



# **REQUEST FOR PROPOSALS**

**RFP048/13**

**Provision of Design of a Senior Executive Service (SES) System for the  
Government of Iraq**

**Iraq Public Sector Modernization (I-PSM) Programme**

**UNDP IRAQ**



**United Nations Development Programme**

July, 2013

Baghdad, Iraq  
July 30, 2013

**RFP048/13 Provision Design of a Senior Executive Service (SES) System for the Government of Iraq**

Dear Bidders,

The United Nations Development Programme (UNDP) hereby invites you to submit a Proposal to this Request for Proposal (RFP) for the above-referenced subject.

This RFP includes the following documents:

- Section 1 – This Letter of Invitation
- Section 2 – Instructions to Proposers (including Data Sheet)
- Section 3 – Terms of Reference
- Section 4 – Proposal Submission Form
- Section 5 – Documents Establishing the Eligibility and Qualifications of the Proposer
- Section 6 – Technical Proposal Form
- Section 7 – Financial Proposal Form
- Section 8 – Contract for Professional Services, including General Terms and Conditions

Your offer, comprising of a Technical and Financial Proposal, in separate sealed envelopes, should be submitted in accordance with Section 2.

You are kindly requested to submit an acknowledgment letter to UNDP for your intention to participate to the following email address: to the following address: [ali.salam@undp.org](mailto:ali.salam@undp.org)

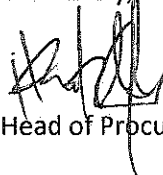
The letter should be received by UNDP no later than Close of Business 3:00 PM – 19<sup>th</sup> of August 2013 (Amman Time: GMT +03:00). The same letter should advise whether your company intends to submit a Proposal. If that is not the case, UNDP would appreciate your indicating the reason, for our records.

If you have received this RFP through a direct invitation by UNDP, transferring this invitation to another firm requires your written notification to UNDP of such transfer and the name of the company to whom the invitation was forwarded.

Should you require further clarifications, kindly communicate with the contact person identified in the attached Data Sheet as the focal point for queries on this RFP.

UNDP looks forward to receiving your Proposal and thanks you in advance for your interest in UNDP procurement opportunities.

Yours sincerely,



Hugo Barillas – Head of Procurement Unit



## Section 2: Instruction to Proposers

### Definitions

- a) *“Contract”* refers to the agreement that will be signed by and between the UNDP and the successful proposer, all the attached documents thereto, including the General Terms and Conditions (GTC) and the Appendices.
- b) *“Country”* refers to the country indicated in the Data Sheet.
- c) *“Data Sheet”* refers to such part of the Instructions to Proposers used to reflect conditions of the tendering process that are specific for the requirements of the RFP.
- d) *“Day”* refers to calendar day.
- e) *“Government”* refers to the Government of the country that will be receiving the services provided/rendered specified under the Contract.
- f) *“Instructions to Proposers”* (Section 2 of the RFP) refers to the complete set of documents that provides Proposers with all information needed and procedures to be followed in the course of preparing their Proposals
- g) *“LOI”* (Section 1 of the RFP) refers to the Letter of Invitation sent by UNDP to Proposers.
- h) *“Material Deviation”* refers to any contents or characteristics of the proposal that is significantly different from an essential aspect or requirement of the RFP, and : (i) substantially alters the scope and quality of the requirements; (ii) limits the rights of UNDP and/or the obligations of the offeror; and (iii) adversely impacts the fairness and principles of the procurement process, such as those that compromise the competitive position of other offerors.
- i) *“Proposal”* refers to the Proposer’s response to the Request for Proposal, including the Proposal Submission Form, Technical and Financial Proposal and all other documentation attached thereto as required by the RFP.
- j) *“Proposer”* refers to any legal entity that may submit, or has submitted, a Proposal for the provision of services requested by UNDP through this RFP.
- k) *“RFP”* refers to the Request for Proposals consisting of instructions and references prepared by UNDP for purposes of selecting the best service provider to perform the services described in the Terms of Reference.
- l) *“Services”* refers to the entire scope of tasks and deliverables requested by UNDP under the RFP.
- m) *“Supplemental Information to the RFP”* refers to a written communication issued by UNDP to prospective Proposers containing clarifications, responses to queries received from prospective Proposers, or changes to be made in the RFP, at any time after the release of the RFP but before

the deadline for the submission of Proposals.

- n) “*Terms of Reference*” (TOR) refers to the document included in this RFP as Section 3 which describes the objectives, scope of services, activities, tasks to be performed, respective responsibilities of the proposer, expected results and deliverables and other data pertinent to the performance of the range of duties and services expected of the successful proposer.

## A. GENERAL

1. UNDP hereby solicits Proposals in response to this Request for Proposal (RFP). Proposers must strictly adhere to all the requirements of this RFP. No changes, substitutions or other alterations to the rules and provisions stipulated in this RFP may be made or assumed unless it is instructed or approved in writing by UNDP in the form of Supplemental Information to the RFP.
2. Submission of a Proposal shall be deemed as an acknowledgement by the Proposer that all obligations stipulated by this RFP will be met and, unless specified otherwise, the Proposer has read, understood and agreed to all the instructions in this RFP.
3. Any Proposal submitted will be regarded as an offer by the Proposer and does not constitute or imply the acceptance of any Proposal by UNDP. UNDP is under no obligation to award a contract to any Proposer as a result of this RFP.
4. UNDP implements a policy of zero tolerance on proscribed practices, including fraud, corruption, collusion, unethical practices, and obstruction. UNDP is committed to preventing, identifying and addressing all acts of fraud and corrupt practices against UNDP as well as third parties involved in UNDP activities. (See [http://www.undp.org/content/dam/undp/library/corporate/Transparency/UNDP\\_Anti\\_Fraud\\_Policy\\_English\\_FINAL\\_june\\_2011.pdf](http://www.undp.org/content/dam/undp/library/corporate/Transparency/UNDP_Anti_Fraud_Policy_English_FINAL_june_2011.pdf) and <http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/> for full description of the policies)
5. In responding to this RFP, UNDP requires all Proposers to conduct themselves in a professional, objective and impartial manner, and they must at all times hold UNDP’s interests paramount. Proposers must strictly avoid conflicts with other assignments or their own interests, and act without consideration for future work. All Proposers found to have a conflict of interest shall be disqualified. Without limitation on the generality of the above, Proposers, and any of their affiliates, shall be considered to have a conflict of interest with one or more parties in this solicitation process, if they:

***5.1 Are or have been associated in the past, with a firm or any of its affiliates which have been engaged UNDP to provide services for the preparation of the design, specifications, Terms of Reference, cost analysis/estimation, and other documents to be used for the procurement of the goods and services in this selection process;***

***5.2 Were involved in the preparation and/or design of the programme/project related to the services requested under this RFP; or***

***5.3 Are found to be in conflict for any other reason, as may be established by, or at the discretion of, UNDP.***

In the event of any uncertainty in the interpretation of what is potentially a conflict of interest, proposers must disclose the condition to UNDP and seek UNDP's confirmation on whether or not such conflict exists.

6. Similarly, the Proposers must disclose in their proposal their knowledge of the following :

***6.1 That they are owners, part-owners, officers, directors, controlling shareholders, or they have key personnel who are family of UNDP staff involved in the procurement functions and/or the Government of the country or any Implementing Partner receiving services under this RFP; and***

***6.2 All other circumstances that could potentially lead to actual or perceived conflict of interest, collusion or unfair competition practices.***

***Failure of such disclosure may result in the rejection of the proposal or proposals affected by the non-disclosure.***

7. The eligibility of Proposers that are wholly or partly owned by the Government shall be subject to UNDP's further evaluation and review of various factors such as being registered as an independent entity, the extent of Government ownership/share, receipt of subsidies, mandate, access to information in relation to this RFP, and others that may lead to undue advantage against other Proposers, and the eventual rejection of the Proposal.
8. All Proposers must adhere to the UNDP Supplier Code of Conduct, which may be found at this link: [http://www.un.org/depts/ptd/pdf/conduct\\_english.pdf](http://www.un.org/depts/ptd/pdf/conduct_english.pdf)

## **B. CONTENTS OF PROPOSAL**

### **9. Sections of Proposal**

Proposers are required to complete, sign and submit the following documents:

- 9.1 Proposal Submission Cover Letter Form (see RFP Section 4);
- 9.2 Documents Establishing the Eligibility and Qualifications of the Proposer (see RFP Section 5);
- 9.3 Technical Proposal (see prescribed form in RFP Section 6);
- 9.4 Financial Proposal (see prescribed form in RFP Section 7);
- 9.5 Proposal Security, if applicable (if required and as stated in the **Data Sheet** (DS nos. 9-11), see prescribed Form in RFP Section 8);
- 9.6 Any attachments and/or appendices to the Proposal.

### **10. Clarification of Proposal**

- 10.1 Proposers may request clarifications of any of the RFP documents no later than the date indicated in the **Data Sheet** (DS no. 16) prior to the proposal submission date. Any

request for clarification must be sent in writing via courier or through electronic means to the UNDP address indicated in the **Data Sheet** (DS no. 17). UNDP will respond in writing, transmitted by electronic means and will transmit copies of the response (including an explanation of the query but without identifying the source of inquiry) to all Proposers who have provided confirmation of their intention to submit a Proposal.

- 10.2 UNDP shall endeavor to provide such responses to clarifications in an expeditious manner, but any delay in such response shall not cause an obligation on the part of UNDP to extend the submission date of the Proposals, unless UNDP deems that such an extension is justified and necessary.

## **11. Amendment of Proposals**

- 11.1 At any time prior to the deadline of Proposal submission, UNDP may for any reason, such as in response to a clarification requested by a Proposer, modify the RFP in the form of a Supplemental Information to the RFP. All prospective Proposers will be notified in writing of all changes/amendments and additional instructions through Supplemental Information to the RFP and through the method specified in the **Data Sheet** (DS No. 18).
- 11.2 In order to afford prospective Proposers reasonable time to consider the amendments in preparing their Proposals, UNDP may, at its discretion, extend the deadline for submission of Proposals, if the nature of the amendment to the RFP justifies such an extension.

## **C. PREPARATION OF PROPOSALS**

### **1. Cost**

The Proposer shall bear any and all costs related to the preparation and/or submission of the Proposal, regardless of whether its Proposal was selected or not. UNDP shall in no case be responsible or liable for those costs, regardless of the conduct or outcome of the procurement process.

### **2. Language**

The Proposal, as well as any and all related correspondence exchanged by the Proposer and UNDP, shall be written in the language (s) specified in the **Data Sheet** (DS No 4). Any printed literature furnished by the Proposer written in a language other than the language indicated in the **Data Sheet**, must be accompanied by a translation in the preferred language indicated in the **Data Sheet**. For purposes of interpretation of the Proposal, and in the event of discrepancy or inconsistency in meaning, the version translated into the preferred language shall govern. Upon conclusion of a contract, the language of the contract shall govern the relationship between the contractor and UNDP.

### **3. Proposal Submission Form**

The Proposer shall submit the Proposal Submission Form using the form provided in Section 4 of this RFP.

#### 4. Technical Proposal Format and Content

Unless otherwise stated in the **Data Sheet** (DS no. 28), the Proposer shall structure the Technical Proposal as follows:

- 15.1 Expertise of Firm/Organization – this section should provide details regarding management structure of the organization, organizational capability/resources, and experience of organization/firm, the list of projects/contracts (both completed and on-going, both domestic and international) which are related or similar in nature to the requirements of the RFP, and proof of financial stability and adequacy of resources to complete the services required by the RFP (see RFP clause 18 and DS No. 26 for further details). The same shall apply to any other entity participating in the RFP as a Joint Venture or Consortium.
- 15.2 Proposed Methodology, Approach and Implementation Plan – this section should demonstrate the Proposer’s response to the Terms of Reference by identifying the specific components proposed, how the requirements shall be addressed, as specified, point by point; providing a detailed description of the essential performance characteristics proposed; identifying the works/portions of the work that will be subcontracted; and demonstrating how the proposed methodology meets or exceeds the specifications, while ensuring appropriateness of the approach to the local conditions and the rest of the project operating environment. This methodology must be laid out in an implementation timetable that is within the duration of the contract as specified in the **Data Sheet** (DS nos. 29 and 30).

Proposers must be fully aware that the products or services that UNDP requires may be transferred, immediately or eventually, by UNDP to the Government partners, or to an entity nominated by the latter, in accordance with UNDP’s policies and procedures. All proposers are therefore required to submit the following in their proposals :

- a) A statement of whether any import or export licences are required in respect of the goods to be purchased or services to be rendered, including any restrictions in the country of origin, use or dual use nature of the goods or services, including any disposition to end users; and
  - b) Confirmation that the Proposer has obtained license of this nature in the past, and have an expectation of obtaining all the necessary licenses, should their Proposal be rendered the most responsive.
- 15.3 Management Structure and Key Personnel – This section should include the comprehensive curriculum vitae (CVs) of key personnel that will be assigned to support the implementation of the proposed methodology, clearly defining the roles and responsibilities vis-à-vis the proposed methodology. CVs should establish competence and demonstrate qualifications in areas relevant to the TOR.

In complying with this section, the Proposer assures and confirms to UNDP that the personnel being nominated are available for the Contract on the dates proposed. If any of the key personnel later becomes unavailable, except for unavoidable reasons such as

death or medical incapacity, among other possibilities, UNDP reserves the right to consider the proposal non-responsive. Any deliberate substitution arising from unavoidable reasons, including delay in the implementation of the project of programme through no fault of the Proposer shall be made only with UNDP's acceptance of the justification for substitution, and UNDP's approval of the qualification of the replacement who shall be either of equal or superior credentials as the one being replaced.

15.4 Where the **Data Sheet** requires the submission of the Proposal Security, the Proposal Security shall be included along with the Technical Proposal. The Proposal Security may be forfeited by UNDP, and reject the Proposal, in the event of any or any combination of the following conditions:

- a) If the Proposer withdraws its offer during the period of the Proposal Validity specified in the **Data Sheet** (DS no. 11), or;
- b) If the Proposal Security amount is found to be less than what is required by UNDP as indicated in the **Data Sheet** (DS no. 9), or;
- c) In the case the successful Proposer fails:
  - i. to sign the Contract after UNDP has awarded it;
  - ii. to comply with UNDP's variation of requirement, as per RFP clause 35; or
  - iii. to furnish Performance Security, insurances, or other documents that UNDP may require as a condition to rendering the effectivity of the contract that may be awarded to the Proposer.

## 5. Financial Proposals

The Financial Proposal shall be prepared using the attached standard form (Section 7). It shall list all major cost components associated with the services, and the detailed breakdown of such costs. All outputs and activities described in the Technical Proposal must be priced separately on a one-to-one correspondence. Any output and activities described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other activities or items, as well as in the final total price.

## 6. Currencies

All prices shall be quoted in the currency indicated in the **Data Sheet** (DS no. 15). However, where Proposals are quoted in different currencies, for the purposes of comparison of all Proposals:

- a) UNDP will convert the currency quoted in the Proposal into the UNDP preferred currency, in accordance with the prevailing UN operational rate of exchange on the last day of submission of Proposals; and
- b) In the event that the proposal found to be the most responsive to the RFP requirement is quoted in another currency different from the preferred currency as per **Data Sheet** (DS no. 15), then UNDP shall reserve the right to award the contract in the currency of UNDP's preference, using the conversion method specified above.



Proposals submitted by two (2) or more Proposers shall all be rejected if they are found to have any of the following :

- a) they have at least one controlling partner, director or shareholder in common; or
- b) any one of them receive or have received any direct or indirect subsidy from the other/s; or
- c) they have the same legal representative for purposes of this RFP; or
- d) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about, or influence on the Proposal of, another Proposer regarding this RFP process;
- e) they are subcontractors to each other's Proposal, or a subcontractor to one Proposal also submits another Proposal under its name as lead Proposer; or
- f) an expert proposed to be in the team of one Proposer participates in more than one Proposal received for this RFP process. This condition does not apply to subcontractors being included in more than one Proposal.

## **7. Documents Establishing the Eligibility and Qualifications of the Proposer**

The Proposer shall furnish documentary evidence of its status as an eligible and qualified vendor, using the forms provided under Section 5, Proposer Information Forms. In order to award a contract to a Proposer, its qualifications must be documented to UNDP's satisfaction. These include, but are not limited to, the following:

- a) That, in the case of a Proposer offering to supply goods under the Contract which the Proposer did not manufacture or otherwise produce, the Proposer has been duly authorized by the goods' manufacturer or producer to supply the goods in the country of final destination;
- b) That the Proposer has the financial, technical, and production capability necessary to perform the Contract; and
- c) That, to the best of the Proposer's knowledge, it is not included in the UN 1267/1989 List or the UN Ineligibility List, nor in any and all of UNDP's list of suspended and removed vendors.

## **8. Joint Venture, Consortium or Association**

If the Proposer is a group of legal entities that will form or have formed a joint venture, consortium or association at the time of the submission of the Proposal, they shall confirm in their Proposal that : (i) they have designated one party to act as a lead entity, duly vested with authority to legally bind the members of the joint venture jointly and severally, and this shall be duly evidenced by a duly notarized Agreement among the legal entities, which shall be submitted along with the Proposal; and (ii) if they are awarded the contract, the contract shall be entered into, by and between UNDP and the designated lead entity, who shall be acting for and on behalf of all the member entities comprising the joint venture.

After the Proposal has been submitted to UNDP, the lead entity identified to represent the joint venture shall not be altered without the prior written consent of UNDP. Furthermore, neither the lead entity nor the member entities of the joint venture can:

- a) Submit another proposal, either in its own capacity; nor
- b) As a lead entity or a member entity for another joint venture submitting another Proposal.

The description of the organization of the joint venture/consortium/association must clearly define the expected role of each of the entity in the joint venture in delivering the requirements of the RFP, both in the Proposal and the Joint Venture Agreement. All entities that comprise the joint venture shall be subject to the eligibility and qualification assessment by UNDP.

Where a joint venture is presenting its track record and experience in a similar undertaking as those required in the RFP, it should present such information in the following manner:

- a) Those that were undertaken together by the joint venture; and
- b) Those that were undertaken by the individual entities of the joint venture expected to be involved in the performance of the services defined in the RFP.

Previous contracts completed by individual experts working privately but who are permanently or were temporarily associated with any of the member firms cannot be claimed as the experience of the joint venture or those of its members, but should only be claimed by the individual experts themselves in their presentation of their individual credentials.

If a joint venture's Proposal is determined by UNDP as the most responsive Proposal that offers the best value for money, UNDP shall award the contract to the joint venture, in the name of its designated lead entity. The lead entity shall sign the contract for and on behalf of all other member entities.

## **9. Alternative Proposals**

Unless otherwise specified in the **Data Sheet** (DS nos. 5 and 6), alternative proposals shall not be considered. Where the conditions for its acceptance are met, or justifications are clearly established, UNDP reserves the right to award a contract based on an alternative proposal.

## **10. Validity Period**

Proposals shall remain valid for the period specified in the **Data Sheet** (DS no. 8), commencing on the submission deadline date also indicated in the **Data Sheet** (DS no. 21). A Proposal valid for a shorter period shall be immediately rejected by UNDP and rendered non-responsive.

In exceptional circumstances, prior to the expiration of the proposal validity period, UNDP may request Proposers to extend the period of validity of their Proposals. The request and the responses shall be made in writing, and shall be considered integral to the Proposal.

## **11. Proposer's Conference**

When appropriate, a proposer's conference will be conducted at the date, time and location specified in the **Data Sheet** (DS no. 7). All Proposers are encouraged to attend. Non-attendance, however, shall not result in disqualification of an interested Proposer. Minutes of the proposer's conference will be either posted on the UNDP website, or disseminated to the individual firms who have registered or expressed interest with the contract, whether or not they attended the conference. No verbal statement made during the conference shall modify the terms and conditions of the RFP unless such statement is specifically written in the Minutes of the Conference, or issued/posted as an amendment in the form of a Supplemental Information to the RFP.

## D. SUBMISSION AND OPENING OF PROPOSALS

### 12. Submission

- 23.1 The Financial Proposal and the Technical Proposal Envelopes MUST BE COMPLETELY SEPARATE and each of them must be submitted sealed individually and clearly marked on the outside as either “TECHNICAL PROPOSAL” or “FINANCIAL PROPOSAL”, as appropriate. Each envelope MUST clearly indicate the name of the Proposer. The outer envelopes shall bear the address of UNDP as specified in the **Data Sheet** (DS no.20) and shall include the Proposer’s name and address, as well as a warning that state “*not to be opened before the time and date for proposal opening*” as specified in the **Data Sheet** (DS no. 24). The Proposer shall assume the responsibility for the misplacement or premature opening of Proposals due to improper sealing and labeling by the Proposer.
- 23.2 Proposers must submit their Proposals in the manner specified in the **Data Sheet** (DS nos. 22 and 23). When the Proposals are expected to be in transit for more than 24 hours, the Proposer must ensure that sufficient lead time has been provided in order to comply with UNDP’s deadline for submission. UNDP shall indicate for its record that the official date and time of receiving the Proposal is the actual date and time when the said Proposal has physically arrived at the UNDP premises indicated in the **Data Sheet** (DS no. 20).
- 23.3 Proposers submitting Proposals by mail or by hand shall enclose the original and each copy of the Proposal, in separate sealed envelopes, duly marking each of the envelopes as “Original Proposal” and “Copy of Proposal” as appropriate. The 2 envelopes shall then be sealed in an outer envelope. The number of copies required shall be as specified in the **Data Sheet** (DS No. 19). In the event of any discrepancy between the contents of the “Original Proposal” and the “Copy of Proposal”, the contents of the original shall govern. The original version of the Proposal shall be signed or initialed by the Proposer or person(s) duly authorized to commit the Proposer on every page. The authorization shall be communicated through a document evidencing such authorization issued by the highest official of the firm, or a Power of Attorney, accompanying the Proposal.
- 23.4 Proposers must be aware that the mere act of submission of a Proposal, in and of itself, implies that the Proposer accepts the General Contract Terms and Conditions of UNDP as attached hereto as Section 11.

### 13. Deadline for Submission of Proposals and Late Proposals

Proposals must be received by UNDP at the address and no later than the date and time specified in the **Data Sheet** (DS nos. 20 and 21).

UNDP shall not consider any Proposal that arrives after the deadline for submission of Proposals. Any Proposal received by UNDP after the deadline for submission of Proposals shall be declared late, rejected, and returned unopened to the Proposer.

#### **14. Withdrawal, Substitution, and Modification of Proposals**

- 25.1 Proposers are expected to have sole responsibility for taking steps to carefully examine in detail the full consistency of its Proposals to the requirements of the RFP, keeping in mind that material deficiencies in providing information requested by UNDP, or lack clarity in the description of services to be provided, may result in the rejection of the Proposal. The Proposer shall assume the responsibility regarding erroneous interpretations or conclusions made by the Proposer in the course of understanding the RFP out of the set of information furnished by UNDP.
- 25.2 A Proposer may withdraw, substitute or modify its Proposal after it has been submitted by sending a written notice in accordance with Clause 23.1, duly signed by an authorized representative, and shall include a copy of the authorization (or a Power of Attorney). The corresponding substitution or modification of the Proposal must accompany the respective written notice. All notices must be received by UNDP prior to the deadline for submission and submitted in accordance with RFP Clause 23.1 (except that withdrawal notices do not require copies). The respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION".
- 25.3 Proposals requested to be withdrawn shall be returned unopened to the Proposers.
- 25.4 No Proposal may be withdrawn, substituted, or modified in the interval between the deadline for submission of Proposals and the expiration of the period of proposal validity specified by the Proposer on the Proposal Submission Form or any extension thereof.

#### **15. Proposal Opening**

UNDP will open the Proposals in the presence of an ad-hoc committee formed by UNDP of at least two (2) members. If electronic submission is permitted, any specific electronic proposal opening procedures shall be as specified in the **Data Sheet** (DS no. 23).

The Proposers' names, modifications, withdrawals, the condition of the envelope labels/seals, the number of folders/files and all other such other details as UNDP may consider appropriate, will be announced at the opening. No Proposal shall be rejected at the opening stage, except for late submission, for which the Proposal shall be returned unopened to the Proposer.

#### **16. Confidentiality**

Information relating to the examination, evaluation, and comparison of Proposals, and the recommendation of contract award, shall not be disclosed to Proposers or any other persons not officially concerned with such process, even after publication of the contract award.

Any effort by a Proposer to influence UNDP in the examination, evaluation and comparison of the Proposals or contract award decisions may, at UNDP's decision, result in the rejection of its Proposal.

In the event that a Proposer is unsuccessful, the Proposer may seek a meeting with UNDP for a

debriefing. The purpose of the debriefing is discussing the strengths and weaknesses of the Proposer's submission, in order to assist the Proposer in improving the proposals presented to UNDP. The content of other proposals and how they compare to the Proposer's submission shall not be discussed.

## **E. EVALUATION OF PROPOSALS**

### **17. Preliminary Examination of Proposals**

UNDP shall examine the Proposals to determine whether they are complete with respect to minimum documentary requirements, whether the documents have been properly signed, whether or not the Proposer is in the UN Security Council 1267/1989 Committee's list of terrorists and terrorist financiers, and in UNDP's list of suspended and removed vendors, and whether the Proposals are generally in order, among other indicators that may be used at this stage. UNDP may reject any Proposal at this stage.

### **18. Evaluation of Proposals**

29.1 UNDP shall examine the Proposal to confirm that all terms and conditions under the UNDP General Terms and Conditions and Special Conditions have been accepted by the Proposer without any deviation or reservation.

29.2 The evaluation team shall review and evaluate the Technical Proposals on the basis of their responsiveness to the Terms of Reference and other documentation provided, applying the evaluation criteria, sub-criteria, and point system specified in the **Data Sheet** (DS no. 32). Each responsive Proposal will be given a technical score. A Proposal shall be rendered non-responsive at this stage if it does not substantially respond to the RFP particularly the demands of the Terms of Reference, which also means that it fails to achieve the minimum technical score indicated in the **Data Sheet** (DS no. 25). Absolutely no changes may be made by UNDP in the criteria, sub-criteria and point system indicated in the **Data Sheet** (DS no. 32) after all Proposals have been received.

29.3 In the second stage, only the Financial Proposals of those Proposers who achieve the minimum technical score will be opened for evaluation for comparison and review. The Financial Proposal Envelopes corresponding to Proposals that did not meet the minimum passing technical score shall be returned to the Proposer unopened. The overall evaluation score will be based either on a combination of the technical score and the financial offer, or the lowest evaluated financial proposal of the technically qualified Proposers. The evaluation method that applies for this RFP shall be as indicated in the **Data Sheet** (DS No. 25).

When the Data Sheet specifies a combined scoring method, the formula for the rating of the Proposals will be as follows:

Rating the Technical Proposal (TP):

$$\text{TP Rating} = (\text{Total Score Obtained by the Offer} / \text{Max. Obtainable Score for TP}) \times 100$$

Rating the Financial Proposal (FP):

$$\text{FP Rating} = (\text{Lowest Priced Offer} / \text{Price of the Offer Being Reviewed}) \times 100$$

Total Combined Score:

$$\begin{aligned} & (\text{TP Rating}) \times (\text{Weight of TP, e.g. 70\%}) \\ & + (\text{FP Rating}) \times (\text{Weight of FP, e.g., 30\%}) \\ & \hline & \text{Total Combined and Final Rating of the Proposal} \end{aligned}$$

29.4 UNDP reserves the right to undertake a post-qualification exercise aimed at determining, to its satisfaction the validity of the information provided by the Proposer. Such post-qualification shall be fully documented and, among those that may be listed in the **Data Sheet** (DS No.33), may include, but need not be limited to, all or any combination of the following :

- a) Verification of accuracy, correctness and authenticity of information provided by the Proposer on the legal, technical and financial documents submitted;
- b) Validation of extent of compliance to the RFP requirements and evaluation criteria based on what has so far been found by the evaluation team;
- c) Inquiry and reference checking with Government entities with jurisdiction on the Proposer, or any other entity that may have done business with the Proposer;
- d) Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed;
- e) Physical inspection of the Proposer's offices, branches or other places where business transpires, with or without notice to the Proposer;
- f) Quality assessment of ongoing and completed outputs, works and activities similar to the requirements of UNDP, where available; and
- g) Other means that UNDP may deem appropriate, at any stage within the selection process, prior to awarding the contract.

## 19. Clarification of Proposals

To assist in the examination, evaluation and comparison of Proposals, UNDP may, at its discretion, ask any Proposer for a clarification of its Proposal.

UNDP's request for clarification and the response shall be in writing. Notwithstanding the written communication, no change in the prices or substance of the Proposal shall be sought, offered, or permitted, except to provide clarification, and confirm the correction of any arithmetic errors discovered by UNDP in the evaluation of the Proposals, in accordance with RFP Clause 32.

Any unsolicited clarification submitted by a Proposer in respect to its Proposal, which is not a response to a request by UNDP, shall not be considered during the review and evaluation of the Proposals.

## **20. Responsiveness of Proposal**

UNDP's determination of a Proposal's responsiveness will be based on the contents of the Proposal itself.

A substantially responsive Proposal is one that conforms to all the terms, conditions, TOR and other requirements of the RFP without material deviation, reservation, or omission.

If a Proposal is not substantially responsive, it shall be rejected by UNDP and may not subsequently be made responsive by the Proposer by correction of the material deviation, reservation, or omission.

## **21. Nonconformities, Reparable Errors and Omissions**

Provided that a Proposal is substantially responsive, UNDP may waive any non-conformities or omissions in the Proposal that, in the opinion of UNDP, do not constitute a material deviation.

Provided that a Proposal is substantially responsive, UNDP may request the Proposer to submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Proposal related to documentation requirements. Such omission shall not be related to any aspect of the price of the Proposal. Failure of the Proposer to comply with the request may result in the rejection of its Proposal.

Provided that the Proposal is substantially responsive, UNDP shall correct arithmetical errors as follows:

- a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of UNDP there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;*
- b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and*
- c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to the above.*

If the Proposer does not accept the correction of errors made by UNDP, its Proposal shall be rejected.

## **F. AWARD OF CONTRACT**

### **22. Right to Accept, Reject, or Render Non-Responsive Any or All Proposals**

UNDP reserves the right to accept or reject any Proposal, to render any or all of the Proposals as non-responsive, and to reject all Proposals at any time prior to award of contract, without incurring any liability, or obligation to inform the affected Proposer(s) of the grounds for UNDP's action. Furthermore, UNDP shall not be obliged to award the contract to the lowest price offer.

UNDP shall also verify, and immediately reject their respective Proposal, if the Proposers are found to appear in the UN's Consolidated List of Individuals and Entities with Association to Terrorist Organizations, in the List of Vendors Suspended or Removed from the UN Secretariat Procurement Division Vendor Roster, the UN Ineligibility List, and other such lists that as may be established or recognized by UNDP policy on Vendor Sanctions. (See <http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/> for details)

### **23. Award Criteria**

Prior to expiration of the period of proposal validity, UNDP shall award the contract to the qualified Proposer with the highest total score based on the evaluation method indicated in the **Data Sheet** (DS nos. 25 and 32).

### **24. Right to Vary Requirements at the Time of Award**

At the time of award of Contract, UNDP reserves the right to vary the quantity of services and/or goods, by up to a maximum twenty five per cent (25%) of the total offer, without any change in the unit price or other terms and conditions.

### **25. Contract Signature**

Within fifteen (15) days from the date of receipt of the Contract, the successful Proposer shall sign and date the Contract and return it to UNDP.

Failure of the successful Proposer to comply with the requirement of RFP Clause 35 and this provision shall constitute sufficient grounds for the annulment of the award, and forfeiture of the Proposal Security if any, and on which event, UNDP may award the Contract to the Proposer with the second highest rated Proposal, or call for new Proposals.

### **26. Performance Security**

A performance security, if required, shall be provided in the amount and form provided in Section 9 and by the deadline indicated in the **Data Sheet** (DS no. 14), as applicable. Where a Performance Security will be required, the submission of the said document, and the confirmation of its acceptance by UNDP, shall be a condition for the effectivity of the Contract that will be signed by and between the successful Proposer and UNDP.



## **27. Bank Guarantee for Advanced Payment**

Except when the interests of UNDP so require, it is the UNDP's preference to make no advanced payment(s) on contracts (i.e., payments without having received any outputs). In the event that the Proposer requires an advanced payment upon contract signature, and if such request is duly accepted by UNDP, and the said advanced payment exceeds 20% of the total proposal price, or exceed the amount of USD 30,000, UNDP shall require the Proposer to submit a Bank Guarantee in the same amount as the advanced payment. A bank guarantee for advanced payment shall be furnished in the form provided in Section 10.

## **28. Vendor Protest**

UNDP's vendor protest procedure provides an opportunity for appeal to those persons or firms not awarded a purchase order or contract through a competitive procurement process. In the event that a Proposer believes that it was not treated fairly, the following link provides further details regarding UNDP vendor protest procedures:

<http://www.undp.org/content/undp/en/home/operations/procurement/protestandsanctions/>

## Instructions to Proposers

### DATA SHEET

The following data for the services to be procured shall complement, supplement, or amend the provisions in the Instruction to Proposers. In the case of a conflict between the Instructions to Proposers, the Data Sheet, and other annexes or references attached to the Data Sheet, the provisions in the Data Sheet shall govern.

DS No.	Cross Ref. to Instructions	Data	Specific Instructions / Requirements
1		Project Title :	Iraq Public Sector Modernization (I-PSM) Programme
2		Title of Services/Work:	Provision of Design of a Senior Executive Service (SES) System for the Government of Iraq
3		Country / Region of Work Location:	Baghdad - Iraq
4	C.13	Language of the Proposal:	<input checked="" type="checkbox"/> English
5	C.20	Conditions for Submitting Proposals for Parts or sub-parts of the TOR	<input checked="" type="checkbox"/> Not allowed
6	C.20	Conditions for Submitting Alternative Proposals	<input checked="" type="checkbox"/> Shall not be considered
7	C.22	A pre-proposal conference will be held on:	Not Applicable
8	C.21	Period of Proposal Validity commencing on the submission date	<input checked="" type="checkbox"/> 120 days

9	B.9.5 C.15.4 b)	Proposal Security	<input checked="" type="checkbox"/> Not Required
10	B.9.5	Acceptable forms of Proposal Security	Not Applicable
11	B.9.5 C.15.4 a)	Validity of Proposal Security	Not Applicable
12		Advanced Payment upon signing of contract	<input checked="" type="checkbox"/> Not allowed
13		Liquidated Damages	<input checked="" type="checkbox"/> Will be imposed under the following conditions : Percentage of contract price per day of delay : 0.33% of the contract amount. Max. no. of days of delay : 30 After which UNDP may terminate the contract.
14	F.37	Performance Security	<input checked="" type="checkbox"/> Not Required
15	C.17, C.17 b)	Preferred Currency of Proposal and Method for Currency conversion	<input checked="" type="checkbox"/> United States Dollars (US\$)
16	B.10.1	Deadline for submitting requests for clarifications/ questions	7 Calendar days before the submission date.
17	B.10.1	Contact Details for submitting clarifications/questions <sup>1</sup>	Focal Person in UNDP: Ali Salam; Procurement Analyst Email Address dedicated for this purpose:  <a href="mailto:ali.salam@undp.org">ali.salam@undp.org</a>
18	B.11.1	Manner of Disseminating Supplemental Information to the RFP and responses/clarifications to queries	<input checked="" type="checkbox"/> Direct communication to prospective Proposers by email or fax, and Posting on the website <sup>2</sup> <a href="http://www.iq.undp.org/ProcurementNotices_Overview.aspx">http://www.iq.undp.org/ProcurementNotices_Overview.aspx</a> (Under procurement section)

<sup>1</sup> This contact person and address is officially designated by UNDP. If inquiries are sent to other person/s or address/es, even if they are UNDP staff, UNDP shall have no obligation to respond nor can UNDP confirm that the query was officially received.

<sup>2</sup> Posting on the website shall be supplemented by directly transmitting the communication to the prospective offerors.

19	D.23.3	No. of copies of Proposal that must be submitted [if transmitted by courier]	Original : 1 Copy Copies : 3 Copies
20	D.23.1 D.23.2 D.24	Proposal Submission Address	<p><b><i>Tender No: RFP-048/13</i></b>  Note to be Opened by Registry  Shmessani, Majid El Edwan Street; Building No.16; Amman - Jordan  Attention: Procurement Unit</p> <p><b>OR through e-mail:</b></p> <p><b>TECHNICAL PROPOSALS MUST</b> be submitted to the following e-mail Address: <a href="mailto:bids.iraq@undp.org">bids.iraq@undp.org</a></p> <p><b>FINANCIAL PROPOSALS MUST</b> be submitted to the following e-mail Address: <a href="mailto:bids.iraq@undp.org">bids.iraq@undp.org</a></p> <p><i>Proposals sent to other UNDP e-mail addresses will not be accepted and the Purchaser will not be responsible for the confidentiality of such bids.</i></p> <p><b>Proposers must take into account the following:</b>  Proposers must indicate the RFP number in the e-mail subject box for the received Technical proposal and as follows:</p> <p><b><u>RFP-048/13 – TECHNICAL PROPOSAL– PART 1 OF .....</u></b>  Proposers must indicate the RFP number in the e-mail subject box for the received Financial proposal and as follows:</p> <p><b>RFP-048/13 – FINANCIAL PROPOSAL</b></p> <p><i>Each e-mail message including attachments must not exceed 5MB. There is no limit on the number of e-mail messages for each bid. The first message should state the total number of messages comprising the bid.</i></p> <p><i>Attachments should be in PDF format. Proposers should check the attachment formats prior to submission as the Purchaser will not be responsible if attachments are in other formats that cannot be opened without additional software. If zip files are used, they should not include multiple lower sub-folders or directories.</i></p>

			<p><i>Proposers should avoid attempting to send proposals by e-mail just prior to the deadline as the Purchaser cannot be held responsible for congestion or delays in transmission. The time of receipt of the last e-mail message of a proposal</i></p>
21	C.21 D.24	Deadline of Submission	<p>Date and Time : August 19, 2013 3:00 PM – Close of Business. (Amman Time: GMT +03:00).</p>
22	D.23.2	Allowable Manner of Submitting Proposals	<p><input checked="" type="checkbox"/> Courier/Hand Delivery <input checked="" type="checkbox"/> Electronic submission of Bid<sup>3</sup></p>
23	D.23.2 D.26	Conditions and Procedures for electronic submission and opening, if allowed	<p><input checked="" type="checkbox"/> Official Address for e-submission: <a href="mailto:bids.iraq@undp.org">bids.iraq@undp.org</a>  <input checked="" type="checkbox"/> Free from virus and corrupted files  <input checked="" type="checkbox"/> Format : PDF files only, password protected</p> <p><input checked="" type="checkbox"/> Password <u>must</u> not be provided to UNDP until the date and time of Bid Opening as indicated in No. 24  <b>Financial proposal MUST BE password protected.</b>  Offerors whose technical proposals attain the minimum required technical score, will be contacted by the Procurement Unit <b><u>with request to provide the password to the file containing financial proposal.</u></b></p> <p><input checked="" type="checkbox"/> Max. File Size per transmission: <b>5 MB.</b>  <input checked="" type="checkbox"/> Max. No. of transmission : <i>unlimited</i>  <input checked="" type="checkbox"/> No. of copies to be transmitted : <i>One Copy</i>  <input checked="" type="checkbox"/> Mandatory subject of email :  <b>RFP-048/13 Provision of Design of a Senior Executive Service (SES) System for the Government of Iraq</b></p> <p><input type="checkbox"/> Virus Scanning Software to be Used prior to transmission: <i>[specify]</i>  <input type="checkbox"/> Digital Certification/Signature: <i>[specify]</i>  <input checked="" type="checkbox"/> Time Zone to be Recognized:  <b>(Amman Time: GMT +03:00)</b>  <input type="checkbox"/> Other conditions: <i>[pls. specify]</i></p>
24	D.23.1	Date, time and venue for opening of Proposals	Not Applicable

<sup>3</sup> If this will be allowed, security features (e.g., encryption, authentication, digital signatures, etc.) are strictly required and must be enforced to ensure confidentiality and integrity of contents.

25	E.29.2 E.29.3 F.34	Evaluation method to be used in selecting the most responsive Proposal	<input checked="" type="checkbox"/> Combined Scoring Method, using the 70%-30% distribution for technical and financial proposals, respectively, where the minimum passing score of technical proposal is 70%
26	C.15.1	Required Documents that must be Submitted to Establish Qualification of Proposers (In "Certified True Copy" form only)	<input checked="" type="checkbox"/> Company Profile, which should <u>not</u> exceed fifteen (15) pages, including printed brochures and product catalogues relevant to the goods/services being procured <input checked="" type="checkbox"/> Members of the Governing Board and their Designations duly certified by the Corporate Secretary, or its equivalent document if Bidder is not a corporation <input checked="" type="checkbox"/> List of Shareholders and Other Entities Financially Interested in the Firm owning 5% or more of the stocks and other interests, or its equivalent if Bidder is not a corporation <input checked="" type="checkbox"/> Certificate of Registration of the business, including Articles of Incorporation, or equivalent document if Bidder is not a corporation <input checked="" type="checkbox"/> Trade name registration papers, if applicable <input checked="" type="checkbox"/> Local Government permit to locate and operate in the current location of office or factory <input checked="" type="checkbox"/> Official Letter of Appointment as local representative, if Bidder is submitting a Bid in behalf of an entity located outside the country <input checked="" type="checkbox"/> Quality Certificate (e.g., ISO, etc.) and/or other similar certificates, accreditations, awards and citations received by the Bidder, if any <input checked="" type="checkbox"/> Latest Audited Financial Statement (Income Statement and Balance Sheet) including Auditor's Report for the past <i>[indicate number of years of reference]</i> <input checked="" type="checkbox"/> Statement of Satisfactory Performance from the Top <i>[indicate number]</i> Clients in terms of Contract Value the past <i>[indicate number of years of reference]</i> <input checked="" type="checkbox"/> All information regarding any past and current litigation during the last five (5) years, in which the bidder is involved, indicating the parties concerned, the subject of the litigation, the amounts involved, and the final resolution if already concluded.
27		Other documents that may be Submitted to Establish Eligibility	All forms provided under <b>Section 5</b> must be filled, signed and stamped.
28	C.15	Structure of the Technical Proposal ( <i>only if different from the provision of Section 12</i> )	Not Applicable.

29	C.15.2	Latest Expected date for commencement of Contract	<i>September 15, 2013</i>
30	C.15.2	Expected duration of contract (Target Commencement Date and Completion Date)	6 Months duration with target commencement date in September 2013.
31		UNDP will award the contract to:	<input checked="" type="checkbox"/> One Proposer only
32	E.29.2 F.34	Criteria for the Award of Contract and Evaluation of Proposals	<b>Combined Scoring:</b>  TP Rating = (Total Score Obtained by the Offer / Max. Obtainable Score for TP) x 100 FP Rating = (Lowest Priced Offer / Price of the Offer Being Reviewed) x 100 (TP Rating) x (70%)+ (FP Rating) x (30%) = Total Combined and Final Rating of the Proposal
33	E.29.4	Post-Qualification Actions	<input checked="" type="checkbox"/> Verification of accuracy, correctness and authenticity of the information provided by the bidder on the legal, technical and financial documents submitted; <input checked="" type="checkbox"/> Validation of extent of compliance to the ITB requirements and evaluation criteria based on what has so far been found by the evaluation team; <input checked="" type="checkbox"/> Inquiry and reference checking with Government entities with jurisdiction on the bidder, or any other entity that may have done business with the bidder; <input checked="" type="checkbox"/> Inquiry and reference checking with other previous clients on the quality of performance on ongoing or previous contracts completed; <input type="checkbox"/> Physical inspection of the bidder's plant, factory, branches or other places where business transpires, with or without notice to the bidder; <input type="checkbox"/> Testing and sampling of completed goods similar to the requirements of UNDP, where available; and <input type="checkbox"/> Others
34		Conditions for Determining Contract Effectivity	<input checked="" type="checkbox"/> Others: <i>Upon Contract signature by both parties</i>
35		Other Information Related to the RFP	Not Applicable.

### Technical Scoring Sheet:

Summary of Technical Proposal Evaluation Forms		Score Weight	Points Obtainable
1.	Expertise of Firm / Organization	30%	300
2.	Proposed Methodology, Approach and Implementation Plan	40%	400
3.	Management Structure and Key Personnel	30%	300
<b>Total</b>			<b>1000</b>

Technical Proposal Evaluation Form 1		Points obtainable
<b>Expertise of the Firm/Organization</b>		
1.1	Reputation of Organization and Staff / Credibility / Reliability / Industry Standing	50
1.2	General Organizational Capability which is likely to affect implementation <ul style="list-style-type: none"> <li>- Structure: loose consortium, holding company or one firm, age/size of the firm</li> <li>- strength of project management support</li> <li>- project management controls</li> </ul>	20 20 20
1.3	Extent to which any work would be subcontracted (subcontracting carries additional risks which may affect project implementation, but properly done it offers a chance to access specialised skills.)	15
1.4	Quality assurance procedures, warranty	25
1.5	Relevance of: <ul style="list-style-type: none"> <li>- Specialised Knowledge</li> <li>- Experience on Similar Programme / Projects</li> <li>- Experience on Projects in the Region</li> <li>- Work for UNDP/ major multilateral/ or bilateral programmes</li> </ul>	30 80 20 20
		300

Technical Proposal Evaluation Form 2		Points Obtainable
<b>Proposed Methodology, Approach and Implementation Plan</b>		
2.1	Implementation plan reflects totality of required deliverables (quantitative) and is concurrent with the recommended course of action (qualitative);	120
2.2	Proposed Methodology is relevant to the tackled subject and takes into account the Iraqi institutional dimension and limitations of accessibility;	20
2.3	Proposal includes an inclusive and capacitating strategy vis-à-vis the SES working group;	55
2.4	Description of outputs and envisioning of the system is compliant with SES international standards;	120
2.5	Compliance with the proposed timeframe and relevance of detailed workplan to the implementation strategy;	85
		400



Technical Proposal Evaluation Form 3			Points Obtainable
<b>Management Structure and Key Personnel</b>			
<b>3.1</b>	<b>Task Manager/Lead Expert</b>		<b>120</b>
		Sub-Score	
	General Qualification		
	Suitability for the Project	100	
	- Professional Experience in the area of specialization: <ul style="list-style-type: none"> <li>• Minimum 15 years of past experience working at decision/strategy making levels within Government where 5 at international level in related fields/ projects and minimum of 7 years in training in the relevant topic areas.</li> <li>• Master Degree in social, political or Economic science.</li> <li>• In-depth knowledge of civil service reform practices.</li> </ul>	55    15 10	
	- Knowledge of the region: <ul style="list-style-type: none"> <li>• Ability to respond to political/security situation in Iraq</li> </ul>	20	
	- Language Qualifications	20	
		120	

<b>3.2</b>	<b>Senior Expert</b>		<b>100</b>
		Sub-Score	
	General Qualification		
	Suitability for the Project	80	
	- Professional Experience in the area of specialization <ul style="list-style-type: none"> <li>• Master Degree in relate fields, along with master degree (Preferable).</li> <li>• Minimum 10 years of past experience, where 3-5 of them at international level in related fields/ projects and 1-3 years in training in the relevant topic areas.</li> <li>• Expertise in public financial management (PFM) and Human Resources Management (HRM);</li> </ul>	10  45 5	
	- Knowledge of the region : <ul style="list-style-type: none"> <li>• Ability to respond to the political, security situation in Iraq</li> </ul>	20	
	- Language Qualifications	20	
		100	

<b>3.3</b>	<b>Expert</b>			<b>80</b>
			Sub-Score	
	General Qualification			
	Suitability for the Project		65	
	- Professional Experience in the area of specialization • Proven experience in dealing with complex issues within governmental institutions; • Master Degree in social science, political science or Economic. Or in related fields such as Public administration. • Minimum 7 years of past experience in government. With 2-3 years at international level in related fields/ projects and 1 year in training in the relevant topic areas.	5  5  40		
	- Knowledge of the region • Ability to respond to the political and security situation in Iraq	15		
	- Language Qualification		15	
			80	
	<b>Total Part 3</b>			<b>300</b>

## Section 3: Terms of Reference (TOR)

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### The Iraq Public Sector Modernization (IPSM) Programme

#### ***A. Provision of Design of a Senior Executive Service (SES) System for the Government of Iraq.***

#### ***B. Project Description***

##### **1. Background and Situation Analysis**

Iraq has a long standing history and tradition of institution and state building; however, the impact of years of war and international isolation led to undermining the Iraqi public sector through (i) under-investment in core areas of public service management, (ii) reduced civil service management capacity in part due to retirement and migration of senior officials, (iii) the conscious doubling of public sector staffing given lack of alternative employment opportunities, (iv) constraints in delivering basic and essential services, (v) overlapping and in some cases obsolete functions, (vi) low levels of e-governance and automation, (vii) lower fiduciary standards and transparency and accountability and (viii) weak management of the public sector and economic governance in general. All these constraints congregated have had a direct bearing on the quality of services provided to Iraqi citizens and have hindered the effectiveness and efficiency of public administration in fulfilling its core functions. There is a high need to reforming the administration internally and to addressing capacity gaps, not only through improving and modernizing systems, procedures and related infrastructures and softwares, but also and most importantly through addressing leadership and human resources limitations through restructuring and capacity building interventions.

Since 2003, the Government and the people of Iraq have embarked on a challenging transition in their history. Indeed, Iraq has departed from the unitary centralistic state model to a federal structure that allows for more equitable and balanced growth, and from a centralized oil economy to one where the private sector would be supported to become the engine of growth and ultimately an alternative provider of employment. Critical to this transition is the strengthening and modernization of the public sector aiming at instating the principles of professionalism, non-partisanship, merit-based human resources management, results-based planning as well as client orientation.

Several impediments and limitations directly hinder the modernization process in Iraq. The last 20 years have indeed been devastating to Iraq's public administration with the loss of trained and experienced senior officials, and this without a clear and institutionalized succession and transfer of knowledge and know-how strategy or plan. Furthermore, the continuing excessive public sector staffing that occurs with no appropriate human resources planning complicates management and operational tasks of the Government. The 2013 federal budget law for example has included the creation of an additional 60,000 new positions within the Iraqi public sector, which are not necessarily rationalized by workload requirements. The overall situation gains in complexity primarily due to fragmented government structures with overlapping functions of ministries, department and agencies, but also with the outdated work processes and procedures resulting in protracted workflows and low levels of transparency and accountability in decision-making processes. Finally, it is to note that the delay in the formation and enactment of the Civil Service Council, which is expected to address part of the Human resources management challenges, have led to the paralysis of the system in addressing civil service matters.

In order to address those challenges and to enhance the overall performance of its administration, the Government of Iraq has initiated public administration and public sector reform/modernization programming with the support of the United Nations and other international donors and development actors, namely USAID and the World Bank. The Government has also instated by decree a Higher Committee on Administrative Reform Chaired by the President of the Prime Minister's Advisory Commission (PMAC) and mandated to lead and monitor reform interventions.

The Higher Committee on Administrative Reform, with the support of UNDP under the umbrella of the Public Sector Modernization (PSM) Programme has engaged in the development of a National Roadmap on Administrative Reform, which is expected to be enacted by the Council of Ministers and serve as the main and primary reform agenda of the Government for the short and medium term. The Roadmap is in its developing stages; yet it is to note that it has included "Senior Leadership and Human Resources Enhancement" as one of its strategic objectives (Strategic Objective # 2). This objective will be pursued with the support of the Federal Civil Service Council upon its establishment and activation for the grades and positions that are covered within its mandate, but also through complementary means in order to cover Senior Executives (Directors General, Deputy Ministers and Advisors). Indeed, an important element to note is that the Civil Service Council's mandate does not cover the senior executives, which have been identified as a critical element of managing the modernization process within the Iraqi administration. Indeed, global experiences indicate that transformation of a public service is inter-generational; it will be the next generation of leaders that would complete this difficult journey and there is a confirmed need for the Iraqi administration today to focus on fostering the development of its senior executives and securing an adapted succession plan.

## **2. Programmatic Context**

### **2.1 The Iraq Public Sector Modernization (IPSM) Programme**

The Iraq Public Sector Modernisation (I-PSM) programme is a Government of Iraq-led UN joint programme supporting Iraq's Strategic Government Plan (SGP) 2011-14 and its National Development Plan (NDP) 2010-2014. In addition to directly contributing to the achievement of the NDP, the I-PSM programme is a full-fledged part of the UNDAF 2011-2014 and directly contributes to the realization of outcome 2 of the UNDAF priority 1<sup>4</sup>, which stipulates that "The Iraqi state has more efficient, accountable and participatory governance at national and sub-national levels". The I-PSM programme through its work on the legislative and policy frameworks, alongside with the structural and systemic reform initiatives cross-sectorally and more specifically within the three targeted sectors will allow the enhancement of state institutions at federal, regional and provincial levels, which will in turn bolster the quality of service delivery and inclusive and transparent mechanisms. Indeed, the current institutional arrangements and applied mechanisms require inherent restructuring and improvements, which would be provided by a comprehensive and multi-faceted intervention proposed by the I-PSM programme.

The Programme is built around four themes: i) Developing policy and building machinery at the centre of government for managing Public Sector Modernisation (PSM); ii) Supporting system-wide reform for development management, gender mainstreaming, e-governance and national statistics; iii) Piloting reform in the three key sectors of health, education and water and sanitation (Watsan); and iv) Supporting decentralised service delivery and local governance initiatives.

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<sup>4</sup> UNDAF Priority 1: Improved governance, including protection of human rights

A first analytical and planning phase has already been implemented under IPSM, during which extensive field assessments were performed under the three targeted sectors (Health, Education and Water and Sanitation) and statistics, in addition to the undertaking of participation and perception assessments. Functional reviews and subsequent Reform Roadmaps were developed for the three sectors and statistics and a whole of government modernization approach had been identified by the GoI. Indeed, modernization options within Civil Service component of the programme were presented to the GoI and Kurdistan Regional Government (KRG) in order to support instating modern practices within the Iraqi state; these primarily relied on the transfer of knowledge and expertise methodology, through study and working missions to success models identified.

The second phase of the UN Joint Program (IPSM phase two) constitutes part of a longer-term outlook for the GoI to develop a roadmap/action plan for the public sector modernization as a whole and includes specific pilot interventions at federal, regional and local levels. As Iraq continues its journey towards democratization and decentralization, transformation of its public service is critical to achieve the desired objectives as enshrined within the Strategic Government Programme; it is understood that this transformation of the public service is the launching pad for broader transformation of the government-citizen relationship in Iraq. It was also viewed within the context of this mission that the leadership cadre within Iraq's public service has a major role to play in this transformation. A Senior Executive Service is, therefore, a key instrument to consider as it would speed up the transformation process through rapid development of Iraq's public service leadership.

## **2.2 Senior Executive Service (SES) Interventions**

### **2.2.1 Senior Executive Service: An Overview**

The SES is a Program to build senior leadership in the public service based on principles of fairness, transparency, merit and through collective input to serve the public and support the whole-of-government. SES programs, in the countries that have adopted them, have proven to be a key part in the government's ability to drive transformational change. In practice, the SES Program is a sophisticated human resource management system, which aims to select and motivate leaders in a public service to serve its citizens.

The SES is based on the premise that leadership matters; it makes a tangible difference in the performance of an organization and individuals within the organization. In today's global realities of rapid technological change and increased public scrutiny and expectations, leadership does make the difference. Leaders will effectively and efficiently lead in times of change to continue to modernize and adapt to these constantly shifting new realities.

The management of the SES cadre follows the principle of collective input into the selection, management, mentoring, coaching and development of these individuals by supervisors and peers. There is a collective benefit for government by investing in these individuals and developing them to their full potential – to be leaders in and for the public service to fast-track the entire process of modernization, reform and generational change of leadership for the public service. An important element of the system is the individualized performance of participants on the SES Program which is monitored and appraised according to pre-established performance plans and agreements.

The policy and practice for the SES Program is mostly focused on setting up the right criteria for selecting, training and developing individuals who have the qualities to lead and be successful at the senior level in the public service. Within the practice of setting the right and diversified learning environment, individuals on this Program are placed throughout ministries and central agencies. This enables them to examine issues from diverse perspectives and make decisions that take into consideration a whole-of-government outlook.

### **2.2.2 Study Mission on the Senior Executive Service (SES)**

Under the auspices of UNDP and UN-ESCWA, a Study Mission on the Canada model of the Senior Executive Service (SES) was organized within the IPSM Phase I programme. The mission gathered senior Iraqi delegates from federal and Kurdistan regional governments and was performed to Ottawa-Canada in September 2011 with the aim of exposing Iraqi delegates to the Canada model of managing professional public service. The Canada model had been pinpointed as the most suitable and relevant to the Iraqi context, given the similarities of the federal structures applied in both countries, the bilingualism within the public administration but also the segregation of the federal and provincial/sub-national administrations. During the mission, the Iraqi senior delegation reviewed all aspects of Canada's SES, including how they are identified and recruited, how they are mentored and coached, how they are trained and developed, how they are kept abreast of new policy, how their performance is appraised, how they are appointed to their posts and under what contractual arrangements, how they are compensated and how civil servants not performing up to standards are dealt with. The study mission also provided an opportunity for participants to see how the Canadian SES Program has contributed to modernizing government and transforming the delivery of services to Canadians.

### **2.2.3 Fact-Finding Missions to Iraq**

As a follow-up to the Iraqi delegation's visit to Canada in September 2011, a delegation of Canadian experts visited Iraq in February-March 2012 at the invitation of the Prime Minister's Advisory Committee (PMAC). While in Baghdad, the delegation assisted the UNDP, through a series of meetings with senior Iraqi officials, to refine its program of assistance on public service modernization with the Government of Iraq and tackled in particular the SES as a HR tool directly contributing to enhancing effectiveness and efficiency within the public sector.

In April 2013, and as a part of the approved IPSM Phase II workplan, UNDP reinitiated discussions with GoI and KRG Counterparts with the aim of developing adapted SES systems at federal and regional levels. A fact-finding and assessment mission was performed supported by international expertise, during which high level meetings were held in Baghdad and Erbil with the aim of providing the Government of Iraq with strategic directions and guidance for the development of the SES as part of a broader public service reform initiatives. The following outputs were achieved:

- Sensitization of senior decision makers and legislators on the benefits of the SES within the current public service reform strategy;
- Assessment of the current legislative and institution frameworks enabling development of SES model for Iraq; and
- Production of two situation analysis reports highlighting the most suitable approach to be adopted in the implementation of SES at both federal and regional levels.

The field assessment reconfirmed GoI's interest in the SES and UNDP was asked to initiate the preliminary design of the system based on the rationale that an Iraqi-focused SES, that takes into

account in its design the specific characteristics of the Iraqi culture and people, would greatly assist in the development of this leadership cadre and the success in modernizing the public service.

### **3. National Counterparts and Stakeholders Analysis**

Several national counterparts at both federal and regional levels will be involved in the development and roll-out of the SES system in Iraq. Other stakeholders will have a direct bearing on the system in view of their mandate and scope of work. Below is an indicative and non-exhaustive listing of the main stakeholders and counterparts to be included in the SES endeavour:

- The Higher Committee for Administrative Reform, in its role as the IPSM Programme Steering Committee, will ensure general oversight on the development of the SES and provide required guidance. Moreover, the Council / Steering Committee will act as the main “client” from the Government side until a unit/department is assigned to take over.
- The Council of Ministers Secretariat (COMSEC) is the governmental body currently assigned with administrative management tasks of high level civil servants (Deputy Ministers and Advisors). It is to note at this stage that there is no dedicated institution that provides technical support in recruiting, managing the performance and the promotion of the “first category” of civil servants.
- The Council of Representatives (COR) plays a role in validating the appointments of senior executives at the levels of Deputy Ministers<sup>5</sup>. Based on its role, it is recommended that the COR is informed of the development of the overall system.
- Ministry of Finance (MoF) – at both federal and regional levels – is mandated with the management of Grading and Salaries management of the Iraqi Civil Service.
- The KRG Ministry of Planning (MoP) in its capacity as focal point for administrative and civil service reform in KRG;
- The Federal Civil Service Council in its capacity of ultimate manager of the civil service in Iraq will need to be involved in the development of an SES. It is important however to mention that the activation of the Council has yet to concretize; the Council of Ministers has nominated by decree all members of the Council and submitted nominations to COR for approval as per the applied procedure. The PSC will be responsible for producing as large a pool as possible of those candidates with a good potential to becoming a member of the SES.
- National Center for Management Development and Information Technology (NCMDIT), part of the Ministry of Planning, plays the role of the School of the Public Service in countries applying the SES model. It is important to include the NCMDIT in the design scheme of the model and draw upon their vast experience in capacity building of civil servants.
- The Kurdistan Institute on Public Administration (KIPA), part of the KRG MoP, is involved in managing capacity building and providing institutional strengthening to the KR administration.
- Human Resources Departments within ministries and public institutions as secondary counterparts.
- The United States Agency for International Development (USAID), and its contracted partners, in light of its involvement in civil service reform in Iraq and Human Resources Capacity building initiatives across government. It is important to draw on lessons learned of past and ongoing initiatives in developing the SES model for Iraq.

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<sup>5</sup> In the Iraqi public sector, Directors General are nominated by the line Minister and approved by the Council of Ministers by Decree. The assignment of Deputy Ministers is submitted to Parliament/COR approval in addition to Council of Ministers’ endorsement.

## **4. Objective and Prospected Results of the SES System**

### **4.1 Objective**

Instating an SES System within the Iraqi administration is intended to “Support the GoI in enhancing leadership capabilities and sustaining the overall reform agenda at both national and regional levels”.

### **4.2 Prospective Results**

The prospected Results of the envisioned SES System are as follows:

- Produce an ever-increasing pool of senior executives based on merit and ability, for the Prime Minister and Cabinet to draw from for the most senior appointments;
- Ensure balance and fairness in the appointments of senior management of the public service. This will create a complementary cadre that serves the whole country; it will also help build public servants who see their role as building and maintaining public trust in government institutions;
- Develop a leadership cadre that is representative of the Iraqi demographic but views their role as serving the Iraqi people;
- Ensure clarity with regard to the role of a leader in the public service as a role model for employees and a guarantor of trust for the public at large;
- Have in place an agile system of continuous development and training;
- Incorporate a performance system that objectively measures the output and impact of individual SES participants and rewards them on the basis of their performance, and
- “Fast track” the modernization process through enlisting the services of the most able and innovative people inside and outside the public service.

### ***C. Scope of Services, Expected Outputs and Target Completion***

It is anticipated that the introduction of an SES system in Iraq will go through the following three implementation phases:

- 1) Design and Approval Phase, during which the system would be developed in partnership with decision makers and in accordance to the existing institutional national context;
- 2) Launch and Piloting Phase, during which the selection of the first batch of participants is performed and the system is piloted;
- 3) Stabilization and Application Phase, during which the system would be further refined based on lessons learned drawn from the piloting (Phase 2), and at a later stage generalized and dissemination across public sector institutions.

The present Terms of Reference (ToR) are confined to the fulfilment of the first implementation phase, which would encompass:

- 1) The design and approval of the overall system that would apply at federal level, in addition to
- 2) Devising a more specific and dedicated version of the system that would be geared towards addressing the particularities of the Kurdistan Region.

It is important to note that the Kurdistan Regional Government has a separate administration structure and is detached institutionally from the central administration in Baghdad. This derives from the federal system of Iraq and from this constitutional provision, which allow large autonomy to Regions.



It is expected that the SES will be devised in cooperation with a SES working group – to be established by the PSM Steering Committee – with support of international expertise. Phase 1 will secure the achievement of the following outputs:

- Design of a contextualized Iraqi SES System for both federal and regional administrative structures, and
- Support the approval of the System by Cabinet through issuance of dedicated Executive Order.

In order to achieve sought objectives, UNDP Iraq intends to contract a prominent international entity/firm to design the system in accordance to the below proposed framework of action:

- 1) SES Governance Structures for Iraq
  - Rationalizing SES in support of Civil Service Reform and Public Sector Modernization in Iraq (Federal and Regional levels);
  - Performing research on comparative models and setting benchmarks for determining progress and success as per international applied standards;
  - Defining the overall governance structures for the SES and pinpointing political and administrative requirements;
- 2) SES System Design and Management
  - Developing the civil service components of the system: Criteria of Selection, Systems of Selection, Performance Agreements/Plans and Reviews, Promotions and Incentives Systems, Talent Management and Leadership Development, Succession Plans, etc.
  - Identifying adapted management structures of the overall system, including inter-departmental/inter-ministerial coordination mechanisms required to support talent management;
- 3) Advocacy in support of issuing an SES Decree
  - Support consultations at national and regional levels on the proposed SES system through providing substantive inputs and advisory services;
- 4) Preparatory work for the launch and piloting Phase
  - Identifying and soliciting the support of key actors and defining their individual as well as their collective roles and responsibilities as champions of the SES;
  - Design an assessment / survey to determine the existing and needed key skills and competencies of the Iraqi senior officials and support its application;
  - Proposing options for rolling out the SES in Iraq and proposing the scope of the piloting phase and its subsequent evaluation/appraisal. It is to note that there will be a need to pilot and introduce the system within the Ministries of Planning and Finance at federal and regional levels, due to their role in the overall reform agenda and direct bearing on the success of such an initiative; other pilot institutions would be decided upon subsequently.

## **1. Technical Deliverables**

This endeavor will lead to the development and validation of two (2) SES Systems that would feed into the overall civil service reform agenda of the GoI and KRG. It is crucial to emphasize that the implementing entity will be expected to plan for, engage in and cost two parallel processes that would be conducted at federal and regional levels.

In line with the above proposed scope of work, it is expected that the more specific deliverables would encompass the following:

- a. Designing governance and institutional structures for a SES System adapted to the Iraqi federal and regional administrations;
- b. The production of two sets of SES procedural guidelines for Gol and KRG;
- c. Supporting the advocacy initiatives at federal and regional levels for the approval of the proposed system;
- d. Proposing piloting schemes and identifying entry points for the implementation of these initiatives within the Gol and KRG.

The below table depicts indicatively implementation strategies and level of effort estimates for the completion of the assignment:

Deliverables	Anticipated Inputs Required	Estimated Level of Effort (Person/day)*
1. Designing governance and institutional structures for a SES System and adapting them to the federal and regional administrations	Desk Reviews and preliminary preparation of SES Documents (On-site work not required), including: <ul style="list-style-type: none"> <li>• Definition of SES, its rationale and benefits, vis-à-vis the modernization process of the Iraqi public service;</li> <li>• Setting the benchmarks for determining progress and success, including research on comparative models</li> <li>• Governance institutional structures for the SES and pinpointing political and administrative requirements</li> <li>• Envisioning options for roll out</li> </ul>	5 days  12 days  7 days 7 days
2. The production of two sets of SES procedural guidelines for Gol and KRG	<ul style="list-style-type: none"> <li>• SES Design and Management, including Criteria of Selection, Systems of Selection, Performance Agreements/Plans and Reviews, Promotions and Incentives Systems, Talent Management and Leadership Development, Succession Plans, etc.</li> <li>• Mission to Success Model to test and refine Devised System. The mission would target the SES Working group and relevant stakeholders and would not exceed 5 days in total. It is to note that the expenses related to travel and accommodation of participants are to be excluded from the cost proposal;</li> <li>• First field mission to Baghdad and Erbil to finalize the documents and perform preliminary contacts to identify pilots. The mission should be planned for 15 working days excluding travel time.</li> </ul>	30 days  30 days  45 days (3 pax team)
3. Supporting the advocacy initiatives at federal and regional levels for	<ul style="list-style-type: none"> <li>• Support SES Working Group in its consultative processes with Federal and Kurdistan regional governments on the proposed SES program. Technical support will be extended during the first mission to Iraq (part of deliverable 2), but</li> </ul>	10 days

the approval of the proposed system	<p>also should be sustained using virtual communications means.</p> <ul style="list-style-type: none"> <li>• Second field mission to Baghdad and Erbil to provide support towards the approval of the system and issuance of the decree. The mission should be planned for 10 working days excluding travel time.</li> </ul>	30 days (3 pax team)
4. Proposing piloting schemes and identifying entry points for the implementation of these initiatives within the GoI and KRG	<ul style="list-style-type: none"> <li>• Design an assessment / survey to determine the existing and needed key skills and competencies of the Iraqi senior officials and organize a wkp to train identified surveyors;</li> <li>• Identifying options for rolling out the SES in Iraq and proposing the scope of the piloting phase and its subsequent evaluation/appraisal. It is recommended to include MoP and MoF as primary pilots;</li> <li>• Third field mission to Baghdad and Erbil to provide support towards introducing the SES concept within the targeted institutions and kick-off the pilots. The mission should be planned for 15 working days excluding travel time.</li> </ul>	<p>10 days</p> <p>7 days</p> <p>45 days (3 pax team)</p>
Estimated Level of Effort (Person/day)		238 days

\* Estimated number of days is an aggregate of the level of effort required from the team of experts to be mobilized. It is expected that the team of experts will be undertaking the tasks simultaneously and not sequentially.

The following events will need to be organized in support of achieving the above deliverables:

- a. One (1) Working Mission to a prominent SES model, with the aim of sensitizing the SES working group to the institutional arrangements and ensuring an adequate adaptation of the system to the Iraqi institutional setting. During this mission, the working group will also start work on devising the system as regards its proceedings and components;
- b. Two (2) Workshops in Baghdad and Erbil to present the documents developed and reach consensus prior to presenting them to Council of Ministers;
- c. Two (2) Training Workshops in Baghdad and Erbil targeting surveyors to introduce and launch the assessment / survey;
- d. Three (3) combined field missions to Baghdad and Erbil (sequential visits) aiming at:
  - I. Finalizing the documents and performing preliminary contacts to identify pilots. (15 working days excluding travel time);
  - II. Providing support towards the approval of the system and issuance of the decree (10 working days excluding travel time);
  - III. Providing support towards introducing the SES concept within the targeted institutions and kick-off the pilots (15 working days excluding travel time).

For the purpose of the consultancy, the selected institution/entity is expected to produce two (2) separate reports geared towards presenting the SES systems developed for each of the federal and regional level administrations. The reports should conclude with concrete recommendations for the federal and regional governments in regards to establishing their SES Systems and piloting them within selected institutions. The persisting challenges and constraints shall be also highlighted within the outcomes and findings.

Each Report should feature at a minimum the following substantive sections:

- a. Present the methodologies used while highlight the methodological limitations faced;
- b. An introductory section on SES and its adaptation to the Iraqi context (both at federal and regional levels);
- c. Present the SES System as envisioned for Federal or Kurdistan Regional administrations;
- d. Present in a comprehensive manner a summary of the findings and conclusions;
- e. Present recommendations and lessons learned to enhance the applications of the System in Iraq.

## **2. Deliverables Format**

Two sets of documents are required to be produced for the two envisioned systems (Federal SES and Regional SES). It is expected that the federal level SES system be developed in both Arabic and English, while the KR SES in Kurdish and English. Translation services are to be forecasted and costed to secure delivery in required languages.

The produced reports should abide by the following layout guidelines:

- a. Report must have an executive summary that encapsulates the essence of the information contained in the report, and facilitate dissemination and distillation of lessons learned;
- b. Interviews and field assessment reports should be included as annexes;
- c. The substantive contributions on the above deliverables are required in English/Arabic and English/Kurdish in single-space text using the font Times New Roman, size 11;
- d. References to reports and other substantive material including tables and diagrams used should be clearly indicated within the text and noted at the end of the submissions;
- e. Final reports are to be submitted in soft format abiding by all the above.

## **E. Institutional Arrangement**

- a) IPSM project manager will be the direct supervisor of this project and he will directly supervise the work of the Service Provider, insuring that the Service Provider will be directly responsible to abide their obligations in term of reporting and getting approval from project manager, and to obtain certificate of acceptance of output accordingly,
- b) Progress report to be submitted to the project manager at the end of each phase of the deliverables, as well as upon the request from project manager to submit an outputs report
- c) The Service Provider is expected to liaise/interact/collaborate/meet with:
  - Project co-implementers (Other seven UN agencies participating IPSM program)
  - Federal government units (PMAC, COMSEC, Parliament members and MoP)
- d) Joint program Management Unit monitoring and evaluation officer will be responsible to evaluate the performance of service provider and to provide feed-back to the project manager to avoid deviation
- e) IPSM program to provide the facilities to implement the project and to support personnel, service, transportation and logistics during the implementation of project inside country,

***F. Duration of the Work***

The present assignment is to be undertaken within a time period not exceeding six (6) calendar months, starting from the date of award signature.

A detailed timetable of implementation is required to be submitted as part of the technical proposal, and to include specific activities planned to be implemented. The timetable/work-plan is to abide by the six month duration set above.

***G. Location of Work***

- a) The project will be implemented inside Iraq, particularly in Baghdad and Kurdistan and might be extended to other Iraqi provinces, however it might require traveling outside Iraq for specific assignment
- b) The service provider is required to travel to Iraq to complete the mission. An office is required to be located in Iraq.

***H. Qualifications of the Successful Service Provider at Various Levels***

**1. Institutional Profile of Bidding Institutions/Entity**

This assignment will be awarded to an implementing international institution/entity renowned in the field of development and public administrative reform, and particularly in civil service reform and leadership capacity building. The Profile of the selected entity should meet the following requirements:

- a. Proven track record in the field of public administrative reform preferably with previous recorded achievements within civil service reform and leadership sub-thematics;
- b. Adequate in-house expertise on the tackled subjects, including: law, administrative regulations, budgeting, training, human resources, and others as needed. Involvement in Senior Executive Service systems development and/or enhancement is a distinct advantage;
- c. In-house knowledge and expertise of strategy and systems development, particularly in civil service reform arena;
- d. Proven expertise in performing situation analysis exercises and related surveying and assessment expertise;
- e. Past experience undertaking developmental assignments in Iraq. Partnership with the UN system in Iraq is an advantage;
- f. Proven capacity to produce outputs in the **English, Kurdish and Arabic languages**.

Should there be a need to engage subcontracted expertise and/or external consultants to render services needed in support of this assignment, this decision would be closely coordinated and will require prior approval from UNDP Iraq IPSM Project Manager.

## **2. Experts Profile**

The bidding institution is to provide Curriculum Vitae of the team of a minimum of three (3) experts who will be identified to undertake the said assignment. CVs are to pinpoint relevant past experience and highlight comparative advantages.

The three-expert team should comprise a Team Leader/Lead Expert, a Senior Expert and an Expert, whose profiles are to abide by the following:

- a. Past experience as Senior Executive in national administrations applying the SES system;
- b. Proven knowledge and applied experience in designing administrative systems relevant to Civil Service / Human Resources enhancement;
- c. Exposure to the development of and/or participation in SES programmes is highly recommended;
- d. Knowledge of the specificities of the Iraqi political, administrative and social structures;
- e. Past experience undertaking assignments in Iraq. Working with Iraqi high level officials is a clear advantage;
- f. Abiding by the principles of cultural sensitivity and inclusiveness;
- g. Mastering of English and Arabic languages (Pool of experts to be covering required languages).

In addition to the above, specific Requirements for each of the experts are presented below:

### **Team Leader/Lead Expert:**

1. Proven experience leading complex assessment and advisory teams at international level;
2. Master Degree in social science, political science or Economic. Or in related fields such as Public administration.
3. Minimum 15 years of past professional experience working at decision/strategy making levels within Government;
4. In-depth knowledge of civil service reform practices.
5. Language: Fluency in English written and spoken (advanced Level)
6. Ability to respond to the political and security situation in Iraq

### **Senior Expert:**

1. Participation in complex field assessments and advisory missions internationally;
2. Master Degree in social science, political science or Economic. Or in related fields such as Public administration.
3. Minimum 10 years of past experience working in government institutions at senior level;
4. Expertise in public financial management (PFM) and Human Resources Management (HRM);
5. Language: Fluency in English written and spoken (advanced Level)
6. Ability to respond to the political and security situation in Iraq

### **Expert:**

1. Proven experience in dealing with complex issues within governmental institutions;
2. Master Degree in social science, political science or Economic. Or in related fields such as Public administration.
3. Minimum 7 years of past experience in government.
4. Language: Fluency in English written and spoken (advanced Level)
5. Ability to respond to the political and security situation in Iraq

### **3. Special Requirements**

- a. Due to the highly volatile security situation in central and south Iraq, it is highly recommended that the bidding institution/entity embed security costs within its financial proposal. Noteworthy is that UNDP Iraq will not be providing any support in security arrangements for experts who would be accessing Iraq;
- b. It is highly recommended to plan accommodation of experts in the secured International/Green Zone in Baghdad, which would facilitate meetings with counterparts since most of governmental institutions are located within the International/Green Zone;
- c. Upon award, UNDP Iraq will support the facilitation of visa issuance for experts intending to visit Iraq part of the technical assistance missions planned.

#### ***I. Scope of Proposal Price and Schedule of Payments***

- a) The contract price is a fixed output-based price regardless of extension of the herein specific duration, however, the rate might be adjustable in accordance to any extension or reduction in the duration of engagement
- b) The Proposer must include in the computation of contract breaking down price (purely professional fee, inclusive of travel, living allowances, taxes, etc.)
- c) Payments will be made upon the request of service provider and due to the end of each stage of the five deliverables

#### ***J. Criteria for Selecting the Best Offer***

The below evaluation criteria are proposed to be applied during the appraisal phase of technical and financial proposal.

##### **1. Preliminary screening: Proposal Content**

- Detailed presentation of the implementation strategy;
- Listing of all forecasted outputs and deliverables;
- Presentation of institutional capacity and inclusion of expertise with the inclusion of CVs;
- Workplan / Timeline;
- Detailed financial proposal with rationalization of costing per activity;
- Forecasted limitations and mitigation strategies;

##### **2. Technical Evaluation *Form 2***

- Implementation plan reflects totality of required deliverables (quantitative) and is concurrent with the recommended course of action (qualitative);
- Proposed Methodology is relevant to the tackled subject and takes into account the Iraqi institutional dimension and limitations of accessibility;
- Proposal includes an inclusive and capacitating strategy vis-à-vis the SES working group;
- Description of outputs and envisioning of the system is compliant with SES international standards;
- Compliance with the proposed timeframe and relevance of detailed workplan to the implementation strategy;

### 3. Bidder Profile Evaluation

- Level of knowledge in devising Civil Service Reform strategies and processes;
- Past experience in SES;
- Profile of Experts identified and its concurrence with set requirements (Civil servants, SES experience, etc.)
- Experience in Iraq / within UN system;

A General guide has been provided in DS No.25 and DS No. 32 of the RFP Data Sheet.

The award will be done in the following manner:

Combined Scoring method – where the qualifications and methodology will be weighted a maximum of 70%, and combined with the price offer which will be weighted a maximum of 30%;

### ***K. Annexes to the TOR***

Not Applicable.



## Section 4: Proposal Submission Form<sup>6</sup>

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[insert: *Location*]

8T

To: [insert: *Name and Address of UNDP focal point*]

Dear Sir/Madam:

We, the undersigned, hereby offer to provide professional services for [insert: *title of services*] in accordance with your Request for Proposal dated [insert: *Date*] and our Proposal. We are hereby submitting our Proposal, which includes the Technical Proposal and Financial Proposal sealed under a separate envelope.

We hereby declare that :

- a) All the information and statements made in this Proposal are true and we accept that any misrepresentation contained in it may lead to our disqualification;
- b) We are currently not on the removed or suspended vendor list of the UN or other such lists of other UN agencies, nor are we associated with, any company or individual appearing on the 1267/1989 list of the UN Security Council;
- c) We have no outstanding bankruptcy or pending litigation or any legal action that could impair our operation as a going concern; and
- d) We do not employ, nor anticipate employing, any person who is or was recently employed by the UN or UNDP.

We confirm that we have read, understood and hereby accept the Terms of Reference describing the duties and responsibilities required of us in this RFP, and the General Terms and Conditions of UNDP's Contract for Professional Services.

We agree to abide by this Proposal for [insert: *period of validity as indicated in Data Sheet*].

We undertake, if our Proposal is accepted, to initiate the services not later than the date indicated in the Data Sheet.

We fully understand and recognize that UNDP is not bound to accept this proposal, that we shall bear all costs associated with its preparation and submission, and that UNDP will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the evaluation.

We remain,

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<sup>6</sup> No deletion or modification may be made in this form. Any such deletion or modification may lead to the rejection of the Proposal.

Yours sincerely,

Authorized Signature [*In full and initials*]: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Firm: \_\_\_\_\_

Contact Details : \_\_\_\_\_

*[please mark this letter with your corporate seal, if available]*

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## Section 5: Documents Establishing the Eligibility and Qualifications of the Proposer

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### Proposer Information Form<sup>7</sup>

Date: *[insert date (as day, month and year) of Proposal Submission]*

RFP No.: *[insert number]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Proposer's Legal Name <i>[insert Proposer's legal name]</i>		
2. In case of Joint Venture (JV), legal name of each party: <i>[insert legal name of each party in JV]</i>		
3. Actual or intended Country/ies of Registration/Operation: <i>[insert actual or intended Country of Registration]</i>		
4. Year of Registration: <i>[insert Proposer's year of registration]</i>		
5. Countries of Operation	6. No. of staff in each Country	7. Years of Operation in each Country
8. Legal Address/es in Country/ies of Registration/Operation: <i>[insert Proposer's legal address in country of registration]</i>		
9. Value and Description of Top three (3) Biggest Contract for the past five (5) years		
10. Latest Credit Rating (if any)		
11. Brief description of litigation history (disputes, arbitration, claims, etc.), indicating current status and outcomes, if already resolved.		
12. Proposer's Authorized Representative Information  Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's name]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's name]</i> Email Address: <i>[insert Authorized Representative's name]</i>		
13. Are you in the UNPD List 1267.1989 or UN Ineligibility List ? <input type="checkbox"/> YES or <input type="checkbox"/> NO		

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<sup>7</sup> The Proposer shall fill in this Form in accordance with the instructions. Apart from providing additional information, no alterations to its format shall be permitted and no substitutions shall be accepted.

14. Attached are copies of original documents of:

- ☐ All eligibility document requirements listed in the Data Sheet
- ☐ If Joint Venture/Consortium – copy of the Memorandum of Understanding/Agreement or Letter of Intent to form a JV/Consortium, or Registration of JV/Consortium, if registered
- ☐ If case of Government corporation or Government-owned/controlled entity, documents establishing legal and financial autonomy and compliance with commercial law.

## Joint Venture Partner Information Form (if Registered)<sup>8</sup>

Date: *[insert date (as day, month and year) of Proposal Submission]*

RFP No.: *[insert number]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Proposer's Legal Name: <i>[insert Proposer's legal name]</i>		
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>		
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i>		
4. Year of Registration: <i>[insert Party's year of registration]</i>		
5. Countries of Operation	6. No. of staff in each Country	7. Years of Operation in each Country
8. Legal Address/es in Country/ies of Registration/Operation: <i>[insert Party's legal address in country of registration]</i>		
9. Value and Description of Top three (3) Biggest Contract for the past five (5) years		
10. Latest Credit Rating (if any)		
1. Brief description of litigation history (disputes, arbitration, claims, etc.), indicating current status and outcomes, if already resolved.		
13. JV's Party Authorized Representative Information Name: <i>[insert name of JV's Party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>		

<sup>8</sup> The Proposer shall fill in this Form in accordance with the instructions. Apart from providing additional information, No alterations to its format shall be permitted and no substitutions shall be accepted.

14. Attached are copies of original documents of: *[check the box(es) of the attached original documents]*

- ☐ All eligibility document requirements listed in the Data Sheet
- ☐ Articles of Incorporation or Registration of firm named in 2.
- ☐ In case of government owned entity, documents establishing legal and financial autonomy and compliance with commercial law.

## Section 6: Technical Proposal Form

### TECHNICAL PROPOSAL FORMAT

INSERT TITLE OF THE SERVICES

**Note: Technical Proposals not submitted in this format may be rejected. The financial proposal should be included in separate envelope.**

<b>Name of Proposing Organization / Firm:</b>	
<b>Country of Registration:</b>	
<b>Name of Contact Person for this Proposal:</b>	
<b>Address:</b>	
<b>Phone / Fax:</b>	
<b>Email:</b>	

### SECTION 1: EXPERTISE OF FIRM/ ORGANISATION

*This section should fully explain the Proposer's resources in terms of personnel and facilities necessary for the performance of this requirement. All contents of this section may be modified or expanded depending on the evaluation criteria stated in the RFP.*

**1.1 Brief Description of Proposer as an Entity:** Provide a brief description of the organization / firm submitting the proposal, its legal mandates/authorized business activities, the year and country of incorporation, types of activities undertaken, and approximate annual budget, etc. Include reference to reputation, or any history of litigation and arbitration in which the organisation / firm has been involved that could adversely affect or impact the performance of services, indicating the status/result of such litigation/arbitration.

**1.2. Financial Capacity:** Provide the latest Audited Financial Statement (Income Statement and Balance Sheet) duly certified by a Public Accountant, and with authentication of receiving by the Government's Internal Revenue Authority. Include any indication of credit rating, industry rating, etc.

**1.3. Track Record and Experiences:** Provide the following information regarding corporate experience within the last five (5) years which are related or relevant to those required for this Contract.

Name of project	Client	Contract Value	Period of activity	Types of activities undertaken	Status or Date Completed	References Contact Details (Name, Phone, Email)

## SECTION 2 - APPROACH AND IMPLEMENTATION PLAN

*This section should demonstrate the Proposer's responsiveness to the TOR by identifying the specific components proposed, addressing the requirements, as specified, point by point; providing a detailed description of the essential performance characteristics proposed; and demonstrating how the proposed methodology meets or exceeds the requirements.*

**2.1. Approach to the Service/Work Required:** Please provide a detailed description of the methodology for how the organisation/firm will achieve the Terms of Reference of the project, keeping in mind the appropriateness to local conditions and project environment.

**2.2. Technical Quality Assurance Review Mechanisms:** The methodology shall also include details of the Proposer's internal technical and quality assurance review mechanisms.

**2.3 Implementation Timelines:** The Proposer shall submit a Gantt Chart or Project Schedule indicating the detailed sequence of activities that will be undertaken and their corresponding timing.

**2.4. Subcontracting:** Explain whether any work would be subcontracted, to whom, how much percentage of the work, the rationale for such, and the roles of the proposed sub-contractors. Special attention should be given to providing a clear picture of the role of each entity and how everyone will function as a team.

**2.5. Risks / Mitigation Measures:** Please describe the potential risks for the implementation of this project that may impact achievement and timely completion of expected results as well as their quality. Describe measures that will be put in place to mitigate these risks.

**2.6. Reporting and Monitoring:** Please provide a brief description of the mechanisms proposed for this project for reporting to the UNDP and partners, including a reporting schedule.

**2.7. Anti-Corruption Strategy:** Define the anti-corruption strategy that will be applied in this project to prevent the misuse of funds. Describe the financial controls that will be put in place.

**2.8. Partnerships:** Explain any partnerships with local, international or other organizations that are planned for the implementation of the project. Special attention should be given to providing a clear picture of the role of each entity and how everyone will function as a team. Letters of commitment from partners and an indication of whether some or all have successfully worked together on other previous projects is encouraged.

**2.9 Statement of Full Disclosure:** This is intended to disclose any potential conflict in accordance with the definition of "conflict" under Section 4 of this document, if any.

**2.10 Other:** Any other comments or information regarding the project approach and methodology that will be adopted.

### SECTION 3: PERSONNEL

**3.1 Management Structure:** Describe the overall management approach toward planning and implementing this activity. Include an organization chart for the management of the project describing the relationship of key positions and designations.

**3.2 Staff Time Allocation:** Provide a spreadsheet will be included to show the activities of each staff member and the time allocated for his/her involvement. (Note :*This spreadsheet is crucial and no substitution of personnel will be tolerated once the contract has been awarded except in extreme circumstances and with the written approval of the UNDP. If substitution is unavoidable it will be with a person who, in the opinion of the UNDP project manager, is at least as experienced as the person being replaced, and subject to the approval of UNDP. No increase in costs will be considered as a result of any substitution.*)

**3.3 Qualifications of Key Personnel.** Provide the CVs for key personnel (Team Leader, Managerial and general staff) that will be provided to support the implementation of this project. CVs should demonstrate qualifications in areas relevant to the Scope of Services. Please use the format below:

<b>Name:</b>		
<b>Position for this Contract:</b>		
<b>Nationality:</b>		
<b>Contact information:</b>		
<b>Countries of Work Experience:</b>		
<b>Language Skills:</b>		
<b>Educational and other Qualifications:</b>		
<b>Summary of Experience:</b> <i>Highlight experience in the region and on similar projects.</i>		
<b>Relevant Experience (From most recent):</b>		
<b>Period: From – To</b>	<b>Name of activity/ Project/ funding organisation, if applicable:</b>	<b>Job Title and Activities undertaken/Description of actual role performed:</b>
<i>e.g. June 2004-January 2005</i>		
<i>Etc.</i>		
<i>Etc.</i>		
<b>References no.1 (minimum of 3):</b>	<i>Name Designation Organization Contact Information – Address; Phone; Email; etc.</i>	
<b>Reference no.2</b>	<i>Name Designation Organization Contact Information – Address; Phone; Email; etc.</i>	
<b>Reference no.3</b>	<i>Name Designation Organization Contact Information – Address; Phone; Email; etc.</i>	



**Declaration:**

I confirm my intention to serve in the stated position and present availability to serve for the term of the proposed contract. I also understand that any wilful misstatement described above may lead to my disqualification, before or during my engagement.

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Signature of the Nominated Team Leader/Member

Date Signed

## Section 7: Financial Proposal Form<sup>9</sup>

The Proposer is required to prepare the Financial Proposal in an envelope separate from the rest of the RFP as indicated in the Instruction to Proposers.

The Financial Proposal must provide a detailed cost breakdown. Provide separate figures for each functional grouping or category.

Any estimates for cost-reimbursable items, such as travel and out-of-pocket expenses, should be listed separately.

In case of an equipment component to the service provider, the Price Schedule should include figures for both purchase and lease/rent options. UNDP reserves the option to either lease/rent or purchase outright the equipment through the Contractor.

The format shown on the following pages is suggested for use as a guide in preparing the Financial Proposal. The format includes specific expenditures, which may or may not be required or applicable but are indicated to serve as examples.

### A. Cost Breakdown per Deliverables\*

SN	Deliverables <i>[list them as referred to in the TOR]</i>	Percentage of Total Price (Weight for payment)	Price (Lump Sum, All Inclusive)
1	Designing governance and institutional structures for a SES System and adapting them to the federal and regional administrations	20%	
2	The production of two sets of SES procedural guidelines for Gol and KRG	35%	
3	Supporting the advocacy initiatives at federal and regional levels for the approval of the proposed system	20%	
4	Proposing piloting schemes and identifying entry points for the implementation of these initiatives within the Gol and KRG	25%	
	<b>Grand Total Price in USD</b>	<b>100%</b>	<b>USD .....</b>

*\*Basis for payment tranches*

<sup>9</sup> No deletion or modification may be made in this form. Any such deletion or modification may lead to the rejection of the Proposal.

## B. Cost Breakdown by Cost Component:

The rates shall be used for the price analyses and evaluation purposes or any other requirements, shall be fixed and firm for the duration of the contract and shall be inclusive of all facilities, office running cost, communication, transportation, company overheads, etc.

Under each given phase the bidder MUST provide a breakdown of cost in terms of required staff, management fees..etc... and related reimbursable costs. The below table is an example of how the breakdown should be presented.

NOTE: THE PROPOSED KEY PERSONNEL MIGHT NOT ALL BE INVOLVED AT EACH PHASE. Therefore the bidder must clearly indicate the position and percentage of input under each phase and any other related professional costs.

UNDP shall use the cost breakdown for the price reasonability assessment purposes as well as the calculation of price in the event that both parties have agreed to add new deliverables to the scope of Services.

### B.1 Cost Breakdown of Professional Fees: (to be provided under each Deliverables as applicable):

1. Personal Cost						
No	Description of Activity	No. of Days	No. of Persons	Unit Price in USD	Total Price in USD	Remarks
1.1	Task Manager					
1.2	Senior Expert					
1.3	Expert					
1.4	Additional personnel (if and as applicable)					If applicable to your submission, kindly list the details and periods. you can add/delete as many lines as you think appropriate and in line with your original submission
<b>Total Professional Fees in USD Under Deliverable</b> <i>(please indicate Deliverable number)</i>						

**B.2 Breakdown of Other Fees: (To be provided under each Phase as applicable):**

<b>2. Other Cost</b>					
<b>No</b>	<b>Description of Activity</b>	<b>No.</b>	<b>Unit of Measurement</b>	<b>Unit Price in USD</b>	<b>Total Price in USD</b>
<b>2.1</b>	Reproduction and Reports (if applicable)				
<b>2.2</b>	Administration and Management (if applicable)				
<b>Total Reimbursable Fees in USD Under Deliverable</b> <i>(please indicate Deliverable number)</i>					

**B.2 Breakdown of Reimbursable Fees: (To be provided under each Phase as applicable):**

<b>3. Travel Cost</b>					
<b>No</b>	<b>Description of Activity</b>	<b>No.</b>	<b>Unit of Measurement</b>	<b>Unit Price in USD</b>	<b>Total Price in USD</b>
<b>3.1</b>	Air Ticket		Each		
<b>3.2</b>	Subsistence Allowance (to cover accommodation and meals in Baghdad)		Day		
<b>3.3</b>	Other Fees/ Incidental costs (as applicable)				
<b>Total Reimbursable Fees in USD Under Deliverable</b> <i>(please indicate Deliverable number)</i>					

## Section 8: FORM FOR PROPOSAL SECURITY

***(This must be finalized using the official letterhead of the Issuing Bank. Except for indicated fields, no changes may be made on this template)***

---

To: UNDP  
*[Insert contact information as provided in Data Sheet]*

WHEREAS *[name and address of Contractor]* (hereinafter called “the Proposer”) has submitted a Proposal to UNDP dated 8T, to execute Services ..... (hereinafter called “the Proposal”):

AND WHEREAS it has been stipulated by you that the Proposer shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security in the event that the Proposer:

- a) Fails to sign the Contract after UNDP has awarded it;
- b) Withdraws its Proposal after the date of the opening of the Proposals;
- c) Fails to comply with UNDP’s variation of requirement, as per RFP instructions; or
- d) Fails to furnish Performance Security, insurances, or other documents that UNDP may require as a condition to rendering the contract effective.

AND WHEREAS we have agreed to give the Proposer such this Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Proposer, up to a total of *[amount of guarantee] [in words and numbers]*, such sum being payable in the types and proportions of currencies in which the Price Proposal is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of *[amount of guarantee as aforesaid]* without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

This guarantee shall be valid up to 30 days after the final date of validity of bids.

***SIGNATURE AND SEAL OF THE GUARANTOR BANK***

Date 8T

Name of Bank .....

Address .....

## Section 9: FORM FOR PERFORMANCE SECURITY<sup>10</sup>

***(This must be finalized using the official letterhead of the Issuing Bank. Except for indicated fields, no changes may be made on this template)***

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To: UNDP  
[Insert contact information as provided in Data Sheet]

WHEREAS [*name and address of Contractor*] (hereinafter called “the Contractor”) has undertaken, in pursuance of Contract No. 8T dated 8T, to execute Services .....  
(hereinafter called “the Contract”):

AND WHEREAS it has been stipulated by you in the said Contract that the Contractor shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract:

AND WHEREAS we have agreed to give the Contractor such a Bank Guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Contractor, up to a total of [*amount of guarantee*] [*in words and numbers*], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of [*amount of guarantee as aforesaid*] without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

This guarantee shall be valid until a date 30 days from the date of issue by UNDP of a certificate of satisfactory performance and full completion of services by the Contractor.

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<sup>10</sup> If the RFP requires the submission of a Performance Security, which shall be made a condition to the signing and effectivity of the contract, the Performance Security that the Proposer’s Bank will issue shall use the contents of this template

**SIGNATURE AND SEAL OF THE GUARANTOR BANK**

Date 8T

Name of Bank .....

Address .....

**Section 10: Form for Advanced Payment Guarantee<sup>11</sup>**

***(This must be finalized using the official letterhead of the Issuing Bank. Except for indicated fields, no changes may be made on this template)***

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\_\_\_\_\_ *[Bank's Name, and Address of Issuing Branch or Office]*  
**Beneficiary:** \_\_\_\_\_ *[Name and Address of UNDP]*  
**Date:** \_\_\_\_\_  
**ADVANCE PAYMENT GUARANTEE No.:** \_\_\_\_\_

We have been informed that *[name of Company]* (hereinafter called "the Contractor") has entered into Contract No. *[reference number of the contract]* dated *[insert: date]* with you, for the provision of *[brief description of Services]* (hereinafter called "the Contract"). Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of *[amount in words]* (*[amount in figures]*) is to be made against an advance payment guarantee.

At the request of the Contractor, we *[name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[amount in words]* (*[amount in figures]*)<sup>12</sup> upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor has used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number \_\_\_\_\_ at *[name and address of Bank]*.

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<sup>11</sup> This Guarantee shall be required if the Contractor will require advanced payment of more than 20% of the contract amount, or if the absolute amount of the advanced payment required will exceed the amount of USD 30,000, or its equivalent if the price offer is not in USD, using the exchange rate stated in the Data Sheet. The Contractor's Bank must issue the Guarantee using the contents of this template.

<sup>12</sup> The Guarantor Bank shall insert an amount representing the amount of the advanced payment and denominated either in the currency/ies of the advanced payment as specified in the Contract.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of certified monthly statements which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of the monthly payment certificate indicating that the Consultants have made full repayment of the amount of the advance payment, or on the \_\_ day of \_\_\_\_\_, 2\_\_\_\_,<sup>13</sup> whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

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*[signature(s)]*

*Note: All italicized text is for indicative purposes only to assist in preparing this form and shall be deleted from the final product.*

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<sup>13</sup> *Insert the expected expiration date. In the event of an extension of time for Completion of the Contract, the Contractor would need to request an extension of this Guarantee from the Guarantor Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Contractor might consider adding the following text to the form at the end of the penultimate paragraph : "The Guarantor Bank agrees to a one-time extension of this Guarantee for a period not to exceed [six months] [one year], in response to the Contractor's written request for such extension, such request to be presented to the Guarantor Bank before the expiry of the Guarantee.*



## Section 11: Contract for Professional Services

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**THIS IS UNDP'S TEMPLATE FOR CONTRACT FOR THE PROPOSER'S REFERENCE. ADHERENCE TO ALL TERMS AND CONDITIONS IS MANDATORY.**

**[PLEASE ATTACH HERETO THE .PDF VERSION OF THE CONTRACT FOR PROFESSIONAL SERVICES AND THE GENERAL TERMS AND CONDITIONS]**

Date \_\_\_\_\_

Dear Sir/Madam,

Ref.: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_ **[INSERT PROJECT NUMBER AND TITLE OR OTHER REFERENCE]**

The United Nations Development Programme (hereinafter referred to as "UNDP"), wishes to engage your **[company/organization/institution]**, duly incorporated under the Laws of \_\_\_\_\_ **[INSERT NAME OF THE COUNTRY]** (hereinafter referred to as the "Contractor") in order to perform services in respect of \_\_\_\_\_ **[INSERT SUMMARY DESCRIPTION OF THE SERVICES]** (hereinafter referred to as the "Services"), in accordance with the following Contract:

1. Contract Documents

1.1 This Contract is subject to the UNDP General Conditions for Professional Services attached hereto as Annex I. The provisions of such Annex shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any other Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".

1.2 The Contractor and UNDP also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:

a) this Letter;

b) the Terms of Reference [ref. ....dated.....], attached hereto as Annex II;

c) the Contractor's Proposal [ref....., dated .....]

d) The UNDP Request for Proposal [ref....., dated.....]

1.3 All the above shall form the Contract between the Contractor and UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

2. Obligations of the Contractor

2.1 The Contractor shall perform and complete the Services described in Annex II with due diligence and efficiency and in accordance with the Contract.

2.2 The Contractor shall provide the services of the following key personnel:

<u>Name</u>	<u>Specialization</u>	<u>Nationality</u>	<u>Period of service</u>
-------------	-----------------------	--------------------	--------------------------

....	.....	.....	.....
....	.....	.....	.....

2.3 Any changes in the above key personnel shall require prior written approval of \_\_\_\_\_ **[NAME and TITLE]**, UNDP.

2.4 The Contractor shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.

- 2.5 The Contractor shall submit to UNDP the deliverables specified hereunder according to the following schedule:

**[LIST DELIVERABLES]**

**[INDICATE DELIVERY DATES]**

e.g.

Progress report	.././....
.....	.././....
Final report	.././....

- 2.6 All reports shall be written in the English language, and shall describe in detail the services rendered under the Contract during the period of time covered in such report. All reports shall be transmitted by the Contractor by \_\_\_\_\_ **[MAIL, COURIER AND/OR FAX]** to the address specified in 9.1 below.
- 2.7 The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

**OPTION 1 (FIXED PRICE)**

3. Price and Payment

- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a fixed contract price of \_\_\_\_\_ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Contractor in the performance of the Contract.
- 3.3 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.
- 3.4 UNDP shall effect payments to the Contractor after acceptance by UNDP of the invoices submitted by the Contractor to the address specified in 9.1 below, upon achievement of the corresponding milestones and for the following amounts:

<u>MILESTONE</u>	<u>AMOUNT</u>	<u>TARGET DATE</u>
Upon.....	.....	.././....
.....	.....	.././....

Invoices shall indicate the milestones achieved and corresponding amount payable.

**OPTION 2 (COST REIMBURSEMENT)**

3. Price and payment

- 3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a price not to exceed \_\_\_\_\_ **[INSERT CURRENCY & AMOUNT IN FIGURES AND WORDS]**.
- 3.2 The amount contained in 3.1 above is the maximum total amount of reimbursable costs under this Contract. The Breakdown of Costs in Annex \_\_\_\_\_ **[INSERT ANNEX NUMBER]** contains the maximum amounts per cost category that are reimbursable under this Contract. The Contractor shall reflect in his invoices the amount of the actual reimbursable costs incurred in the performance of the Services.
- 3.3 The Contractor shall not do any work, provide any equipment, materials and supplies, or perform any other services which may result in any costs in excess of the amount under 3.1 or of any of the amounts specified in the Breakdown of Costs for each cost category without the prior written agreement of \_\_\_\_\_ **[NAME and TITLE]**, UNDP.
- 3.4 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.
- 3.5 The Contractor shall submit invoices for the work done every \_\_\_\_\_ **[INSERT PERIOD OF TIME OR MILESTONES]**.

OR

- 3.5. The Contractor shall submit an invoice for \_\_\_\_\_ **[INSERT AMOUNT AND CURRENCY OF THE ADVANCE PAYMENT IN FIGURES & WORDS]** upon signature of this Contract by both parties and invoices for the work done every \_\_\_\_\_ **[INSERT PERIOD OF TIME OR MILESTONES]**.
- 3.6 Progress and final payments shall be effected by UNDP to the Contractor after acceptance of the invoices submitted by the Contractor to the address specified in 9.1 below, together with whatever supporting documentation of the actual costs incurred is required in the Breakdown of Costs or may be required by UNDP. Such payments shall be subject to any specific conditions for reimbursement contained in the Breakdown of Costs.
4. Special conditions
- 4.1 The responsibility for the safety and security of the Contractor and its personnel and property, and of UNDP's property in the Contractor's custody, rests with the Contractor.
- 4.2 The advance payment to be made upon signature of the contract by both parties is contingent upon receipt and acceptance by UNDP of a bank guarantee for the full amount of the advance payment issued by a Bank and in a form acceptable to UNDP.
- 4.3 The amounts of the payments referred to under section 3.6 above shall be subject to a deduction of \_\_\_\_\_ **[INSERT PERCENTAGE THAT THE ADVANCE REPRESENTS OVER THE TOTAL PRICE OF THE CONTRACT]** % (... percent) of the amount accepted for payment until the cumulative amount of the deductions so effected shall equal the amount of the advance payment.
- 4.4 Owing to [...], Article(s) [...] of the General Conditions in Annex I shall be amended to read/be deleted.

5. Submission of invoices

- 5.1 An original invoice shall be submitted by mail by the Contractor for each payment under the Contract to the following address:

.....

5.2 Invoices submitted by fax shall not be accepted by UNDP.

6. Time and manner of payment

6.1 Invoices shall be paid within thirty (30) days of the date of their acceptance by UNDP. UNDP shall make every effort to accept an invoice or so advise the Contractor of its non-acceptance within a reasonable time from receipt.

6.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

\_\_\_\_\_ [NAME OF THE BANK]

\_\_\_\_\_ [ACCOUNT NUMBER]

\_\_\_\_\_ [ADDRESS OF THE BANK]

7. Entry into force. Time limits.

7.1 The Contract shall enter into force upon its signature by both parties.

7.2 The Contractor shall commence the performance of the Services not later than \_\_\_\_\_ [INSERT DATE] and shall complete the Services within \_\_\_\_\_ [INSERT NUMBER OF DAYS OR MONTHS] of such commencement.

7.3 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

8. Modifications

8.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Contractor and \_\_\_\_\_ [NAME AND TITLE] UNDP.

9. Notifications

For the purpose of notifications under the Contract, the addresses of UNDP and the Contractor are as follows:

**For the UNDP:**

Name  
Designation  
Address  
Tel. No.  
Fax. No.  
Email address:

**For the Contractor:**

Name  
Designation  
Address

Tel. No.  
Fax. No.  
Email address:

If the above terms and conditions meet with your agreement as they are typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Yours sincerely,

**[INSERT NAME AND DESIGNATION]**

For **[INSERT NAME OF THE COMPANY/ORGANIZATION]**

Agreed and Accepted:

Signature \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



## **UNDP GENERAL CONDITIONS OF CONTRACT FOR SERVICES**

### **1.0 LEGAL STATUS:**

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

### **2.0 SOURCE OF INSTRUCTIONS:**

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

interests of UNDP.

### **3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:**

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

### **4.0 ASSIGNMENT:**

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

### **5.0 SUB-CONTRACTING:**

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

### **6.0 OFFICIALS NOT TO BENEFIT:**

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

### **7.0 INDEMNIFICATION:**

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

### **8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:**

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

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

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

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

**8.4.1** Name UNDP as additional insured;

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

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

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

**9.0 ENCUMBRANCES/LIENS:**

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

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

**11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:**

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

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

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

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



## **12.0 USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS:**

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or THE United Nations, or any abbreviation of the name of UNDP or United Nations in connection with its business or otherwise.

## **13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS**

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

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

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

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

#### **15.0 TERMINATION**

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

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

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

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

#### **16.0 SETTLEMENT OF DISPUTES**

**16.1 Amicable Settlement:** The Parties shall use their best efforts to settle amicably any dispute, controversy

or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

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

#### **17.0 PRIVILEGES AND IMMUNITIES:**

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

#### **18.0 TAX EXEMPTION**

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

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

#### **19.0 CHILD LABOUR**

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

**19.2** Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately

upon notice to the Contractor, at no cost to UNDP.

#### **20.0 MINES:**

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

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

#### **21.0 OBSERVANCE OF THE LAW:**

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

#### **22.0 SEXUAL EXPLOITATION:**

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

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

#### **23.0 SECURITY:**

**23.1** The Contractor shall:

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

**23.2** UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this contract. Notwithstanding the foregoing, the Contractor shall remain solely responsible for the security of its personnel and for UNDP's property in its custody as set forth in paragraph 4.1 above.

#### **24.0 AUDITS AND INVESTIGATIONS:**

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

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

#### **25.0 ANTI-TERRORISM:**

25.1 The Contractor agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received under this Contract are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all sub-contracts or sub-agreements entered into under this Contract.

#### **26.0 AUTHORITY TO MODIFY:**

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

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