*GPSU.SF-19.5*

**REQUEST FOR PROPOSALS**

(*PROCUREMENT OF SERVICES)*

*For Simple Assignments*

**SERVICES FOR**

**Tree planting for Dangorayo, Dhahar, Waiye and Qardho**

**Prepared by**



*IOM Somalia*

*17.03.2020*

**REQUEST FOR PROPOSALS**

**RFP No.: *SOM/2020/20***

**Mission:** *IOM Somalia*

**Project Name:** Improving Access to Water and Sanitation Services in Somalia’

**Title of Services**:**Tree planting for Dangorayo, Dhahar, Waiye and Qardho**

****

**Request for Proposals**

The International Organization for Migration (hereinafter called IOM) intends to hire Service Provider for the Tree planting for Dangorayo, Dhahar, Waiye and Qardho for which this Request for Proposals (RFP) is issued.

IOM now invites Service Providers/ Consulting Firms to provide Technical and Financial Proposal for the following Services: Tree planting for Dangorayo, Dhahar, Waiye and Qardho*.* More details on the services are provided in the attached Terms of Reference (TOR).

The Service Provider /Consulting Firm will be selected under a Quality –Cost Based Selection procedures described in this RFP.

The RFP includes the following documents:

Section I. Instructions to Service Providers/ Consulting Firms

Section II. Technical Proposal – Standard Forms

Section III. Financial Proposal – Standard Forms

Section IV. Terms of Reference

Section V. Standard Form of Contract

The Proposals must be submitted through email to:**procurement@rmsomalia.org** on or *31st March 2020 at exactly 1700hrs*. No late proposal shall be accepted.

Bidders must indicate the following text in the subject line of the email:

*RFP No.: SOM/2020/20-* Tree planting for Dangorayo, Dhahar, Waiye and Qardho

IOM reserves the right to accept or reject any proposal and to annul the selection process and reject all Proposals at any time prior to contract award, without thereby incurring any liability to affected Service Providers/ Consulting Firms

*Bids Evaluation and Awards Committee*

*IOM Somalia Mission*

IOM is encouraging companies to use recycled materials or materials coming from sustainable resources or produced using a technology that has lower ecological footprints.

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**Section I - Instructions to Service Providers/ Consulting Firms**

1. Introduction

1.1 Only eligible Service Providers/ Consulting Firms may submit a Technical Proposal and Financial Proposal for the services required. The proposal shall be the basis for contract negotiations and ultimately for a signed contract with the selected Consultant Firm.

* 1. Service Providers/ Consulting Firms should familiarize themselves with local conditions and take them into account in preparing the proposal. Service Providers/ Consulting Firms are encouraged to visit IOM before submitting a proposal and to attend a pre-proposal conference if is specified in Item 2.3. of this Instruction.

1.3 The Service Providers/ Consulting Firms costs of preparing the proposal and of negotiating the contract, including visit/s to the IOM, are not reimbursable as a direct cost of the assignment.

1.4 Service Providers/ Consulting Firms shall not be hired for any assignment that would be in conflict with their prior or current obligations to other procuring entities, or that may place them in a position of not being able to carry out the assignment in the best interest of the IOM.

1.5 IOM is not bound to accept any proposal and reserves the right to annul the selection process at any time prior to contract award, without thereby incurring any liability to the Service Providers/ Consulting Firms.

* 1. IOM shall provide at no cost to the Service Provider/ Consulting Firm the necessary inputs and facilities, and assist the Firm in obtaining licenses and permits needed to carry out the services and make available relevant project data and report (see Section V. terms of reference).

**2. Corrupt, Fraudulent, and Coercive Practices**

2.1 IOM Policy requires that all IOM Staff, bidders, manufacturers, suppliers or distributors, observe the highest standard of ethics during the procurement and execution of all contracts. IOM shall reject any proposal put forward by bidders, or where applicable, terminate their contract, if it is determined that they have engaged in corrupt, fraudulent, collusive or coercive practices. In pursuance of this policy, IOM defines for purposes of this paragraph the terms set forth below as follows:

* Corrupt practice means the offering, giving, receiving or soliciting, directly or indirectly, of any thing of value to influence the action of the Procuring/Contracting Entity in the procurement process or in contract execution;
	+ - * + Fraudulent practice is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, the Procuring/Contracting Entity in the procurement process or the execution of a contract, to obtain a financial gain or other benefit to avoid an obligation;
				+ Collusive practice is an undisclosed arrangement between two or more bidders designed to artificially alter the results of the tender procedure to obtain a financial gain or other benefit;
				+ Coercive practice is impairing or harming, or threatening to impair or harm, directly or indirectly, any participant in the tender process to influence improperly its activities in a procurement process, or affect the execution of a contract

**3. Conflict of Interest**

3.1 All bidders found to have conflicting interests shall be disqualified to participate in the procurement at hand. A bidder may be considered to have conflicting interest under any of the circumstances set forth below:

* A Bidder has controlling shareholders in common with another Bidder;
* A Bidder receives or has received any direct or indirect subsidy from another Bidder;
* A Bidder has the same representative as that of another Bidder for purposes of this bid;
* A Bidder has a relationship, directly or through third parties, that puts them in a position to have access to information about or influence on the Bid of another or influence the decisions of the Mission/procuring Entity regarding this bidding process;
* A Bidder submits more than one bid in this bidding process;
* A Bidder who participated as a consultant in the preparation of the design or technical specifications of the Goods and related services that are subject of the bid.

**4. Clarifications and Amendments to RFP Documents**

 4.1 At any time before the submission of the proposals, IOM may, for any reason, whether at its own initiative or in response to a clarification amend the RFP. Any amendment made will be made available to all short-listed Service Providers/ Consulting Firms who have acknowledged the Letter of Invitation.

 4.2. Service Providers/ Consulting Firms may request for clarification(s) on any part of the RFP. The request must be sent in writing or by standard electronic means and submitted to IOM at the address indicated in the invitation at least *seven (7) calendar days* before the set deadline for the submission and receipt of Proposals. IOM will respond in writing or by standard electronic means to the said request and this will be made available to all those who acknowledged the Letter of Invitation without identifying the source of the inquiry.

**5. Evaluation Criteria**

|  |  |
| --- | --- |
| **Criteria**  | **Score**  |
| **1. Specific experience of the Service Providers relevant to the assignment: [Max 50points]**  |
| Duration of experience in Proposed work: Total number of years engaged in similar work in the context  | =>5 years | **10** |
| =>3- <5 years | **7** |
| <3 years | **3** |
| Similar experience in Somali in terms of the Scope, Cost and subject matter carried out on behalf of UN and INGOs  | **=> 3 or more** similar assignments with documented evidence such as Contracts, descriptive reports and recommendations from reputable agencies.  | **40** |
| **2** similar assignments with documented evidence such as Contracts, descriptive reports and recommendations from reputable agencies.  | **30** |
| **1** similar assignment with documented evidence such as Contracts, descriptive reports and recommendations from reputable agencies.  | **20** |
| **Adequacy of the proposed methodology and work plan in response to the Terms of Reference: [Max 50 points]**  |
| Organization and staffing.  | **Very good** presentation of organization in area of operation which facilitates coordination with stakeholders and delivering results. | **20**  |
|  | **Good** presentation of organization in area of operation which facilitates coordination with stakeholders and delivering results | **10** |
|  | **Fair** presentation of organization in area of operation i.e. which facilitates coordination with stakeholders and delivering results | **5** |
| Proposed Technical approach and methodology  | The technical approach and methodology presented **fully addresses** ToR objectives, showing **excellent understanding** of subject matter and required processes  | **20**  |
| The technical approach and methodology presented **adequately addresses** ToR objectives, showing **moderate understanding** of subject and required processes  | 15  |
| The technical approach and methodology presented **partially addresses** ToR objectives, showing partial **understanding** of subject and required processes  | 8  |
| The technical approach and methodology **poorly address** ToR objectives, showing **poor understanding** of subject matter and required processes  | 0  |
| Work Plan Feasibility  | **Adequately** shows realistic timelines and deliverables consistent with required Project duration as outlined in the TOR  | **10**  |
| **Fairly** shows realistic timelines and deliverables consistent with required Project duration as outlined in the TOR  | 5  |
| Timelines **unrealistic** and/or deliverables **inconsistent** with TOR  | 2  |
| No work plan submitted  | 0  |

**6. Financial**

6.1 After completion of the Technical Proposal evaluation, IOM shall notify those Service Providers/ Consulting Firms whose proposal did not meet the minimum qualifying score or were considered non responsive based on the requirements in the RFP, indicating that their Financial Proposals shall be returned unopened after the completion of the selection process.

6.2 IOM shall simultaneously notify the Service Providers/ Consulting Firms that have passed the minimum qualifying score indicating the date and opening of the Financial Proposal. The BEAC has the option to open the Financial proposals publicly or not.

6.3 The BEAC shall determine the completeness of the Financial Proposal whether all the Forms are present and the required to be priced are so priced.

* 1. The BEAC will correct any computational errors. In case of a discrepancy between a partial amount and the total amount, or between words and figures, the former will prevail. In addition, activities and items described in the Technical proposal but not priced, shall be assumed to be included in the prices of other activities or items.

***Evaluation Criteria***

* 1. The Financial Proposal of Service Providers/ Consulting Firms who passed the qualifying score shall be opened, the lowest Financial Proposal (F1) shall be given a financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Proposals shall be computed based on the formula:

 **Sf = 100 x Fl / F**

 Where:

 Sf - is the financial score of the Financial Proposal under consideration,

 Fl - is the price of the lowest Financial Proposal, and

 F - is the price of the Financial Proposal under consideration.

 The proposals shall then be ranked according to their combined (Sc) technical (St) and financial (Sf) scores using the weights[[1]](#footnote-1) (T = the weight given to the Technical Proposal = 0.80; F = the weight given to the Financial Proposal = 0.20; T + F = 1)

 Sc = St x T% + Sf x F%

 The firm achieving the highest combined technical and financial score will be invited for negotiations.

**7. Negotiations**

8.1 The aim of the negotiation is to reach agreement on all points and sign a contract. The expected date and address for contract negotiation *will be communicated to the successful firm, which will be held at IOM Somalia Offices in Mogadishu*

8.2 Negotiation will include: a) discussion and clarification of the Terms of Reference (TOR) and Scope of Services; b) Discussion and finalization of the methodology and work program proposed by the Service Provider/ Consulting Firm; c) Consideration of appropriateness of qualifications and pertinent compensation, number of man-months and the personnel to be assigned to the job, and schedule of activities (manning schedule); d) Discussion on the services, facilities and data, if any, to be provided by IOM; e) Discussion on the financial proposal submitted by the Service Provider/ Consulting Firm; and f) Provisions of the contract. IOM shall prepare minutes of negotiation which will be signed both by IOM and the Service Providers/ Consulting Firms.

8.3 The financial negotiations will include clarification on the tax liability and the manner in which it will be reflected in the contract and will reflect the agreed technical modifications (if any) in the cost of the services. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.

8.4 Having selected the Service Provider/ Consulting Firm on the basis of, among other things, an evaluation of proposed key professional staff, IOM expects to negotiate a contract on the basis of the experts named in the proposal. Before contract negotiations, IOM shall require assurances that the experts shall be actually available. IOM will not consider substitutions during contract negotiation unless both parties agree that the undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity. If this is not the case and if it is established that staff were referred in their proposal without confirming their availability the Service Provider/ Consulting Firm may be disqualified. Any proposed substitution shall have equivalent or better qualifications and experience than the original candidate.

8.5 All agreement in the negotiation will then be incorporated in the description of services and form part of the Contract.

8.6 The negotiations shall conclude with a review of the draft form of the Contract which forms part of this RFP (Section VI). To complete negotiations, IOM and the Service Providers/ Consulting Firms shall initial the agreed Contract. If negotiations fail, IOM shall invite the second ranked Service Provider/ Consulting Firm to negotiate a contract. If negotiations still fail, the IOM shall repeat the process for the next-in-rank Service Providers/ Consulting Firms until the negotiation is successfully completed.

**9. Award of Contract**

9.1 The contract shall be awarded, through a notice of award, following negotiations and subsequent post-qualification to the Service Provider/ Consulting Firm with the Highest Rated Responsive Proposal. Thereafter, the IOM shall promptly notify other Service Providers/ Consulting Firms on the shortlist that they were unsuccessful and shall return their unopened Financial Proposals. Notification will also be sent to those Service Providers/ Consulting Firms who did not pass the technical evaluation.

* 1. The Service Provider/ Consulting Firm is expected to commence the assignment on *up on signing the contract*.

**10. Confidentiality**

* 1. . Information relating to the evaluation of proposals and recommendations concerning awards shall not be disclosed to the Service Provider/ Consulting Firm who submitted Proposals or to other persons not officially concerned with the process. The undue use by any Service Provider/ Consulting Firm of confidential information related to the process may result in the rejection of its Proposal and may be subject to the provisions of IOM’s anti-fraud and corruption policy.

**Section II – Price Proposal Standard Forms**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | ITEM  | Quantity  | Unit | Unit price  | Total Price  |
| 1 | Provision of nursery tees in four locations Dangoryo: 150 seedlings ,Dhahar:350seedlings Qhardo/Xorgoble:300 seedlings Waciye: 300 seedlings (Species of tree seedlings) Acacia (Umbrella Thorn) (40%)Cordia sinesis (Marer) (30%)Fatich (30%) | 1,100 | pcs  |  |  |
| 2 | Procurement, transport and installation of concrete-base metal protection around each tree seedling. See design (Measurements: 1m x 0.5m x 0.5m) | 1,100 | pcs |  |  |
| 3 | Provision of watering equipment, or daily watering of each seedling (1,100 nursery tees) for 90 days.  | 90 | Days |  |  |
| 4 | Awareness consultations in each target area | 8 | sessions |  |  |
|  | Total Amount  |  |  |  |  |

**Section III. Terms of Reference**

**ORGANIZATIONAL BACKGROUND**

Established in 1951, the International Organization for Migration (IOM) is the leading inter-governmental organization in the field of migration and works closely with governmental, intergovernmental and non-governmental partners. With 166-member states, a further 8 states holding observer status and offices in over 100 countries, IOM is dedicated to promoting humane and orderly migration for the benefit of all. It does so by providing services and advice to governments and migrants.

IOM has been operating in Somalia since 2006 and is providing a variety of services in support of local communities and Government, this include capacity building support through diaspora engagement, medical health and water and sanitation services. IOM Somalia’s WASH unit is implementing activities in 26 districts, aiming to increase the access to sustainable and safe water in Somalia. In 2018, IOM successfully installed 44 mini water supply systems using a newly developed three-tank system for water supply, treatment and delivery, rehabilitated 50 strategic old dilapidated boreholes, constructed/upgraded 7 shallow wells as well as supported the operation and maintenance of 44 mini water supply systems benefiting 493,500 crisis-affected population of concern in Somalia.

1. **PROJECT BACKGROUND**

The International Organization for Migration Somalia is implementing the ‘Improving Access to Water and Sanitation Services in Somalia’-project, funded by the African Development Bank. The overall objective of the project is to improve access to water and sanitation services in rural areas of Somalia and reduce infant and under 5 mortality caused by Water, Sanitation and Hygiene (WASH) related diseases. The project targets 125,000 riverine and 50,000 nomadic people (including Internally Displaced People (IDP) returnees) through construction of solar powered mini water supply systems, and rehabilitation of strategic rural water supplies. Multiple water use for both humans and livestock will be promoted and the project will conduct community mobilization and awareness-raising on health and hygiene and promote Open Defecation Free (ODF) practices through the Community-Led Total Sanitation (CLTS) approach.

1. **SCOPE** **OF WORK**

A service provider will be contracted to undertake the following tasks:

* Transportation, planting and provision of protection of tree seedlings in the IOM-rehabilitated boreholes in Dangoryo, Dhahar, Xorgoble and Waciye in Puntland State. The seedlings are expected to be planted around the boreholes, as well as, in public spaces in the four villages, as designated by the communities after consultations held by IOM Somalia.
* Provision of watering equipment, or, daily watering of each seedling for 90 days.
* Sensitisation workshops together with the communities on the importance of environmental conservation
1. **DELIVERABLES**

Within the timeframe indicated below, the service provider will deliver:

1. The stated number of tree seedlings to the IOM-rehabilitated boreholes in Dangoryo, Dhahar, Xorgoble and Waciye in Puntland.
	1. Dangoryo: 150 seedlings
	2. Dhahar: 350 seedlings
	3. Qhardo/Xorgoble: 300 seedlings
	4. Waciye: 300 seedlings
2. Procurement, transport and installation of concrete-base metal protection around each tree seedling. See design below.
	1. Measurements: 1m x 0.5m x 0.5m



1. Species of tree seedlings[[2]](#footnote-2):
	1. Acacia (40%)
	2. Cordia sinesis (Marer) (30%)
	3. Fatich (30%)
2. Provision of watering equipment, or daily watering of each seedling for 90 days.
3. Two awareness consultations in each target area (total of 8 awareness raising sessions), on the maintenance and care of the trees, the added value as part of environmental conservation for the local community and the water management committee.

IOM Somalia will oversee the process and be responsible for guidance throughout all phases of execution, and approval of all deliverables. The service provider will be responsible for the procurement of all in-kind materials and the transportation to the target locations.

1. **TIMEFRAME**

The consultancy is deemed to require 4 months (including 90 days of watering) working days, throughout a period from March 2020 to June 2020. The timetable is as follows.

1. **MANAGEMENT AND SUPERVISION**

The consultant will be overseen by IOM Somalia. The consultant will receive direct guidance from the Migration, Environment and Climate Change Officer and will implement in close coordination with the Project Assistant for WASH.

1. **ELIGIBILITY CRITERIA FOR APPLICANTS**
* The applicant should be based or operating in, and legally registered in Puntland, and have established presence in Puntland;
* The applicant should have a good understanding and working relationships with the relevant line ministries, local authorities, local communities and other relevant stakeholders in Puntland;
* Demonstrated experience in agronomy, particularly in arid and semi-arid climates.
* Sound donor reporting skills (abiding to strict data confidentiality agreements) and use of monitoring and evaluation tools;
* The proposal should demonstrate inclusiveness and respect for diversity, and should take into consideration the engagement of vulnerable populations and have a gender sensitive approach;
* The applicant should be able to demonstrate sufficient staff capacity and expertise to implement the project;
* Subcontracting will not be preferred;
* Experience working with an international non-governmental organization, or the United Nations would be an asset.

**Section V – Pro-forma Contract**

 GPSU.SF.19.20

|  |  |
| --- | --- |
| IOM office-specific Ref. No.: |  |
| IOM Project Code: |  |
| LEG Approval Code / Checklist Code |  |

**SERVICE AGREEMENT**

**Between**

**the International Organization for Migration**

**And**

***[Name of the Service Provider]***

**On**

***[Type of Services]***

This Service Agreement is entered into by the **International Organization for Migration,**  Mission in *[XXX]*, *[Address of the Mission],* represented by *[Name, Title of Chief of Mission etc.]*, hereinafter referred to as “**IOM**,” and *[****Name of the Service Provider****]*, *[Address]*, represented by *[Name, Title of the representative of the Service Provider]*, hereinafter referred to as the “**Service Provider**.” IOM and the Service Provider are also referred to individually as a “**Party**” and collectively as the “**Parties**.”

1. **Introduction and Integral Documents**

* 1. The Service Provider agrees to provide IOM with *[insert brief description of services]* in accordance with the terms and conditions of this Agreement and its Annexes, if any.
	2. The following documents form an integral part of this Agreement: *[add or delete as required]*
		1. ***Annex A*** *- Bid/Quotation Form*
		2. ***Annex B*** *- Price Schedule*
		3. ***Annex C*** *- Delivery Schedule and Terms of Reference*
		4. ***Annex D*** *- Accepted Notice of Award (NOA)*

2. **Services Supplied**

2.1 The Service Provider agrees to provide to the IOM the following services (the “**Services**”):

*[Outline services to be provided. Where relevant, include location and how frequently etc. services are to be provided. List all the deliverables and their date of submission, if applicable. Description needs to be as detailed as possible to provide for a reliable yardstick to measure compliance. It may be necessary to attach a description of the Services as an Annex.]*

2.2 The Service Provider shall commence the provision of Services from *[date]* and fully and satisfactorily complete them by *[date].*

2.3 The Service Provider agrees to provide the Services required under this Agreement in strict accordance with the specifications of this Article and any attached Annexes.

3. **Charges and Payments**

3.1 The all-inclusive Service fee for the Services under this Agreement shall be *[currency code] [amount in numbers] ([amount in words]),* which is the total charge to IOM.

3.2 The Service Provider shall invoice IOM upon completion of all the Services. The invoice shall include: *[services provided, hourly rate, number of hours billed, any travel and out of pocket expenses, (add/delete as necessary)]*

3.3 Payments shall become due *[insert number of days in numbers] ([write figure in words])* days after IOM’s receipt and approval of the invoice. Payment shall be made in *[Currency code]* by *[bank transfer]* to the following bank account: *[insert the Service Provider’s bank account details].*

3.4 The Service Provider shall be responsible for the payment of all taxes, duties, levies and charges assessed on the Service Provider in connection with this Agreement.

3.5 IOM shall be entitled, without derogating from any other right it may have, to defer payment of part or all of the Service fee until the Service Provider has completed to the satisfaction of IOM the services to which those payments relate.

4. **Warranties**

4.1 The Service Provider warrants that:

1. It is a company financially sound and duly licensed, with adequate human resources, equipment, competence, expertise and skills necessary to provide fully and satisfactorily, within the stipulated completion period, all the Services in accordance with this Agreement;
2. It shall comply with all applicable laws, ordinances, rules and regulations when performing its obligations under this Agreement;
3. In all circumstances it shall act in the best interests of IOM;
4. No official of IOM or any third party has received from, will be offered by, or will receive from the Service Provider any direct or indirect benefit arising from the Agreement or award thereof;
5. It has not misrepresented or concealed any material facts in the procurement of this Agreement;
6. The Service Provider, its staff or shareholders have not previously been declared by IOM ineligible to be awarded agreements by IOM;
7. It has or shall take out relevant insurance coverage for the period the Services are provided under this Agreement;
8. It shall abide by the highest ethical standards in the performance of this Agreement, which includes not engaging in any discriminatory or exploitative practice or practice inconsistent with the rights set forth in the Convention on the Rights of the Child;
9. The Price specified in Article 3.1 of this Agreement shall constitute the sole remuneration in connection with this Agreement. The Service Provider shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or the discharge of its obligations thereunder. The Service Provider shall ensure that any subcontractors, as well as the personnel and agents of either of them, similarly, shall not receive any such additional remuneration.
	1. The Service Provider further warrants that it shall:
10. Take all appropriate measures to prohibit and prevent actual, attempted and threatened sexual exploitation and abuse (SEA) by its employees or any other persons engaged and controlled by it to perform activities under this Agreement ( “other personnel”). For the purpose of this Agreement, SEA shall include:
	1. Exchanging any money, goods, services, preferential treatment, job opportunities or other advantages for sexual favours or activities, including humiliating or degrading treatment of a sexual nature; abusing a position of vulnerability, differential power or trust for sexual purposes, and physical intrusion of a sexual nature whether by force or under unequal or coercive conditions.
	2. Engaging in sexual activity with a person under the age of 18 (“child”), except if the child is legally married to the concerned employee or other personnel and is over the age of majority or consent both in the child’s country of citizenship and in the country of citizenship of the concerned employee or other personnel.
11. Strongly discourage its employees or other personnel having sexual relationships with IOM beneficiaries.
12. Report timely to IOM any allegations or suspicions of SEA, and investigate and take appropriate corrective measures, including imposing disciplinary measures on the person who has committed SEA.
13. Ensure that the SEA provisions are included in all subcontracts.
14. Adhere to above commitments at all times. Failure to comply with (a)-(d) shall constitute grounds for immediate termination of this Agreement.

4.3 The above warranties shall survive the expiration or termination of this Agreement.

5. **Assignment and Subcontracting**

5.1 The Service Provider shall not assign or subcontract the activities under this Agreement in part or all, unless agreed upon in writing in advance by IOM. Any subcontract entered into by the Service Provider without approval in writing by IOM may be cause for termination of the Agreement.

5.2 In certain exceptional circumstances by prior written approval of IOM, specific jobs and portions of the Services may be assigned to a subcontractor. Notwithstanding the said written approval, the Service Provider shall not be relieved of any liability or obligation under this Agreement nor shall it create any contractual relation between the subcontractor and IOM. The Service Provider remains bound and liable thereunder and it shall be directly responsible to IOM for any faulty performance under the subcontract. The subcontractor shall have no cause of action against IOM for any breach of the subcontract.

6. **Delays/Non-Performance**

6.1 If, for any reason, the Service Provider does not carry out or is not able to carry out its obligations under this Agreement and/or according to the project document, it must give notice and full particulars in writing to IOM as soon as possible. In the case of delay or non-performance, IOM reserves the right to take such action as in its sole discretion is considered to be appropriate or necessary in the circumstances, including imposing penalties for delay or terminating this Agreement.

6.2 Neither Party will be liable for any delay in performing or failure to perform any of its obligations under this Agreement if such delay or failure is caused by *force majeure*, such as civil disorder, military action, natural disaster and other circumstances which are beyond the control of the Party in question. In such event, the Party will give immediate notice in writing to the other Party of the existence of such cause or event and of the likelihood of delay.

7. **Independent Contractor**

The Service Provider shall perform all Services under this Agreement as an independent contractor and not as an employee, partner, or agent of IOM.

8. **Audit**

The Service Provider agrees to maintain financial records, supporting documents, statistical records and all other records relevant to the Services in accordance with generally accepted accounting principles to sufficiently substantiate all direct and indirect costs of whatever nature involving transactions related to the provision of Services under this Agreement. The Service Provider shall make all such records available to IOM or IOM's designated representative at all reasonable times until the expiration of 7 (seven) years from the date of final payment, for inspection, audit, or reproduction. On request, employees of the Service Provider shall be available for interview.

9. **Confidentiality**

All information which comes into the Service Provider’s possession or knowledge in connection with this Agreement is to be treated as strictly confidential. The Service Provider shall not communicate such information to any third party without the prior written approval of IOM. The Service Provider shall comply with IOM Data Protection Principles in the event that it collects, receives, uses, transfers or stores any personal data in the performance of this Agreement. These obligations shall survive the expiration or termination of this Agreement.

10. **Intellectual Property**

All intellectual property and other proprietary rights including, but not limited to, patents, copyrights, trademarks, and ownership of data resulting from the performance of the Services shall be vested in IOM, including, without any limitation, the rights to use, reproduce, adapt, publish and distribute any item or part thereof.

11. **Notices**

Any notice given pursuant to this Agreement will be sufficiently given if it is in writing and received by the other Party at the following address:

**International Organization for Migration (IOM)**

Attn: *[Name of IOM contact person]*

*[IOM’s address]*

Email: *[IOM’s email address]*

***[Full name of the Service Provider]***

Attn: *[Name of the Service Provider‘s contact person]*

*[Service Provider‘s address]*

Email: *[Service Provider‘s email address]*

12. **Dispute resolution**

12.1. Any dispute, controversy or claim arising out of or in relation to this Agreement, or the breach, termination or invalidity thereof, shall be settled amicably by negotiation between the Parties.

12.2. In the event that the dispute, controversy or claim has not been resolved by negotiation within 3 (three) months of receipt of the notice from one party of the existence of such dispute, controversy or claim, either Party may request that the dispute, controversy or claim is resolved by conciliation by one conciliator in accordance with the UNCITRAL Conciliation Rules of 1980. Article 16 of the UNCITRAL Conciliation Rules does not apply.

12.3. In the event that such conciliation is unsuccessful, either Party may submit the dispute, controversy or claim to arbitration no later than 3 (three) months following the date of termination of conciliation proceedings as per Article 15 of the UNCITRAL Conciliation Rules. The arbitration will be carried out in accordance with the 2010 UNCITRAL arbitration rules as adopted in 2013. The number of arbitrators shall be one and the language of arbitral proceedings shall be English, unless otherwise agreed by the Parties in writing. The arbitral tribunal shall have no authority to award punitive damages. The arbitral award will be final and binding.

12.4. The present Agreement as well as the arbitration agreement above shall be governed by internationally accepted general principles of law and by the terms of the present Agreement, to the exclusion of any single national system of law that would defer the Agreement to the laws of any given jurisdiction. Internationally accepted general principles of law shall be deemed to include the UNIDROIT Principles of International Commercial Contracts. Dispute resolution shall be pursued confidentially by both Parties. This Article survives the expiration or termination of the present Agreement.

13. **Use of IOM Name**

The official logo and name of IOM may only be used by the Service Provider in connection with the Services and with the prior written approval of IOM.

**14. Status of IOM**

Nothing in this Agreement affects the privileges and immunities enjoyed by IOM as an intergovernmental organization.

15. **Guarantee and Indemnities**

15.1 The Service Provider shall guarantee any work performed under this Agreement for a period of 12 (twelve) months after final payment by IOM under this Agreement.

15.2 The Service Provider shall at all times defend, indemnify, and hold harmless IOM, its officers, employees, and agents from and against all losses, costs, damages and expenses (including legal fees and costs), claims, suits, proceedings, demands and liabilities of any kind or nature to the extent arising out of or resulting from acts or omissions of the Service Provider or its employees, officers, agents or subcontractors, in the performance of this Agreement. IOM shall promptly notify the Service Provider of any written claim, loss, or demand for which the Service Provider is responsible under this clause. This indemnity shall survive the expiration or termination of this Agreement.

16. **Waiver**

Failure by either Party to insist in any one or more instances on a strict performance of any of the provisions of this Agreement shall not constitute a waiver or relinquishment of the right to enforce the provisions of this Agreement in future instances, but this right shall continue and remain in full force and effect.

17. **Termination**

17.1 IOM may terminate this Agreement at any time, in whole or in part.

17.2 In the event of termination of this Agreement, IOM will only pay for the Services completed in accordance with this Agreement unless otherwise agreed. Other amounts paid in advance will be returned to IOM within 7 (seven) days from the date of termination.

17.3 Upon any such termination, the Service Provider shall waive any claims for damages including loss of anticipated profits on account thereof.

18. **Severability**

If any part of this Agreement is found to be invalid or unenforceable, that part will be severed from this Agreement and the remainder of the Agreement shall remain in full force.

19. **Entirety**

This Agreement embodies the entire agreement between the Parties and supersedes all prior agreements and understandings, if any, relating to the subject matter of this Agreement.

1. ***Special Provisions (Optional)***

*Due to the requirements of the Donor financing the Project, the Implementing Partner shall agree and accept the following provisions:*

*[Insert all donor requirements which must be flown down to IOM’s implementing partners and subcontractors. In case of any doubt, please contact LEGContracts@iom.int]*

21. **Final clauses**

21.1 This Agreement will enter into force upon signature by both Parties. It will remain in force until completion of all obligations of the Parties under this Agreement unless terminated earlier in accordance with Article 17.

21.2 Amendments may be made by mutual agreement in writing between the Parties.

Signed in duplicate in English, on the dates and at the places indicated below.

|  |  |
| --- | --- |
| *For and on behalf of*The International Organization for Migration | *For and on behalf of**[Full name of the Service Provider]* |
| Signature | Signature |
| *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**Name**Position**Date**Place* | *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* *Name**Position**Date**Place*  |

1. May vary depending on the requirement of the Mission; normally, weight assigned to Technical is .80 and .20

 for the Financial. [↑](#footnote-ref-1)
2. Can be amended in consultation with IOM, subject to availability. [↑](#footnote-ref-2)