working with children.

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

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

(c) If any required Police Clearance Certificates are not provided to AusAID in accordance with **Clause 18.2** 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 or accounts 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 accounts 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.

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 Parties have attempted to agree on a process, or the appointment of the mediator or conciliator, then either Party is entitled to treat the mediation process as terminated and may, if it wishes, commence legal proceedings.

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

40. NOTICES

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

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

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

(c) on the Business Day of transmission (if given by facsimile and sent to the facsimile receiver number of that Party and no intimation having been received that the notice

had not been received, whether that intimation comes from that Party or from the operation of facsimile machinery or otherwise).

41. MISCELLANEOUS

41.1 Waiver

The failure, delay, relaxation or indulgence on the part of any Party in exercising any power or right conferred upon that Party by this Contract does not operate as a waiver of that power or right, nor does any single exercise of any power or right preclude any other or further exercise of it or the exercise of any other power or right under this Contract.

41.2 Liability of Party

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

41.3 Entire agreement

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

41.4 Severance

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

41.5 Assignment

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

41.6 Governing Law and Jurisdiction

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

41.7 Contra Proferentem

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

41.8 False and Misleading Information

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