

USAID Boresha Afya Southern Zone Request For Pre-qualification (RFPQ)

Tender No. BASZ /RFPQ/10/ Supply and Maintenance of Air Conditioners prequalification of vendors for Supply, repair and maintenance of Air Conditioners FY 2017-2018 to Support the USAID Boresha Afya Southern Zone Program

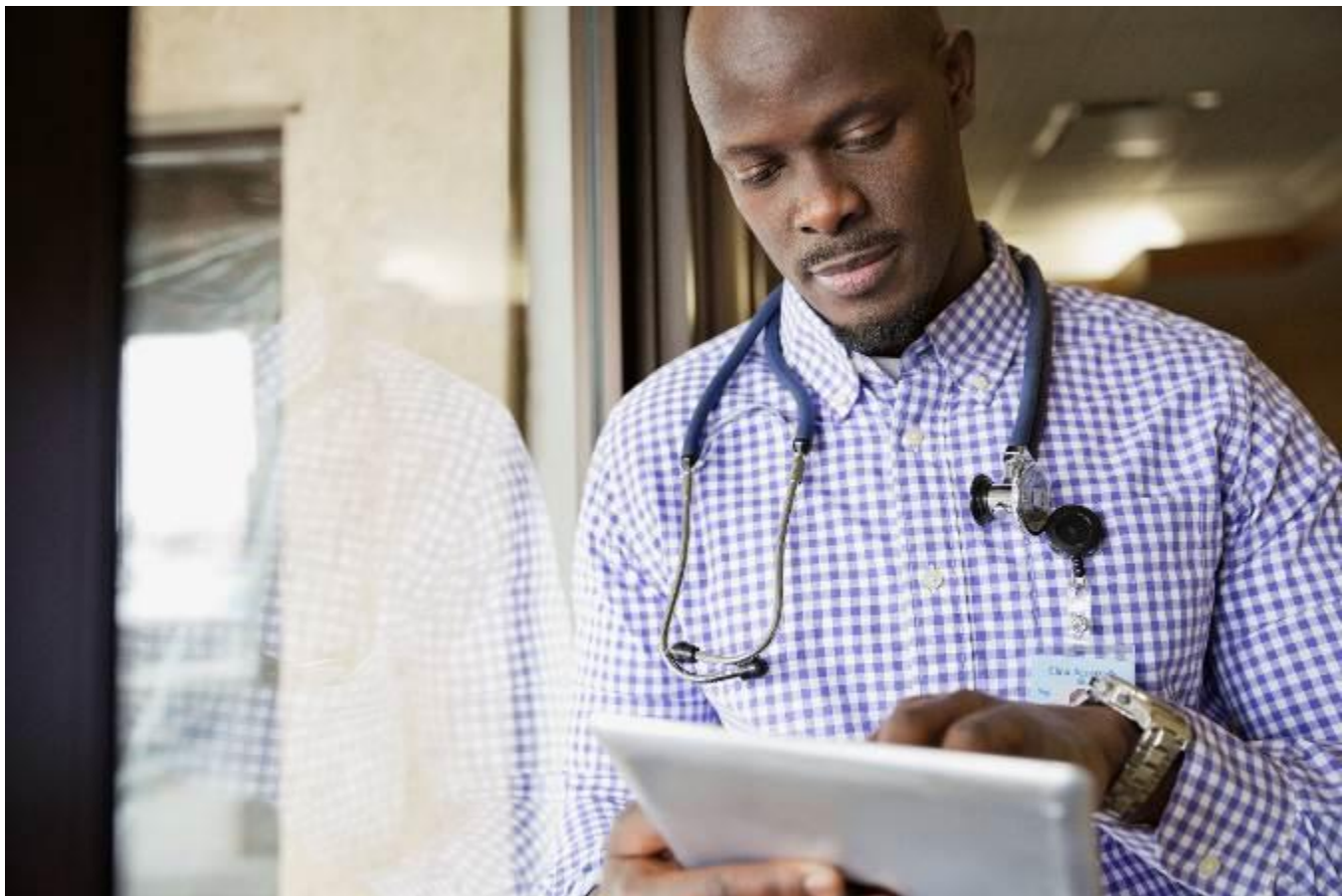


Table of Contents

Table of Contents	9
Section 1: Introduction.....	10
Section 2: Instructions to Applicants	12
2.2 Amendment of Documents	12
2.3 Language of the RFPQ.....	12
2.4 Bid Prices	12
2.5 Bid Submission	13
2.6 Modification, Substitution and Withdrawal of Bids.....	13
2.7 Bid Opening	13
2.8 Clarification of Bids.....	13
2.9 Preliminary examination of Bids.....	13
2.10 Evaluation and Comparison of Bids	14
2.11 Negotiation.....	14
2.12 Contract Award.....	14
2.13 Order Confirmation Process	14
2.14 Payment	14
2.15 Subcontracts	15
2.16 Indemnification	15
2.17 The Company's Right to Accept or Reject Any or All Tenders	15
2.18 Governing Law.....	15
2.19 Corrupt or Fraudulent Practices	15
Section 3: Schedule of Requirements	17
Section 4: Vendor Due Diligence Form	19
Section 5: Anti-Corruption Contractual Provisions	26
Section 6: Non-Disclosure Agreement.....	29

Section 1: Introduction

1.1 USAID Boresha Afya Southern Zone would like to invite interested company/individuals who must qualify by meeting the set criteria as provided by the Program to be amongst list of preferred supplier for USAID Boresha Afya Southern Zone; to perform

1.1.1 Supply, repair and maintenance for Air conditions. **See Section 3**

1.1.2 General Instructions

- Carefully read the instructions before completing the questionnaire. Note that submission of false information will lead to automatic disqualification and/or black listing.
- Responses to the pre-qualification questionnaire must be presented in accordance with the requirements for information document.
- Participants should indicate clearly the goods, services or works you would want to be considered for listing.
- Answers to questionnaire should be relevant to the goods, services or works applied for and should be as clear and concise as possible.
- Submission of tenders: The application for prequalification should be submitted in sealed envelope properly labeled with the item description as applied for.
- In selection of suppliers, USAID Boresha Afya Southern Zone will short-list only those bids that firms are able to demonstrate their competence to supply the listed products or undertake listed works and services. Registered service providers, contractors, manufacture, as well as retailers and dealers are encouraged to apply within the lines of their registered business.
- The application document should be signed by the authorized representative of the organization under Company Seal / Stamp and submitted with relevant supporting documents such as relevant licenses, references, certificates, and any other information that applicants may wish to be considered.
- It is a condition that participants **MUST** have complied with all statutory requirements in regard to registration for VAT/TIN and have Tax Clearance certificate.
- If insufficient space has been provided on the questionnaire for the answers, please provide the answers as supplementary on separate sheets.
- Please note that by responding to this questionnaire you accept that all answers provided are legally binding and should the need arise, may be used as evidence in a court of law.
- Applicants to kindly note that this does not amount to any contractual obligation.
- Applicants will meet all cost associated with preparation and submission of their applications.
- Canvassing of any kind will lead to automatic disqualification of the applicant.
- Late submission will not be acceptable. Any applications received after the date of closure will be considered as late and disqualified.

1.1.3 **Mandatory requirements:** all mandatory criteria must be met, no exception. To be eligible the candidate must prove that they qualify to participate in public procurement by providing the mandatory requirements as provided below

- a) Certificate of Incorporation / Partnership deed / Business registration;
- b) Current Trade License / Business Permit;
- c) Certificates from affiliated regulatory or accrediting bodies / associations (where applicable) e.g. (Contractors Registration Board, among others.);
- d) Current Tax Clearance Certificate;
- e) TIN and VAT certificates;
- f) Certified latest audited financial statements;
- g) Annual Returns and Receipts;
- h) List of Directors and shareholders;

- i) Organogram;
- j) Detail of establishment (office location);
- k) Details of capacity (number of staff, equipment and other relevant resources);
- l) Details of relevant experience in similar services; and
- m) Reference from other organizations that have received services from supplier in the past, preferably in the last 3 years.

1.1.4 **Mandatory data instructions**

- The attached questionnaire (see Section 4) are to be completed by prospective suppliers / contractors who wish to be pre-qualified for the specific supply tender.
- The pre-qualification application forms which are **NOT filled out completely and submitted in the prescribed manner will not be considered**. All the documents that form part of the proposal must be written in English and in ink.
- It is understood and agreed that the mandatory data on prospective applicants is to be used by USAID Boresha Afya Southern Zone in determining, according to its sole judgment and discretion, the qualifications of prospective applicants to perform in respect to supply category as described by the Program.
- Prospective applicants will not be considered qualified unless in the judgment of the Program they possess capability, experience, capacity, qualified personnel available and suitability of equipment and net current assets or working capital sufficient to satisfactorily execute the supply for goods/services.
- Experience: Prospective applicants shall have at least 3 years' experience in the supply of goods, works, services and allied items and in case of potential supplier / contractor should show competence, willingness and capacity to service the contract.
- The candidate's financial condition will be determined by latest financial statement submitted with the prequalification documents as well as letters of reference from their bankers regarding supplier / contractors credit position. Potential suppliers / contractors will be selected to the next stage on the satisfactory information given.
- Past performance will be given consideration in selecting applicants for the next stage. Letter of reference from past customers should be included in the form.
- Applicants must include a sworn statement form by the applicant ensuring the accuracy of the information given.
- Should a condition arise between the time the firm submitting a bid for pre-qualification and the bid opening date which in the opinion of the bank could substantially change performance and qualification of the applicant or his ability to perform such as but not limited to bankruptcy, change in ownership or new commitments, USAID Boresha Afya Southern Zone reserves the right to reject the tender from such applicant even though he was initially pre-qualified.
- The firm must have fixed Business Premises and must be registered in Tanzania, with certificate of Registration, Incorporation / Memorandum and Articles of Association, copies of which must be attached. **Mandatory**- copy of current business license, and registration. The firm must show proof that it has paid all its statutory obligations and have current Tax Clearance Certificate.

Section 2: Instructions to Applicants

2.1 Clarification of Documents

- 2.1.1 A applicant requiring any clarification may send an inquiry in writing via email to the Procurement Manager; Paul Mhakilira via pmhakilira@deloitte.co.tz, Coordination team Haika Malleko via hmalleko@deloitte.co.tz , who will respond in writing to any request for clarification, which is received not later than five (5) days prior to the deadline for the submission of bids.
- 2.1.2 Written copies of the response (including an explanation of the query but without identifying the source of inquiry) will be sent to all applicants who have been invited to bid.
- 2.1.3 The Procurement Manager/Coordination Team/Technical Officer shall reply to any clarifications sought by the applicant/consultant within 3 working days of receiving the request to enable the applicant to make timely submission of its bid/proposal.

2.2 Amendment of Documents

- 2.2.1 At any time prior to the deadline for bid submission, the Firm may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective applicant, modify this RFPQ by amendment. Amendments could include modification of project scope or requirements, project timeline expectations or extension of the closing date for submission.
- 2.2.2 All prospective applicants/consultants that have received this RFPQ will be notified of the amendment in writing by e-mail and this amendment will be binding on them.

2.3 Language of the RFPQ

- 2.3.1 All correspondence and documents relating to this RFPQ exchanged by the applicant and the Firm shall be written in English language.

2.4 Bid Prices

- 2.4.1 The applicant shall indicate under the financial proposal, the unit price / rate / premium percentage applicable, amounts / Premiums payable (and excess limits) that will be continuously applied throughout the contract period.
- 2.4.2 Government levies indicated in the financial proposal shall be shown separately.
- 2.4.3 The applicant should hold prices / rates / premiums payable constant for a period of 12 months if they are awarded the contract.
- 2.4.4 Amounts / premiums payable shall be quoted in **Tanzania Shillings** unless otherwise specified.

2.5 Bid Submission

- 2.5.1 For hard copy deliveries, the applicant shall put both the original & copy bid in a plain envelope, properly closed and mark; "**TENDER NO. BASZ /RFPQ/10/ Supply and Maintenance of Air Conditioners/2017-18 For Prequalification of Supply and Maintenance of Air Conditioners**" on top of the envelope and address to:-

*The Procurement Function,
Deloitte Consulting Limited/USAID Boresha Afya Program,
3rd Floor, Aris House, Plot 152, Haile Selassie Road,
P.O. Box 1559, Oyster Bay,
Dar es Salaam, Tanzania*

Soft copies of the both the Technical and Financial Proposal should also be submitted in a CD copy and addressed to the above address as well.

Then deliver to Deloitte Consulting Limited office at 3rd Floor, Aris House, Plot 152, Haile Selassie Road, P.O. Box 1559, Oyster Bay, Dar es Salaam, Tanzania 12 noon, **15 January 2018** Please sign our delivery book/tender register at the reception as you deliver your bid.

- 2.5.3 Soft copy of bid submissions can be made on or before **15 January 2018** via e-mail to procurements@deloitte.co.tz .Soft copy bid submissions must be scanned copies of duly filled, signed and stamped bids and vendor due diligence form.
- 2.5.4 The bid **must** include a dully filled, signed and stamped vendor due diligence form together with supporting documents / certificates where required.
- 2.5.5 The successful applicant/consultant shall be expected to sign the Anti-Corruption and Non-Disclosure agreements whose formats are presented under **Section 5 and 6** respectively.

2.6 Modification, Substitution and Withdrawal of bids

- 2.6.1 The applicant may modify or withdraw its bid provided that written notice and the modification, including substitution or withdrawal of the bids is received by the Firm prior to the bid submission deadline.
- 2.6.2 No tender may be modified or withdrawn after the deadline for submission of tenders.
- 2.6.3 Modification after the bid submission deadline shall only be acceptable where Deloitte's technical committee requires alterations in writing.

2.7 Bid Opening

- 2.7.1 Where bids have been submitted by email, an official bid opening will not apply. Where hard copy bids have been submitted, the bid opening shall be conducted in presence of the Firm's procurement and user teams where all bids received will be registered, countersigned and serialized.
- 2.7.2 Bids submitted after the submission deadline shall be classified as time barred.

2.8 Clarification of Bids

- 2.8.1 The Firm may at its discretion, ask the applicant for a clarification of its bid. The request for clarification and the response shall be in writing.

2.9 Preliminary examination of Bids

- 2.9.1 The Firm will examine the bids to determine whether they are complete, whether any computational errors have been made, whether the documents have been properly signed and in order.
- 2.9.2 Arithmetical errors will be rectified on the following basis; if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the applicant does not accept the correction of the errors, its bid will be rejected, if there is a discrepancy between words and figures the amount in words will prevail.

2.10 Evaluation and Comparison of Bids

- 2.10.1 The Firm will evaluate and compare the bids which have been determined to be substantially responsive.
- 2.10.2 The evaluation of bids will be based on the following criteria; Preliminary criteria, Technical criteria and financial criteria.
- 2.10.3 An applicant/consultant who gives false information in the proposal about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future tenders of The Company.

2.11 Negotiation

- 2.11.1 The Firm may at its own discretion negotiate prices/premiums/deliverables with any of the applicants who have not been eliminated at the Preliminary and Technical evaluation stage, if it determines the prices/rates/premium percentages given are much higher than those available in the market. The finally agreed price/rate/premium percentage shall be confirmed in writing by the supplier/service provider. Such confirming document shall be considered as part of the tender document.

2.12 Contract Award

- 2.12.1 The Firm will award the contract to the successful applicant/consultant whose proposal has been determined to be substantially responsive and has been determined to be the most competitive bid, provided further that the applicant is determined to be qualified to perform the contract satisfactorily.
- 2.12.2 The Firm reserves the right at the time of contract award to increase or decrease quantities originally specified in the specification sheet without any change in unit prices or other terms and conditions.
- 2.12.3 The Firm will notify the successful applicant in writing that its proposal has been accepted.
- 2.12.4 In the absence of the contract documents, the signed tender award notification letter together with the conditions stipulated in the tender documents shall be construed to be the signed contract.

2.13 Order Confirmation Process

- 2.13.1 Order confirmation can either be through a signed contract or signed notification of award letter or signed LPO.
- 2.13.2 Payment for goods/services delivered without any of the documents specified in 2.13.1 may not be honored.

2.14 Payment

- 2.14.1 The Firm will pay all invoices within 30 days from invoicing date or as per the agreed terms of payment stipulated in the contract / tender award notification letter. The successful applicant will deliver signed delivery notes, invoices and a copy of the signed LPO / contract / tender award notification letter to the Firm's Finance department for payment processing.
- 2.14.2 The Invoice(s) and Delivery Note(s) should match details specified within the LPO / Updated schedules / Contracts.
- 2.14.3 Supplementary LPO should be attached to invoices if there are new additions and a credit note issued in case of subtraction.

2.15 Subcontracts

- 2.15.1 Subcontracting of part or all the contract during the agreed contractual period shall not be accepted by The Firm.

2.16 Indemnification

- 2.16.1 The applicant agrees to indemnify, defend and hold the Firm and its personnel and Partners harmless from and against all manner of suits, actions, claims, causes of action, judgements, costs and damages arising from any suit or claim of breach of this contract or infringement of any intellectual property right related to service provided.

2.17 The Company's Right to Accept or Reject Any or All Tenders

- 2.17.1 The Firm reserves the right to accept or reject any bid, and to annul the tendering process and reject all bids at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for The Firm's action.

2.18 Governing Law.

- 2.18.1 Any contract arising out of this bidding process shall be governed by and construed in all aspects in accordance with the Laws of the **United Republic of Tanzania**.

2.19 Corrupt or Fraudulent Practices

- 2.19.1 The Firm requires that applicants observe the highest standard of ethics during the procurement process and execution of contracts when used in the present regulations; the following terms are defined as follows;
- 2.19.2 "**Corrupt practice**" means the offering, giving, receiving, or soliciting of anything of value to influence the action of The Firm's official(s) in the procurement process or in contract execution;'
- 2.19.3 "**Fraudulent Practice**" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of The Firm and includes collusive practice among applicants (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive The Firm of the benefits of free and open competition.
- 2.19.4 The Firm will reject a proposal for award if it determines that the applicant recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 2.19.5 Further a applicant who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in future bids of The Firms.

2.20 Responding to this RFPQ automatically implies agreement to all terms set out within this RFPQ.

Section 3: Schedule of Requirements

3.1 USAID Boresha Afya Southern Zone is seeking to pre-qualify vendors for Supply, repair and maintenance of Air Conditions in the regions of Morogoro, Iringa, Njombe, Lindi and Mtwara.

3.1.1 The below specifications / terms of reference form our "Schedule of Requirements". Please read all specifications / terms of reference prior submitting both your technical and financial proposals.

3.1.2 Schedule of Requirement of Prequalification for supply, repair and maintenance of air conditions to support the USAID Boresha Afya Southern Zone Program are outlined in the Table 1 below:

Table 1: Schedule of requirements for prequalification of Supply and Maintenance of Air Conditioners

S/N	Description	Detailed Specification	Location	Frequency	Unit Price
1	Repair and maintenance of air conditioners	24000 BTU Brand: Samsung	Morogoro, Lindi, Mtwara, Njombe and Wangin'gombe	Quarterly	
2	Supply of spare parts for Repair and Maintenance for air conditions	The supplier is required to submit prices of the spare parts used for air conditions with 24000 BTU for Samsung Brand			

Vendors must ensure that they have

3.1.3 Additional information needed when applicable shall include;

- a) Authorization from Manufacturer
- b) Detailed specifications of the equipment
- c) Ability to deliver equipment to the specified health facility(ies) in the regions
- d) Provision for a Warranty
- e) Equipment Installation
- f) Lead Time for Delivery
- g) Services required to maintain the machine
- h) Instruction book clearly written with adequate information for servicing and fault finding

3.4 Technical Proposal

Applicant should provide technical requirement/specification to meet the requirements as highlighted in the schedule of requirements. Sample of the items quoted for should be provided together with the country of origin.

3.5 Financial Proposal

A description on the currency, exclusion of government levies, presentation of unit prices /

rates/ premiums percentages, other expenses, payment terms, warranties, lead times etc.
(SHOULD BE QUOTED IN TZS)

Section 4: Vendor Due Diligence Form

Note: Questions marked with * do not apply to individuals or sole proprietorships.

A. Your Organization

Full legal name: _____

Address: _____

Phone number: _____ Fax number: _____

Website: _____

Type of business (Check one): Individual Or Sole Proprietorship Corporation Partnership

Certificate of Incorporation /Registration Number. (Attach copy)	Company VAT Registration Number. (Attach copy)	Tax Compliance Number (Attach copy)	Company Pin. No (Attach copy)
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List all other names under which you have conducted business, including the time period for each.

Name	Date
_____	_____
_____	_____
_____	_____

Q1*. Ownership of your organization

Please list your entity's shareholders/owners/principals who hold an interest of 20% or greater:

Name	Ownership %	Nationality (if applicable)
_____	_____	_____
_____	_____	_____
_____	_____	_____

_____	_____	_____
_____	_____	_____
_____	_____	_____

Q2*. Ownership of the parent company(ies)

For organizations listed in Q1, list the owners for each organization.

Q3*. Members of your organization’s governing board

Name	Ownership %	Nationality
_____	_____	_____
_____	_____	_____

Q4*. Principal officers of your organization

Name	Title	Nationality
_____	_____	_____
_____	_____	_____
_____	_____	_____

Q5*. Indicate key subsidiaries or jointly owned organizations that will be involved in the proposed order/service/ partnership, if any.

Organization name	Relationship	Location	Date/place established	Percent owned
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

Q6*. How many employees are in your organization?

Q7. Describe the nature and history of your business operations, including the number of years that you have been in business.

Q8a. Provide the name(s) and title(s) of the individuals who will be responsible for working with our firm.

Name	Title	Nationality
_____	_____	_____
_____	_____	_____

Q8b Provide list of five (5) reputable corporate clients and the total business volumes for the financial year 2015

Clients Name	Total business volume in TZS	Contact Person	Mobile/Tel No.	Email address

Q8c List other items/services provided by your company

Q9*. Who are your auditors?¹ (Provide the following information)

Maximum Annual Gross Business for year in TZS	Names of external independent auditors	Attach copies of audited accounts for the year 2015

Q10. List all previous or current relationships with any Deloitte entity, showing the period when such relationship was active, if any.

If your company and/or your company affiliate(s) is a Deloitte client or had any business relationship with any Deloitte entity, please confirm the following:

- a. The business relationship is in the ordinary course of business operating at arm's length basis.
- b. The terms, conditions and pricing and other requirements offered by yourself to Deloitte Consulting Limited are within the prevailing Tanzania market rates and are similar to those offered to other customers within the same category of goods/services within Dar es salaam.

Q11. Will your organization be interacting with a government body, foreign official, or a government in connection with this engagement or business pursuit? If yes, please provide details including the purpose of the interaction.

Q12. Please provide banking information (name of bank, city, state/province, country) for your organization where you will require us to make payments (including check and electronic wire transfers):

B. Selection of the Third Party

Q1. Do you have pertinent experience with this type of activity? If yes, please describe the previous experience(s) and the time frame of the experience.

Q2. Do you plan to use any other entities or individuals, including subsidiaries, affiliates, partnerships, joint ventures, subcontractors, or any other individuals that are not your own employees to perform services under the proposed agreement? If Yes, identify their name and address, their relationship to your organization, and the activities they will perform. Also please state what type of integrity due diligence you have performed, if any, on the other entities or individuals?

C. Relationship to Government Organizations or Public Officials

<p>"Public Official" includes:</p>	<ul style="list-style-type: none"> • person holding legislative, administrative, military, or judicial office for any country; • person exercising a public function for any country, government, governmental agency; • employee of a government-owned or controlled enterprise; • official or agent of a public international organization; or • political party or official of a political party.
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As such, Public Officials include honorary government officials; members of boards, officers, directors and employees of governmental, quasi-governmental or government-owned companies; some members of royal or ruling families; and officials of such public international organizations as the United Nations, World Bank, International Monetary Fund, and World Trade Organization.

Q1. To the best of your knowledge, is any key employee or senior management member of your organization a Public Official?

If yes, please provide a list of all government offices and positions held; indicate whether such position are appointed or elected positions, and how long they have held such positions.

Q2. To the best of your knowledge, is any key employee or senior management member of your organization, related (by blood, marriage, current or past business association, or otherwise) to a Public Official?

If yes, please describe the relationship between the person and the Public Official(s).

Q2*. To the best of your knowledge, is any shareholder or partner in your organization, or any subsidiaries of the shareholder(s) or partner(s), owned in any part by a Public Official or a person related in any way to a Public Official?

If yes, please list the Public Official(s) and their total percentage ownership interest.

Q3. To the best of your knowledge, does any Public Official or a member of a Public Official's family have any interest or stand to benefit in any way as a result of the proposed agreement?

If yes, please explain.

D. Legal Proceedings

Q1. Within the past five years, has your organization, senior officers, and/or key employees been subject to Regulatory sanctions, convictions, penalties, debarments, professional suspensions and/or publicly disclosed investigations related to bribery, corruption, money laundering, fraud, or other similar offenses?

If yes, what were the circumstances and remedial actions that have been taken? Please describe any such situations in detail.

Q2. Within the past five years, has your organization, senior officers, and/or key employees been barred, suspended, terminated or disciplined by a government body?

If yes, what were the circumstances and remedial actions that have been taken? Please describe any such situations in detail.

E. Conflicts of Interest

Q1. To the best of your knowledge, have you or any key employee or senior management member of your organization, ever been employed by or performed services for our firm?

If yes, provide a description of the employment period, including job description, the duration of the employment period and reasons for leaving.

Q2. Is any key employee or senior management member of your organization related (by blood, marriage or otherwise) to any other partner or employee of our firm?

If yes, please explain.

F. Anti-Corruption Compliance Program

Q1*. Do you have in place an up-to-date anti-corruption program?

If yes, please describe the elements of the program including the person in your organization who is responsible for the program and to whom they report.

Q2*. Does your organization have updated anti-bribery policies?
<i>If yes, please describe the nature and content of these policies?</i>
Q3*. Does your organization have a code of ethics?
<i>If yes, is there periodic code of ethics training for all employees?</i>
Q4*. Does your organization undertake periodic anti-bribery training of all personnel?
<i>If yes, please provide details on what training is given to personnel and how frequently it is provided.</i>
Q5*. Does your organization have a process and procedure of reporting by which your employees or others can raise ethics and compliance issues without fear of retribution?
<i>If yes, are concerns able to be reported and addressed in the appropriate local language?</i>

Certification

I certify the above information is correct

Title: _____ Signature _____ Date _____

Section 5: Anti-Corruption Contractual Provisions

5.1 Anti-Corruption

1. [NAME OF THIRD PARTY] (hereinafter referred to as the "**Contractor**") represents, warrants and agrees that:
 - a) In connection with this Agreement, Contractor and any person or entity acting on its behalf has complied and will continue to comply with all applicable anti-corruption and anti-bribery laws, rules and regulations including the Anti-Corruption Act, 2007 of the Laws of Tanzania as well as the various professional codes of conduct as applicable from time to time and U. S. Foreign Corrupt Practices Act (15 U.S.C. Section 78dd-1, et. seq.) as amended ("**FCPA**") (where applicable). As a general description, such laws, rules and regulations prohibit bribery and/or providing anything of value to any person with the intent to improperly influencing that person's actions.

5.2 The Anti-Corruption Act, 2007

- a) DELOITTE CONSULTING LIMITED (hereinafter referred to as "Deloitte") and the Contractor may be subject to the Anti-Corruption Act, 2007 of the Laws of Tanzania as well as the various professional codes of conduct as applicable from time to time which make it illegal for either of the Parties' personnel to offer or give, promise, solicit or accept either directly or indirectly any undue advantage to or by a person who directs or works for a private sector entity to act or refrain in breach of his or her duties; or offer or grant either directly or indirectly any goods of monetary value or benefits in exchange of an act or omission on the performance of public functions.
- b) It is an offence under the Anti-Corruption Act for a Party to directly or indirectly offer, give, solicit or promise any undue advantage to any person who asserts or confirms that he or she is able to influence decision making of any person performing functions in the public or private sector.
- c) Under the Anti-Corruption Act, it is an offence for a Party to bribe a public official directly or indirectly to vote or abstain from voting at any meeting of that public body in favour of or against any measure, resolution or question submitted to that public body; performs, or abstains from performing his or her duty in procuring, expediting, delaying, hindering or preventing the performance of any official act; or aid in procuring or preventing the passing of any vote or the granting of any contract or advantage in favour of any person.
- d) It is an offence under the Anti-Corruption Act for a Party to do or, omit to do an act in contravention of established principles or procedure as a result of improper influence, for its own benefit or for the benefit of a third party.

The FCPA will be applicable where Deloitte is providing services to the U.S. Member Firm or to a U.S. entity, or where any part of the services by Deloitte or the Contractor are to be provided in the U.S. (Delete the part on FCPA below where inapplicable)

5.3 Foreign Corrupt Practices Act

- a) Deloitte may be subject to the FCPA, which makes it illegal to offer, promise, authorize, or provide anything of value, either directly or indirectly (e.g., through third parties), to Foreign Officials (as defined below) for the corrupt purpose of (1) influencing an official act or decision;
 - b) Inducing the Foreign Official to do or omit to do anything in violation of his lawful duty; or
 - c) Securing an improper advantage; in each case in order to assist in obtaining, retaining, or directing business to anyone.
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- i. Under the FCPA, a Foreign Official may include not only a person who performs traditional governmental or administrative functions, but also any member of a royal family or an employee of an entity in which a governmental body has an ownership interest (even a minority interest). Such employee could still qualify as a Foreign Official even if he or she performs business-related functions as an employee of such entity engaged in commercial, rather than governmental, activities.
 - ii. To facilitate Contractor's understanding and compliance with obligations set forth in this sub-Section, "**Foreign Official**" is hereby defined for the purposes of this sub-Section to include:
 - Any officer or employee of a non-U.S. government (including any non-U.S. military personnel) or any of its departments or agencies or incorporated entities (including state-owned enterprises);
 - Any director, officer, or employee of any legal entity or joint venture that is controlled or significantly owned by a non-U.S. government (including any non-U.S. military personnel) or any of its departments or agencies or incorporated entities (including state-owned enterprises);
 - Any officer or employee of any public international organization (e.g., the United Nations or World Bank);
 - Any person that represents or acts on behalf of, or in an official capacity for, any non-U.S. government or any of its departments or agencies or incorporated entities (including state-owned enterprises), even if honorary;
 - Any non-U.S. political party or party official or candidate for non-U.S. political office;
 - Any member of a royal family;
 - Any member of a non-U.S. legislative body.
-
2. Prohibited payments or offerings under the FCPA need not take the form of cash or cash equivalents. The reference to 'anything of value' above is construed broadly and covers any tangible benefit of any kind, including, without limitation, cash or cash equivalents, gifts (including, but not limited to, gifts or courtesies of local custom, wedding and personal gifts, jewelry), political contributions, donations to charities at the behest of a Foreign Official or his/her family, entertainment (including, but not limited to, meals and tickets to events), travel and travel-related expenses, hospitalities (including, but not limited to, accommodation), ownership rights in joint ventures or other entities, inflated or excessive contract prices, loans and employment (whether long-term or temporary). Even if any payments or gifts are a customary part of the culture of a particular country, they may be prohibited under the FCPA.
 3. Contractor shall ensure that Contractor's relevant partners, principals, officers, employees, personnel, contractors and agents understand and comply with all of the obligations set forth above.

4. Contractor shall notify Deloitte as soon as possible of any change in circumstances that renders any of these representations or warranties inaccurate.
5. In addition to and without prejudicing any other rights or remedies available to Deloitte, Deloitte may (i) terminate this Agreement immediately upon written notice to Contractor and (ii) withhold any amounts payable to Contractor hereunder in the event of (x) Contractor's breach of any of these Anti-Corruption provisions or (y) the commencement of any governmental inquiry or investigation relating to a potential violation of any anti-corruption or anti-bribery law, rule or regulation by or on behalf of Contractor.
 - i) For clarity, Contractor represents, warrants and agrees that Contractor shall not act on behalf of Deloitte or have interactions with Foreign Officials or Foreign Public Officials on Deloitte's behalf as its agent, representative, or otherwise.
 - ii) Deloitte or its authorized representatives shall have the right to review Contractor's compliance with all of the Contractor's obligations under this Section. Contractor agrees to cooperate with such review, including by providing all requested documentation and other information to Deloitte or its authorized representatives.

Section 6: Non-Disclosure Agreement

This Agreement is made and entered into as of the last date signed below (the "Effective Date") by and between _____ and _____ (the "Second Party").

WHEREAS Deloitte Limited and the Second Party (the "Parties") have an interest in participating in discussions wherein either Party might share information with the other that the disclosing Party considers to be proprietary and confidential to itself ("Confidential Information"); and

WHEREAS the Parties agree that Confidential Information of a Party might include, but not be limited to that Party's: (1) business plans, methods, and practices; (2) personnel, customers, and suppliers; (3) inventions, processes, methods, products, patent applications, and other proprietary rights; or (4) specifications, drawings, sketches, models, samples, tools, computer programs, technical information, or other related information;

NOW, THEREFORE, the Parties agree as follows:

1. Either Party may disclose Confidential Information to the other Party in confidence provided that the disclosing Party identifies such information as proprietary and confidential either by marking it, in the case of written materials, or, in the case of information that is disclosed orally or written materials that are not marked, by notifying the other Party of the proprietary and confidential nature of the information, such notification to be done orally, by e-mail or written correspondence, or via other means of communication as might be appropriate.
2. When informed of the proprietary and confidential nature of Confidential Information that has been disclosed by the other Party, the receiving Party ("Recipient") shall, for a period of three (3) years from the date of disclosure, refrain from disclosing such Confidential Information to any contractor or other third party without prior, written approval from the disclosing Party and shall protect such Confidential Information from inadvertent disclosure to a third party using the same care and diligence that the Recipient uses to protect its own proprietary and confidential information, but in no case less than reasonable care. The Recipient shall ensure that each of its employees, officers, directors, or agents who has access to Confidential Information disclosed under this Agreement is informed of its proprietary and confidential nature and is required to abide by the terms of this Agreement. The Recipient of Confidential Information disclosed under this Agreement shall promptly notify the disclosing Party of any disclosure of such Confidential Information in violation of this Agreement or of any subpoena or other legal process requiring production or disclosure of said Confidential Information.
3. All Confidential Information disclosed under this Agreement shall be and remain the property of the disclosing Party and nothing contained in this Agreement shall be construed as granting or conferring any rights to such Confidential Information on the other Party. The Recipient shall honor any request from the disclosing Party to promptly return or destroy all copies of Confidential Information disclosed under this Agreement and all notes related to such Confidential Information. The Parties agree that the disclosing Party will suffer irreparable injury if its Confidential Information is made public, released to a third party, or otherwise disclosed in breach of this Agreement and that the disclosing Party shall be entitled to obtain injunctive relief against a threatened breach or continuation of any such breach and, in the event of such breach, an award of actual and exemplary damages from any court of competent jurisdiction.

4. The terms of this Agreement shall not be construed to limit either Party's right to develop independently or acquire products without use of the other Party's Confidential Information. The disclosing party acknowledges that the Recipient may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Nothing in this Agreement will prohibit the Recipient from developing or having developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that the Recipient does not violate any of its obligations under this Agreement in connection with such development.
5. Notwithstanding the above, the Parties agree that information shall not be deemed Confidential Information and the Recipient shall have no obligation to hold in confidence such information, where such information:
 - (a) Is already known to the Recipient, having been disclosed to the Recipient by a third party without such third party having an obligation of confidentiality to the disclosing Party; or
 - (b) Is or becomes publicly known through no wrongful act of the Recipient, its employees, officers, directors, or agents; or
 - (c) Is independently developed by the Recipient without reference to any Confidential Information disclosed hereunder; or
 - (d) Is approved for release (and only to the extent so approved) by the disclosing Party; or
 - (e) Is disclosed pursuant to the lawful requirement of a court or governmental agency or where required by operation of law.
6. Nothing in this Agreement shall be construed to constitute an agency, partnership, joint venture, or other similar relationship between the Parties.
7. Neither Party will, without prior approval of the other Party, make any public announcement of or otherwise disclose the existence or the terms of this Agreement.
8. This Agreement contains the entire agreement between the Parties and in no way creates an obligation for either Party to disclose information to the other Party or to enter into any other agreement.
9. This Agreement shall remain in effect for a period of two (2) years from the Effective Date unless otherwise terminated by either Party giving notice to the other of its desire to terminate this Agreement. The requirement to protect Confidential Information disclosed under this Agreement shall survive termination of this Agreement.

IN WITNESS WHEREOF:

DELOITTE CONSULTING LIMITED:

<< VENDOR'S NAME >>

Signature Date

Signature Date

Printed Name

Printed Name

Title

Title