

Solicitation Cover Page  
Request for Proposals (RFP)



1. SOLICITATION NUMBER <b>6089-T2-VAR-09-2017.RFP</b>	2. TITLE OF SOLICITATION <b>Training for Operators of the Criminal Justice System (Capacitación para Operadores del Sistema de Justicia Penal Acusatorio)</b>	3. DATE SOLICITATION ISSUED <b>June 27, 2017</b>
4A. PROPOSAL SUBMISSION DATE/TIME <b>July 21, 2017 at 9:00am CST</b>	4B. QUESTIONS/CLARIFICATIONS DUE BY <b>July 7, 2017 by 5:00pm CST</b>	5. PERIOD OF PERFORMANCE <b>August 2017 – August 2019</b>
6A. ANTICIPATED TYPE OF AGREEMENT <b>Firm Fixed-Price Subcontract</b>	6B. PAYMENT TERMS FOR AGREEMENT <b>Please refer to Section D, No. 7.</b>	6C. GEOGRAPHIC CODE <b>937</b>
7. OFFEROR CONTACT INFORMATION <i>(TO BE COMPLETED BY THE OFFEROR)</i>		
NAME _____		
ADDRESS _____		
POINT OF CONTACT _____		E-MAIL _____
TELEPHONE / FAX _____		WEBSITE _____
8A. MSI ISSUING OFFICE Management Systems International / PROJJUST Hamburgo 206-303, Col. Juárez, Cuauhtémoc 0660 Point of Contact: Victoria Baltazar E-mail: <a href="mailto:vbaltazar@msi-inc.com">vbaltazar@msi-inc.com</a>		8B. ADDRESS FOR SUBMISSION OF PROPOSALS MSI / PROJJUST <u>electronic submissions only</u> E-mail: <a href="mailto:adquisiciones@msimex.com">adquisiciones@msimex.com</a>
9. MSI CLIENT <b>USAID</b>		
9A. PRIME CONTRACT # <b>AID-523-C-14-00003</b>	9B. MSI PROJECT NAME <b>Promoting Justice (PROJJUST)</b>	9C. PLACE OF PERFORMANCE <b>Mexico</b>
10. PROPOSAL SUBMISSION, ACCEPTANCE AND ELIGIBILITY ELECTRONIC SUBMISSIONS MUST BE RECEIVED AT THE ADDRESS SPECIFIED BEFORE THE DATE/TIME DUE SET FORTH ABOVE. PROPOSALS RECEIVED AFTER THAT TIME OR AT A DIFFERENT LOCATION MAY NOT BE ACCEPTED. OFFERORS MUST BE TECHNICALLY QUALIFIED, FINANCIALLY RESPONSIBLE AND OTHERWISE ELIGIBLE FOR RECEIPT OF AN MSI CLIENT-FUNDED AWARD. <b>ALL PROPOSALS AND DELIVERY DATES SHALL BE VALID FOR A PERIOD OF NINETY (90) DAYS FOLLOWING THE DATE SET FORTH ABOVE IN BLOCK 4A, UNLESS OTHERWISE CLEARLY SPECIFIED BY OFFEROR.</b>		
11. BUSINESS STATUS AND REGISTRATION <i>(TO BE COMPLETED BY THE OFFEROR)</i>		
DUNS# _____ TAX ID _____ NATIONALITY OF OWNERSHIP _____		
<b>OFFEROR CERTIFIES THAT THEY ARE:</b> <input type="checkbox"/> U.S. LARGE BUSINESS <input type="checkbox"/> U.S. NON-PROFIT ORGANIZATION <input type="checkbox"/> GOVERNMENT OWNED OR AFFILIATED <input type="checkbox"/> NON-U.S. BUSINESS <input type="checkbox"/> REGISTERED IN THE SAM ( <a href="http://WWW.SAM.GOV">WWW.SAM.GOV</a> ) <input type="checkbox"/> OTHER (SPECIFY) _____		
<b>IF U.S. SMALL BUSINESS, INDICATE TYPE (CHECK ALL THAT APPLY):</b> APPLICABLE NAICS CODE(S) _____ <input type="checkbox"/> SMALL <input type="checkbox"/> WOSB <input type="checkbox"/> SDB <input type="checkbox"/> HUB ZONE <input type="checkbox"/> VOSB <input type="checkbox"/> SDVOSB <input type="checkbox"/> HBCU <input type="checkbox"/> ANC & INDIAN TRIBE		
12. ACKNOWLEDGEMENT OF MODIFICATIONS OFFEROR ACKNOWLEDGES RECEIPT OF THE FOLLOWING SOLICITATION MODIFICATIONS: _____ <b>OFFERORS MUST PROVIDE WRITTEN ACKNOWLEDGEMENT OF THEIR RECEIPT OF ALL MODIFICATIONS.</b>		
13A. AGREEMENT BY SIGNING THIS PROPOSAL, OFFEROR HEREBY CERTIFIES TO THE CURRENCY, ACCURACY AND COMPLETENESS OF ALL PRICING INFORMATION, TECHNICAL DATA, DELIVERY DATES, REPRESENTATIONS AND CERTIFICATIONS INCLUDED IN THEIR OFFER AS WELL THE ACCEPTANCE OF ALL OF THE TERMS AND CONDITIONS SET FORTH IN THIS SOLICITATION.		
13B. SIGNATURE OF OFFEROR'S REPRESENTATIVE		NAME & TITLE OF REPRESENTATIVE _____
		DATE _____

## Section B

### Instructions to Offerors

#### 1. INTRODUCTION

Management Systems International (MSI) is a Washington, D.C.-based development firm founded in 1981 with a corporate commitment to improving public sector management in the U.S. and abroad. MSI is internationally recognized for its technical expertise and implementation of a range of projects in results-based management, including strategic planning and program performance monitoring and reporting, monitoring and evaluation, policy implementation, institutional development, and training.

MSI is implementing the “Promoting Justice” Project (PROJUST) on behalf of USAID/Mexico under Contract No. AID-523-C-14-00003. The project’s overall objective is to provide customized support to federal and state authorities to accelerate the Mexican Criminal Justice Reform, which contributes to broader U.S. Government and Government of Mexico efforts to mitigate conflict, reduce impunity, and promote a more transparent and efficient justice system. A 2008 Constitutional reform required all state and federal jurisdictions to make the transition to the new criminal justice system by 18 June 2016 – termed the “point of no return.” This was reached by each of Mexico’s 32 states with the support of PROJUST. Current PROJUST efforts are aimed at preventing backsliding by facilitating institutional and cultural change to the new criminal justice system.

#### 2. SPECIFIC REQUIREMENT & RFP SECTIONS

MSI, by way of this Request for Proposals (RFP), seeks proposals from qualified firms to provide training to Mexican justice sector operators at the state and federal levels on the new criminal justice system, as set forth in detail in Section C.

This RFP includes seven sections:

SECTION A	Solicitation Cover Page
SECTION B	Instructions to Offerors
SECTION C	Statement of Work
SECTION D	General Provisions applicable to resulting award
SECTION E	Special Provisions applicable to resulting award
SECTION F	Sample Budget
SECTION G	Representations and Certifications ( <b>must be completed by offerors</b> )

#### 3. TYPE OF AWARD AND PERFORMANCE/DELIVERY

MSI intends to award one or more Firm Fixed-Price subcontracts for the services detailed in Section C. All services must be completed within the period stated in Box 5 of the Solicitation Cover Page.

#### 4. SPECIFICATIONS AND SOURCE SELECTION

MSI will conduct source selection for potential award of the required services on the basis of the criteria set forth in Article 7, below. In order to be considered for award, Offerors must respond to all of the requests and requirements of this Solicitation. They must be able to demonstrate financial and legal responsibility and the capability to provide the supplies and services described in Section C.

#### 5. CONTENT & FORMAT FOR PROPOSALS

Upon receipt of this RFP, please indicate your interest by sending a reply to the point of contact designated in Box 8A of the Solicitation Cover Page.

Offerors are requested to submit the Technical Proposal in a separate file from the Price Proposal, and to formulate their proposals according to the following instructions.

TECHNICAL PROPOSAL formatted and organized as follows.

- a) **Cover Letter** identifying the Offeror and the Offeror's point of contact, confirming the contents of the Offeror's proposal, and signed by a person authorized to bind and act on behalf of the Offeror.
- b) **Technical Approach:** Offerors must provide a description of how they propose to deliver the results and accomplish the goals detailed in Section C. This should include the following elements:
  - **General Description** of the Offeror which demonstrates its institutional capabilities to successfully deliver the services and outcomes described in Section C;
  - **Work Plan**, including a detailed work schedule, that convincingly demonstrates the Offeror's understanding of the context, local conditions, goals, objectives and the requirements of the Statement of Work (Section C), and how the Offeror proposes to fully achieve the stated objectives in a timely and accurate fashion; and
  - **Explanation of Technical Approach** to implement the project within the required timeframe, including any methodological, geographical or security considerations relevant to the Work Plan.
- c) **Technical Experience of the Organization and Proposed Team:** MSI considers that Technical Experience and Competency of the Offeror and its proposed trainers will significantly influence success meeting the requirements provided in Section C. Offerors must provide:
  - Description and examples of the Offeror's specific technical experience in training delivery and broad knowledge on the new criminal justice system in Mexico.
  - CV/résumés for their proposed personnel to demonstrate their qualifications and the relevance of prior experience with the new criminal justice system and the delivery of training courses (per the requirements stated in Section C and the Scoring Table in Section B.7). If any of the proposed trainers are government employees, they must take and provide confirmation of unpaid leave (*licencia*) to be eligible to work under this contract.
- d) **Organizational Past Performance References:** Offerors should demonstrate their organization's prior accomplishments in developing, designing and implementing products similar to those set forth in the Statement of Work (Section C).

Please provide at least three (3) references for recent awards/contracts in which similar services/supplies were successfully delivered. Please include the following information for past clients who can provide references or indicators of the Offeror's past performance for similar engagements:

- Number and title of the contract/award, with brief description of the services/supplies provided;
- Client's name, address and website (if available); and
- Current contact information (name, e-mail address, telephone numbers) of a responsible client representative who can provide answers and comments on the Offeror's performance.

Supporting documentation (not to exceed 3 of each) such as copies of client recommendation letters, certifications, and prizes may also be provided but are not required.

MSI considers good business practices and financial stability to be essential factors in project performance. Offerors shall provide a list of current financial accounts and banking/business references able to attest to their business status and integrity.

PRICE PROPOSAL to include:

- a) **Detailed Budget:** Please provide a detailed price itemization or itemized commercial price proposal that includes all projected labor and other costs to deliver the outcomes described in Section C, in line with your Technical Proposal. Please state whether any taxes are included. A Sample Budget is provided in Section F.

Proposals submitted by Mexican offerors must be denominated in Mexican Pesos. U.S. offerors may submit proposals denominated in U.S. Dollars.

All prices proposed must be valid for at least ninety (90) calendar days.

Offerors shall note any exceptions to the specifications listed in Section C and provide alternate quotations. Offerors must also specifically mark any recommended Options which are not specifically required in Section C or elsewhere in the RFP.

- b) **Responsibility Determination Questionnaire:** Please complete and sign the form included as Section G of this RFP.

All Offerors must include as part of their Price Proposal sufficient evidence of responsibility for MSI to make an affirmative determination of responsibility, in accordance with FAR Part 9.104-1. Therefore, the Offeror must submit evidence to demonstrate that it:

1. Has an adequate financial resource or the ability to obtain such resources as required during the performance of the award. Has well established relationships with accredited banking institutions, access to accounting services as well as legal services.
2. Has the ability to comply with the award conditions, including the proposed delivery or performance schedule, taking into account all existing and currently prospective commitments of the applicant.
3. Has a history of excellent client relationships and has performed its work with the highest degree of integrity and business ethics.
4. Is otherwise qualified and eligible to receive a subcontract/service agreement under applicable laws and regulations.

Price Proposals must be submitted separately (in a separate file) from Technical Proposals. Please mark each clearly.

## 6. GUIDELINES AND NOTICES

The following conditions, guidelines and notices are included to assist you in preparing a competent proposal. All of them should be reflected in your submission.

**Technical Compliance:** Offerors are required to review and confirm to the requirements as presented in Section C, "Statement of Work". In their proposal, Offerors shall ensure that responses use plain language, are concise and unambiguous, are quantitative, and deliver full information. Offerors should not hesitate to volunteer additional information if it is useful to this process.

**Language:** Offerors shall provide technical proposals in either English/Spanish and price proposals in English. Deliverables under the resulting award(s) shall be required in Spanish.

**Format and Size:** The Technical Proposal must be submitted as a MS Word document. The maximum Technical Proposal length should not exceed 15 pages, including title page; cover letter, narrative proposal, and qualifications. The Price Proposal must be submitted in MS Word/Excel. The length limitation does not include any addendums for requested resumes and performance references. Please do not use fonts smaller than 11 point.

**Source & Nationality:** The USAID authorized geographic code for the procurement of goods and services under MSI's contract is 937, which includes the United States, the host country (Mexico), and select developing countries other than "advanced developing countries". A current list of eligible countries and further information on Source and Nationality may be found at [www.usaid.gov/ads/policy/300/310](http://www.usaid.gov/ads/policy/300/310).

Offerors must agree that no services will be rendered through a service provider in any foreign policy restricted country. Offerors must also complete the "Source, Nationality, and Availability for Purchase" certification included in Section G in order to be considered for award.

**Fixed Unit Pricing:** MSI intends to issue one or more Fixed-Price Subcontracts as a result of this solicitation. MSI will only accept price changes from those included in the Offeror's proposal, or will accept additional charges beyond what is included in the proposal, only if MSI modifies its requirements in writing. Please provide detailed assumptions to help us develop a better understanding of your pricing.

**No Obligation to Award:** MSI may reject any or all offers or not award a contract under this RFP if such action is in the best interests of MSI, its Client, or the Host Country. MSI may also waive informalities and minor irregularities in offers received, should such actions be in the best interest of MSI, its Client, or the Host Country. The issuance of any contract resulting from this solicitation is subject to the prior approval from MSI's client.

**Multiple Awards:** MSI may accept any item or group of items of a proposal, unless the Offeror qualifies the proposal by specific limitations such as "all or none". MSI reserves the right to make an award on any item for a quantity less than the quantity proposed (if applicable), while retaining the unit prices proposed, unless the Offeror specifies otherwise in the proposal. Proposals will be evaluated on the basis of advantages and disadvantages to MSI and its Client in making multiple awards or awarding for less than full quantity. MSI reserves the right to issue more than one award.

**Terms of Payment:** Unless otherwise specified, payment terms for the resulting award shall be based on a payment schedule based on the work plan developed at the time of issuing the award. Payments for each phase of satisfactorily delivered and accepted deliverables and services will be made in accordance with the terms of Section D, Provision #7.

Offerors will not be reimbursed for any costs incurred in connection with the preparation and submission of a proposal.

## **7. EVALUATION CRITERIA FOR AWARD**

Proposals which conform to the requirements stated in this RFP which are received by the deadline stated in Box 4A of the Solicitation Cover Page will be evaluated for award on the basis of the Best Overall Value to MSI's Client and the Host Country Government. Best Overall Value will be determined by an MSI Selection Committee on the basis of the Technical Evaluation Criteria set forth below—as demonstrated in each offeror's technical proposal—and a separate evaluation of proposed price(s).

### **A. Effectiveness of the Technical Approach**

The **General Description** and **Explanation of the Technical Approach** convincingly demonstrate that the Offeror: 1) understands the context, goals, objectives and the requirements of the Statement of Work in Section C and the local conditions; and 2) clearly explains how the Offeror intends to achieve the objectives in a timely fashion.

The **Work Plan** should contain a detailed explanation of how the Offeror will implement the project, including a calendar to implement each deliverable. Completion time is very important. Evaluation will be based on how well the Offeror demonstrates this understanding and its ability to perform accordingly. The selected vendor will need to start work as soon as the award is issued. The proposal must realistically represent the availability of the Offeror's team and how soon it can start work. The evaluation of the Work Plan's feasibility and projected effectiveness includes the following points:

- Immediate availability to begin work;
- Ability to mobilize staff and freelance consultants according to the program's schedule; and
- Availability of required equipment to carry out the required work.

### **B. Technical Experience and Demonstrated Competency of the Proposed Team**

Offerors should demonstrate their prior accomplishments in providing technical assistance similar to that set forth in the Statement of Work (Section C) as well as their methodology to assess feedback during implementation of the project. The specific technical experience and demonstrated competency includes broad knowledge of the new criminal justice system in Mexico and experience in training delivery.

### C. Past Performance and Demonstrated Integrity of the Organization

The Offeror's references and supporting documentation provide information which positively reflects on the Offerors' ability to successfully complete the required Statement of Work (Section C). The references must speak to the Offeror's past performance in successfully implementing similar projects and its business practices.

<b>Scoring Table</b> Evaluation Criterion	Maximum Score
<b>A. Eficacia del Enfoque Técnico</b> El proveedor entiende del contexto, las condiciones locales, las metas, objetivos y requerimientos detallados dentro del Alcance de Trabajo que se detalla más adelante (Sección C) y su Plan de Trabajo detalla claramente cómo planea cumplir los objetivos de manera puntual.	40
<b>B. Experiencia Técnica Especializada y Competencia Especifica</b> El proveedor da muestras relevantes de su trabajo previo como también de sus logros específicamente en relación a servicios de capacitación similares a lo establecido en el Alcance de Trabajo (Sección C) incluyendo su metodología para evaluar y dar retroalimentación durante implementación del proyecto. Se considerara desempeño de actividades previas (entrega de información y documentos como se estableció).  La experiencia técnica especializada del equipo debe incluir los siguientes componentes: <ul style="list-style-type: none"><li>• Capacitadores deben tener conocimiento del Nuevo Sistema Penal;</li><li>• Capacitadores deben tener experiencia impartiendo cursos tal como lo establecido en Sección C;</li><li>• Capacitadores deben entregar un plan de estudios del programa de capacitación incluyendo objetivos, metodologías y temas;</li><li>• Si los capacitadores son empleados del gobierno, deben tomar licencia sin pago durante el periodo de los cursos;</li><li>• Capacitadores de fiscales, defensores y jueces deben cumplir con uno de los siguientes títulos: Licenciatura en derecho, maestría o doctorado en leyes;</li><li>• Capacitadores de peritos y policías: Expertos en diversas disciplinas relacionadas al sistema acusatorio y con experiencia en el mismo.</li><li>• Capacitadores de administradores de tribunales: Licenciados, maestros o doctores en administración pública o ingeniería con experiencia en el sistema de justicia penal acusatorio por lo que hace a la administración de Tribunales.</li><li>• Capacitadores de formadores: Licenciados, maestros o doctores en pedagogía, con experiencia en sistema penal acusatorio, que deberán estar acompañados de un experto de la disciplina de que se trate (es decir un capacitador defensor, o juez o un fiscal; de acuerdo al taller de que se trate)</li><li>• Para cada módulo, debe de estar presente durante cada capacitación un experto del perfil de que se trate ya sea un fiscal, defensor, juez, perito, administrador, policía o experto en pedagogía; y en aquello que se estime necesario deberá estar presente el experto de que se trate acompañado del especialista correspondiente para dar apoyo en temas de fondo.</li></ul>	40
<b>C. Desempeño Previo e Integridad Institucional</b> El proveedor ha presentado una lista de clientes recientes cuyas referencias sirven como indicadores de la capacidad del Proveedor para completar el trabajo requerido dentro del Alcance de Trabajo (Sección C) y de su desempeño previo con relación a la implementación de proyectos similares.	20
<b>Total Possible Score</b>	<b>100</b>

Price will not be evaluated by the Technical Evaluation Committee, but will be considered by MSI in determining the Best Overall Value. The significance of Price will increase the closer the technical scores. Offerors are encouraged to present their most competitive pricing for this activity as MSI will gauge proposals within a range based on Technical Evaluation scoring and MSI's internal cost estimate to determine Best Overall Value.

## **8. SUBMISSION OF PROPOSALS AND QUESTIONS**

The deadline for submission of price and technical proposals is as provided in Box 4A on the solicitation Cover Page. Submissions must be forwarded in electronic format only to person of contact mentioned in Box 8B of the Solicitation cover page. Submissions received after due date/time may not be considered.

Please reference "RFP No. 6089-T2-VAR-09-2017.RFP" in the e-mail subject line for your submission.

Any questions or request for clarifications regarding this Solicitation must be addressed in writing (via e-mail) to the person mentioned in Box 8B of the Solicitation Cover Page and received by the date and time mentioned in Box 4B of the Cover Page. All questions and answers provided shall be shared with other potential vendors being contacted through this solicitation.

Submissions by Facsimile will not be accepted. Offeror's proposals should not contain any unnecessary promotional material or elaborate presentation formats. Offeror's standard technical specifications are preferred.

## **9. QUESTIONS**

Requests for clarification and questions regarding this Solicitation must be addressed in writing (via e-mail) to the point of contact listed in Box 8A of the Solicitation Cover Page no later than the date specified in Box 4B. Requests for clarifications and questions received by MSI along with MSI answers may be forwarded to all participating Offerors and interested parties.

## **10. MODIFICATION AND WITHDRAWAL OF RFP**

MSI reserves the right to modify by written notice the terms of this RFP at any time in its sole discretion. MSI also reserves the right to withdraw this RFP at any time—with or without statement of cause—prior to actual award.

## **11. CONFIDENTIALITY OF INFORMATION**

Information pertaining to MSI and MSI's Client obtained by the Offeror as a result of participation in this RFP is confidential and shall not be disclosed at any time without prior written authorization from MSI's authorized representative.

## Section C

### Statement of Work

#### Capacitación para operadores del Sistema de Justicia Penal Acusatorio

##### A. INTRODUCCIÓN Y ANTECEDENTES GENERALES

En el marco de colaboración de la Iniciativa Mérida, establecido por el Gobierno de México y el Gobierno de Estados Unidos, la Agencia para el Desarrollo Internacional de los Estados Unidos, (**USAID**) a través de su contratista Management Systems International, Inc. (**MSI**) se ha dado a la tarea de realizar varias actividades en el área de seguridad y justicia en apoyo a la implementación de la reforma Judicial dispuesta mediante el Decreto de Reforma Constitucional en Materia de Justicia Penal y Seguridad Pública publicado en el Diario Oficial de la Federación el día 18 de Junio del 2008.

Es por esto que el Gobierno de México está llevando a cabo una revisión completa de su sistema de justicia penal, sustituyendo los procedimientos a puertas cerradas y argumentos escritos con un sistema acusatorio basado en juicios públicos y orales. Las reformas constitucionales del 2008 requieren que todas las jurisdicciones estatales y federales realicen esta transición a más tardar en el 2016. Con la asistencia de USAID se ha logrado la implementación del nuevo sistema de justicia penal en algunos estados mexicanos como parte del segundo pilar de la Iniciativa Mérida.

El proyecto de USAID/México Promoviendo la Justicia (**PROJUST**) tiene por objeto contribuir al logro del Pilar II de la Iniciativa Mérida mediante el apoyo a las reformas integrales de justicia penal que se adhieran a los estándares de derechos humanos mexicanos e internacionales implementados a nivel estatal y federal, buscando la profesionalización de los servidores públicos, promoviendo la participación ciudadana, la transparencia, el respeto a los derechos humanos, el apoyo a las víctimas y el fortalecimiento de las organizaciones de la sociedad civil.

PROJUST alcanzará estos resultados al apoyar de manera personalizada, directa o indirectamente, a las diferentes instituciones a nivel estatal y federal para el empujón final de la reforma Constitucional del 2016 y que los estados seleccionados puedan pasar el "punto de no retorno" en sus reformas del sistema de justicia. Este apoyo contribuirá a un más amplio esfuerzo entre el gobierno de los Estados Unidos y el gobierno mexicano para mitigar los conflictos, reducir la impunidad y promover un sistema de justicia más transparente y eficiente.

##### B. OBJETIVO

Por medio del presente, MSI solicita propuestas de entidades privadas debidamente constituidas de nacionalidad mexicana o estadounidense para impartir cursos de capacitación en el nuevo sistema de justicia penal a Ministerios Públicos, Jueces, Magistrados, Fiscales, Policías de Investigación y Defensores Públicos de algunos o en todos los siguientes Estados: Coahuila, Nuevo León, Chihuahua, San Luis Potosí, Zacatecas, Tabasco y/o Baja California o algún o algunos otros de acuerdo a las necesidades del programa en colaboración con USAID a través de MSI y los gobiernos de los estados ya mencionados, pudiendo estar incluidas diversas Entidades a las ya referidas.

##### C. ACTIVIDADES, HITOS Y ENTREGABLES

###### I. NOMBRES DE LOS CURSOS A IMPARTIRSE:

###### a. DEFENSORES PÚBLICOS

###### PROGRAMA DE FORMACIÓN INICIAL

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio
2. Curso de habilitación en el Sistema de Justicia Penal Acusatorio para defensores Públicos
3. Taller de litigación en juicio oral para Defensores Públicos



4. Taller de la defensa en la investigación para Defensores Públicos
5. Taller de litigación en audiencia inicial para Defensores Públicos
6. Taller de litigación en etapa intermedia para Defensores públicos

#### PROGRAMA DE FORMACIÓN AVANZADO

1. Curso taller avanzado de examen y contra examen para defensores públicos
2. Curso taller avanzado de litigación en juicio oral para defensores públicos
3. Taller de litigación en la audiencia de individualización de sanciones para Defensores Públicos
4. Taller de litigación avanzado en audiencia inicial para defensores públicos
5. Taller avanzado de litigación en audiencia intermedia para defensores públicos
6. Taller de negociación y procedimiento abreviado para defensores públicos
7. Curso taller de salidas alternas para defensores públicos
8. Recursos para defensores públicos
9. Ensayos Interinstitucionales

#### PROGRAMAS DE FORMACIÓN ESPECIALIZADOS

1. Investigación de la Defensa
2. Preparación para juicio oral
3. Debate de medidas cautelares
4. Exclusión de pruebas
5. Argumentación jurídica

### b. JUECES

#### PROGRAMA DE FORMACIÓN INICIAL

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio
2. Curso de habilitación en el sistema de justicia penal para jueces
3. Taller de litigación en juicio oral para jueces
4. Taller de control y dictado de resoluciones en audiencia inicial para jueces
5. Taller de control y dictado de resoluciones en audiencia intermedia para jueces
6. Taller de control y dictado de resoluciones en juicio oral para jueces

#### PROGRAMA DE FORMACIÓN AVANZADO

1. Taller de control y dictado de resoluciones en audiencias previas a la formulación de imputación para jueces
2. Taller de deliberación y valoración de la prueba para jueces
3. Taller de dirección y dictado de resoluciones en la audiencia de individualización de sanciones para jueces
4. Taller de coordinación con la administración
5. Ensayos Interinstitucionales

#### PROGRAMAS DE FORMACIÓN ESPECIALIZADOS

1. Fundamentación y motivación de resoluciones
2. Argumentación jurídica

### c. MINISTERIOS PÚBLICOS

#### PROGRAMA DE FORMACIÓN INICIAL

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio
2. Curso de habilitación en el sistema de justicia penal acusatorio para Ministerios Públicos
3. Taller de litigación en juicio oral para ministerios públicos
4. Taller de dirección y dictado de resoluciones en la investigación
5. Taller de litigación en audiencia inicial para ministerios públicos
6. Taller de litigación en etapa intermedia para ministerios públicos

#### PROGRAMA DE FORMACIÓN AVANZADO

1. Taller avanzado de litigación en juicio oral para ministerios públicos
2. Taller de litigación en la audiencia de individualización de sanciones para Ministerios Públicos
3. Taller de investigación conjunta con policía investigadora
4. Taller de litigación en audiencias previas a la formulación de imputación
5. Taller de litigación avanzado en audiencia inicial para ministerios públicos
6. Taller de litigación avanzado en audiencia intermedia para ministerios públicos
7. Taller de negociación y procedimiento abreviado para ministerios públicos
8. Taller de soluciones alternas para ministerios públicos
9. Recursos para ministerios públicos
10. Ensayos Interinstitucionales

#### PROGRAMAS DE CAPACITACIÓN ESPECIALIZADA

1. Taller para Ministerios Públicos de Unidades de Atención Temprana
2. Taller para Ministerios Públicos de Unidades de Tramitación masiva
3. Taller para Ministerios Públicos de Unidades de Imputado desconocido
4. Taller para Ministerios Públicos de Unidades de Investigación
5. Argumentación jurídica
6. Preparación para juicio oral
7. Exclusión de pruebas
8. Planteamiento de medidas cautelares

#### d. MAGISTRADOS

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio
2. Principios del sistema penal acusatorio
3. Etapas del proceso penal acusatorio
4. Procedimiento abreviado
5. La prueba en el proceso penal acusatorio
6. Nulidades
7. Recursos
8. La administración del Tribunal y la segunda instancia
9. Taller de segunda instancia

#### e. ADMINISTRADORES DE TRIBUNALES

1. Taller para administradores de tribunales
2. Taller para administradores Jefes de Unidad
3. Taller para encargados de Sala
4. Taller para encargados de causa
5. Ensayos Interinstitucionales

#### f. POLICÍA DE INVESTIGACIÓN, MINISTERIOS PÚBLICOS Y PERITOS

Taller de investigación conjunta con Ministerios Públicos

#### g. PERITOS

El perito en el sistema de justicia penal acusatorio

#### h. FORMADORES DE LAS INSTITUCIONES DE JUSTICIA

(Los módulos descritos a continuación se pueden impartir a Jueces, defensores o fiscales de acuerdo a las necesidades concretas)

1. Diseño didáctico
2. Métodos y técnicas de enseñanza aprendizaje
3. Métodos y técnicas de evaluación
4. Diagnóstico de necesidades de formación, actualización y capacitación

NOTAS:

Los módulos pueden variar en cantidad, contenido, duración o número de acuerdo a las necesidades de MSI o de la Entidad receptora del curso.

**II. SEDE DE LOS CURSOS**

Los estados ya indicados o los que pudieran sumarse fuera de éstos con sede concreta en el lugar que la Entidad determine.

**III. CANTIDAD DE CURSOS**

La cantidad necesaria de cada curso puede ser variable acorde a las necesidades de las entidades en donde se desarrollen. Una vez que se concreten los correspondientes planes de trabajo de PROJUSTICIA se notificará al subcontratista los módulos en concreto que habrá de impartir con anticipación mínima de un mes previo al desarrollo de la actividad en concreto.

**IV. HORAS DE CAPACITACIÓN POR CURSO**

a. DEFENSORES PÚBLICOS

PROGRAMA DE FORMACIÓN INICIAL

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio: 40 horas, distribuidas en 5 días hábiles
2. Curso de habilitación en el Sistema de Justicia Penal Acusatorio para defensores Públicos: 40 horas distribuidas en 5 días hábiles
3. Taller de litigación en juicio oral para Defensores Públicos: 40 horas distribuidas en 5 días hábiles
4. Taller de la defensa en la investigación para Defensores Públicos: 40 horas distribuidas en 5 días hábiles
5. Taller de litigación en audiencia inicial para Defensores públicos: 40 horas distribuidas en 5 días hábiles
6. Taller de litigación en etapa intermedia para Defensores públicos: 40 horas distribuidas en 5 días hábiles

PROGRAMA DE FORMACIÓN AVANZADO

1. Curso taller avanzado de examen y contra examen para defensores públicos: 40 horas distribuidas en 5 días hábiles
2. Curso taller avanzado de litigación en juicio oral para defensores públicos: 40 horas distribuidas en 5 días hábiles
3. Taller de litigación en la audiencia de individualización de sanciones para Defensores Públicos: 40 horas distribuidas en 5 días hábiles
4. Taller de litigación avanzado en audiencia inicial para defensores públicos: 40 horas distribuidas en 5 días hábiles
5. Taller avanzado de litigación en audiencia intermedia para defensores públicos: 40 horas distribuidas en 5 días hábiles
6. Taller de negociación y procedimiento abreviado para defensores públicos: 40 horas distribuidas en 5 días hábiles
7. Curso taller de salidas alternas y procedimiento abreviado para defensores públicos: 40 horas distribuidas en 5 días hábiles
8. Recursos para defensores públicos: 40 horas distribuidas en 5 días hábiles
9. Ensayos Interinstitucionales: 40 horas distribuidas en 5 días hábiles

PROGRAMAS DE FORMACIÓN ESPECIALIZADOS

1. Investigación de la Defensa: 40 horas distribuidas en 5 días hábiles
2. Preparación para juicio oral: 40 horas distribuidas en 5 días hábiles
3. Debate de medidas cautelares: 40 horas distribuidas en 5 días hábiles
4. Exclusión de pruebas: 40 horas distribuidas en 5 días hábiles
5. Argumentación jurídica: 40 horas distribuidas en 5 días hábiles

## B. JUECES

### PROGRAMA DE FORMACIÓN INICIAL

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio: 40 horas, distribuidas en 5 días hábiles
2. Curso de habilitación en el sistema de justicia penal para jueces: 40 horas distribuidas en 5 días hábiles
3. Taller de litigación en juicio oral para jueces: 40 horas distribuidas en 5 días hábiles
4. Taller de control y dictado de resoluciones en audiencia inicial para jueces: 40 horas distribuidas en 5 días hábiles
5. Taller de control y dictado de resoluciones en audiencia intermedia para jueces: 40 horas distribuidas en 5 días hábiles
6. Taller de control y dictado de resoluciones en juicio oral para jueces: 40 horas distribuidas en 5 días hábiles

### PROGRAMA DE FORMACIÓN AVANZADO

1. Taller de control y dictado de resoluciones en audiencias previas a la formulación de imputación para jueces de Puebla: 40 horas distribuidas en 5 días hábiles
2. Taller de deliberación y valoración de la prueba para jueces: 40 horas distribuidas en 5 días hábiles
3. Taller de dirección y dictado de resoluciones en la audiencia de individualización de sanciones para jueces: 40 horas distribuidas en 5 días hábiles
4. Ensayos Interinstitucionales: 40 horas distribuidas en 5 días hábiles

### PROGRAMAS DE FORMACIÓN ESPECIALIZADOS

1. Fundamentación y motivación de resoluciones: 40 horas distribuidas en 5 días hábiles
2. Argumentación jurídica: 40 horas distribuidas en 5 días hábiles

## C. MINISTERIOS PÚBLICOS

### PROGRAMA DE FORMACIÓN INICIAL

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio: 40 horas, distribuidas en 5 días hábiles
2. Curso de habilitación en el sistema de justicia penal acusatorio para Ministerios Públicos: 40 horas distribuidas en 5 días hábiles
3. Taller de litigación en juicio oral para ministerios públicos: 40 horas distribuidas en 5 días hábiles
4. Taller de dirección y dictado de resoluciones en la investigación: 40 horas distribuidas en 5 días hábiles
5. Taller de litigación en audiencia inicial para ministerios públicos: 40 horas distribuidas en 5 días hábiles
6. Taller de litigación en etapa intermedia para ministerios públicos: 40 horas distribuidas en 5 días hábiles

### PROGRAMA DE FORMACIÓN AVANZADO

1. Taller avanzado de litigación en juicio oral para ministerios públicos: 40 horas distribuidas en 5 días hábiles
2. Taller de litigación en la audiencia de individualización de sanciones para Ministerios Públicos: 40 horas distribuidas en 5 días hábiles
3. Taller de investigación conjunta con policía investigadora: 40 horas distribuidas en 5 días hábiles
4. Taller de litigación en audiencias previas a la formulación de imputación: 40 horas distribuidas en 5 días hábiles
5. Taller de litigación avanzado en audiencia inicial para ministerios públicos: 40 horas distribuidas en 5 días hábiles

6. Taller de litigación avanzado en audiencia intermedia para ministerios públicos: 40 horas distribuidas en 5 días hábiles
7. Taller de negociación y procedimiento abreviado para ministerios públicos: 40 horas distribuidas en 5 días hábiles
8. Taller de soluciones alternas para ministerios públicos: 40 horas distribuidas en 5 días hábiles
9. Recursos para ministerios públicos: 40 horas distribuidas en 5 días hábiles
10. Ensayos Interinstitucionales: 40 horas distribuidas en 5 días hábiles

#### PROGRAMAS DE CAPACITACIÓN ESPECIALIZADA

1. Taller para Ministerios Públicos de Unidades de Atención Temprana: 40 horas distribuidas en 5 días hábiles
2. Taller para Ministerios Públicos de Unidades de Tramitación masiva: 40 horas distribuidas en 5 días hábiles
3. Taller para Ministerios Públicos de Unidades de Imputado desconocido: 40 horas distribuidas en 5 días hábiles
4. Taller para Ministerios Públicos de Unidades de Investigación: 40 horas distribuidas en 5 días hábiles
5. Argumentación jurídica: 40 horas distribuidas en 5 días hábiles
6. Preparación para juicio oral: 40 horas distribuidas en 5 días hábiles
7. Exclusión de pruebas: 40 horas distribuidas en 5 días hábiles
8. Planteamiento de medidas cautelares: 40 horas distribuidas en 5 días hábiles

#### D. MAGISTRADOS

1. Cursos de sensibilización al cambio para el Sistema de Justicia Penal Acusatorio: 40 horas, distribuidas en 5 días hábiles
2. Principios del sistema penal acusatorio: 40 horas distribuidas en 5 días hábiles
3. Etapas del proceso penal acusatorio: 40 horas distribuidas en 5 días hábiles
4. Procedimiento abreviado: 40 horas distribuidas en 5 días hábiles
5. La prueba en el proceso penal acusatorio: 40 horas distribuidas en 5 días hábiles
6. Nulidades: 40 horas distribuidas en 5 días hábiles
7. Recursos: 40 horas distribuidas en 5 días hábiles
8. Taller de segunda instancia: 40 horas distribuidas en 5 días hábiles

#### E. ADMINISTRADORES DE TRIBUNALES

1. Taller para administradores de tribunales: 40 horas distribuidas en 5 días hábiles
2. Taller para administradores Jefes de Unidad: 40 horas distribuidas en 5 días hábiles
3. Taller para encargados de Sala: 40 horas distribuidas en 5 días hábiles
4. Ensayos Interinstitucionales: 40 horas distribuidas en 5 días hábiles

#### F. POLICÍA DE INVESTIGACIÓN, MINISTERIOS PÚBLICOS Y PERITOS

Taller de investigación conjunta con Ministerios Públicos, policías y peritos: 40 horas distribuidas en 5 días hábiles

#### G. PERITOS

El perito en el sistema de justicia penal acusatorio: 40 horas distribuidas en 5 días hábiles

#### H. FORMADORES DE LAS INSTITUCIONES DE JUSTICIA

(Los módulos descritos a continuación se pueden impartir a Jueces, defensores o fiscales de acuerdo a las necesidades concretas)

1. Diseño didáctico: 40 horas distribuidas en 5 días hábiles
2. Métodos y técnicas de enseñanza aprendizaje: 80 horas distribuidas en 10 días hábiles
3. Métodos y técnicas de evaluación: 80 horas distribuidas en 10 días hábiles
4. Diagnóstico de necesidades de formación, actualización y capacitación: 40 horas distribuidas en 5 días hábiles

## **V. TEMARIO BÁSICO DE CURSOS**

Por determinar de acuerdo a lo que MSI indique con base en los temas enumerados con antelación.

## **VI. METODOLOGÍA PARA LA IMPARTICIÓN DE CURSOS:**

Cada curso debe estar enfocado al desarrollo de competencias necesarias para la adecuada intervención, coordinación y comunicación del policía con la fiscalía. Por ello la metodología de enseñanza debe ser activa, práctica y seguir los siguientes pasos:

- I. Explicación teórica de los diversos contenidos de cada curso.
- II. Demostración de la técnica correspondiente por parte del instructor o bien por medio del análisis de videos demostrativos.
- III. Organización de talleres para ejercitar las técnicas adquiridas por los alumnos, basados en casos que debe proporcionar el instructor a los alumnos.
- IV. Retroalimentación del ponente al alumno.

En los ensayos interinstitucionales deberá estar presente un experto de cada especialidad participante quien organizará los ejercicios en coordinación con otros expertos para la simulación de las audiencias correspondientes y quien hará la retroalimentación al grupo de alumnos de su especialidad. En caso de que no se encuentre un grupo de alumnos de dicha especialidad el experto de la misma deberá fungir como operador en los ensayos de modo que se permita el desarrollo de los mismos.

Con el fin de estar en condiciones de medir las variaciones en el conocimiento de los alumnos, es necesaria la aplicación de exámenes pre y post capacitación con los formatos que MSI entregue al proveedor y siempre dentro del marco de simulaciones de audiencias, diligencias simuladas o de clases simuladas.

Las evaluaciones pre se deberán aplicar previas a iniciar el curso por medio del ensayo del ejercicio de que se trate o del examen en concreto que se determine con el fin de medir el manejo que el grupo tiene de las destrezas correspondientes antes del curso.

Las evaluaciones post se deberán aplicar una vez que haya concluido el curso de que se trate y en una simulación del ejercicio o examen concreto que se determine y que se ha ejecutado primeramente con el fin de medir el incremento en el manejo de las destrezas respectivas por parte de los alumnos.

## **VII. PERFIL DE LOS CAPACITADORES:**

**Fiscales, jueces, defensores y magistrados:** Licenciados, Maestros o Doctores en Derecho; con experiencia en la impartición de cursos/talleres materia de la convocatoria y con experiencia preferente como operadores en el Nuevo Sistema de Justicia Penal.

**Policías:** Profesionales de diversas disciplinas con experiencia en la impartición de cursos/talleres materia de la convocatoria y con experiencia preferente como policías en el sistema acusatorio.

**Peritos:** Licenciados, Maestros o Doctores en Derecho u otras disciplinas; con experiencia en la impartición de cursos/talleres materia de la convocatoria y con experiencia preferente como peritos en el Nuevo Sistema de Justicia Penal.

**Formación de formadores:** Pedagogos o expertos en áreas afines con experiencia en la impartición de cursos/talleres materia de la convocatoria y con conocimiento preferente en el Nuevo Sistema de Justicia Penal.

En caso de ser servidores públicos, tener y acreditar que cuentan con licencia sin goce de sueldo, para lo cual se deberá notificar con al menos 15 días de anticipación el nombre del capacitador así como enviar la licencia correspondiente a MSI por vía electrónica.

**VIII. RELACIÓN DEL NUMERO DE PONENTES/ALUMNOS MÁXIMOS POR CURSO (CANTIDAD APROXIMADA):**

Cada grupo deberá contar con un capacitador por cada 15 alumnos a excepción de los cursos de Investigación conjunta con Ministerios Públicos, policías y peritos, de formación de formadores y los Ensayos Interinstitucionales que deberán contar con un capacitador por cada perfil de que se trate (es decir un capacitador para policías, uno para ministerios públicos y uno para peritos en el caso de cursos de investigación conjunta. Por lo que hace a los ensayos interinstitucionales uno para jueces, uno para defensores y uno para fiscales; en caso de participar administradores de tribunales deberá estar presente un experto de esta área. Y por lo que hace a los cursos de formación de formadores deberá estar presente un instructor con pericia en procesos de enseñanza aprendizaje y uno con perfil jurídico. Por cada instructor se estima un máximo de 15 alumnos).

**IX. RANGO DE FECHAS EN QUE SE DEBEN IMPARTIR LOS CURSOS:**

Entre los meses de agosto de 2017 a septiembre de 2019; con sedes, fechas, contenidos y número de cursos por determinar acorde a las necesidades del Estado receptor así como de MSI.

**X. SECUENCIA DE LOS CURSOS:**

La secuencia, contenido, duración, sedes y número de los cursos podría variar de acuerdo a la disponibilidad de las Instituciones del Estado receptor así como de MSI para su organización logística en los tiempos programados.

**XI. RESPONSABILIDADES Y FUNCIONES DEL GRUPO DOCENTE /CENTRO O UNIVERSIDAD:**

A) Conseguir y designar a los ponentes con el perfil más adecuado para la impartición del curso o simulación de que se trate.

B) Trasladar por sus medios a los ponentes en tiempo para la impartición de los cursos en la sede que designe por MSI o la Entidad receptora, indicando previamente y con al menos dos semanas de anticipación los nombres, currícula y datos que requiera MSI de los ponentes designados para impartir cada módulo y en caso de ser funcionarios públicos debiendo entregar por vía electrónica la licencia sin goce de sueldo correspondiente en caso de que se le cubran honorarios a éstos.

C) Cada ponente designado deberá:

(i) Explicar los temas correspondientes a cada curso y las técnicas adecuadas para cada contenido o desarrollar y organizar los ensayos correspondientes.

(ii) Demostrar al grupo las técnicas o realizar análisis de éstas en videos demostrativos de acuerdo al tema de que se trate.

(iii) Organizar talleres de simulación de actuaciones

(iv) Retroalimentar a los alumnos en sus ejercicios

(v) Aplicar evaluaciones pre y post capacitación, ya sea con exámenes o pautas de desempeño, que previamente MSI proporcionará a los ponentes por correo electrónico.

(vi) Evaluar los exámenes pre y post capacitación así como las pautas de desempeño que se apliquen y asentar las calificaciones de éstas en las listas que MSI previamente les hará llegar.

(vii) Efectuar el pase de lista a diario en el formato que MSI previamente proporcionará por correo electrónico sin permitir que persona o personas no autorizadas por MSI acudan al curso.

(viii) Aplicar la encuesta de evaluación del ponente que previamente MSI proporcionará por correo electrónico y por las vías que MSI determine.

(ix) Enviar con al menos una semana de anticipación a MSI los casos que se tratarán en las simulaciones.

(x) Realizar al menos tres tomas fotográficas por cada curso de buena calidad donde se observe el desarrollo de la actividad. Estas fotografías deberán ser remitidas por correo electrónico a MSI el segundo día de la capacitación de que se trate.

(xi) Enviar a MSI por correo electrónico el segundo día de cada capacitación o módulo: el número de hombres y mujeres que de acuerdo a la lista se encuentran tomando el curso.

(xii) Enviar a MSI por correo electrónico las presentaciones de power point, casos y material didáctico a utilizar en cada curso o simulación por los ponentes al menos una semana antes de que comience el curso de capacitación de que se trate.

Al finalizar la capacitación deberán enviar además las listas de asistencia tomadas con calificaciones asentadas, los exámenes calificados y un breve informe en el formato que indique MSI sobre del desarrollo de la capacitación por correo electrónico.

D) Enviar a MSI por paquetería física una semana después de finalizar cada curso: listas de asistencia, encuestas de evaluación del ponente, evaluaciones calificadas pre y post capacitación separadas por nombres de los capacitados, formatos de evaluación de desempeño y formatos de evaluación de ejercicios interinstitucionales y actas de reunión con los puntos de retroalimentación sin que se reciba paquetería de ponentes en lo individual.

E) El centro designado deberá remitir los entregables antes detallados debidamente escaneados y llenados en conjunto con la paquetería ya mencionada en el numeral anterior a MSI en un solo archivo o carpeta de archivos agrupados por semana.



## Section D

### General Provisions applicable to resulting award

In accepting/performing this Agreement, Subcontractor certifies they: (i) will comply with all applicable Client guidelines and exercising fiscal responsibility in the best interests of MSI and MSI's Client ("the Client"); (iii) will pass on any retail discounts to MSI obtained in the performance of this work; (iv) have provided only cost/pricing data incident to the determination of this price which is current, complete and accurate; (v) will comply with all applicable national, state regional and local laws and regulations; (vi) are not affiliated with any Government office or agency; and, (vii) have not offered, provided or promised any gift, payment or anything of value to any official, employee or representative of MSI or Government entity (U.S. or foreign).

#### 1. PURPOSE, TYPE AND TERM

The payment type of this *Agreement*<sup>1</sup> is designated in Block 2B the Award Cover Page and is defined as Firm Fixed Price (FFP), which is inclusive of all costs.

The purpose of the required Supplies and Services provided to Management Systems International, Inc. (MSI) is to comply with a prime award from and for benefit of the Client. Delivery and Performance shall commence on or about the start date of the Term specified in Block 4B of the Award Cover Page and shall continue until satisfactorily completed, but not later than the date of Delivery or the end date of the Term specified. For purposes of this Agreement, the term "MSI Director of Contracts" includes authorized designees.

#### 2. ACCEPTANCE, EFFECTIVE DATE AND CANCELLATION

- A. Subcontractor acceptance is strictly limited to the terms and conditions stated herein. Any changes, additions, deletions or differences in the terms and conditions proposed by either Party must be agreed to in writing. Any of the following acts by Subcontractor shall constitute acceptance of a signed Agreement: signing and returning a copy of the Agreement, in hard copy or electronically; commencement of performance or notice thereof; or receipt of an advance or other payment.
- B. Unless otherwise stated herein, the effective date of this Agreement is the date listed as such in Block 4A on the Award Cover Page or in its absence, the date of MSI signature. Completion shall be as specified unless otherwise extended or terminated in writing. Any revisions (including, changes, additions, deletions and other modifications) to this Agreement shall be by written modification only. Warranty and service provisions shall survive the completion date until warranty support expires.
- C. Notwithstanding any other provision in this Agreement, MSI may, by provision of written notice to Subcontractor, cancel without charge either (a) the Agreement in its entirety or (b) an individual item or quantity of supplies or incidental services, prior to delivery.

#### 3. THE SUPPLIES AND SERVICES

- A. Subcontractor shall deliver the Supplies and Services described on Block 10 the Award Cover Page of the type and in the quantity (except as provided for under #4 below) indicated. The quality of all Supplies and Services shall conform to general standards of merchantability in the United States, shall conform to professional and industry standards, shall be compliant with all applicable law and regulation, and shall include all commercial warranties, without limitation.

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<sup>1</sup> The terms *Subcontract* and *Agreement* are synonymous and refer to the Agreement governed by these General Provisions.

- B. All Service Providers, Suppliers and Subcontractors performing under this Agreement, as well as their owners and directors, shall be from the United States or countries in the Geographic Code set forth on the Award Cover Page. In no event will procurement from lower-tier Subcontractors involve a prohibited source country.

#### **4. DELIVERY AND VARIATION IN QUANTITY**

- A. Subcontractor shall be responsible for performance of the services and delivery of the supplies at the place(s) specified in Block 9C of the Award Cover Page. All risk and cost incurred prior to delivery and MSI final acceptance shall be for Subcontractor's sole account.
- B. If the services are not performed and supplies are not delivered in a timely manner, and in all respects, in accordance with the Agreement, Subcontractor may be required to reimburse MSI for any loss or expense incurred by MSI that may result. Subcontractor shall be deemed conclusively to have authorized MSI to deduct any such amount(s) from payment(s) otherwise due.

#### **5. BEST PRICE, NON-COLLUSION AND CERTIFICATION OF COST OR PRICING DATA**

Subcontractor certifies they have provided their Best Price to MSI and that no other Contractor/Buyer has received a lower price for comparable services or volume of similar supplies. Subcontractor also certifies that the charging of any higher prices to MSI has not been discussed or agreed with any other party, and that all cost and pricing information provided for in this Agreement is current, accurate and complete.

#### **6. PRICE AND COST**

- A. Unit Prices and extended prices under fixed-price agreements are firm, fixed, all-inclusive total prices covering performance of all of Subcontractor's obligations pursuant to this Agreement.
- B. All costs shall be allocable, allowable, fair and reasonable, as defined in Part 31 of the Federal Acquisition Regulation (FAR) when the U.S. Government is the client.
- C. The Total Fixed-Price specified on the Award Cover Page is an all-inclusive amount and shall constitute the maximum ceiling for MSI's potential liability to Subcontractor for any and all reasons whatsoever, including consequential damages in connection with or resulting from this Agreement.

#### **7. INVOICING & PAYMENT**

- A. Invoices and payments shall be in the currency specified on the Award Cover Page in Block 3D. Subcontractor shall submit proper invoices -- for services performed and/or supplies that have been successfully delivered and accepted in accordance with any directions stipulated in the Statement of Work, Payment Schedule, or Block 10 of the Award Cover Page, and, to the extent not specified therein, with the provisions of this Article -- to the address listed on the Award Cover Page in Block 8B.
- B. Invoice Requirements. Subcontractor shall submit an invoice in duplicate for the previous month's labor and other expenditures to the Person listed in Block 8A of the Award Cover Page. To constitute a "proper invoice" within the meaning of this Article, each invoice shall provide the following information:
  - (1) Subcontractor name, invoice date, and delivery date for services;
  - (2) Complete account and bank SWIFT number, if payment by means of electronic funds transfer is authorized.
  - (3) MSI's Agreement number listed in Box 1 of the Cover Page and Prime Contract/Task Order number, if applicable

- (4) Description of each type of Delivered Supplies and Services included in the invoice, together with the applicable Unit Price and extended line item price;
- (5) The following certification, signed by an authorized official of Subcontractor:

**SUBCONTRACTOR CERTIFICATION**

The undersigned hereby certifies that (i) the invoice has been prepared from Subcontractor's books and records and in accordance with the terms of the cited Agreement, is correct, the sum claimed is proper and due and has not been claimed or paid before, the services have been performed and supplies delivered, the quantities and prices specified are consistent with the Agreement, and all necessary MSI approvals have been obtained, and (ii) appropriate refund to MSI will be made promptly upon request in the event of disallowance of any portion of the invoice, pursuant to the terms of the Agreement.

By: \_\_\_\_\_ Title: \_\_\_\_\_ Date: \_\_\_\_\_

- C. The certified invoice shall be accompanied by such other documentation as may be requested by MSI. Subcontractor shall identify each invoice by sequential numbers, and the final invoice shall be marked "Final Invoice". Advance payments are not authorized without the express written permission of the MSI Director of Contracts. Subcontractor shall keep records sufficient to substantiate all labor, payroll and lodging costs and expenses claimed. All work performed under this Agreement shall be supported by time records, which shall be maintained by Subcontractor and subject to review by MSI and Client.
- D. MSI will promptly review invoices submitted to determine whether they are properly formatted. Invoices determined to be proper will be paid by MSI upon final acceptance of the Supplies and Services supplied. Invoices determined not to be proper due to the existence of deficiencies will be returned to Subcontractor, generally within ten (10) business days of submission, with major deficiencies noted for correction. In the event that an invoice is submitted which is partly proper and partly not proper, MSI may, in its sole discretion, either return the entire invoice for correction or make payment of the proper portion and return the portion deemed not to be proper.
- E. In the event that the Client or any other cognizant agency (i) disallows any cost for which MSI has reimbursed Subcontractor hereunder or (ii) reduces the cost or fee payable to MSI under its Prime Contract as a result of (a) any defective cost or pricing data submitted by Subcontractor or (b) any adjustment disclosure requirement applicable to Subcontractor, Subcontractor shall promptly pay MSI the amount of such disallowances or reductions. MSI maintains the option to withhold such amounts from other sums due and payable to Subcontractor.
- F. Unless otherwise provided for in Block 5 of the Award Cover Page, invoices submitted by the 5<sup>th</sup> of the month that are properly supported and represent the satisfactory completion of the required Supplies and Services will be paid within 5 business days of MSI receipt of payment from its Client. All properly supported and satisfactory invoices submitted after the 5<sup>th</sup> of the month will be included in MSI's subsequent billing cycle and will be paid within 5 business days of receipt of payment from its Client in the following month.

**8. QUALITY ASSURANCE (INSPECTION AND ACCEPTANCE)**

- A. Subcontractor shall only tender for acceptance those Supplies and Services that conform to the requirements of this Agreement. MSI reserves the right to test and/or inspect any Supplies and Services delivered or tendered for acceptance. Testing, and/or inspection will be performed within a reasonable time after delivery. MSI may require repair or re-performance of nonconforming services and may require repair or replacement of nonconforming supplies at no increase in the Price. MSI will exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been

discovered; and (2) before any substantial change occurs in the condition of supplies, unless the change is due to the defect in supplies.

- B. MSI will exert good faith efforts to decide upon acceptance of Supplies and Services (and, as applicable, to complete inspection and testing) as promptly as possible upon delivery/performance. Notwithstanding the foregoing, payment will only be made for accepted Supplies and Services.
- C. All equipment, materials, supplies, software, and services provided hereunder shall be subject to final acceptance by the MSI Project Manager/Representative. Equipment, materials, and supplies that are not found reasonably satisfactory to MSI or fail to meet normal professional standards will be terminated by MSI or promptly corrected by the Subcontractor (at the sole discretion of MSI) and an equitable adjustment made by the MSI Director of Contracts. All equipment under warranty and shipped items must be accompanied by documentation of ownership and, where necessary and applicable, registration and title.

## **9. SUBCONTRACTOR WARRANTIES**

All services performed and supplies delivered hereunder shall be covered by the manufacturer's standard international warranty in favor of the Client or MSI, with right of assignment, in addition to the Subcontractor's warranties set forth in their proposal, or elsewhere in this Agreement. In addition, Subcontractor warrants that the services performed and supplies delivered hereunder are merchantable and fit for use for the particular purpose described in this Agreement (or, if no such purpose is specifically described, for the purposes for which the Supplies and Services are ordinarily used).

Subcontractor hereby expressly warrants that all services performed and supplies delivered:

- (1) conform to the Agreement's requirements (including, without limitation, the description on the Award Cover Page and the Statement of Work, if any), as well as regulatory agencies' requirements, and are free of defects in design;
- (2) are free of latent defects (as used herein, defects that meet the following criteria: (a) such defects are not apparent to either Party during customary manufacturing or quality testing and/or inspection; and (b) such defects result solely from defective material, workmanship, or design and are not caused by misuse or misapplication of the services);
- (3) will, to the extent found to be in breach of any warranty specified in this Agreement, be re-performed or if supplies, removed, and repaired or replaced, covered by new warranties identical to those that applied to the originally supplied Supplies and Services, extending for the longer of (a) the remainder of the original warranty period, or (b) a new warranty period;
- (4) ensure that all spares and replacement parts are the same as the original spares and parts, unless formally replaced by an improved and MSI -approved technical equivalent; and
- (5) are covered by intellectual property licenses, permissions, or rights which will not infringe upon the intellectual property rights of any third person, and which, being granted to MSI and the Client pursuant to this Agreement, will be adequate to ensure that both MSI and the Client may freely utilize the licenses, permissions and rights free and clear of any claim, encumbrance, lien or interest of any other person or entity, and in all other respects without disturbance or impediment.

Each and every warranty in favor of MSI required by this Agreement shall be assignable, by written notice from MSI to Subcontractor, to the Client or to any other person/entity designated by MSI or the Client. Subcontractor shall accept such assignments, and the assignee(s) shall have the same rights originally held by MSI.

## **10. COMPLETION OF DELIVERY/PERFORMANCE**

When a specific period of time is stated for performance on the Award Cover Page (Block 4B), time is of the essence, and all services shall be performed and supplies delivered within the time specified. Unless expressly stated otherwise, Modification to the Agreement will not affect such time periods.

## **11. TERMINATION AND REMEDIES**

MSI may terminate this Agreement immediately for default. When the U.S. Government is MSI's Client, subsequent claims shall be settled in accordance with the rules of the Federal Acquisition Regulation pertaining to default terminations, under the direction of the MSI Director of Contracts. MSI reserves the right to terminate this Agreement in whole at any time, or in part from time to time, for its sole convenience. In the event of such termination, Subcontractor shall immediately stop all work hereunder and shall immediately cause any and all of its lower-tier subcontractors to cease work. Subject to the terms of this Agreement and to reimbursement of MSI by its Client, Subcontractor shall be paid a percentage of the price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges Subcontractor can demonstrate to MSI's satisfaction, using its standard record keeping system, have resulted from the termination. Subcontractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided. Notwithstanding termination as above, Subcontractor shall, unless otherwise specifically instructed in writing by MSI, continue performance of any un-terminated portion of the Agreement remaining unperformed. In the event that the Subcontractor fails or refuses to pay or reimburse MSI for any expense, cost, claim, or damage which the Subcontractor is obligated to make payment for under this Agreement; MSI shall have the right to set-off such expense, cost, claim, or damage against any sums otherwise payable to the Subcontractor under this Agreement or other agreements/orders.

## **12. NOTICES**

- A.** Notices shall be in writing, signed by the MSI Director of Contracts, and sent by electronic mail with return receipt or by recognized, prepaid express courier (with confirmation receipt) In all cases Notices shall be addressed to the MSI individuals mentioned on the Award Cover Page in Block 8A, and must clearly list the Agreement Number and the MSI Project Number, as specified on the Award Cover Page in Block 6.
- B.** Notices transmitted orally may be provided in advance provided that a written notice is promptly transmitted in accordance with Paragraph A above. Notices shall be effective when received, or on the effective date of a received notice, whichever is later.
- C.** For the purposes of Article 13 below, Notices may also be sent to MSI at the following address:

Kenneth Kinzer, Director of Contracts  
Management Systems International, Inc.  
200 12<sup>th</sup> Street South, Suite 1200  
Arlington, VA 22202 USA  
Tel: +1 703-979-7100 / Fax: +1 703-979-7101  
E-mail: [contracts@msi-inc.com](mailto:contracts@msi-inc.com)

## **13. DISPUTES RESOLUTION**

The parties shall use their best efforts to settle amicably all differences and disputes arising out of or in connection with the Agreement or the interpretation thereof. In the event the parties are unable to settle their differences in a prompt and amicable manner, then the matter shall be referred to the MSI Director of Contracts for investigation and discussions between the parties to result in written findings and stipulations by the parties. Should both parties decide to enter into arbitration proceedings, then the rules of procedure for arbitration of the United Nations

Commission on International Trade Law (UNCITRAL) as in force on the date of this contract shall apply.

#### **14. CHANGES**

The Subcontractor agrees to promptly comply with any changes to the Agreement Statement of Work and/or deliverables that may reasonably be directed, in writing, by the Director of Contracts. Any such changes must be within the general scope of the Agreement. Such changes may include:

1. Description of services to be performed
2. Time of performance
3. Place of performance or delivery
4. Drawings, designs, or specifications of supplies

Equitable adjustments to the Agreement price shall be mutually agreed upon by MSI and the Subcontractor within 30 days following Subcontractor receipt of the change notice. Both parties agree to enter into good faith negotiations for agreement on the cost/price of the direction during which time the Subcontractor shall perform as directed, subject to any existing funding & cost limitations.

#### **15. COMMUNICATIONS WITH THE CLIENT**

All communications with the Client concerning this Agreement shall be made through MSI, unless otherwise expressly authorized by MSI. If Subcontractor is requested by the Client to communicate regarding the Agreement, Subcontractor shall notify and consult with MSI before responding.

#### **16. INDEPENDENT CONTRACTOR RELATIONSHIP**

The Parties acknowledge that the relationship between them pursuant to this Agreement is that of independent contractors, and nothing contained herein shall be deemed to create a relationship of partners, joint ventures, agent and principal, employer and employee, or any relationship other than that of independent contractors. At no time shall either Party make any commitments or incur any charges or expenses for, or in the name of, the other Party.

#### **17. PRIVACY**

This Agreement is funded in whole or in part with funds from MSI's Client listed in Block 9 of the Award Cover Page. Neither MSI's Client nor any of its departments, agencies, or employees is or will be a party to this Agreement or any lower-tier subcontracts. No privity between MSI's Client and Subcontractor is established by this Agreement.

#### **18. COOPERATION WITH MSI SUBCONTRACTORS**

Subcontractor is expected to provide appropriate cooperation with other MSI subcontractors on this project in the spirit of collaboration to achieve programmatic goals.

#### **19. ASSIGNMENT/NOVATION**

Subcontractor will not transfer or assign this Agreement, its right to monies due or to become due, or any rights or obligations hereunder, to any entity without prior written consent of the MSI Contracts Director, which shall not be unreasonably withheld. No assignment, delegation or subcontracting by Subcontractor, with or without MSI's consent, shall relieve Subcontractor of any of its obligations under this Agreement or prejudice any of MSI's rights against Subcontractor whether arising before or after the date of any assignment.

#### **20. SUBCONTRACTING/CONSULTANTS**

**A.** Prior written consent of the MSI Director of Contracts is required to obtain the services of consultants and lower-tier subcontractors. All costs for consultants and lower-tier

subcontracts who have not received prior written approval in accordance with this clause will not be allowable. Inclusion in the Subcontractor's budget or proposal does not constitute request or approval of lower-tier Subcontractors.

- B. If the U.S. Government is MSI's client, when requesting the use of lower-tier subcontracts the Subcontractor shall follow the requirements set forth in FAR 52.244-2 (Subcontracts). Subcontracts or purchase orders structured as 'Cost-plus-a-percentage-of-cost' are prohibited.
- C. Consent to a subcontract does not constitute a determination of the acceptability of the subcontract terms or price, or of the allowability of costs. If requested by MSI, a copy of the proposed subcontract shall be provided to make a determination of acceptability.

## **21. INDEMNITIES**

- A. Subcontractor shall indemnify and hold harmless MSI and its officers, directors, employees and agents (as well as the Government) from and against all claims, damages, losses and expenses with respect to the death, injury or disability of any persons and damage to or destruction of any property (including, without limitation, any loss of use, and any product liability or similar claim, in or under the laws of the Cooperating Country or other applicable law {provided that any supplies are used and stored in a manner consistent with any manufacturer's recommendations specifically noted by Subcontractor in its offer and expressly incorporated by MSI into this Agreement}) arising out of, resulting from or connected in any way with the performance of this Agreement by Subcontractor or Subcontractor's employees, subcontractors, or their officers, directors, agents and employees.
- B. Subcontractor shall, at its own expense, defend all suits or claims (whether or not false, fraudulent or groundless) by third parties alleging such injury or damage and shall pay all reasonable charges of attorneys, court costs, awards and all other costs and expenses in connection therewith. This provision shall survive after the expiration or termination of this Agreement.
- C. Subcontractor shall indemnify MSI and its officers, employees agents, and Client(s) against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any U.S. or foreign patent, trademark, or copyright, arising out of the performance of this Agreement, provided that Subcontractor is reasonably notified of such claims and proceedings.

## **22. GOVERNING LAW AND LANGUAGE**

- A. Subcontractor shall, in performing its obligations pursuant to this Agreement, comply with all applicable statutes, rules, regulations, and executive orders, and all applicable laws and regulations.
- B. This Agreement shall be interpreted in accordance with the laws in effect in the Commonwealth of Virginia in the United States without regard to its conflicts of law principles.
- C. The language governing this Agreement, its interpretation, notices, disputes, and any other communications shall be English.

## **23. COMPLIANCE WITH LOCAL LAWS AND REGULATIONS**

Subcontractor shall ensure that its officers, directors, employees, agents, consultants, subcontractors and representatives avoid (1) any action in violation of (or that might reasonably be considered to be in violation of) U.S. Government or other applicable laws, regulations, rules and policies relating to ethics, integrity and proper business practices; and (2) any corrupt

practice (including, without limitation, the offering, giving, receiving or soliciting of anything of value to influence the action of any public official or any officer, employee or director of MSI or any of its subcontractors) or fraudulent practice (including, without limitation, misrepresentation of facts to influence a procurement action or Agreement execution or administration), to the actual or potential detriment of MSI, its Client, or the Cooperating Country. If an issue should arise concerning compliance with this Article, Subcontractor shall immediately provide MSI with written notice describing the issue, all pertinent facts as known on the date of the notice, any conclusions reached by Subcontractor as of that date, and any corrective actions proposed. Failure to respond aggressively and appropriately to such issues may be treated by MSI as a material Contract breach. Subcontractor shall indemnify and hold MSI harmless for any costs, delays, losses, damages or other liabilities (including, without limitation, reasonable costs and fees of attorneys and expert consultants and costs and fees incurred in connection with Client investigations) incurred by MSI as a result of any occurrences covered by this Article, or any allegations relating to purported occurrences of this nature.

#### **24. EXCUSABLE DELAYS & NOTICE OF DELAY OR IMPEDIMENT**

Subcontractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of Subcontractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. Subcontractor shall notify MSI in writing as soon as it is reasonably possible after the commencement of an excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to MSI. Whenever any occurrence is delaying or impeding, or threatening to delay or impede, Subcontractor's timely and successful performance under this Agreement, Subcontractor shall promptly give notice thereof, including all relevant information thereto, to MSI.

#### **25. PROHIBITION AGAINST TERRORIST FINANCING.**

U.S. law and specifically Executive Order #13224 prohibits the Subcontractor from engaging in transactions with and the provision of resources and support to individuals and organizations associated with terrorism. It is the Subcontractor's responsibility to ensure compliance with these Laws and Executive Orders and to report to MSI any suspected terrorist associations. This provision shall be required of all lower-tier suppliers. (E.O. 13224 text available at: <http://www.treasury.gov/resource-center/sanctions/Programs/Documents/terror.pdf>).

Note: you are required to obtain updated information at the time of procurement of goods or services. The updated information is available at: <https://www.sam.gov/portal/public/SAM/> and [https://www.un.org/sc/suborg/en/sanctions/1267/aq\\_sanctions\\_list](https://www.un.org/sc/suborg/en/sanctions/1267/aq_sanctions_list).

#### **26. SEVERABILITY AND SURVIVAL OF PROVISIONS**

If any provision of this Agreement is determined to be invalid or unenforceable, the remaining provisions shall continue in full force and effect as if this Agreement had been executed with the affected provision eliminated. In addition to the rights and obligations which survive as expressly provided for elsewhere in this Agreement, the other provisions which, by their nature should survive, shall survive and continue after any termination or cancellation of this Agreement.

#### **27. LIMITATION OF DAMAGES**

If a claim for damages or a right to any other form of relief, based on mutual agreement, indemnity, negligence or otherwise should arise in connection with this Agreement, the claiming Party shall take all necessary measures to mitigate the damages or loss, to the extent that this can be accomplished without unreasonable cost or inconvenience. In no event shall any such claim or relief include or permit recovery of exemplary or consequential damages, however described.



## **28. BRANDING AND MARKING**

Subcontractor shall comply with the requirements of any Client-mandated Branding and Marking policy, such as the USAID “Graphic Standards Manual” (available at [www.usaid.gov/branding](http://www.usaid.gov/branding)) or any branding implementation plan or marking plan for USAID-funded Contracts or Assistance Awards. Subcontractor shall confirm any Branding and Marking requirements with MSI. The Subcontractor must include this requirement in all lower-tier subcontracts and sub-awards.

## **29. RIGHTS IN DATA – GENERAL**

- A.** For all data first produced or specifically used by the Subcontractor in the performance of this Agreement in the United States, its territories, or Puerto Rico, MSI shall have the irrevocable, fully paid-up right to use, release to others, reproduce, distribute, or publish such data, except to the extent such data may be subject to the Federal export control or national security laws or regulations, or unless otherwise provided in this paragraph of this clause or expressly set forth in this Agreement.
- B.** The Subcontractor agrees that to the extent it receives or is given access to data necessary for the performance of this Agreement which contain restrictive markings or can reasonably be construed as business sensitive, the Subcontractor shall treat the data in accordance with such markings and with the same care it treats its own confidential material.
- C.** For all data first produced or specifically used by the Subcontractor in the overseas performance of this Agreement, the Subcontractor shall not release, reproduce, distribute, or publish such data without the written permission of MSI. MSI may require the Subcontractor to assign a copyright to the United States or Host Country government or another party as circumstances warrant or as specifically stated elsewhere in the Agreement.

## **30. SPECIAL CLAUSES**

This Agreement may contain special provisions applicable to Subcontractor under this Agreement. Subcontractor expressly agrees to comply with the Special Provisions set forth in Section E (if any).

## **31. NONDISCRIMINATION**

MSI is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. MSI policy prohibits discrimination in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran’s status, sexual orientation, genetic information, marital status, parental status, political affiliation, or any other conduct that does not adversely affect the performance of the employee. MSI encourages organizations performing under its contracts, including those performed solely outside the U.S., to apply these same standards of nondiscrimination.

## **32. VETERAN AFFIRMATIVE ACTION AND NONDISCRIMINATION**

MSI is committed to engaging in affirmative action to increase employment opportunities for protected veterans. For additional information, please contact the MSI Office of Personnel Management at [opm@msi-inc.com](mailto:opm@msi-inc.com).

## **33. COMBATting TRAFFICKING IN PERSONS**

Subcontractor shall comply with the clause of the Federal Acquisition Regulation 52.222-50, entitled; “Combating Trafficking in Persons (March 2015)” which is incorporated herein by reference with full text available at:

[https://www.acquisition.gov/sites/default/files/current/far/html/52\\_222.html#wp1151848](https://www.acquisition.gov/sites/default/files/current/far/html/52_222.html#wp1151848)

## **34. NONDISCRIMINATION COMPLIANCE (June 2012)**

FAR part 22 and the clauses prescribed in that part prohibit subcontractors performing in or recruiting from the U.S. from engaging in certain discriminatory practices.

USAID is committed to achieving and maintaining a diverse and representative workforce and a workplace free of discrimination. Based on law, Executive Order, and Agency policy, USAID prohibits discrimination in its own workplace on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, disability, age, veteran's status, sexual orientation, genetic information, marital status, parental status, political affiliation, and any other conduct that does not adversely affect the performance of the employee. USAID does not tolerate any type of discrimination (in any form, including harassment) of any employee or applicant for employment on any of the above-described bases.

Subcontractors are required to comply with the nondiscrimination requirements of the FAR. In addition, the Agency strongly encourages all its subcontractors (at all tiers) to develop and enforce nondiscrimination policies consistent with USAID's approach to workplace nondiscrimination as described in this clause, subject to applicable law.

*Nondiscrimination against End-Users of Supplies or Services (October 2016)*

- (a) USAID policy requires that the contractor not discriminate against any end-user of the contract supplies or services (i.e., the beneficiaries of the supplies or services) in implementation of this award, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the supplies or services (benefits) provided through this contract on the basis of any factor not expressly stated in the award. This includes, for example, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, disability, age, genetic information, marital status, parental status, political affiliation, or veteran's status. Nothing in this clause is intended to limit the ability of the contractor to target activities toward the assistance needs of certain populations as defined in the contract.
- (b) The Contractor must insert this clause, including this paragraph, in all subcontracts under this contract.

**35. DISABILITY POLICY**

In accordance with USAID's Disability Policy Paper (available in full text at [http://pdf.usaid.gov/pdf\\_docs/PDABQ631.pdf](http://pdf.usaid.gov/pdf_docs/PDABQ631.pdf)), MSI requires that the Subcontractor not discriminate against people with disabilities in the implementation of USAID programs and that it make every effort to comply with the objectives of the USAID Disability Initiative in performance of this contract.

**36. CHILD SAFEGUARDING STANDARDS (AIDAR 752.7037, AUG. 2016)**

- (a) Implementation of activities under this award may involve children, or personnel engaged in the implementation of the award may come into contact with children, which could raise the risk of child abuse, exploitation, or neglect within this award. The contractor agrees to abide by the following child safeguarding core principles:
  - (1) Ensure compliance with host country and local child welfare and protection legislation or international standards, whichever gives greater protection, and with U.S. law where applicable;
  - (2) Prohibit all personnel from engaging in child abuse, exploitation, or neglect;
  - (3) Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations;
  - (4) Apply measures to reduce the risk of child abuse, exploitation, or neglect, including, but not limited to, limiting unsupervised interactions with children; prohibiting exposure to pornography; and complying with applicable laws, regulations, or customs regarding the photographing, filming, or other image-generating activities of children;
  - (5) Promote child-safe screening procedures for personnel, particularly personnel whose work brings them in direct contact with children; and

- (6) Have a procedure for ensuring that personnel and others recognize child abuse, exploitation, or neglect; mandating that personnel and others report allegations; investigating and managing allegations; and taking appropriate action in response to such allegations, including, but not limited to, dismissal of personnel.
- (b) The contractor must also include in the code of conduct for all personnel implementing USAID-funded activities, the child safeguarding principles in paragraphs (a)(1) through (6) of this clause.

### **37. USAID VOLUNTARY POPULATION PLANNING ACTIVITIES**

- A. Requirements for Voluntary Sterilization Program:** None of the funds made available under this Agreement shall be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.
- B. Prohibition on Abortion-Related Activities:** (1) No funds made available under this Agreement will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term “motivate”, as it relates to family planning assistance, shall not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options. (2) No funds made available under this Agreement will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent or consequences of abortions is not precluded.
- C.** Subcontractor shall insert this provision in all lower-tier subcontracts.

### **38. USAID REPORTING OF FOREIGN TAXES (JULY 2007)**

- (a) The contractor must annually submit a report by April 16 of the next year.
- (b) Contents of report. The report must contain:
  - (1) Contractor name.
  - (2) Contact name with phone, fax number and email address.
  - (3) Contract number(s).
  - (4) Amount of foreign taxes assessed by a foreign government [each foreign government must be listed separately] on commodity purchase transactions valued at \$500 or more financed with U.S. foreign assistance funds under this agreement during the prior U.S. fiscal year.
  - (5) Only foreign taxes assessed by the foreign government in the country receiving U.S. assistance are to be reported. Foreign taxes by a third party foreign government are not to be reported. For example, if a contractor performing in Lesotho using foreign assistance funds should purchase commodities in South Africa, any taxes imposed by South Africa would not be included in the report for Lesotho (or South Africa).
  - (6) Any reimbursements received by the contractor during the period in paragraph (b)(4) of this clause regardless of when the foreign tax was assessed and any reimbursements on the taxes reported in paragraph (b)(4) of this clause received through March 31.
  - (7) Report is required even if the contractor did not pay any taxes during the reporting period.
  - (8) Cumulative reports may be provided if the contractor is implementing more than one program in a foreign country.
- (c) Definitions. As used in this clause—

- (1) "Agreement" includes USAID direct and country contracts, grants, cooperative agreements and interagency agreements.
  - (2) "Commodity" means any material, article, supply, goods, or equipment.
  - (3) "Foreign government" includes any foreign governmental entity.
  - (4) "Foreign taxes" means value-added taxes and customs duties assessed by a foreign government on a commodity. It does not include foreign sales taxes.
- (d) Where. Submit the reports to: [estone@msi-inc.com](mailto:estone@msi-inc.com)
- (e) Subagreements. The contractor must include this reporting requirement in all applicable subcontracts and other subagreements.
- (f) For further information, see <http://2001-2009.state.gov/s/d/rm/c10443.htm>.

### **39. ENCOURAGING CONTRACTOR POLICIES TO BAN TEXT MESSAGING WHILE DRIVING**

Under Executive Order #13513, the Subcontractor is encouraged to adopt and enforce policies that ban text messaging while driving. Further information can be found in Clause 52.223-18 of the Federal Acquisition Regulation, which is available online in full text at:

[www.acquisition.gov/sites/default/files/current/far/html/52\\_223\\_226.html#wp1188603](http://www.acquisition.gov/sites/default/files/current/far/html/52_223_226.html#wp1188603)

### **40. USAID MANDATORY GOVERNMENT CLAUSES**

This Agreement was issued pursuant to a Client-issued Prime Contract. Accordingly, it is subject to certain U.S. Government requirements (when the Client is an U.S. Government Agency) set forth in the Federal Acquisitions Regulation (FAR) and (when the Client is USAID) the Agency for International Development Acquisition Regulation (AIDAR). The FAR and AIDAR clauses cited herein are hereby incorporated in their entirety by reference, with the same force and effect as if they were given in full text. MSI will make the complete text of these clauses available to Subcontractor upon request. Except where a different meaning is obviously intended, all reference to the "Contractor" in such clauses shall be deemed to mean Subcontractor, while "USAID", "the Government," and "the Contracting Officer" shall be deemed to mean MSI. All documentation required from Subcontractor by these clauses shall be submitted to MSI, and all approvals shall be obtained from MSI.

FAR: The following mandatory clause is incorporated, to the extent applicable: 52.225-13 "Restrictions on Certain Foreign Purchases" (Jun 2008). In addition, Subcontractor is required to ensure that it, as well as its lower-tier subcontractors, are not included on the SAM Active Exclusions list and OFAC SDN list or any other list of suspended, debarred or ineligible bidders used by the Client. [Note: See FAR 12.504 for a list of laws that are expressly not applicable to subcontracts at any tier for commercial items.]

### **41. D&B UNIVERSAL NUMBERING SYSTEM REGISTRATION (AWARDS OF +USD 25,000)**

The Vendor is required to obtain a "Data Universal Numbering System" number (DUNS#) from Dun & Bradstreet (D&B) as soon as possible if they do not already have one. Payments will be withheld for goods delivered or services performed until the vendor can provide their assigned DUNS# to MSI.

### **42. "TRANSPARENCY ACT" REPORTING REQUIREMENTS**

The following information will be made public through the U.S. Government if their revenue exceeded USD 300,000 in the previous fiscal year:

- a. Subcontractor's name and address (including congressional district when applicable);
- b. Amount of award;
- c. Funding agency;
- d. NAICS product code of deliverable supply or service/CFDA program number for grants;
- e. Program source;
- f. Award title and purpose of the funding action;

- g. Place of performance (including congressional district if applicable);
- h. Vendor's DUNS number and that of any parent company; and
- i. Total compensation and names of top five executives if annual U.S. Federal Government revenues exceed \$25M and represent 80% of total revenue.

#### **43. INTERNATIONAL AIR TRAVEL REQUIREMENTS – USG**

Subcontractor shall receive prior written approval of the MSI Director of Contracts prior to planning or purchase of any international travel under this Agreement. Specifically, MSI is required to obtain prior written consent from the Client for any and all international travel.

Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (“Fly America Act”) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. International air travel on a foreign-flag air carrier that provides transportation under an air transport agreement between the United States and a foreign government, the terms of which are consistent with the international aviation policy goals at 49 U.S.C. 1502(b) and provide reciprocal rights and benefits (commonly known as “Open Skies Agreements”) is allowable.

In performing work under this Agreement, the Subcontractor shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property wherever available. In the event that the Subcontractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Subcontractor shall include a statement on vouchers involving such transportation essentially as follows:

***“Statement of Unavailability of U.S.-Flag Air Carriers***

*International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation): [State reasons].”*

The Subcontractor shall include the substance of this clause in each subcontract or purchase under this contract that may involve international air transportation.

#### **44. CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (FAR 52.203-17)**

This subcontract and employees working on this subcontract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections as described in FAR 3.908.

The Subcontractor shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712 (see: <http://uscode.house.gov/view.xhtml?req=granuleid:USC-prelim-title41-section4712&num=0&edition=prelim>), as described in FAR 3.908.

The Contractor shall insert the substance of this clause, including this paragraph (c), in all subcontracts over USD 150,000.

## Section E

### Special Provisions: Intellectual Property

SUBCONTRACTOR shall provide the required data, information, software, supplies and services in a professional, competent and qualified manner so as to ensure the fulfillment of MSI and MSI Client requirements. The Subcontractor expressly understands and agrees that the intent of MSI's Client is to permit public use and access to the information and data gathered and developed under this Agreement, including software, radio scripts, posters, brochures, and publications. Accordingly, the Subcontractor shall provide, for the consideration set forth herein, all data, information, software, and intellectual property of any kind that is a required deliverable under this Agreement and/or is developed for the first time in whole or in part under this Agreement to MSI and its Client and any designee, with an irrevocable, fully paid-up, non-exclusive, royalty free, unlimited, unrestricted (except for sale) license to use and distribute free of charge.

SUBCONTRACTOR expressly understands and agrees to provide supplies and services as well as personnel and equipment that comply in all respects with the following special conditions of performance:

- A. The SUBCONTRACTOR represents and warrants that all software models, instructions, applications, licenses, radio scripts, posters, brochures, and publications that become a part of any deliverable hereunder are properly authorized for unlimited, unrestricted use (as described above) by MSI and MSI's Client;
- B. All Subcontractor personnel with access to MSI data, information and intellectual property shall have received proper and adequate background & security investigations (when required) and shall be fluent in languages necessary to properly communicate with MSI staff, each other, and participants;
- C. Subcontractor shall immediately, and in advance when possible, notify MSI of any form of actual or potential misconduct, improper behavior, abuse, unlawful behavior and/or negligence that could reasonably be construed as potentially or actually dangerous, illegal or improper and shall take all reasonable steps to assist in avoiding injury, harm or misconduct, without recourse for MSI approval, if such advance approval is impractical. MSI hereby authorizes this prompt action and rapid response.
- D. All intellectual property, in written, graphic and electronic formats, shall be properly proofed by at least two qualified individuals prior to submission in final form. All software shall include source code. All written material shall be properly copyrighted in order for its proper use by MSI and MSI's Client, as required above;
- E. All software, radio scripts, posters, brochures, and publications shall be adequately safeguarded by the Subcontractor to prevent unauthorized disclosure to any third party or organization other than MSI. Subcontractor understands that improper, premature disclosure of translated materials may result in serious harm. As a result, any such improper or unauthorized disclosure may result in MSI assessing liquidated damages in an amount equal to the approximate cost of correcting any damage to public, governmental, Client or international sentiment and goodwill. This amount shall not exceed USD 25,000;
- F. Subcontractor shall return all MSI information, data, and intellectual property materials utilized and created under this Agreement to MSI at the completion of each assignment;
- G. Subcontractor shall save and defend MSI against any third party claims resulting from Subcontractor's copyright infringement(s);
- H. All published and recorded material must be proofed, reviewed and approved by MSI before release of any kind. All published material shall include a text legend provided by MSI that is to be included in the publication. The legend will be similar to the following:

*"The contents of this publication may be reproduced in whole or in part without permission provided: (a) the material is distributed free of charge; (b) credit is given to MSI and MSI's funding source (where mentioned), and; (c) this restrictive legend is included in full. The findings, opinions and views expressed in this publication do not necessarily represent those of Management Systems International (MSI) or any MSI Client."*



## Section G

# Responsibility Determination Questionnaire

Offerors are required to demonstrate that they are responsible. Responsibility is determined in a number of ways. Please complete the following sections as they apply to your firm and the subject procurement.

### PART A: SAM REGISTERED OFFERORS

Is your company registered with the U.S. Government System for Award Management at [www.sam.gov](http://www.sam.gov) ?

YES  NO

If YES, please complete number 1 and 2 below. If NO, please continue on to Part B.

1. DUNS #: \_\_\_\_\_
2. Is the information listed for your firm on the SAM website--including the Representations and Certifications--current, accurate, and complete?  
 YES  NO

### PART B: OFFERORS NOT REGISTERED IN SAM

1. Legal Name & Legal address of firm: \_\_\_\_\_
2. Tax ID: \_\_\_\_\_ (for applicable countries)
3. List the following for each owner of the firm:
  - a. Name of Owner(s): \_\_\_\_\_
  - b. Percentage of ownership: \_\_\_\_\_
  - c. Nationality of Owner(s): \_\_\_\_\_
4. List the firm's principal areas of business: \_\_\_\_\_
5. Indicate the percentage of Government Ownership (enter 0 if none): \_\_\_\_\_
6. Indicate the number of years the firm has been in business: \_\_\_\_\_
7. List principal clients in last 18 months: \_\_\_\_\_
8. Demonstration of Financial Responsibility:
  - a. Demonstrate to the satisfaction of MSI that the firm has adequate financial resources for the activity. \_\_\_\_\_
  - OR
  - b. Provide the following information:
    - i. Average quarterly revenue: \_\_\_\_\_
    - ii. List the firms bank name and the number of business account the firm holds:  
 \_\_\_\_\_  
 \_\_\_\_\_
    - iii. Indicate the firm's approximate cash assets: \_\_\_\_\_

AUTHORIZED COMPANY SIGNATORY:

COMPANY	NAME	TITLE
SIGNATURE	DATE	