

Attachment to RFP of Democracy International for  
Supplier for  
Support to Electoral Integrity Activity in Bosnia and Herzegovina

**SUBCONTRACT AGREEMENT  
BETWEEN**

**Democracy International, Inc.  
And**

**ORGANIZATION NAME**

Sub-Contract No. **SUBCONTRACT #**

Under

Contract No. **72016823C00001**

With the

U.S. Agency for International Development

This Subcontract Agreement (the “Subcontract” or the “Agreement”), dated effective as of **EFFECTIVE DATE** (the “Effective Date”), is between Democracy International, Inc., located at 7600 Wisconsin Avenue, Bethesda, MD 20814 (“DI” or “Prime Contractor”), and **ORGANIZATION NAME** (“**ORG SHORT NAME**” or “Subcontractor”), located at **ORG ADDRESS**. Each is sometimes referred to herein as a “Party;” collectively, they are the “Parties.”

This Subcontract sets forth the terms and conditions by which Subcontractor will provide, and DI will acquire, certain goods and/or services and deliverables to assist DI to perform its obligations under the **72016823C00001** (the “Prime Contract”) contract between DI and the U.S. Agency for International Development (“USAID” or the “Client”) for **Support to Electoral Integrity Activity** (“SEI”) (the “Project”) in **Bosnia and Herzegovina** (“BiH”) (the “Cooperating Country”). Under this Subcontract, Subcontractor is providing such goods and/or services and deliverables to DI under a cost plus fixed fee contracting arrangement.

DI and Subcontractor agree as follows:

## **1. Scope of Work**

### **1.1 General Responsibilities**

DI hereby agrees to engage Subcontractor to assist DI’s performance of the Prime Contract by providing certain goods and services, as deliverables, as described in the Scope of Work (“SOW”) (sometimes referred herein as the “Work”), which is hereby incorporated into this Contract as **Attachment A.**

### **1.2 Period and Place of Performance; Option to Extend**

This Subcontract will be effective from the Effective Date through **END DATE**, unless it is extended by mutual agreement evidenced by a written modification to this Subcontract, or earlier terminated in accordance with this Subcontract. Work will be conducted in **BiH**.

DI has the option to extend the period of performance by written notice to the Subcontractor. To exercise this right, DI must provide the Subcontractor notice of its intent to extend at least 30 days before the period of performance would otherwise expire.

### **1.3 Supervision and Reporting**

The Subcontractor will report directly to DI’s \_\_\_\_\_ (the “Contract Supervisor”). The Contract Supervisor shall be responsible for the supervision of the Subcontractor’s work, as well as evaluation of the Subcontractor’s performance, including the quality and sufficiency of all deliverables. The Contract Supervisor will facilitate all communication

between the Subcontractor and other DI staff members, consultants, or other subcontractors, as necessary.

## 2. Contract Type, Costs, Values, and Fixed Fee

a. This is a firm fixed price contract. The Subcontractor shall provide the deliverables required hereunder for the consideration set forth in the Scope of Work, in accordance with the provisions of this Subcontract and any flow-down government clauses incorporated herein. The “Total Contract Amount” is defined in Attachment A and represents the maximum payment amount for the period of performance, unless modified by the Parties in writing. Funding of this Agreement is conditioned upon continued funding by USAID, which funding may be obligated by USAID in installments.

## 3. General Provisions

This Subcontract is based on, and is subject to, the following:

- a. The Proposal submitted by Subcontractor to DI in response to the Request for Proposal (“RFP”) related to this Subcontract.
- b. DI’s Prime Contract with USAID.
- c. Applicable sections of the U.S. Agency for International Development Acquisition Regulation (AIDAR).
- d. Applicable sections of USAID Travel and Transportation Regulations.
- e. Applicable sections of the Federal Acquisition Regulation (FAR).
- f. To the extent not included in the foregoing sections, US Government laws and regulations prohibiting US funds to be paid to parties involved in, or supporting, terrorism, drug trafficking, or trafficking in persons.
- g. The FAR and AIDAR provisions attached hereto as **Attachment B** and the Special Contract Requirements attached hereto as **Attachment C** are hereby incorporated into this Agreement. With regards to Attachment B, if Subcontractor is determined to be a provider of commercial services or commercial products, then only FAR or AIDAR causes that are mandatory for a subcontract for commercial services shall be incorporated into this Agreement. Subcontractor agrees to be bound by, and perform the services and deliver the deliverables in accordance with, Attachments B and C. To the extent Attachments B and C identify FAR, AIDAR, and other government-issued clauses by

reference, all such clauses are incorporated by reference with the same force and effect as if set forth in full text.

h. It is intended that Attachment B and Attachment C shall apply to Subcontractor in such manner as is necessary to reflect the Subcontractor's status under this Agreement as a subcontractor to DI, to ensure Subcontractor's obligations to DI and to the Client, and to enable DI to meet its obligations under the Prime Contract. Therefore, subject to subsection 3.i below, for purposes of this Agreement references in Attachment B, where appropriate the term "Government," "Contracting Officer," "Agreement Officer," "Contracting Officer's Representative," "COR," "USAID," and similar term designating a Government agency or official shall mean "DI" and the term "Contractor" shall mean "Subcontractor."

i. Notwithstanding subsection 3.g, the terms "Government," "Contracting Officer," "Agreement Officer", "Contracting Officers Representative," and their substantive equivalents do not change when a right, act, authorization, or obligation under such clause can only be granted to or performed by the Government or a Government representative, including but not limited to (i) audit rights of Subcontractor's proprietary business records or (ii) any indemnification or limitation of liability obligation, which obligation shall remain with the Government.

#### **4. Invoicing; Closeout**

a. Contractor will submit invoices to DI for payment within five (5) business days after the end of each month in which Contractor has delivered work and/or incurred costs under this Subcontract, unless otherwise agreed by the Parties in writing.

b. Unless otherwise agreed by the Parties in writing, each invoice shall contain the following information:

- i. Contractor's name and address.
- ii. The Prime Contract number (i.e., 72016823C00001).
- iii. The Agreement Number (i.e., SUBCONTRACT #).
- iv. The period covered by the invoice and the date(s) the goods and services were provided.
- v. A detailed description of the deliverables (goods or services) that are subject of the invoice.
- vi. The invoice amount.
- vii. A breakdown, both cumulative and for the period covered by the invoice, of the following, as applicable:
  - A. The name and functional specialty of each individual (US, CCN and TCN) who provided services

- B. The daily rate for any individual billed under the invoice
  - C. The number of days, or fractions thereof, provided by each such individual
  - D. The total cost of each individual's services (daily rate times the number of days worked)
  - E. Information about all other costs attributable to the Project in the given time period in reasonable detail.
- viii. In column format, the applicable budget amount, the budget line item in which each requested fee or cost falls, the amount of fees and costs previously billed, the total amount billed to date, and the total amount remaining (for each budget line item and in aggregate).
- ix. Any other information reasonably requested by DI.
- c. Each invoice shall also include a certification signed by an authorized officer of the Subcontractor substantially the same as the following:
- “I hereby certify that, to the best of my knowledge and belief, all payments requested are correct, accurate and complete, that payment therefore has not been received, and that all amounts requested are for the appropriate purposes and in accordance with the Agreement.”
- d. If DI is reimbursing Contractor for costs incurred, then DI shall have no obligation to pay any amounts to Contractor that constitute unallowable costs under the applicable Government cost principles set forth at 48 CFR Part 31 and available on-line at [www.ecfr.gov](http://www.ecfr.gov) or any successor website.
- e. If DI accepts the goods, services, and deliverables covered by the invoice, then the invoice will be eligible for payment by DI. If DI rejects all or part of the goods, services, and deliverables covered by the invoice, DI shall pay Subcontractor only for the portion of the invoice related to accepted goods, services, and deliverables.
- f. Subject to the above, DI shall pay Subcontractor within thirty (30) calendar days of approval of an invoice acceptable in form and substance by bank transfer pursuant to written bank instructions provided by Subcontractor to DI in accordance with the notice provisions hereof.
- g. Subcontractor will permit designated audit staff from DI, USAID, the US Comptroller General, or any of their duly authorized representatives to have access to any books, documents, papers and records of the Subcontractor which are directly pertinent to a specific program for the purpose of making audits, examinations, excerpts and transcriptions.

h. Subcontractor will maintain records of all activities and transactions related to the Agreement for at least three (3) years after final payment. DI retains the right, at its discretion, to have its designated audit staff examine all or a sample of the Subcontractor’s records or transactions related to the Agreement where concerns of irregularities or other concerns arise, for a period of seven (7) years following the end of the Agreement.

i. Failure to submit accurate financial documentation following the contractual requirements, or which are not submitted in a timely fashion; or which impede effective oversight of the Project or Program; or which constitute an appearance of impeding effective oversight, will constitute a failure to comply with the terms and conditions of this Agreement.

j. Subcontractor must mark its final invoice as “Final” and submit such final invoice to be received by DI no later than forty five (45) days after termination of this Agreement.

k. Upon written request from DI, Subcontractor shall assist DI with completion of Subcontract closeout actions. The written request shall indicate the applicable subcontract closeout package (“Closeout Package”). Documentation includes but is not limited to, Subcontractor release of claims; Subcontractor’s assignment of refunds, rebates, credits, and other amounts; and any other reasonably requested documentation or information that the Prime Contractor requests to close out the Subcontract.

l. All cost-reimbursement payments to Subcontractor are considered provisional and subject to adjustment in the event such adjustment is required as a result of an audit conducted or required by applicable regulations.

## 5. Subcontract Administration

In regard to administrative and contractual matters relating to this Subcontract, the Subcontractor hereby appoints the below-listed persons, or their duly authorized designees, as the only persons empowered to make commitments on its behalf to effect changes to any portion of this Subcontract.

	<b>For Contractor:</b>		<b>For Democracy International:</b>
Name:	NAME TITLE	Name:	Evan Smith, Senior Vice President
Address:	ORG ADDRESS	Address:	7600 Wisconsin Ave, Suite 1010. Bethesda, MD 20814, USA
e-mail	EMAIL	e-mail	esmith@democracyinternational. com

## 6. Privity of Contract; Communication with Client; Publicity

a. The contractual relationship for this Subcontract is between DI and Subcontractor. There is no privity of contract between Subcontractor and USAID.

b. All communications between Subcontractor and USAID regarding this Subcontract must be approved in advance by DI. In no event shall Subcontractor provide cost estimates or work products directly to USAID or any other third party, without prior written consent of DI.

c. Under no circumstances shall Subcontractor act upon directions given by a representative of USAID without the specific written authorization by DI. DI will not be liable for costs of work performed or goods provided by Subcontractor outside of these terms. If Subcontractor receives technical direction from any representative of USAID, Subcontractor shall notify DI as soon as possible and receive specific written authorization from DI before taking any action based upon such direction.

d. If Subcontractor receives any communications regarding this Subcontract or the Prime Contract directly from a USAID Mission, Subcontractor shall immediately notify DI.

e. The Subcontractor agrees not to make any public statements or to release any publicity concerning this Agreement or the Project, without the prior written consent of DI. This provision shall not apply to any disclosure deemed by Subcontractor's counsel to be required by law or by regulation of any federal, state, or local government agency.

f. Subcontractor shall comply with the Packaging and Marking requirements set forth in the Prime Contract's Section "Packaging and Marking" including the requirements of **Attachment C** hereto." Unless DI determines that the goods or services are being acquired for its own or DI's administrative use, Subcontractor agrees to follow the branding requirements provided by DI and to refrain from using any branding on any signage, letterhead, business cards, or other written or electronic documents or communications not expressly provided for in those branding requirements.

## 7. Independent Subcontractor

Nothing in this Agreement shall be deemed to constitute, create, give effect to, or otherwise recognize a joint venture, partnership, or formal business entity of any kind, and the rights and obligations of the parties shall be limited to those expressly set forth herein. The cooperation of the parties is for the purpose of complementing their respective capabilities so that USAID may best achieve the objectives under the Prime Contract. The Subcontractor acknowledges that it is an independent, professional contractor. The Subcontractor reserves the right to determine the method, manner and means by which the services are to be performed. The Subcontractor and its employees and contractors are not required to perform the services during a fixed hourly or daily time, and the

order and sequence in which the work is to be performed shall be under the control of the Subcontractor. Except to the extent that the work must be performed on or with DI's resources, all equipment used in providing the services shall be provided by the Subcontractor. This Subcontract shall not be construed to authorize the Subcontractor, or any of its employees or agents, to act as the employee or agent of DI for any purpose, including but not limited to Federal, State, or local unemployment insurance law, old age benefits, or Social Security Law, Workman's Compensation Law, or under Internal Revenue legislation, or any industrial law.

## **8. Inspection and Acceptance**

a. The acceptance criteria and procedures specified in the Statement of Work or as otherwise agreed upon in writing by the Parties shall apply provided that DI's final acceptance of Subcontractor's goods, services, and/or deliverables shall not occur until Client's final acceptance of the same. DI has the right, at all reasonable times and places, to inspect or otherwise evaluate the goods, services, and/or deliverables, to be delivered under this Agreement. If any inspection or evaluation is made by DI on the premises of the Subcontractor, the Subcontractor shall provide all reasonable facilities and assistance for the safety and convenience of DI in the performance of their duties. All inspections and evaluations shall be performed in such a manner as will not unduly delay the work. The inspection by DI of any portion or aspect of Subcontractor's work does not relieve the Subcontractor of responsibility for any deficiencies or nonconformance or other failures to meet Agreement and/or Purchase Order requirements, terms, and conditions.

b. Before making payment to Subcontractor for any goods, services, and/or work products delivered under this Agreement, DI must accept all goods, services, and/or work products delivered by Subcontractor under this Agreement to acknowledge that the goods, services, and/or work products conform with Agreement quality and quantity requirements. Acceptance will take place at the time of delivery, or after delivery if necessary, at the place identified in this contract. DI shall evidence its acceptance of delivered goods and/or services by providing the Subcontractor with an acceptance certificate. Title to goods delivered under this Agreement shall pass to DI upon issuance of an acceptance certificate to Subcontractor.

c. If, in DI's sole judgement, any of the delivered goods, services, and/or work products do not conform with the requirements, terms, or conditions of this Agreement and/or of the Purchase Order ordering those goods and/or services, DI may require the Subcontractor to deliver the goods and/or services again in conformity with such requirements, terms, and conditions, at no additional cost to DI. When any defects in goods, services, and/or work products cannot be corrected by Subcontractor, DI may (i) reduce any amount payable under the Agreement to reflect the reduced value of the goods, services, and/or work products delivered, (ii) require the Subcontractor to take necessary action to ensure future performance conforms to Agreement and/or Purchase Order



requirements, terms, and conditions, and/or (iii) terminate the Agreement for default and order replacement goods, services, and/or work products from another provider.

d. DI's rights to inspect and accept goods, services and/or work products delivered under this Agreement extend to USAID and the US Government. If the good, services, and/or deliverables are donated, transferred, or assigned to a beneficiary under DI's Prime Contract, then DI's rights to inspect and accept goods, services, and/or work products delivered under this Agreement as well as all warranties or guarantees made to DI regarding those goods, services, and/or work products will be transferred to said beneficiary.

## 9. Changes

The Client or other agency of the Government may from time to time direct changes to the Prime Contract by implementing unilateral changes to the Prime Contract, which may require corresponding changes to this Agreement. DI may issue these changes as unilateral changes to this Agreement ("Unilateral Modifications"); all other changes shall be codified via a bi-lateral modification, requiring signatures of the Contract Representatives of both Parties. Except as otherwise provided herein, no request, change, modification, authorization, direction or order issued pursuant to this Agreement shall be effective unless issued in writing and signed by both Parties hereto. Upon receipt of a request for a change from the Client, DI shall promptly notify the Subcontractor of any potential change that will or is reasonably likely to impact the services performed or deliverables provided by Subcontractor. The Parties shall negotiate a bi-lateral modification to the terms of this Agreement as necessary to address the Client's change. If a Unilateral Modification that is issued accordance with the terms herein causes a material increase or decrease in any hourly rate or the not-to-exceed price, or the time required for the performance of the Agreement, then Subcontractor may request an equitable adjustment in writing and the Parties shall enter into good faith negotiations to agree upon an equitable adjustment. If the Parties are unable to agree upon an equitable adjustment pursuant to a Unilateral Modification, the Parties shall proceed in accordance with the disputes clause in this Agreement.

## 10. Suspension and Termination

a. **Suspension.** DI, either at the direction of the Client or on a unilateral basis, may direct the Subcontractor to suspend services, stop deliverables, and/or all other performance under this Agreement for any reason at any time by issuing a Stop Work Order. If DI subsequently lifts the Stop Work Order and the Stop Work Order resulted in an increase or decrease in the cost of or the time required for the performance of the services, the Parties will negotiate an equitable adjustment to the Agreement, provided that an equitable adjustment will not be made if the Stop Work Order was directed by the Client and the Client declines to make a corresponding equitable adjustment to the Prime Contract and/or otherwise declines Subcontractor's claim. If a Stop Work Order results in a termination, such termination shall be subject to subsections 10.b through 10.h, below.

b. **Termination for Convenience.** DI may terminate all or part of this Agreement at its convenience and without any breach by Subcontractor upon thirty (30) days written notice to Subcontractor. In the event of such termination, Subcontractor shall immediately stop all work hereunder and immediately cause any and all of its independent contractors and subcontractors to stop work. Subject to the terms of this Agreement, within ninety (90) days after the effective date of termination, Subcontractor may submit to DI a claim reflecting the percentage of work performed prior to the effective date of termination and conforming to contract requirements, plus reasonable charges that Subcontractor can demonstrate to the satisfaction of DI have resulted from the termination. Further, Subcontractor shall not be paid, and in no event shall DI be obligated to pay, lost or anticipated profits or unabsorbed indirect costs or overhead. In no event shall DI be obligated to pay Subcontractor in excess of the Agreement price.

c. **Termination for Default, Not Subject to a Cure.** DI may terminate all or part of this Agreement immediately for any material breach of this Agreement by Subcontractor if the Prime Contract does not contain a cure period or if DI determines in its sole discretion that: (i) Subcontractor has breached sections 7 (Independent Contractor), 11 (Representations, Warranties, and Certifications, and Non-Assignability), 13 (Confidential or Proprietary Information), or the Attachments of this Agreement referenced in those sections; or (ii) termination is necessary under section 8 (Inspection and Acceptance).

d. **Termination for Default, Subject to a Cure.** If the Prime Contract contains a cure period, DI may immediately terminate for Subcontractor's breach of this Agreement for any reason that is not set forth in subsection 10.c, provided that DI first notifies the Subcontractor in writing of its intent to terminate and identifies the alleged deficiencies in performance. DI shall not terminate this Agreement for default unless the Subcontractor fails to cure the specified deficiencies within ten (10) days of Subcontractor's receipt of the aforementioned notice or within five (5) days prior to the end of any Prime Contract cure period, whichever is shorter. This subsection 10.d shall have no effect if the Prime Contract does not provide DI with a cure period or if it is impossible for Subcontractor to cure the specified deficiencies at least five (5) days prior to the end of the Prime Contract cure period.

e. In the event of a termination for default, DI shall pay Subcontractor for completed and conforming services and deliverables accepted, provided DI shall be entitled to withhold any amounts that may otherwise be due to the Subcontractor pending the resolution of any dispute.

f. If, after a termination for default, it is determined that Subcontractor was not in default, the rights and remedies of the parties shall be as if the Agreement had been terminated for convenience pursuant to subsection 10.b.

g. In the event of a partial termination of this Agreement, Subcontractor shall continue to perform all services and provide all deliverables not terminated.

h. Upon termination of any kind, Subcontractor will provide to DI all deliverables, regardless of the state of completion, and all Confidential or Proprietary Information (as defined

below in subsection 13 below). Subcontractor shall also delete or destroy any Confidential Information as required by this Agreement and the attachments hereto.

The following sections shall survive the expiration or earlier termination of this Agreement: 4 – Invoicing; Closeout; 6 – Privity of Contract; Communication with Client; Publicity; 10 – Suspension and Termination; 11 – Subcontractor’s Representations, Warranties, and Certifications; 12 – Confidential or Proprietary Information; 14 – Intellectual Property; 16 – Indemnification; 18 – Non Solicitation; 19 – Disputes; 20 – Governing Law; and 21 – Miscellaneous.

## **11. Subcontractor Representations, Warranties, and Certifications; No Assignment; Vetting Subcontractors**

a. Subcontractor, which for purposes of this section 11, includes approved Subcontractor personnel, lower-tier subcontractors, and independent contractors, as appropriate, represents, warrants, and/or certifies on its own behalf and on behalf of its owners, shareholders, directors, officers, as follows as of the Effective Date of this Agreement:

(i) Subcontractor's performance of the services and other deliverables called for by this Agreement, including without limitation the development and delivery of the services and deliverables, does not and shall not violate: (1) any applicable law, rule, or regulation; (2) any contracts with third parties; or (3) any third-party rights in any patent, trademark, copyright, trade secret, or any other proprietary or intellectual property right;

(ii) Subcontractor has full authority and sufficient right, title, and interest in and to the services and deliverables to grant and convey the rights accorded to DI hereunder;

(iii) Any deliverable hereunder that is incorporated into a DI deliverable under the Prime Contract shall be warranted to the same extent and for the same period of time (the “Warranty Period”) as applicable to DI. If defects are discovered during the Warranty Period, Subcontractor shall promptly remedy such defects at no additional expense to DI in a manner sufficient for DI to satisfy its obligations to the Client with respect thereto under the Prime Contract;

(iv) All services will be performed by Subcontractor and/or approved lower-tier subcontractors or independent contractors, and Subcontractor has the right and authority to direct such subcontractors or independent contractors to provide the services to DI as required by this Agreement;

(v) Subcontractor has conducted a background check with respect to each of the person or entity that will perform services for or on behalf of Subcontractor, which check includes, at a minimum, items with respect to an individual’s civil, criminal (to the extent permitted by law), litigation, department of motor vehicle (DMV), credit, tax compliance, and educational background, and that there were no adverse results to that background check in any aforementioned area. Subcontractor will maintain an inventory of the results of those background checks and will provide copies to DI upon DI’s request;

**(vi)** Subcontractor is aware of and understands Federal anti-bribery and anti-corruption law and policies, has adopted its own anti-bribery and anti-corruption policies, and agrees to comply with Subcontractor's anti-bribery and anti-corruption policies and all applicable laws, rules, and regulations, including, but not limited to, the U.S. Foreign Corrupt Practices Act;

**(vii)** If this Agreement is for services to be performed outside the United States or is for supplies, other than commercially available off-the-shelf items acquired outside the United States, and the Prime Contract has an estimated value that exceeds \$500,000, Subcontractor shall submit a certification to DI in accordance with FAR section 52.222-50(h)(5), within 10 (ten) days of contract award;

**(viii)** Each person submitted to and performing in accordance with this Agreement meets the qualifications of the labor category for which they were submitted and are performing; Subcontractor will not seek compensation for any person who does not meet the qualifications of the labor category invoices; and Subcontractor will immediately notify DI of and replace such non-conforming person in accordance with this Agreement;

**(ix)** Subcontractor has not, within a three-year period preceding the Effective Date, had one or more contracts terminated for default by any Federal agency; and Subcontractor and/or any of its Principals (as defined in 2 C.F.R. § 180.995):

(1) Are not presently and were not at the time of the submission of the proposal which has led to this Agreement under investigation or indictment by a Federal agency, or debarred, suspended, proposed for debarment, voluntarily excluded, or declared ineligible for the award of contracts by any Federal agency;

(2) Have not, within a three-year period preceding the date of this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;

(3) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of 48 C.F.R. section 52.209-5; or

(4) Have not, within a three-year period preceding the date of this Agreement, been under investigation or indictment for, charged for, or convicted for, violations of laws governing bribery or corrupt practices related to attempts to obtain a government contract, including the U.S. Foreign Corrupt Practices Act or analogous statutes of other countries.

(5) Have not, within a three-year period before the date of this Agreement, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied;

(x) If, as of the Effective Date of this Agreement, the Subcontractor has represented itself to DI as a small or disadvantaged business in conjunction with any NAICS code or other status-based requirement or preference set forth in the Prime Contract, Subcontractor shall maintain such status for the term of this Agreement;

(xi) Subcontractor (1) will not provide covered telecommunications equipment or services to DI in the performance of this Agreement and (2) does not use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services, as set forth in FAR section 52.204-24 (Representation Regarding Certain Telecommunications and Video Surveillance services or Equipment), as amended; and to the extent applicable, Subcontractor shall comply with FAR section 52.204-25 (Prohibition on Contracting for Certain Telecommunications and Video Surveillance services or Equipment), as may be amended from time to time;

(xii) Subcontractor has reviewed the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) and neither Subcontractor nor any of Subcontractor's persons, lower-tier subcontractors, or independent contractors under this Agreement are listed therein;

(xiii) Subcontractor does not have any outstanding tax liabilities with any state, local, or Federal government, save for liabilities which are properly under dispute pursuant to applicable law, and no government entity has placed a tax lien on the property of Subcontractor;

(xiv) If this Agreement is for services to be performed outside the United States, that none of Subcontractor's officers, directors, agents or employees are (1) an official, employee, or agent of the government or any state-owned enterprise, political party, candidate for public office, public international organization, member of a royal family, or an officer, director, or any other person, firm, corporation, or other entity acting at the suggestion, request, or direction of, or for the benefit of, any of the foregoing persons; and (2) as of the date below, no government official, and no official of any government agency or instrumentality, is or will become associated with, or will own or presently owns, a direct or indirect interest of any kind in the Subcontractor, this Agreement, or the payments made by DI to the Subcontractor hereunder; and

(xv) Subcontractor is not organized, incorporated or resident in jurisdictions sanctioned by the United States (by way of example, Cuba, Iran, North Korea, Syria or the Crimea, or separatist-held Donetsk and Luhansk regions of the Ukraine) or owned (50% or more) or controlled by parties organized, incorporated, or resident in those jurisdictions.

b. Subcontractor's representations, warranties, and certifications shall be ongoing during the term of this Agreement and shall survive Agreement termination or expiration. Subcontractor shall notify DI within three (3) days if, following the execution of this Agreement, Subcontractor

has knowledge that any element of any representation, warranty, or certification herein is no longer accurate or complete. Such notification shall include a description of the event(s) and circumstance(s) that render the representation or warranty no longer accurate or complete.

c. Subcontractor is a responsible party that possesses the ability to perform this Subcontract successfully under the terms and conditions of the Agreement; (2) is registered in the System for Award Management (“SAM”), as that term is defined in FAR 52.204-13, System for Award Management Maintenance; (3) \_\_\_ is or \_\_\_ is not a small business concern under the NAICS code for this Subcontract indicated in the Scope of Work (Attachment A); and (4) neither Subcontractor nor any such person is:

- (i) An individual and organization associated with terrorism including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. or the United Nations Security designation list; or
- (ii) Engaged in any activities which constitute a violation of US laws and regulations combating trafficking in persons, trafficking in drugs, or other prohibited behavior or which would cause DI to violate such laws by making payments to Subcontractor.

d. Subcontractor acknowledges and agrees that if the above representations and certifications are false, then this Subcontract shall be terminated, considered null and void from the Effective Date, and Subcontractor shall be obligated to repay to DI, upon demand, in full any amount that DI has paid to Subcontractor under this Subcontract.

e. Subcontractor shall not assign or delegate any of its rights or responsibilities without the prior written consent of DI. If Subcontractor seeks to buy any goods or services in connection with this Subcontract or using US funds, then Subcontractor shall notify DI and shall follow any procurement rules required by DI in this Subcontract and USAID regulations.

f. If Subcontractor receives consent of DI to hire any subcontractor or service provider, then Subcontractor shall:

- (i) vet such party to verify that such party is not prohibited from receiving funds or assets under the Prime Contract. Subcontractor must not engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (online at:



<http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or the United Nations Security designation list ([http://www.un.org/sc/committees/1267/aq\\_sanctions\\_list.shtml](http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml)) or such other site as may be substituted for either such site.

In addition, contractors shall not utilize the services on any party on the list of parties debarred/suspended from US federal contracting at the System for Award Management (“SAM”) at [www.sam.gov](http://www.sam.gov).

Subcontractor must cooperate fully with DI in the vetting of payees of US Funds. Subcontractor must include this Section 3.2(b) in all contracts it executes with other parties with regard to the Project;

- (ii) cause such party to bound, in writing, by the terms and conditions and rules and regulations of this Subcontract;
- (iii) supervise, inspect, and audit the activities and records of any such party to ensure that such party is in compliance with the terms and conditions and rules and regulations of this Subcontract; and
- (iv) immediately suspend or terminate (as applicable) the activities and funding of any such party if Subcontractor receives knowledge that such party is or may be in noncompliance with the rules and regulations of this Subcontract and inform the authorized DI representative in writing of the suspension or termination.

## **12. Insurance**

a. Subcontractor agrees to procure DBA insurance pursuant to the terms of the contract between USAID and USAID’s DBA insurance carrier for the Subcontractor’s employees who are citizens of, residents of, or hired in the United States. The Subcontractor further agrees to provide employees who are not citizens of, residents of, or hired in the United States with worker’s compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee’s native country, whichever offers greater benefits. Pursuant to AIDAR 752.228-3 Worker’s Compensation Insurance (Defense Base Act), parties must request coverage in accordance with USAID Contract No. AID-OAA-C-10-00027 Allied World Assurances Company (Allied).

b. Unless Subcontractor is exempt or excluded from such coverage, Subcontractor agrees to obtain Medevac) service coverage, as required by the Prime Contractor’s prime contract with USAID.

c. Throughout the term of this Agreement, Subcontractor shall maintain comprehensive general liability insurance with coverage of at least five million dollars (\$5,000,000) per occurrence, and professional errors and omissions insurance of at least one million dollars (\$1,000,000) per claim, for losses in connection with Subcontractor's performance of the services or deliverables. The provisions of this clause c are in addition to any insurance requirements which may be imposed by this Agreement.

d. The Subcontractor shall provide copies of its insurance certificates to DI upon the execution of this Subcontract and upon renewal of each policy noted above. The insurance certificate(s) shall be endorsed to include thirty (30) days prior written notice of cancellation or material change of any coverage. If the Subcontractor fails to make insurance premium payments or cancels its insurance, DI must be notified and all work under the Subcontract will be terminated.

e. The Subcontractor shall insert the applicable USAID mandated insurance requirements in any lower tier subcontracts under this Subcontract.

### **13. Confidential or Proprietary Information**

During the term of this Agreement, a Party, acting in the role of a receiving party ("Receiving Party"), may receive or have access to non-public ideas and concepts, as well as technical, financial, accounting, strategic, and operational information and other data, which may be considered by the disclosing party ("Disclosing Party") as proprietary or confidential, or which may be non-public information of the Client or the Cooperating Country (collectively, information is "Confidential or Proprietary Information"). In consideration of each Receiving Party's access to Confidential or Proprietary Information of the Disclosing Party, the Parties hereby agree as follows:

a. The Receiving Party agrees (i) to hold the Disclosing Party's Confidential or Proprietary Information in confidence and take all necessary precautions to protect such Confidential or Proprietary Information including, without limitation, all precautions the Receiving Party employs for its own confidential materials, (ii) not to divulge any such Confidential or Proprietary Information or any information derived therefrom to any third person, (iii) not make any use of such Confidential or Proprietary Information, except to perform the Prime Contract requirements as contemplated in this Agreement, and (iv) not to copy, reverse engineer, or attempt to derive the composition or underlying information of any such Confidential or Proprietary Information.

b. The Disclosing Party agrees that the foregoing obligations shall not apply to information that (i) was in the possession of the Receiving Party or known by it prior to receipt from the Disclosing Party or (ii) was rightfully disclosed to the Receiving Party by another person without restriction or (iii) is required to be disclosed pursuant to any statutory or regulatory authority or court order, provided the Receiving Party has given the Disclosing Party prompt notice of such



requirement and the opportunity to contest it. If the Disclosing Party gives its approval for the Receiving Party to disclose Confidential or Proprietary Information to the U.S. Government, then the Receiving Party shall ensure that all such disclosures are marked with appropriate legends.

c. Immediately upon a request by the Disclosing Party at any time, the Receiving Party will turn over to the Disclosing Party all Confidential or Proprietary Information of the Disclosing Party and all documents or media containing any such Confidential or Proprietary Information and will promptly and permanently delete any Confidential or Proprietary Information that is electronically or optically recorded or stored, subject to the Receiving Party's obligations to retain information for archival purposes or as required by the Prime Contract or by U.S. Government regulations.

d. The Receiving Party acknowledges and agrees that due to the unique nature of the Disclosing Party's Confidential or Proprietary Information, there can be no adequate remedy at law for any breach of its obligation hereunder, that any such breach may allow the Receiving Party or third parties to unfairly compete with the Disclosing Party resulting in irreparable harm to the Disclosing Party, and therefore, that upon any such breach or any threat thereof, the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever remedies it might have under this Agreement or by law. The Receiving Party will notify the Disclosing Party in writing immediately upon the occurrence of any such unauthorized release or other breach. In the event that any of the provisions of this Agreement are held by a court or other tribunal of competent jurisdiction to be unenforceable, the remaining portions hereof shall remain in full force and effect.

e. Neither Party acquires any intellectual property rights under this Agreement or any disclosure hereunder, except the limited right to use such Confidential or Proprietary Information in accordance with this Agreement.

f. No warranties of any kind (including implied warranties of merchantability or fitness for a particular purpose) are given to the Confidential or Proprietary Information disclosed or used under this Agreement, and neither Party shall be liable to the other for damages arising out of or caused by defects or deficiencies in the Confidential or Proprietary Information of either Party, whether direct, incidental, consequential, or otherwise.

g. If the Receiving Party receives a subpoena or other valid administrative, judicial, governmental, investigative, or regulatory demand or request, or other form of legal process ("Legal Demand"), requiring it to disclose Confidential or Proprietary Information, the Receiving Party shall, unless prohibited by law or such Legal Demand, provide prompt written notice to the Disclosing Party of such Legal Demand with sufficient time to enable Disclosing Party to seek a protective order. So long as the Receiving Party gives notice as provided herein, the Receiving Party shall be entitled to comply with such Legal Demand to the extent required by law, subject to any protective order or the like that may have been entered in the matter.

## 14. Intellectual Property Rights

Subcontractor understands and agrees that each of the FAR and AIDAR clauses and other intellectual property related clauses contained in the Prime Contract or otherwise applicable by law are incorporated herein as though fully set forth and shall take precedence over other terms in this Subcontract. Subject to the U.S. Government's rights under the Project:

a. Unless otherwise stated herein, neither Party shall acquire, directly or by implication, any right, title or interest in any pre-existing Intellectual Property of the other Party. For purposes of this Subcontract, "Intellectual Property" means without limitation copyrighted works, patents, trademarks, trade secrets, service marks, data, know-how, inventions, proprietary information and any improvements thereto made in the performance of this Subcontract. No license, express or implied, shall inure to the benefit of the other participating Party as a result of a patent being granted to one of the Parties for inventions made exclusively by its employees.

b. To the extent that Subcontractor provides any commercial technology or commercial computer software under this Subcontract, the Parties agree that customary US Government procurement laws and clauses governing such commercial product and/or commercial service shall govern the delivery and use of such commercial items.

c. Subcontractor may use data, software, designs, utilities, tools, models, systems and other methodologies and know-how that Subcontractor owns or licenses ("Materials") in performing under this Subcontract Notwithstanding the delivery of any deliverable, Subcontractor retains all intellectual property rights in the Materials (including any improvements or knowledge developed while performing the Services), and in any working papers compiled in connection with the performing under this Subcontract.

d. To the extent necessary for the performance of this Subcontract and subject to the provisions of Subcontractor's customary, commercial license, Subcontractor grants to DI, the Client, and the Cooperating Country a restricted, royalty-free, non-exclusive, non-transferable, license to use and to have others use such Subcontractor's Intellectual Property in connection with DI's, the Client's, or the Cooperating Country's use of the deliverables.

e. Works of Authorship, Copyrights, and other Technical Information. All works of authorship (including, but not limited to, documents, data, drawings, software, software documentation, photographs, video tapes, sound recordings, and images) and technical information created by, for, or with Subcontractor in the course of any work performed under this Subcontract, together with all copyrights subsisting therein, shall become the property of Prime Contractor (subject to the U.S. Government's rights). To the extent permitted under United States copyright law, all such works will be works made for hire, with the copyrights therein vesting in Prime

Contractor. The copyrights in all other such works, including all of the exclusive rights therein, are hereby transferred and formally assigned free of any additional charges to Prime Contractor.

### **15. Notice to the Prime Contractor of Delays**

Whenever the Subcontractor has knowledge that any actual or potential situation, including but not limited to labor disputes, is delaying or threatens to delay the timely performance of work under this subcontract, the Subcontractor shall give written notice thereof to the Prime Contractor within five (5) calendar days of such knowledge. Such notice shall include a statement of all relevant information.

### **16. Indemnification**

a. In addition to any other remedies that the Parties may have, each Party, as the “Indemnifying Party,” shall indemnify, hold harmless and defend the other Party and its owners, directors, officers, and employees (as applicable, the “Indemnified Party”) from any and all claims, damages, demands, suits, actions, judgments, liabilities, costs or expenses of any nature, including legal expenses and consequential or special damages or costs and including property damages or injury to the any party, its employees, agents, lower-tier subcontractors (for Prime Contractor, other than Subcontractor) or any other third party or its property, occasioned by any negligent or otherwise wrongful act of the Indemnifying Party, its lower-tier subcontractors (for Prime Contractor, other than Subcontractor), or anyone for whose actions the Indemnifying Party is legally responsible or arising from the Indemnifying Party’s breach of this Subcontract or negligent performance hereunder and arising out of work done under this Subcontract.

b. The Indemnifying Party agrees to indemnify, hold harmless and defend each Indemnified Party from any and all liability, claims, suits, demands, or other consequences and all costs or expenses of any nature arising from:

- (i) Claims brought by the employees of the Indemnifying Party.
- (ii) Any cost or pricing data furnished or required to be furnished by the Indemnifying Party or its subcontractors which was not complete, accurate or current.
- (iii) A violation by the Indemnifying Party of any applicable law, rule, or regulation.
- (iv) Any penalty or fine incurred by or assessed against the Indemnified Party to the extent attributable to the actions of the Indemnifying Party, its employees,

agents, suppliers, or lower tier subcontractors (for Prime Contractor, other than Subcontractor).

- (v) Any failure on the part of the Indemnifying Party to follow health or safety procedures as required by law and the provisions of this Agreement applicable to the site or any failure to follow recognized industry standards.
- (vi) Any failure on the part of the Indemnifying Party to provide any certification or supporting information required hereunder or under applicable laws or regulations.
- (vii) The statement of or provision by the Indemnifying Party of any false or erroneous representation, warranty, or certification or supporting information required hereunder or under applicable laws or regulations.
- (viii) Any strict or statutory liability imposed due to the Indemnifying Party's activities arising out of performance of this Subcontract.

c. The indemnification stated in Clauses a and b above shall be enforced to the maximum extent permitted by applicable law, and, if permitted by law, shall expressly apply to the Indemnifying Party's negligence or other tort, breach of contract or warranty, strict or statutory liability.

d. If it is necessary to enforce the indemnity obligation herein, the substantially losing Party in any such enforcement action shall pay the substantially prevailing Party's court costs and reasonable attorney's fees.

## **17. Probity**

Subcontractor shall strictly ensure that it and its officers, directors, employees, agents, consultants, and subcontractors avoid (1) any actions in violation of or that might reasonably be considered to be in violation of ) U.S. or Cooperating Country Government laws, regulations, rules and policies relating to ethics, integrity and proper business practices; and (2) any corrupt practice (including without limitation the offering, giving, receiving or soliciting of anything of value to influence the action of any public official or any officer, employee or director of DI), or fraudulent practice (including without limitation misrepresentation of facts to influence a procurement action or contract), to the actual or proposed detriment of the DI, the U.S. Government, or the Cooperating Country. If an issue should arise concerning compliance with this Article, Subcontractor shall immediately provide DI with written notice describing the issue, all pertinent facts as known on the date of the notice, any conclusions reached by the Subcontractor as of that date, and any corrective

actions proposed. Failure to respond aggressively and appropriately to such issues may be treated by DI as a material breach of this Subcontract.

## **18. Non Solicitation**

Neither Party shall, directly or indirectly, solicit, endeavor to hire, hire, consult, or otherwise contract any employee(s) of the other Party who are associated with the Prime Contract and performance of any Subcontract thereunder during the course of this Agreement (and any extensions or modifications) and for a period of six (6) months after the conclusion thereof. Direct solicitation does not include advertisements published in the general media and, except to the extent that an individual was specifically encouraged to respond to such advertisements, nothing in this clause restricts an individual employee's right to seek employment with either party to perform work unrelated to this Agreement and any resultant subcontract(s) hereunder (and any extensions or modifications thereto).

## **19. Disputes**

a. In case of a dispute between Subcontractor and DI, Subcontractor agrees to be bound to DI to the same extent that DI is bound to USAID both by the terms of the Prime Contract and by any and all decisions or determinations made thereunder by the party or board authorized in the Prime Contract to make such decisions or determination. Subcontractor shall not be entitled to receive any greater amount from DI than DI is entitled to and actually does receive from USAID on account of Subcontractor's Work, less any markups or costs incurred by DI and to which DI is otherwise entitled, and Subcontractor agrees that it will accept such amount, if any, received by DI from USAID as full satisfaction and discharge of all claims for or on account of acts or omissions of USAID or USAID's Representative.

b. The Subcontractor shall be bound by DI's determination, made in good faith, as to apportionment of any amounts received from USAID for claimants, including DI and other subcontractors, whose work is affected by any act or omission of USAID or USAID's Representative.

c. Any dispute under this Agreement which concerns the parties hereto only, or Subcontractor and other subcontractors or suppliers, but not USAID or USAID's Representative, shall be resolved as follows:

- (i) Disputes under this Agreement shall be referred to each parties designated executives within thirty (30) calendar days before either party may commence formal proceedings. When seeking to resolve a dispute, the parties designated executives shall consider the impact of the disputed matter, the effect of the

dispute on the Project and DI's success as the prime contractor, the cost to both parties of resolving the dispute, and the practical effects on the business of each party resulting from the resolution or failure to resolve any such dispute.

- (ii) If the designated executives are unable to resolve a dispute within thirty (30) calendar days of written notification or longer, if extended by agreement of both parties, either party may then submit the matter to be resolved by confidential, binding arbitration in Montgomery County, Maryland (unless otherwise agreed) in accordance with the Rules of the American Arbitration Association by a single arbitrator appointed by that Association, and judgment upon the award rendered hereunder may be entered in accordance with the Federal Arbitration Act in any court having jurisdiction thereof.

d. The Subcontractor shall proceed diligently with the Work, pending final determination pursuant to any Disputes clause or pursuant to any other action taken with respect to a claim or claims, and will be paid for such Work, subject to any such final determination or other action with respect to any claim(s), and subject to the provisions of this Subcontract.

e. The Subcontractor hereby knowingly, voluntarily and intentionally waives (to the extent permitted by applicable law) any right it may have to a trial by jury of any dispute arising under or relating in any way to this Agreement and agrees that any such dispute may, at DI's option, be tried before a judge sitting without a jury.

f. Irrespective of the place of performance, this Subcontract shall be construed and interpreted according to the Federal common law of government contracts as enunciated and applied by Federal judicial bodies, board of contract appeals, and quasi-judicial agencies of the Federal government. To the extent that the Federal common law of government contracts is not dispositive, the laws of the State of Maryland (without reference to its rules on conflicts of laws) shall apply.

g. In any legal proceeding brought in connection with this Agreement, whether it be in arbitration or in a court of competent jurisdiction to enforce a party's rights as to confidential or proprietary information or the nonsolicitation provisions, the substantially prevailing party shall be entitled to an award of its reasonable attorneys' fees, in addition to any other relief granted by the arbitrator or court.

## **20. Governing Law**

This Subcontract shall be construed and interpreted according to the US federal common law of government contracts as interpreted and applied by federal judicial bodies, board of contract appeals, and quasi-judicial agencies of the federal government. To the extent that the US federal common

law of government contracts is not dispositive, the laws of the State of Maryland shall apply, except for the application of any rules that would result in the application of the laws of another jurisdiction.

## 21. Miscellaneous

**(a) Notices.** Any notice or other communication required hereunder shall be in writing and shall be sufficiently given if (1) personally delivered or (2) sent by electronic mail, delivery electronically confirmed, (3) by facsimile, delivery electronically confirmed, (4) by express courier delivery, signature required, in each case addressed to the other party at its respective address or facsimile number (as applicable) shown in Section 4 above. **(b) No Waiver; Severability.** The failure of either Party to insist on performance of any provision of this Subcontract shall not be construed as a waiver of that provision in any later instance. Whenever possible, each provision of this Subcontract shall be interpreted in such manner as to be effective and valid under applicable law. However, if any provision of this Subcontract shall be unenforceable or invalid under applicable law, such provision shall be ineffective only to the extent of such unenforceability or invalidity, and the remaining provisions of this Subcontract shall continue to be binding and in full force and effect. In the event of such unenforceability or invalidity the Parties shall negotiate in good faith to agree on changes or amendments to this Subcontract which are required to carry out the intent of this Subcontract in light of such unenforceability or invalidity. **(c) Integration.** This Agreement, together with all Attachments, constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous representations, proposals, discussions, and communications, whether oral or in writing. **(d) Amendments.** This Subcontract may only be amended in writing, by formal amendment or letter, signed by an authorized officer of DI and, in the case of a bilateral amendment, by an authorized officer of DI and an authorized officer of the Subcontractor. **(e) Counterparts; Electronic Signatures.** This Subcontract may be executed in counterparts, each of which shall be deemed to be an original, and all such counterparts together shall constitute one and the same legal document. This Subcontract may be executed using electronic means, such as DocuSign.

## 22. NAICS Code

The North American Industry Classification System (NAICS) code for this acquisition is \_\_\_\_\_. The small business size standard is \$ \_\_\_\_\_.

## 23. Attachments

The following attachments are incorporated into and made part of this Agreement:

- Attachment A: Scope of Work
- Attachment B: Flow Down Contract Clauses
- Attachment C: Special Contract Requirements
- Attachment D: Packaging and Marking Requirements

**[Signatures Appear on Next Page]**



**24. Signatures**

**IN WITNESS WHEREOF**, the Parties hereto have caused this Subcontract Agreement to be signed by their duly authorized representatives as of the Effective Date.

**For:**

**For:**

**Democracy International, Inc.**

**ORGANIZATION NAME**

\_\_\_\_\_  
Evan Smith  
Senior Vice President

\_\_\_\_\_  
NAME, TITLE

Date:

Date:

**ATTACHMENT A**

**SCOPE OF WORK**

**Scope of Work, Deliverables, and Payment Schedule**

**(including Inspection and Acceptance Criteria)**

**ATTACHMENT B  
FLOW DOWN CONTRACT CLAUSES**

The following clauses and provisions for subcontracts are incorporated by reference. Even if a clause or provision is not set forth in its entirety, it is incorporated by reference, because it is publicly available on-line at:

<http://www.acquisition.gov/far/>, and  
<https://www.usaid.gov/ads/policy/300/aidar>,

respectively. By executing this Subcontract, Subcontractor acknowledges and agrees that it has the opportunity to access these clauses and provisions. For the purposes of making the below-referenced clauses applicable to Subcontractor, Section 3g to 3i above of the Agreement shall apply.

[Attach hereto a .pdf of Prime Contract Section I – Contract Clauses

FAR clauses incorporated by reference  
AIDAR clauses incorporated by reference]

## Section I - Contract Clauses

### I.1 Notice Listing Contract Clauses Incorporated by Reference

The following contract clauses pertinent to this section are hereby incorporated by reference (by Citation Number, Title, and Date) in accordance with the clause at FAR "52.252.-2 CLAUSES INCORPORATED BY REFERENCE" in **Section I** of this contract. See <http://acquisition.gov/far/index.html> for electronic access to the full text of a FAR clause.

#### FEDERAL ACQUISITION REGULATION (48 CFR Chapter 1)

Clause Number	Clause Title
52.202-1	Definitions. (JUN 2020)
52.203-3	Gratuities. (APR 1984)
52.203-5	Covenant Against Contingent Fees. (MAY 2014)
52.203-6	Restrictions on Subcontractor Sales to the Government. (JUN 2020) - Alternate I (NOV 2021)
52.203-7	Anti-Kickback Procedures. (JUN 2020)
52.203-8	Cancellation, Rescission, and Recovery of Funds for Illegal or Improper Activity. (MAY 2014)
52.203-10	Price or Fee Adjustment for Illegal or Improper Activity. (MAY 2014)
52.203-12	Limitation on Payments to Influence Certain Federal Transactions. (JUN 2020)
52.203-13	Contractor Code of Business Ethics and Conduct. (NOV 2021)
52.203-14	Display of Hotline Poster(s). (NOV 2021)
52.203-16	Preventing Personal Conflicts of Interest. (JUN 2020)
52.203-17	Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights. (JUN 2020)
52.203-19	Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements. (JAN 2017)
52.204-4	Printed or Copied Double-Sided on Postconsumer Fiber Content Paper (MAY 2011)
52.204-10	Reporting Executive Compensation and First-Tier Subcontract Awards. (JUN 2020)
52.204-12	Unique Entity Identifier Maintenance (OCT 2016)
52.204-13	System for Award Management Maintenance. (OCT 2018)
52.204-14	Service Contract Reporting Requirements. (OCT 2016)
52.204-19	Incorporation by Reference of Representations and Certifications. (DEC 2014)
52.204-23	Prohibition on Contracting for Hardware, Software, and Services Developed or Provided by Kaspersky Lab and Other Covered Entities. (NOV 2021)

<b>Clause Number</b>	<b>Clause Title</b>
52.204-25	Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment. (NOV 2021)
52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment. (NOV 2021)
52.209-9	Updates of Publicly Available Information Regarding Responsibility Matters. (OCT 2018)
52.209-10	Prohibition on Contracting With Inverted Domestic Corporations. (NOV 2015)
52.210-1	Market Research. (NOV 2021)
52.215-2	Audit and Records - Negotiation. (JUN 2020)
52.215-8	Order of Precedence - Uniform Contract Format. (OCT 1997)
52.215-15	Pension Adjustments and Asset Reversions. (OCT 2010)
52.215-17	Waiver of Facilities Capital Cost of Money. (OCT 1997)
52.215-18	Reversion or Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions. (JUL 2005)
52.215-19	Notification of Ownership Changes. (OCT 1997)
52.215-23	Limitations on Pass-Through Charges. (JUN 2020) and Alternate I (OCT 2009)
52.216-7	Allowable Cost and Payment. (AUG 2018)
52.216-8	Fixed Fee. (JUN 2011)
52.217-2	Cancellation Under Multi-Year Contracts (OCT 1997)
52.217-8	Option To Extend Services. (NOV 1999)
52.219-8	Utilization of Small Business Concerns. (SEPT 2023)
52.222-1	Notice to the Government of Labor Disputes. (FEB 1997)
52.222-2	Payment for Overtime Premiums. (JUL 1990)
52.222-3	Convict Labor. (JUN 2003)
52.222-21	Prohibition of segregated facilities. (APR 2015)
52.222-26	Equal Opportunity. (SEP 2016)
52.222-29	Notification of visa denial. (APR 2015)
52.222-50	Combating Trafficking in Persons. (NOV 2021)
52.222-54	Employment Eligibility Verification. (MAY 2022)
52.223-2	Affirmative Procurement of Biobased Products Under Service and Construction Contracts (SEPT 2013)
52.223-17	Affirmative Procurement of EPA-designated Items in Service and Construction Contracts (AUG 2018)
52.223-18	Encouraging Contractor Policies to Ban Text Messaging While Driving. (JUN 2020)
52.224-1	Privacy Act Notification. (APR 1984)
52.224-2	Privacy Act. (APR 1984)
52.225-13	Restrictions on Certain Foreign Purchases. (FEB 2021)
52.227-14	Rights in Data-General. (MAY 2014)

<b>Clause Number</b>	<b>Clause Title</b>
52.228-3	Workers' Compensation Insurance (Defense Base Act). (JUL 2014)
52.228-7	Insurance - Liability to Third Persons. (MAR 1996)
52.229-8	Taxes - Foreign Cost-Reimbursement Contracts. (MAR 1990)
52.230-2	Cost Accounting Standards. (JUN 2020)
52.230-3	Disclosure and Consistency of Cost Accounting Practices. (JUN 2020)
52.230-6	Administration of Cost Accounting Standards. (JUN 2010)
52.232-9	Limitation on Withholding of Payments. (APR 1984)
52.232-17	Interest. (MAY 2014)
52.232-18	Availability of Funds. (APR 1984)
52.232-22	Limitation of Funds. (APR 1984)
52.232-23	Assignment of Claims. (MAY 2014)
52.232-25	Prompt Payment. (JAN 2017) - Alternate I (FEB 2002)
52.232-33	Payment by Electronic Funds Transfer - System for Award Management. (OCT 2018)
52.232-35	Designation of Office for Government Receipt of Electronic Funds Transfer Information. (JUL 2013)
52.232-39	Unenforceability of Unauthorized Obligations. (JUN 2013)
52.232-40	Providing Accelerated Payments to Small Business Subcontractors. (MAR 2023)
52.233-1	Disputes. (MAY 2014)
52.233-3	Protest After Award. (AUG 1996) - Alternate I (JUN 1985)
52.233-4	Applicable Law for Breach of Contract Claim. (OCT 2004)
52.237-3	Continuity of Services. (JAN 1991)
52.237-7	Indemnification and Medical Liability Insurance. (JAN 1997)
52.237-9	Waiver of Limitation on Severance Payments to Foreign Nationals. (DEC 2022)
52.242-1	Notice of Intent to Disallow Costs. (APR 1984)
52.242-3	Penalties for Unallowable Costs. (DEC 2022)
52.242-4	Certification of Final Indirect Costs. (JAN 1997)
52.242-5	Payments to Small Business Subcontractors. (JAN 2017)
52.242-13	Bankruptcy. (JUL 1995)
52.243-2	Changes - Cost-Reimbursement. (AUG 1987) - Alternate I (APR 1984)
52.244-2	Subcontracts. (JUN 2020)
52.244-5	Competition in Subcontracting. (DEC 1996)
52.244-6	Subcontracts for Commercial Products and Commercial Services. (DEC 2022)
52.245-1	Government Property. (SEP 2021)
52.246-25	Limitation of Liability - Services. (FEB 1997)
52.249-6	Termination (Cost-Reimbursement). (MAY 2004)
52.249-14	Excusable Delays. (APR 1984)

Clause Number	Clause Title
52.253-1	Computer Generated Forms. (JAN 1991)

### **I.2 752.252-2 AIDAR Clauses Incorporated by Reference (MAR 2015)**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of all AIDAR provisions is contained in the Code of Federal Regulations (CFR) located at 48 CFR chapter 7. See <http://acquisition.gov/far/index.html> for electronic access to the full text of an AIDAR clause.

#### **AGENCY FOR INTERNATIONAL DEVELOPMENT ACQUISITION REGULATION (48 CFR Chapter 7)**

Clause Number	Clause Title
752.202-1	Definitions. (JAN 1990)
752.204-2	Security Requirements. (FEB 1999)
752.204-71	Partner vetting. (FEB 2012)
752.204-72	Access to USAID Facilities and USAID's Information Systems. (AUG 2013) [DEVIATION (APR 2022)]
752.209-71	Organizational conflicts of interest discovered after award. (JUN 1993)
752.211-70	Language and measurement. (JUN 1992)
752.219-8	Utilization of small business concerns and small disadvantaged business concerns. (MAR 2015)
752.219-70	USAID Mentor-Protege Program. (JUL 2007)
752.219-71	Mentor requirements and evaluation. (JUL 2007)
752.222-70	USAID Disability Policy. (DEC 2004)
752.222-71	Nondiscrimination. (JUN 2012)
752.225-70	Source and nationality requirements. (FEB 2012)
752.227-14	Rights in Data-general. (OCT 2007)
752.228-3	Worker's Compensation Insurance (Defense Base Act). (DEC 1991) [(DEVIATION JUN 2022)]
752.228-70	Medical Evacuation (MEDEVAC) Services. (JUL 2007)
752.229-70	Federal, state and local taxes.
752.229-71	Reporting of foreign taxes. (JUL 2007)
752.231-71	Salary supplements for Host Government employees. (MAR 2015)
752.231-72	Conference planning and required approvals. (AUG 2013) [DEVIATION (APR 2022)]
752.236-70	Standards for Accessibility for the Disabled in USAID Construction Contracts. (JUL 2007)
752.245-71	Title to and Care of Property. (APR 1984)
752.7001	Biographical data. (JUL 1997)

<b>Clause Number</b>	<b>Clause Title</b>
752.7002	Travel and transportation. (JAN 1990)
752.7004	Emergency locator information. (JUL 1997)
752.7005	Submission requirements for development experience documents. (SEP 2013)
752.7006	Notices. (APR 1984)
752.7008	Use of Government Facilities or Personnel. (APR 1984)
752.7010	Conversion of U.S. Dollars to Local Currency. (APR 1984)
752.7011	Orientation and Language Training. (APR 1984)
752.7013	Contractor-Mission Relationships. (OCT 1989) [DEVIATION (JUN 2022)]
752.7014	Notice of Changes in Travel Regulations. (JAN 1990)
752.7015	Use of Pouch Facilities. (JUL 1997)
752.7018	Health and accident coverage for USAID participant trainees. (JAN 1999)
752.7019	Participant training. (JAN 1999)
752.7021	Changes in Tuition and Fees. (APR 1984)
752.7023	Required Visa Form for USAID Participants. (APR 1984)
752.7025	Approvals. (APR 1984)
752.7027	Personnel. (DEC 1990)
752.7028	Differential and allowances. (JUL 1996)
752.7029	Post Privileges. (JUL 1993)
752.7031	Leave and holidays. (OCT 1989)
752.7032	International Travel Approval and Notification Requirements (APR 2014)
752.7033	Physical fitness. (JUL 1997)
752.7034	Acknowledgment and Disclaimer. (DEC 1991)
752.7035	Public notices. (DEC 1991)
752.7036	USAID Implementing Partner Notices (IPN) portal for acquisition. (JUL 2014)
752.7037	Child safeguarding standards. (AUG 2016)
752.7038	Nondiscrimination against End-Users of Supplies or Services. (OCT 2016)

**[END OF SECTION I]**



**ATTACHMENT C**  
**SPECIAL CONTRACT REQUIREMENTS**

The following clauses and provisions for subcontracts are incorporated by reference. For the purposes of making the below-referenced clauses applicable to Subcontractor, Section C of the Agreement shall apply.

[Attach hereto a .pdf of Prime Contract Section H – Special Contract Requirements]

## **Section H - Special Contract Requirements**

### **H.1 Language Requirements**

- (a) The contractor will produce all reports and deliverables in Standard English.
- (b) The contractor must ensure the contractor's employees and consultants possess the appropriate level of skill in written and spoken English and local language proficiency, as needed, to perform the contract requirements.
- (c) Contractor key personnel and/or consultants must have English and local language proficiency as needed, to perform contract requirements.

### **H.2 Authorized Geographic Code**

The authorized geographic code for procurement of goods and services under this contract is 937. The Code 937 is defined as U.S., Bosnia and Herzegovina and developing countries other than advanced developing countries and excluding prohibited sources. For more information on Source and Nationality Requirements see [ADS 310](#).

### **H.3 Nonexpendable Property Purchases and Information Technology Resources**

The Contractor is hereby authorized to purchase the following equipment and/or resources:

TBD

### **H.4 Limitation on Acquisition of Information Technology (APRIL 2018) (Deviation NOs. M/OAA-DEV-FAR-22-03c and M/OAA-DEV-AIDAR-22-06c)**

(a) Definitions. As used in this contract --

“Information Technology” means

- (1) Any services or equipment, or interconnected system(s) or subsystem(s) of equipment, that are used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the agency; where
- (2) such services or equipment are 'used by an agency' if used by the agency directly or if used by a contractor under a contract with the agency that requires either use of the services or equipment or requires use of the services or equipment to a significant extent in the performance of a service or the furnishing of a product.
- (3) The term "information technology" includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including provisioned services such as cloud computing and support services that support any point of the lifecycle of the equipment or service), and related resources.

- (4) The term "information technology" does not include any equipment that is acquired by a contractor incidental to a contract that does not require use of the equipment.
- (b) The Federal Information Technology Acquisition Reform Act (FITARA) requires Agency Chief Information Officer (CIO) review and approval of contracts that include information technology or information technology services.
- (c) The Contractor must not acquire information technology as defined in this clause without the prior written approval by the Contracting Officer as specified in this clause.
- (d) Request for Approval Requirements:
- (1) If the Contractor determines that any information technology will be necessary to meet the Government's requirements or to facilitate activities in the Government's statement of work, the Contractor must request prior written approval from the Contracting Officer.
- (2) As part of the request, the Contractor must provide the Contracting Officer a description and an estimate of the total cost of the information technology equipment, software, or services to be procured under this contract. The Contractor must simultaneously notify the Contracting Officer's Representative (COR) and the Office of the Chief Information Office at ITAuthorization@usaid.gov.
- (e) The Contracting Officer will provide written approval to the Contractor through modification to the contract expressly specifying the information technology equipment, software, or services approved for purchase by the COR and the Agency CIO. The Contracting Officer will include the applicable clauses and special contract requirements in the modification.
- (f) Except as specified in the contracting officer's written approval, the Government is not obligated to reimburse the Contractor for any costs incurred for information technology as defined in this clause.
- (g) The Contractor must insert the substance of this clause, including this paragraph (g), in all subcontracts.

## **H.5 ELECTRONIC PAYMENTS SYSTEM**

### **1. Definitions:**

- a. "Cash Payment System" means a payment system that generates any transfer of funds through a transaction originated by cash, check, or similar paper instrument. This includes electronic payments to a financial institution or clearing house that subsequently issues cash, check, or similar paper instruments to the designated payee.
- b. "Electronic Payment System" means a payment system that generates any transfer of funds, other than a transaction originated by cash, check, or similar paper instrument, which is initiated through an electronic terminal, telephone, mobile phone, computer, or magnetic tape, for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account. The term includes debit cards, wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

2. The contractor agrees to use an electronic payment system for any payments under this award to beneficiaries, subcontractors, or grants under contracts, where applicable.
3. Exceptions. The contractor is allowed the following exceptions, provided the contractor documents its contract file with the appropriate justification:
  - a. Cash payments made while establishing electronic payment systems, provided that this exception is not used for more than six months from the effective date of this award.
  - b. Cash payments made to payees where the contractor does not expect to make payments to the same payee on a regular, recurring basis, and payment through an electronic payment system is not reasonably available.
  - c. Cash payments to vendors below the micro purchase level as defined by FAR 2.101, or for Grants Under Contracts for less than \$3000, when payment through an electronic payment system is not reasonably available.
  - d. The contractor has received a specific written exception from the Contracting Officer that a specific payment or all cash payments are authorized, based on the contractor's written justification, which provides a basis and cost analysis for the requested exception.
4. More information about how to establish, implement, and manage electronic payment methods is available to contractors at <http://solutionscenter.nethope.org/programs/c2e-toolkit>."

#### **H.6 752.7007 Personnel Compensation. (JUL 2007)**

- (a) Direct compensation of the Contractor's personnel will be in accordance with the Contractor's established policies, procedures, and practices, and the cost principles applicable to this contract.
- (b) Reimbursement of the employee's base annual salary plus overseas recruitment incentive, if any, which exceed the USAID Contractor Salary Threshold (USAID CST) stated in USAID Automated Directives System (ADS) Chapter 302 USAID Direct Contracting, must be approved in writing by the contracting officer, as prescribed in 731.205-6(b) or 731.371(b), as applicable.

#### **H.7 Additional requirements for personnel compensation**

##### **(a) Limitations**

Salary ranges for all positions under this award must be established based on the market value of the position in the country of contract performance as well as based on the Contractor's established personnel policy. The established range must be realistic and reasonable for the responsibilities of each position and must not be based on the salary history or the qualifications of the candidate selected. The salary ranges of the compensation plan must be certified by the Contractor and submitted to the Contracting Officer for approval. Upon establishment of the salary ranges, an appropriate candidate must be selected based on the qualifications sought for that position and the Contractor's personnel practices. That individual's salary must be negotiated within the established range and the conditions stated further in this paragraph. The Contractor must avoid

“rank-in-person” salaries, which are in excess of the value and the responsibilities of the position. In addition, the salary ranges may not exceed the Contractor's established policy and practice, including the Contractor's established pay scale for equivalent classifications of employees. If, during contract performance, the Contractor proposes salary or wages for an individual(s) that exceeds the market value of the position, the cognizant Contracting Officer's approval is required.

Notwithstanding the above requirements, for professional level employees, the COR's technical concurrence must be obtained prior to commencement of their work under the contract.

Nothing specified above limits in any way the authority of the Contracting Officer to determine the allowability, allocability, or reasonableness of any cost, including those relating to compensation.

(b) Salaries during Travel

Salaries and wages paid while in travel status will not be reimbursed for a travel period greater than the time required for travel by the most direct and expeditious air route.

(c) Return of Overseas Employees

Salaries and wages paid to an employee serving overseas who is discharged by the Contractor for misconduct, inexcusable nonperformance, or security reasons will in no event be reimbursed for a period which extends beyond the time required to return him/her promptly to his/her point of origin by the most direct and expeditious air route.

(d) Annual Salary Increases

Annual salary increases (e.g. cost of living and merit increases and other) for the current labor pool may be granted once a year and cannot exceed the escalation rate 3% that was negotiated for this contract. Annual salary increases of any kind exceeding this limitation may be granted only with the advance written approval of the Contracting Officer.

(e) Definitions

As used herein, the terms “Salaries,” “Wages,” and “Compensation” mean the periodic remuneration received for professional or technical services rendered, exclusive of any of the differentials or allowances defined in the clause of this contract entitled “Differentials and Allowances” (AIDAR 752.7028), unless otherwise stated. The term “compensation” includes payments for personal services (including fees and honoraria). It excludes earnings from sources other than the individual's professional or technical work, overhead, or other charges under the contract.”

**H.8 302.3.5.19 USAID-Financed Third-party Websites (November 2017)**

(a) Definitions:

“Third-party web sites”

Sites hosted on environments external to USAID boundaries and not directly controlled by USAID policies and staff, except through the terms and conditions of a contract. Third-party Web sites include project sites.

(b) The Contractor must adhere to the following requirements when developing, launching, and maintaining a third-party Web site funded by USAID for the purpose of meeting the project implementation goals:

(1) Prior to Web site development, the Contractor must provide information as required in Section C-Statement of Work of the contract (including a copy of the Contractor's privacy policy) to the Contracting Officer's Representative (COR) for USAID's Bureau for Legislative and Public Affairs (LPA) evaluation and approval. The Contractor must notify the COR of the Web site URL as far in advance of the site's launch as possible and must not launch the Web site until USAID's (LPA) approval has been provided through the COR. The Contractor must provide the COR with any changes to the privacy policy for the duration of the contract.

(2) The Contractor must collect only the amount of information necessary to complete the specific business need as required by statute, regulation, or Executive Order.

(3) The Contractor must comply with Agency branding and marking requirements comprised of the USAID logo and brandmark with the tagline "from the American people," located on the USAID Web site at [www.usaid.gov/branding](http://www.usaid.gov/branding), and USAID Graphics Standards manual at <http://www.usaid.gov>.

(4) The Web site must be marked on the index page of the site and every major entry point to the Web site with a disclaimer that states:

"The information provided on this Web site is not official U.S. Government information and does not represent the views or positions of the U.S. Agency for International Development or the U.S. Government."

(5) The Web site must provide persons with disabilities access to information that is comparable to the access available to others. As such, all site content must be compliant with the requirements of the Section 508 amendments to the Rehabilitation Act.

(6) The Contractor must identify and provide to the COR, in writing, the contact information for the information security point of contact. The Contractor is responsible for updating the contact information whenever there is a change in personnel assigned to this role.

(7) The Contractor must provide adequate protection from unauthorized access, alteration, disclosure, or misuse of information processed, stored, or transmitted on the Web sites. To minimize security risks and ensure the integrity and availability of information, the Contractor must use sound: system/software management; engineering and development; and secure-coding practices consistent with USAID standards and information security best practices. Rigorous security safeguards, including but not limited to, virus protection; network intrusion detection and prevention programs; and vulnerability management systems must be implemented and critical security issues must be resolved as quickly as possible or within 30 days. Contact the USAID Chief Information Security Officer (CISO) at [ISSO@usaid.gov](mailto:ISSO@usaid.gov) for specific standards and guidance.

(8) The Contractor must conduct periodic vulnerability scans, mitigate all security risks identified during such scans, and report subsequent remediation actions to CISO at [ISSO@usaid.gov](mailto:ISSO@usaid.gov) and COR within 30 workdays from the date vulnerabilities are identified. The report must include disclosure of the tools used to conduct the scans. Alternatively, the contractor may authorize USAID CISO at [ISSO@usaid.gov](mailto:ISSO@usaid.gov) to conduct periodic vulnerability scans via its Web-scanning program. The sole purpose of USAID scanning will be to minimize security risks. The Contractor will be responsible for taking the necessary remediation action and reporting to USAID as specified above.

(c) For general information, agency graphics, metadata, privacy policy, and Section 508 compliance requirements, refer to <http://www.usaid.gov>.

#### **H.9 302.3.5.21 Submission of Datasets to the Development Data Library (DDL) (October 2014)**

(a) Definitions. For the purpose of submissions to the DDL:

(1) "Dataset" is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a Dataset may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. This requirement does not apply to aggregated performance reporting data that the Contractor submits directly to a USAID portfolio management system or to unstructured data, such as email messages, PDF files, PowerPoint presentations, word processing documents, photos and graphic images, audio files, collaboration software, and instant messages. Neither does the requirement apply to the Contractor's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information. Datasets submitted to the DDL will generally be those generated with USAID resources and created in support of Intellectual Work that is uploaded to the Development Experience Clearinghouse (DEC) (see AIDAR 752.7005 "Submission Requirements for Development Experience Documents").

(2) "Intellectual Work" includes all works that document the implementation, monitoring, evaluation, and results of international development assistance activities developed or acquired under this award, which may include program and communications materials, evaluations and assessments, information products, research and technical reports, progress and performance reports required under this award (excluding administrative financial information), and other reports, articles and papers prepared by the contractor under the award, whether published or not. The term does not include the contractor's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information.

(b) Submissions to the Development Data Library (DDL)

(1) The Contractor must submit to the Development Data Library (DDL), at [www.usaid.gov/data](http://www.usaid.gov/data), in a machine-readable, non-proprietary format, a copy of any Dataset created or obtained in performance of this award, including Datasets produced by a subcontractor at any tier. The submission must include supporting documentation describing the Dataset, such as code books, data dictionaries, data gathering tools, notes on data quality, and explanations of redactions.

(2) Unless otherwise directed by the Contracting Officer (CO) or the Contracting Officer Representative (COR), the Contractor must submit the Dataset and supporting documentation within thirty (30) calendar days after the Dataset is first used to produce an Intellectual Work or is of sufficient quality to produce an Intellectual Work. Within thirty (30) calendar days after award completion, the contractor must submit to the DDL any Datasets and supporting documentation that have not previously been submitted to the DDL, along with an index of all Datasets and Intellectual Work created or obtained under the award. The Contractor must also provide to the COR an itemized list of any and all DDL submissions.

The Contractor is not required to submit the data to the DDL, when, in accordance with the terms and conditions of this award, datasets containing results of federally funded scientific research are submitted to a publicly accessible research database. However, the contractor must submit a notice to the DDL by following the instructions at [www.usaid.gov/data](http://www.usaid.gov/data), with a copy to the COR, providing details on where and how to access the data. The direct results of federally funded scientific research must be reported no later than when the data are ready to be submitted to a peer-reviewed journal for publication, or no later than five calendar days prior to the conclusion of the award, whichever occurs earlier.

(3) The Contractor must submit the Datasets following the submission instructions and acceptable formats found at [www.usaid.gov/data](http://www.usaid.gov/data).

(4) The Contractor must ensure that any Dataset submitted to the DDL does not contain any proprietary or personally identifiable information, such as social security numbers, home addresses, and dates of birth. Such information must be removed prior to submission.

(5) The Contractor must not submit classified data to the DDL.

#### **H.10 Government furnished facilities or property**

The contractor and any employee or consultant of the contractor is prohibited from using U.S. Government facilities (such as office space or equipment) or U.S. Government clerical or technical personnel in the performance of the services specified in the contract unless the use of U.S. Government facilities or personnel is specifically authorized in the contract or is authorized in advance, in writing, by the COR.

#### **H.11 Logistic support**

The contractor will furnish all logistic support in the United States and overseas.

#### **H.12 Executive order on terrorism financing**

(a) The Contractor is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Contractor to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts/subawards issued under this contract. A list of these names can be found at the web site of the Office of Foreign Assets Control (OFAC) with the Department of Treasury at <http://treasury.gov/ofac>.



### **H.13 Foreign government delegations to international conferences**

Funds in this contract may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization, except as provided in ADS Mandatory Reference "Guidance on Funding Foreign Government Delegations to International Conferences" <https://www.usaid.gov/ads/policy/300/350maa> or as approved by the CO.

### **H.14 Environmental compliance**

1a) The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered, and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/policy/ads/200/>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities.

1b) In addition, the contractor must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter must govern.

1c) No activity funded under this contract will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE), or Environmental Assessment (EA) duly signed by the Bureau Environmental Officer (BEO)

2) A Categorical Exclusion (Attachment J.1 RCE, DCN: 2023-BOS-002) has been approved for the SEI activity. The Categorical Exclusion covers activities expected to be implemented under this contract.

3a) As part of its initial Work Plan, and all Annual Work Plans thereafter, the contractor, in collaboration with the USAID COR and Mission Environmental Officer or Bureau Environmental Officer, as appropriate, shall review all ongoing and planned activities under this contract to determine if they are within the scope of the approved Regulation 216 environmental documentation.

3b) If the contractor plans any new activities outside the scope of the approved Regulation 216 environmental documentation, it must prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

3c) Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation must be halted until an amendment to the documentation is submitted and written approval is received from USAID.

### **H.15 Consent to subcontract**

Pursuant to FAR § 52.244-2, "Subcontracts", the contractor must request Contracting Officer consent and submit the information required by the aforementioned clause for any subcontracts requiring consent. All STTAs and consultants must be treated as subcontractors if they are not employees of the Contractor or subcontractors.

### **H.16 Grants under Contract**

The contractor is authorized to issue grants under contract (GUC) as part of the work carried out hereunder. In doing so, the Contractor is required to develop and execute a grants program in accordance with the requirements for grants under contracts as provided in ADS 302.3.4.13, including:

1. The award must be a grant (not cooperative agreement).
2. USAID/BiH must be significantly involved in establishing the selection criteria. The Contractor's grant selection criteria will be subject to the written approval of the USAID COR.
3. The Contractor's grant selection committee will always include a representative from the applicable USAID/BiH technical office.
4. USAID/BiH must review and approve the award prior to issuance by the Contractor. Only the CO is authorized to approve grants, subject to the COR technical concurrence.
5. The Contractor must follow the requirements of FAR Clause 52.203-16 Preventing Personal Conflicts of Interest in the selection and award of GUCs
6. The Contractor must ensure that the requirements that apply to USAID-executed grants in ADS 303, Grants and Cooperative Agreements to NonGovernmental Organizations and the applicable standard provisions in ADS 303 are also applied to grants that a USAID contractor executes.
7. The Contractor must include award language that notifies the grantee that USAID retains the right to terminate the grant activity (activities) unilaterally in extraordinary circumstances.
8. The grant does not extend for any period beyond the estimated termination or completion date of this contract.
9. The Contractor's grants manual is subject to the written approval of the CO. See also Section F.7.13 Grants Manual above.

**[END OF SECTION H]**

**ATTACHMENT D**  
**PACKAGING AND MARKING REQUIREMENTS**

[Attach hereto a .pdf of Prime Contract Attachment J.2]

**“L.8 - BRANDING IMPLEMENTATION STRATEGY AND  
MARKING PLAN”**

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## L.8 - BRANDING IMPLEMENTATION STRATEGY AND MARKING PLAN

### BRANDING IMPLEMENTATION STRATEGY

#### 1.0 PROGRAM NAME AND BRANDING

**Program name:** USAID's Support to Electoral Integrity in BiH Activity.

**Branding:** The branding shall incorporate the message that "This assistance is from the American people" sponsored by USAID.

#### 2.0 POSITIONING ON MATERIALS AND COMMUNICATIONS

USAID policy requires exclusive branding and marking in USAID direct acquisitions. The contractor is required to use USAID identity on any program-related deliverables, commodities or communication to be produced and delivered under this contract. Contractor and subcontractor's corporate identities are prohibited on all program materials. Marking is not required on contractor vehicles, offices, and office supplies or other commodities used solely for administration of this contract. All branding and marking will comply with the USAID Graphic Standards Manual.

#### 3.0 DESIRED LEVEL OF VISIBILITY

USAID identity must be prominently displayed on commodities or equipment; printed, audio, visual, or electronic public communications; studies, reports, publications, websites, and promotional and informational products; events and grants under contracts financed by USAID.

#### 4.0 EXCEPTIONS

Exceptions and waivers to USAID marking requirements may be granted in accordance with ADS 320.3.2.5, Exceptions to Contract Marking Requirements, and ADS 320.3.2.6 waivers to Contract Marking Requirements.

#### 5.0 OTHER ORGANIZATIONS TO BE ACKNOWLEDGED

Where appropriate and applicable, the branding may acknowledge the cooperation and participation of other organizations deemed as partners of an event or deliverable. Democracy International will consult with USAID to determine if partner co-branding is applicable or appropriate.

### **Branding Implementation Plan for the Support to Electoral Integrity in BiH Activity**

#### 1.0 HOW TO INCORPORATE THE MESSAGE

The Support to Electoral Integrity in BiH Activity will use full branding and the USAID tagline "From the American People" on materials and communications. Co-branding and no branding will only be considered on a case-by-case basis as considered appropriate by the Contracting Officer's

Representative (COR) and Contracting Officer (CO).

**1.1 MESSAGES**

In all materials and events, the project will be exclusively branded as from USAID as part of the USAID’s Support to Electoral Integrity in BiH Activity. As such, all materials will acknowledge that they were produced with support “from the American people.” In cases where a local language predominates above English, the appropriate translation into the local language will be used in branding the program.

Additional ideas to increase awareness that the American people support this program: all trainers will be trained to include in each presentation or training session a statement at the beginning of their meeting or training session that the technical assistance that they provide, and the other program services are made possible as a result of “the assistance from the American people.” The USAID’s Support to Electoral Integrity of BiH Activity will follow the specific requirements for the Branding Implementation Plan as stated in USAID Direct Contracts [ADS Chapter 320.3.2](#).

**2.0 TOOLS**

The following communication tools will be used:

<b>Communication Tool</b>	<b>Yes/No/N/A</b>
Press Releases	YES
Press Conferences	YES
Media Interviews	YES
Site Visits	YES
Success Stories	YES
Beneficiary testimonials	YES
Professional photographs	YES
Public Service Announcements	YES
Videos	YES
Webcasts, e-invitations, blast e-mails, or other internet activities	YES
Social media content for USAID platforms	YES

**3.0 KEY MILESTONES AND OPPORTUNITIES**

The following key milestones or opportunities are anticipated to generate awareness that the Activity is “from the American people”:

- launching the program,
- announcing research findings,
- publishing reports or studies,
- holding training/workshop events,
- highlighting success stories,
- publishing final or interim reports, and
- communicating program impact/overall results.

#### **4.0 AUDIENCES**

The primary audience for all materials and documents produced under this contract is electoral institutions, civil society organizations, and the people of BiH.

The secondary audiences are the U.S. government, including USAID, and other donors.

#### **5.0 ACKNOWLEDGEMENTS**

##### **5.1 ACKNOWLEDGING USAID**

The following acknowledgment will be included on USAID Activity publications and internal publications, such as quarterly reports, as appropriate:

This document was produced for review by the United States Agency for International Development. It was prepared by Democracy International for the Activity, 72016823C00001.

## 5.2 ACKNOWLEDGING HOST-COUNTRY GOVERNMENTS

All Support to USAID's Electoral Integrity in BiH Activity documents will follow USAID Branding Guidelines. If during the course of this program other major sponsors are involved, we will advise the COR of their involvement and request permission to include them as necessary.

## 5.3 ACKNOWLEDGING OTHER HOST-COUNTRY PARTNERS

Co-branding with civil society groups will occur when these organizations have contributed funds to the activity. Co-branding with in-country partners may also be desirable when trying to promote local ownership and capacity building. However, when products are fully funded by USAID, CO approval is required for any exceptions to full branding requirements.

## 5.4 CO-BRANDING WITH OTHER INTERNATIONAL ORGANIZATIONS

In such cases, the guidelines for co-branding will be followed, assuming the funding contributed is more than a token amount.

## MARKING PLAN

The Contractor shall prepare a Marking Plan that will enumerate all of the public communications, commodities and program materials that visibly bear or will be marked with the USAID identity. Contract deliverables to be marked with the USAID Identity must follow design guidance for color, type, and layout in the **USAID Graphics Standard Manual**.

With reference to ADS Sections 320.3.2.3 and 320.3.2.4 the Contractor shall prepare a Marking Plan containing information substantially similar to the sample provided below:

### **Marking Plan for the Support to Electoral Integrity in BiH Activity**

With reference to Section 320.3.2.3 of ADS 320, below is the required Marking Plan:

#### **1.0 MARKING**

##### **1.1 MARKING PLAN FOR MATERIALS TO BE PRODUCED**

Table 1 outlines the types of materials that may be produced under the USAID's Support to Electoral Integrity in BiH Activity. Any materials not anticipated below but produced under the initiative will also be subject to branding guidelines and CO approval, as appropriate. Please note that marking is not required on items used as part of the administration of the contract, such as stationery products, equipment, and offices. The goal is to mark programs and projects, and not implementing partners. Thus, letterhead, name tags, business cards, equipment, and supplies are not subject to branding.

Every contract deliverable that is marked with the USAID identity for the USAID’s Support to Electoral Integrity in BiH Activity will follow design guidance for color, type, and layout in the **Graphic Standards Manual** as related to equipment, reports, studies, events, and public communication (including printed products, audio, visual, and electronic materials). The USAID logo will be used for programmatic correspondence.

Democracy International’s letterhead will be used for administrative matters and will not have the USAID logo. Business cards will not show the USAID logo. Contractor business cards will include the wording “USAID Contractor.”

All studies, reports, publications, and all informational and promotional products not authored, reviewed, or edited by USAID will contain a provision substantially as follows:

*“This study/report/ USAID’s Support to Electoral Integrity in BiH Activity is made possible by the support of the American People through the United States Agency for International Development (USAID). The contents of this study/report/ USAID’s Support to Electoral Integrity in BiH Activity are the sole responsibility of Democracy International and do not necessarily reflect the views of USAID or the United States Government.”*

### **Marking Requirements for USAID’s Support to Electoral Integrity in BiH Activity**

With reference to ADS Section 320.3.2.2, below is the required Marking Plan:

**TABLE 1. MARKING PLAN FOR MATERIALS TO BE PRODUCED**

<b>Category</b>	<b>Type of Marking</b>	<b>Remarks</b>
<b>Administrative</b>		
Stationery products (administrative Business)	USAID standard graphic identity will not be used.	Pertains to letterhead, envelopes, and mailing labels
Stationery products (program related)	USAID standard graphic identity will be used.	Pertains to letters that accompany program materials
Business cards	USAID standard graphic identity will not be used on business cards. The contractor should use its own business cards but include the line "Support for Electoral Integrity in BiH Activity" on the business card.	
Office signs (administrative)	USAID standard graphic identity will not be used to mark project offices.	
Vehicles	USAID standard graphic identity will not be	



(administrative)	used to mark contractor vehicles.	
<b>Commodities and Equipment</b>		
Commodities	USAID Identity will be used	
Equipment	USAID Identity will be used	

**TABLE 1. MARKING PLAN FOR MATERIALS TO BE PRODUCED**

<b>Category</b>	<b>Type of Marking</b>	<b>Remarks</b>
<b>Public communication that are print products</b>		
Publications, reports, research results, studies, and evaluations.	The USAID identity will be printed on the cover of document. The design will follow Graphic Standard Manual guidelines for full USAID branding. Written acknowledgement detailed in Section 1.1 will be included as appropriate.	
Brochures, leaflets, informational, and promotional materials	The USAID identity will be printed on the cover of document. The design will follow Graphic Standard Manual guidelines for full USAID branding.	
Success Stories	The USAID identity will be printed on the cover of document. The design will follow Graphic Standard Manual guidelines for full USAID branding.	
Posters	The USAID identity will be printed on the poster. The design will follow Graphic Standard Manual guidelines for full USAID branding.	
Banners and signs	The USAID identity will be printed on the materials. The design will follow guidelines for USAID full branding.	
Print PSAs, newspaper supplements and other paid placements such as advertorials	The USAID identity will be printed on the materials. The design will follow Graphic Standards Manual guidelines for full USAID branding.	
Advertisements about program events / activities	The USAID identity will be printed on the materials. The design will follow Graphic Standards Manual guidelines for full USAID branding.	
Training manuals, workbooks, and guides.	The USAID identity will be printed on the cover of document. The design will follow Graphic Standards Manual guidelines for full USAID branding.	
Press releases, fact sheets, media advisories	Contractor will use the US Embassy / BiH template for press releases.	
Letterhead used for program-related purposes (invitations to events etc. not for contractor admin purposes)	The USAID identity will be printed on the cover of this document. The design will follow Graphic Standards Manual guidelines for full USAID branding.	

**TABLE 1. MARKING PLAN FOR MATERIALS TO BE PRODUCED**

<b>Category</b>	<b>Type of Marking</b>	<b>Remarks</b>
<b>Public communications that are audio, visual, or electronic</b>		
Websites	The USAID identity will be prominently displayed. All websites produced for USAID projects by contractors must have the approval of the Website Governance Board and must display correct disclaimer language as specified in ADS 557.	
Videos	The USAID logo and closing video bumper are required.	
PowerPoint and other program related presentations	The USAID identity is required on the title breaker slides. The design will follow Graphic Standard Manual guidelines for USAID full branding.	
Mass distribution electronic mail sent for program purposes (such as invitations to training events or other widely attended program related gatherings)	The USAID identity is required. The design will follow Graphic Standard Manual guidelines for full USAID branding.	
Radio PSAs	Will include an audio tag, such as, "made possible by USAID: From the American People."	
<b>Events</b>		
Training Courses	The USAID identity will be prominently displayed.	
Conferences	The USAID identity will be prominently displayed.	
Seminars	The USAID identity will be prominently displayed.	
Briefings	The USAID identity will be prominently displayed.	
Workshops	The USAID identity will be prominently displayed.	
Press Conferences	The USAID identity will be prominently displayed.	
Invitations, press releases, publicity, media materials, presentations and handouts associated with events	The USAID identity will be prominently displayed.	

## **1.2 GRANTS UNDER CONTRACTS**

Grants under contracts, when authorized in accordance with ADS 302, “USAID Direct Contracting” must be branded and marked like grants. The policy directives and required procedures for branding and marking of assistance awards in ADS Section 320.3.3 and 2 CFR 700 apply. The Contractor is responsible for including branding and marking requirements for these grants in its Branding Implementation Plan and Marking Plan, as part of its overall responsibility for managing grants under its contract.

## **1.3 PREPRODUCTION REVIEW**

USAID reserves the right to request preproduction review of USAID-funded public communications and program material for compliance with USAID graphic standards and the approved Marking Plan.