



March 18, 2009

INVITATION TO BID
n° UNDP/ELECT/AFG/054/2009

Subject: Provision of scriptwriting, production and dissemination of radio and TV Public Service Announcement for electoral nomination in Afghanistan.

Deadline for Submission of Bids: 30th March 2009 4pm (16.00 hours) (Kabul local time)

Dear Sir/Madam,

1. United Nations Development Programme (UNDP) Afghanistan hereby solicits your offer and delivery schedule for the provision of the item described in Section 5 of this Invitation to Bid:
 - LOT 1: Provision of scriptwriting, production and dissemination of radio Public Service Announcement;
 - LOT 2: Provision of scriptwriting, production and dissemination of TV Public Service Announcement.

2. All bids are subject to the Instructions to Bidders and such other provisions, specifications and instructions as are attached or incorporated herein by reference (hereinafter collectively called " Invitation to Bid" or "ITB"). Solicitation documents hereunder include:
 1. [Section 1: Instructions to Bidders](#)
 2. [Section 2: Bid Data Sheet](#)
 3. [Section 3: Bid Submission Form](#)
 4. [Section 4: Scope of services](#)
 5. [Section 5: Price Schedule Form](#)
 6. [Section 6: General Terms and Conditions for professional services](#)

3. Your submission will be considered **upon the provision with this ITB the following**, failure in providing the requested documents may constitute grounds for disqualification of the bidder:
 - *Company Profile*
 - *Minimum of two years experience in the relevant field (Proof must be submitted)*
 - *Client list with details of previous contracts in the same business field (Reference List)*


Failure to adhere to the requirements of the ITB may constitute grounds for disqualification of the Bidder or, subsequently, the termination of an ensuing contract with prejudice to the supplier.

4. Interested Bidders may obtain further clarifications 5 calendar days before the deadline at the following address: procurement.elect@undp.org
5. Bids should be sent to the following address:

Courier service or personally to:

UNDP Afghanistan
ELECT PROJECT
In Bunker E ONLY
Shah Mahmood Ghazi Watt,
Kabul, Afghanistan

Clearly marked on the envelope or in the email subject-line should be: ITB ref no: UNDP/ELECT/AFG/054/2009- Provision of radio and TV spots

United Nations Development Programme <i>UNDP- AFGHANISTAN</i> <i>Procurement Unit</i> <i>ELECT project</i>	 U N D P	INVITATION TO BID <hr/> Number: UNDP/ELECT/AFG/054/2009-Provision of radio and TV spots for electoral nomination <hr/> All Correspondence, Each Case and Parcel must show the ITB Number
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6. Bids must be delivered to the above address before 4pm (16:00 hrs) Kabul local time, on 30th March 2009. Late bids shall be rejected.
7. Bids will be opened on the next day (31st March 2009) at **10:00 hours, Kabul local time, in Bunker E, ELECT project Procurement office in UNDP**, in the presence of bidders' representatives, who chose to attend at the address, date and time indicated in the Bidding Documents. Only Bidders who have submitted a Bid can participate in opening of bids. Unsolicited bidders are not allowed to attend.
8. This letter is not to be construed in any way as an offer of contract. Your bid could, however, form the basis for a contract between your company and UNDP Afghanistan.
9. Bidders are requested to acknowledge receipt of this ITB by E-mail to procurement.elect@undp.org and confirm their intent to bid. This will allow UNDP/ELECT Afghanistan to send technical clarifications if needed.

Sincerely,

Procurement Unit
ELECT project
UNDP Afghanistan
Procurement.elect@undp.org



SECTION 1: INSTRUCTIONS TO BIDDERS

A. Introduction

- 1) **General:** The Purchaser invites Sealed Bids for the provision of services to the UN system.
- 2) **Eligible Bidders:** Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design specifications, and other documents to be used for the procurement of goods to be purchased under this Invitation to Bids.
- 3) **Cost of Bid:** The Bidder shall bear all costs associated with the preparation and submission of the Bid, and the procuring UN entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the solicitation.

B. Solicitation Documents

- 4) **Examination of Solicitation Documents:** The Bidder is expected to examine all corresponding instructions, forms, terms and specifications contained in the Solicitation Documents. Failure to comply with these documents will be at the Bidder's risk and may affect the evaluation of the Bid.
- 5) **Clarification of Solicitation Documents:** A prospective Bidder requiring any clarification of the Solicitation Documents may notify the procuring entity in writing to procurement.elect@undp.org. The response will be made in writing to any request for clarification of the Solicitation Documents that it receives earlier than 5 calendar days prior to the Deadline for the Submission of Bids. Written copies of the response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective Bidders that acknowledged receipt of the Solicitation Documents.
- 6) **Amendments of Solicitation Documents:** No later than 1 week prior to the Deadline for Submission of Bids, the procuring entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, amend the Solicitation Documents. All prospective Bidders that have acknowledged receipt of the Solicitation Documents will be notified in writing of any amendments. In order to afford prospective Bidders reasonable time in which to take the amendments into account in preparing their offers, the procuring entity may, at its discretion, extend the Deadline for the Submission of Bids.

C. Preparation of Bids

- 7) **Language of the Bid:** The Bid prepared by the Bidder and all correspondence and documents relating to the Bid exchanged by the Bidder and the procuring entity shall be written in the language indicated on the Bid Data Sheet.

8) Documents Comprising the Bid:

The Bid must comprise the following documents:

- (a) Bid Submission form;
- (b) Price Schedule completed in accordance with the Section 4 and clause 11 of Instructions to Bidders;
- (c) documentary evidence established in accordance with clause 9 of Instructions to Bidders that the Bidder is eligible to and is qualified to perform the contract if its Bid is accepted,
- (d) documentary evidence established in accordance with clause 10 of Instructions to Bidders that the services to be provisioned by the Bidder are eligible services and conform to the Bidding Documents;

9) Documents Establishing Bidder's Eligibility and Qualifications:

The Bidder shall furnish evidence of its status as qualified Supplier. The documentary evidence of the Bidder's qualifications to perform the contract if its Bid is accepted shall be established to the Purchaser's satisfaction: That the Bidder has the financial, technical, and production capability necessary to perform the contract.

**10) Documents Establishing Goods' Conformity to Bidding Documents:**

The Bidder shall also furnish as part of its Bid, documents establishing the conformity to the Bidding Documents of all goods and related services which the Bidder proposes to supply under the contract.

The documentary evidence of conformity to the Bidding Documents may be in the form of literature, drawings, and data, and shall consist of:

- a) **Descriptive Work plan:** A detailed description of services offered and submitting a detailed work plan for execution of requested services for each lot submitted.
- b) **Time schedule for dissemination:** for each lot submitted.

11) **Bid Currencies/Bid Prices:** All prices shall be quoted in US dollars or any other convertible currency. The Bidder shall indicate on the appropriate Price Schedule the unit prices (where applicable) and total Bid Price of the goods it proposes to supply under the contract.

12) **Period of Validity of Bids:** Bids shall remain valid for 120 days after the date of Bid Submission prescribed by the procuring UN entity pursuant to clause 16 of Instructions to Bidders. A Bid valid for a shorter period may be rejected as non-responsive pursuant to clause 20 of Instructions to Bidders. In exceptional circumstances, the procuring UN entity may solicit the Bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. Bidders granting the request will not be required nor permitted to modify their Bids.

13) **Bid Security:**

Not applicable

D. Submission of Bids

14. **Format and Signing of Bid:** The Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. A Bid shall contain no interlineations, erasures, or overwriting except, as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the bid.

15. Sealing and Marking of Bids:

15.1 The envelope shall:

- (a) be addressed to the Purchaser at the address given in section I of these Solicitation Documents; and
- (b) make reference to the "subject" indicated in section I of these Solicitation Documents, and a statement: "DO NOT OPEN BEFORE", to be completed with the time and the date specified in section I of these Solicitation Documents for Bid Opening pursuant to clause 16 of Instructions to Bidders.

15.3 The envelope shall also indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared "late".

15.4 If the envelope is not sealed and marked as required by clause 15.2 of Instructions to Bidders, the Purchaser will assume no responsibility for the Bid's misplacement or premature opening.

16. Deadline for Submission of Bids/Late Bids:

16.1 Bids must be delivered to the office on or before the date and time specified in section I of these Solicitation Documents.

16.2 The Purchaser may, at its discretion, extend this deadline for the submission of the bids by amending the Bidding Documents in accordance with clause 6 of Instructions to Bidders, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.

16.3 Any Bid received by the Purchaser after the Deadline for Submission of Bids will be rejected and returned unopened to the Bidder.



17. **Modification and Withdrawal of Bids:** The Bidder may withdraw its Bid after submission, provided that written notice of the withdrawal is received by the procuring UN entity prior to the deadline for submission. No Bid may be modified after passing of the Deadline for Submission of Bids. No Bid may be withdrawn in the interval between the Deadline for Submission of Bids and the expiration of the Period of Bid Validity.

E. Opening and Evaluation of Bids

18. Opening of Bids:

18.1 The Purchaser will open all Bids in the presence of Bidders' Representatives who choose to attend, at the time, on the date, and at the place specified in section I of this Solicitation Document. The Bidders' Representatives who are present shall sign a register evidencing their attendance.

18.2 The bidders' names, Bid Modifications or withdrawals, bid Prices, discounts, and the presence or absence of requisite Bid Security and such other details as the purchaser, at its discretion, may consider appropriate, will be announced at the opening. No Bid shall be rejected at Bid Opening, except for Late Bids, which shall be returned unopened to the Bidder pursuant to clause 20 of Instructions to Bidders.

18.3 Bids (and modifications sent pursuant to clause 17 of Instructions to Bidders) that are not opened and read out at Bid Opening shall not be considered further for evaluation, irrespective of the circumstances. Withdrawn Bids will be returned unopened to the Bidders.

18.4 The Purchaser will prepare minutes of the Bid Opening.

19. **Clarification of Bids:** To assist in the examination, evaluation and comparison of Bids the procuring UN entity may at its discretion ask the Bidder for clarification of its Bid. The request for clarification and the response shall be in writing and no change in price or substance of the Bid shall be sought, offered or permitted.

20. Preliminary Examination:

20.1 Prior to the detailed evaluation, the Purchaser will determine the substantial responsiveness of each Bid to the Invitation to Bid (ITB). A substantially responsive Bid is one which conforms to all the terms and conditions of the ITB without material deviations.

20.2 The Purchaser will examine the bids to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed, and whether the bids are generally in order.

20.3 Arithmetical errors will be rectified on the following basis: If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If the Bidder does not accept the correction of errors, its Bid will be rejected. If there is a discrepancy between words and figures the amount in words will prevail.

20.4 A Bid determined as not substantially responsive will be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the non-conformity.

21. **Conversion to Single Currency:** To facilitate evaluation and comparison, the Purchaser will convert all Bid Prices expressed in the amounts in various currencies in which the Bid Prices are payable to US dollars at the official UN exchange rate on the last day for Submission of Bids.

22. **Evaluation of Bids:** Determination of compliance with the Solicitation Documents is based on the content of the Bid itself without recourse to extrinsic evidence.

Evaluation Criteria	
1.1	Compliance with pricing conditions set in the ITB.
1.2	Compliance with requirements relating to technical design features or the product's ability to satisfy functional requirements.
1.3	Compliance with Special and General Conditions specified by these Solicitation Documents.
1.4	Compliance with start-up, delivery or installation deadlines set by the procuring entity.



1.5	Demonstrated ability to comply with critical provisions such as execution of the Purchase Order by honoring the tax-free status of the UN.
1.6	Demonstrated ability to honor important responsibilities and liabilities allocated to Supplier in this ITB (e.g. performance guarantees, warranties, or insurance coverage, etc).
1.7	Proof of after-sales service capacity and appropriateness of service network.

F. Award of Contract

23. **Award Criteria:** The procuring UN entity will Issue the Purchase Order to the lowest priced technically qualified Bidder. The Purchaser reserves the right to accept or reject any Bid, to annul the solicitation process and reject all Bids at any time prior to award of purchase order, without thereby incurring any liability to the affected Bidder(s) or any obligation to provide information on the grounds for the purchaser's action.
24. **Purchaser's Right to Vary Requirements at Time of Award:** The Purchaser reserves the right at the time of making the award of contract to increase or decrease by up to 20 % the quantity of radio or TV stations specified in the Schedule of Requirements without any change in unit price or other terms and conditions.
25. **Notification of Award:** Prior to the expiration of the period of Bid Validity, the Purchaser will send the successful Bidder the Purchase Order. The Purchase Order may only be accepted by the Supplier's signing and returning an acknowledgement copy of it or by timely delivery of the goods in accordance with the terms of this purchase order, as herein specified. Acceptance of this Purchase Order shall effect a contract between the parties under which the rights and obligations of the parties shall be governed solely by the terms and conditions of this purchase order.
26. **Signing of the Purchase Order:** Within 30 days of receipt of the Purchase Order the successful Bidder shall sign, date and return it to the purchaser.

**SECTION 2: BID DATA SHEET**

The following specific data for the goods and services to be procured shall complement, supplement or amend the provisions in the Instructions to Bidders.

Whenever there is a conflict, the provisions herein shall prevail.

Deadline for Submission of Bids:	30th March 2009, 4pm (16:00 hours) (Kabul local time)	
Opening of bids	31st March 2009, 10am (10:00 hours) (Kabul local time)	
Bids to be received at:/Bids to be marked:	UNDP Afghanistan ELECT Project BUNKER E only Shah Mahmood Ghazi Watt, Kabul, Afghanistan	“ATTENTION: “ PROCUREMENT UNIT – ELECT PROJECT” to be delivered in Bunker E only SEALED BID NO: UNDP/ELECT/AFG/054/2009- Radio and TV spots for nomination DEADLINE: Before or on 30 March 2009, 4pm (16:00 hours) Kabul local time NOT TO BE OPENED before deadline
<p>Bids are to be submitted by the deadline as stipulated above either as sealed bids or by e-mail provided that they are <u>signed and stamped</u> in all relevant places. E-mail bids must be sent <u>in pdf format</u> together with all technical details ONLY to: procurement.elect@undp.org and must not exceed 3MB. Where the technical details are in large electronic files, UNDP/ELECT recommends these are sent separately but to arrive before the deadline.</p> <p>Send your Bid in good time (<u>this also applies to e-mail</u>). It is the Bidder’s responsibility to ensure that bids are received by the deadline.</p> <p><u>Bids submitted by fax or to any other e-mail address will be rejected. Late bids will not be accepted.</u></p>		
Documents Establishing Bidder’s Eligibility & Qualifications	Required.	
Preliminary Examination – completeness of bid.	Partial bid within a LOT will not be considered. Each LOT will be evaluated separately.	
Bid Security	NOT REQUIRED	
Delivery terms:	First day to broadcast the PSA 18 April. Last day to broadcast the PSA 27 April. The period of placement is not negotiable	
Mode of Delivery:	NA	
Goods for use in (Country):	NA	
Bid Validity Period:	120 days.	
Deviations:	Any deviation from the scope of services must be disclosed in writing in your bid.	
Language of the Bid:	English.	
Written communication must be directed to UNDP Afghanistan office:	UNDP Afghanistan ELECT project E-Mail: procurement.elect@undp.org	
Requests for additional information:	Must be received at least five (5) working days before the Deadline for Submission of bids. Bidders are encouraged to raise queries as early as possible.	



Bid submission:	<p>THE FOLLOWING MUST BE INCLUDED IN THE BID SUBMISSION :</p> <p>A) COMMERCIAL</p> <ol style="list-style-type: none"> Bid submission form: Fully completed and duly authorized (see section 3). Price schedule form: Fully completed and duly authorized (see section 5) <p>B) TECHNICAL</p> <ol style="list-style-type: none"> Descriptive Work plan: Giving full details of services offered and submitting a detailed work plan for execution of requested services for each lot submitted. Time schedule for dissemination: for each lot submitted. <p>C) SUPPLIER QUALIFICATION</p> <ol style="list-style-type: none"> Profile of the company: Giving a brief description of the company <u>including copy of company registration documents.</u> Details of years in business: The company must document having a minimum of two years experience in the relevant line of business. Client list with details of previous contracts in the same business field. <p>Failure to provide all the above mentioned information may result in the bid being rejected. Bids that are unclear or leave room for interpretation will be considered non-responsive and will not be evaluated.</p>
Bid Evaluation Criteria:	<p>Bids will be evaluated on the following basis:</p> <ol style="list-style-type: none"> Compliance with terms and conditions of the ITB, including those which concern bid submission. Compliance with scope of services: descriptive and detailed work plan and time schedule Price <p>The bidders can chose not to submit a bid for one lot. Partial bid within a LOT will not be considered. Each LOT will be evaluated separately.</p> <p><u>UNDP Afghanistan seeks the lowest, technically compliant and fully responsive bid.</u></p>
Final quantities required:	Final quantities required (the number of TV and radio stations), as a result of this Invitation to Bid, may vary up to $\pm 20\%$ from those indicated in Section 5, Price & delivery.
Confidentiality	The contractor will observe professional secrecy/confidentially for the entire duration of the contract and after his completion on confidential information retrieved by the Administration of the State Border Guard Service of Afghanistan for the purpose of implementing the contract.
Company Information:	Bidders not registered in the United Nations Global Marketplace (database of suppliers) are encouraged to do so. For information on registration procedures, please www.ungm.org .



SECTION 3: BID SUBMISSION FORM

Must be duly completed by the Bidder and returned with the Bid

To: United Nations Development Programme (UNDP)
Procurement Unit of the ELECT project
BUNKER E
Shah Mahmood Ghazi Watt. Kabul, Afghanistan
+93 20 2101682-91 / +873 763 468 863

Dear Sir/Madam,

Having examined the above referenced Bidding Documents, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver goods as described in Section 6 (Supply Requirements) of this **ITB n° UNDP/ELECT/AFG/054/2009-Provision of radio and TV Public Services Annoucement** in conformity with the said bidding documents for the sum of *[total bid amount in words and figures]* as may be ascertained in accordance with the Price Schedule Form attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to deliver the goods in accordance with INCOTERMS 2000 and the delivery schedule specified in the Bidding Documents.

Provided that a purchase order is issued by UNDP Afghanistan within Bid Validity Period, the undersigned hereby offers, subject to the terms of such purchase order, to furnish any or all items at the prices offered and to deliver same to the designated point(s) within the delivery time stated in the price schedule attached to this form.

We understand that you are not bound to accept any Bid you may receive.

Name of Bidder

Address of Bidder

Authorised Signature

Date:

Name of Authorised Signature (type or print)

Functional Title of Signatory



SECTION 4: Scope of services

The UNDP/ELECT Project in Afghanistan supports the work of the Independent Electoral Commission in the planning and implementation of the 2009 and 2010 electoral processes.

In addition, the project includes a broader scope of services designed to contribute to a conducive environment for elections wherein police, candidates/agents, domestic observers and the media each play a more positive role in the electoral process according to their mandates, and to informed participation of the Afghan electoral role in the 2009 and 2010 elections.

In this context, some Public Service Announcements (PSA) should be disseminated by radio and TV to announce the start of the Nomination period.

During the Nomination period, the Afghans interested in becoming presidential and provincial council candidates will have the possibility to present their candidature.

The services have been divided into two lots.

Bidders can choose to bid for one, or both LOTS.

LOT 1: Radio PSA

Quantity:	2 PSA (1 radio PSA in Dari & 1 radio PSA in Pashto)
Time per PSA:	60 seconds maximum
Placement:	The 2 radio PSAs will be placed on 30 radio stations chosen by the service provider in consultation with the IEC Public Outreach Department [POD] among the most influential radio stations in Afghanistan. On each radio station the 2 radio PSAs will be broadcast 6 times per day at peak times during a period of 10 days.
Period of placement:	First day to broadcast the PSA 18 April. Last day to broadcast the PSA 27 April. The period of placement is not negotiable.
Object of the PSA:	The radio and TV PSA will briefly explain how to become a candidate, where and when. The service provider will develop the script in coordination with the IEC POD.
Proof:	The service provider is obliged to submit the final versions of the radio and TV PSA before broadcasting.
Brand:	The radio and TV PSA will use the jingle, colours and symbol of the IEC to open and conclude the radio and TV PSA. This will be in line with the IEC radio and TV PSA that were produced for the voter registration.
Ownership:	the IEC will own the copyright of the 4 PSA

LOT 2: TV PSA

Quantity:	2 PSA (1 radio PSA in Dari & 1 radio PSA in Pashto)
Time per PSA:	60 seconds maximum
Placement:	The 2 TV PSA will be placed on 10 TV stations chosen by the service provider in consultation with the IEC POD among the most watched and influential TV stations in Afghanistan. On each TV station the 2 TV PSA will be broadcast twice a day at peak times during a period of 10 days.
Period of placement:	First day to broadcast the PSA 18 April. Last day to broadcast the PSA 27 April. The period of placement is not negotiable.
Object of the PSA:	The radio and TV PSA will briefly explain how to become a candidate, where and when. The service provider will develop the script in coordination with the IEC POD.
Proof:	The service provider is obliged to submit the final versions of the radio and TV PSA before broadcasting.
Brand:	The radio and TV PSA will use the jingle, colours and symbol of the IEC to open and conclude the radio and TV PSA. This will be in line with the IEC radio and TV PSA that were produced for the voter registration.
Ownership:	the IEC will own the copyright of the 4 PSA



Section 5: Price Schedule Form/Delivery Schedule

VALIDITY OF PRICES:

- Prices shall remain valid for a period of 120 days from submission of the bids. UNDP shall have the right to order goods at any time during this validity period, if required.
- All costs/unit prices must be exclusive of customs, taxes and duties.

ADVANCE PAYMENT:

The Financial Regulations and Rules of UNDP preclude advance payments or payments by Letters of Credit. Such provisions will be prejudicial to its evaluation by UNDP. The normal payment terms of UNDP are 30 days upon satisfactory completion of goods or services and acceptance thereof by UNDP.

Must be duly completed by the Bidder and returned with the Bid. Supplementary information shall be attached according to the requirements herein.

LOT 1: RADIO SPOTS

Description of Services	Duration for dissemination of radio spots	Frequency	Qty	Cost per services (including all associated cost) USD		Total Amount USD
Script Writing of the radio PSA in Dari and in Pashtu	NA	NA	2 (1 in Dari & 1 in Pashtu)	-	Per script	-
Production of the 2 scripts above	N/A	N/A	2 (1 in Dari & 1 in Pashtu)	-	Per script	-
Dissemination**:	10 Days (From 18 April 2009 to 27 April 2009 included)	6 (times a day)	30 (radio stations)	-	Per radio station	-
** Dissemination formula (as above): 10 x 6 x 30 x cost = Total Cost						
Grand total in USD						-

LOT 2: TV SPOTS

Description of Services	Duration for dissemination of radio spots	Frequency	Qty	Cost per services (including all associated cost) USD		Total Amount USD
Script Writing of the TV PSA in Dari and in Pashtu	NA	NA	2 (1 in Dari & 1 in Pashtu)	-	Per script	-
Production of the 2 scripts above	N/A	N/A	2 (1 in Dari & 1 in Pashtu)	-	Per script	-
Dissemination**:	10 Days (From 18 April 2009 to 27 April 2009 included)	2 (times a day)	10 (TV stations)	-	Per radio station	-
** Dissemination formula (as above): 10 x 6 x 30 x cost = Total Cost						
Grand total in USD						-



Please confirm hereafter:

Payment terms : 30 days after receipt

Validity : 120 days

Name of the company : _____

Address of company : _____

Name of authorised Representative : _____

Phone number : _____

Email address : _____

Signature : _____

Date : _____



SECTION 6: GENERAL TERMS & CONDITIONS FOR PROFESSIONAL SERVICES

1.0 LEGAL STATUS: The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis the United Nations Development Programme (UNDP). The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

2.0 SOURCE OF INSTRUCTIONS: The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action that may adversely affect UNDP or the United Nations and shall fulfill its commitments with the fullest regard to the interests of UNDP.

3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES: The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

4.0 ASSIGNMENT: The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

5.0 SUB-CONTRACTING: In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

6.0 OFFICIALS NOT TO BENEFIT: The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7.0 INDEMNIFICATION: The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:

8.1 The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

8.2 The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or the equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

8.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.

8.4 Except for the workmen's compensation insurance, the insurance policies under this Article shall:

8.4.1 Name UNDP as additional insured;

8.4.2 Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the UNDP;

8.4.3 Provide that the UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

8.5 The Contractor shall, upon request, provide the UNDP with satisfactory evidence of the insurance required under this Article.

9.0 ENCUMBRANCES/LIENS: The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

10.0 TITLE TO EQUIPMENT: Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

11.1 Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.

11.2 To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-existed the



performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

11.3 At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.

11.4 Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of the UNDP, shall be made available for use or inspection by the UNDP at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to UNDP authorized officials on completion of work under the Contract.

12.0 USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS: The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or THE United Nations, or any abbreviation of the name of UNDP or United Nations in connection with its business or otherwise.

13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION: Information and data that is considered proprietary by either Party and that is delivered or disclosed by one Party ("Discloser") to the other Party ("Recipient") during the course of performance of the Contract, and that is designated as confidential ("Information"), shall be held in confidence by that Party and shall be handled as follows:

13.1 The recipient ("Recipient") of such information shall:

13.1.1 use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and,

13.1.2 use the Discloser's Information solely for the purpose for which it was disclosed.

13.2 Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 13, the Recipient may disclose Information to:

13.2.1 any other party with the Discloser's prior written consent; and,

13.2.2 the Recipient's employees, officials, representatives and agents who have a need to know such Information for purposes of performing obligations under the Contract, and employees officials, representatives and agents of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know such Information for purposes of performing obligations under the Contract, provided that, for these purposes a controlled legal entity means:

13.2.2.1 a corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; or,

13.2.2.2 any entity over which the Party exercises effective managerial control; or,

13.2.2.3 for the UNDP, an affiliated Fund such as UNCDF, UNIFEM and UNV.

13.3 The Contractor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor will give the UNDP sufficient prior notice of a request for the disclosure of Information in order to allow the UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

13.4 The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.

13.5 The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.

13.6 These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract.

14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

14.1 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the UNDP of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

14.2 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

14.3 Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.

14.4 The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

15.0 TERMINATION



15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 ("Arbitration"), below, shall not be deemed a termination of this Contract.

15.2 UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

15.3 In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.

15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

16.0 SETTLEMENT OF DISPUTES

16.1 Amicable Settlement: The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

16.2 Arbitration: Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party's written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983 edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 ("Interim Measures of Protection") and Article 32 ("Form and Effect of the Award") of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate ("LIBOR") then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

17.0 PRIVILEGES AND IMMUNITIES: Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

18.0 TAX EXEMPTION

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.

18.2 Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19.0 CHILD LABOUR

19.1 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

19.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20.0 MINES:

20.1 The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

20.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21.0 OBSERVANCE OF THE LAW: The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

22.0 SEXUAL EXPLOITATION:



22.1 The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

22.2 The UNDP shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the Contract.

23.0 AUDITS AND INVESTIGATIONS:

23.1- Each invoice paid by UNDP shall be subject to a post-payment audit by auditors, whether internal or external, of UNDP or the authorized agents of the UNDP at any time during the term of the Contract and for a period of three (3) years following the expiration or prior termination of the Contract. The UNDP shall be entitled to a refund from the Contractor for any amounts shown by such audits to have been paid by the UNDP other than in accordance with the terms and conditions of the Contract. Should the audit determine that any funds paid by UNDP have not been used as per contract clauses, the company shall reimburse such funds forthwith. Where the company fails to reimburse such funds, UNDP reserves the right to seek recovery and/or to take any other action as it deems necessary.

23.2- The Contractor acknowledges and agrees that, at anytime, UNDP may conduct investigations relating to any aspect of the Contract, the obligations performed under the Contract, and the operations of the Contractor generally. The right of UNDP to conduct an investigation and the Contractor's obligation to comply with such an investigation shall not lapse upon expiration or prior termination of the Contract. The Contractor shall provide its full and timely cooperation with any such inspections, post-payment audits or investigations. Such cooperation shall include, but shall not be limited to, the Contractor's obligation to make available its personnel and any documentation for such purposes and to grant to UNDP access to the Contractor's premises. The Contractor shall require its agents, including, but not limited to, the Contractor's attorneys, accountants or other advisers, to reasonably cooperate with any inspections, post-payment audits or investigations carried out by UNDP hereunder.

24.0 ANTI-TERRORISM: The Contractor agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received under this Contract are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not

appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via

<http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>.

This provision must be included in all sub-contracts or sub-agreements entered into under this Contract.

25.0 SECURITY:

25.1 The responsibility for the safety and security of the Contractor and its personnel and property, and of UNDP's property in the Contractor's custody, rests with the Contractor.

25.2 The Contractor shall:

- (a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the services are being provided;
- (b) assume all risks and liabilities related to the Contractor's security, and the full implementation of the security plan.

25.3 UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this contract. Notwithstanding the foregoing, the Contractor shall remain solely responsible for the security of its personnel and for UNDP's property in its custody as set forth in paragraph 3.1 above.

26.0 AUTHORITY TO MODIFY: Pursuant to the Financial Regulations and Rules of UNDP, only the UNDP Authorized Official possesses the authority to agree on behalf of UNDP to any modification of or change in this Agreement, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in this Contract shall be valid and enforceable against UNDP unless provided by an amendment to this Agreement signed by the Contractor and jointly by the UNDP Authorized Official.