



Republic of Uganda

## EXPANDING SOCIAL PROTECTION PROGRAMME

### Bidding Document

For

### Framework Contracts for Media and Advertising

<b>Subject of Procurement:</b>	<b>Procurement of Media and Advertising under Framework Contract</b>
<b>Procurement Reference Number:</b>	<b>ESPP/FRWK/SRVCS/2020-21/00015</b>
<b>Procurement Method:</b>	<b>OPEN DOMESTIC BIDDING</b>
<b>Date of Issue:</b>	<b>February, 2020</b>

# **Standard Bidding Document**

## **Table of Contents**

### **Part 1 – Bidding Procedures**

Section 1 – Instructions to Bidders

Section 2 – Bid Data Sheet

Section 3 – Evaluation Methodology and Criteria

Section 4 – Bidding Forms

Section 5 – Eligible Countries

### **Part 2 – Statement of Requirements**

Section 6 – Statement of Requirements

### **Part 3 – Contract**

Section 7 – General Conditions of Contract for the Procurement of Supplies

Section 8 – Special Conditions of Contract

Section 9 – Contract Forms

## Part 1

---

### INVITATION TO BID UNDER OPEN DOMESTIC BIDDING

#### Invitation to bid for provision of Media and Advertising

##### PROCUREMENT REFERENCE NO. ESPP/FRWK/SRVCS/2020-21/00015

1. Expanding Social Protection Programme has allocated funds to be used for acquisition of Media and Advertising.
2. Expanding Social Protection Programme invites sealed bids for provision of **Media and Advertising** under framework contract.
3. Bidding will be conducted in accordance with the Domestic open bidding procedures contained in the Government of Uganda's Public Procurement and Disposal of Public Assets Act, 2003.
4. Bidders shall collect the bidding Document from the Procurement & Logistics Subunit.
5. Bidders may obtain further information from the Senior Programme Officer, Procurement, Logistics & Administration, Expanding Social Protection Programme and inspect the bidding documents at the address given below at 8(a) from 8:30am to 5:00pm during working days.
6. Bids must be delivered to the address below at 8(b) at or before **11:30am local time on 25<sup>th</sup> March, 2021**. Late bids shall be rejected. Bids will be opened in the presence of the bidders' representatives who choose to attend at the address below at 8(c) **12:00pm local Kampala time on 25<sup>th</sup> March, 2021**.
7. (a) Address for further information and collection of bidding Documents: **Senior Programme Officer, Administration, Procurement & Logistics, Expanding Social Protection Programme, Plot 9, Lourdel Road. P.O. Box 28240, Kampala.**  
(b) Addressed Bids must be delivered to: **Senior Programme Officer, Procurement, Logistics & Administration, Expanding Social Protection Programme, Plot 9, Lourdel Road. P.O. Box 28240, Kampala.**  
(c) Address of Bid Opening: Expanding Social Protection Programme, **Plot 9, Lourdel Road. P.O. Box 28240, Kampala**



**TEAM LEADER/ FUND MANAGER**

# **PART 1 – Bidding Procedures**

Section 1 – Instructions to Bidders

Section 2 – Bid Data Sheet

Section 3 – Evaluation Methodology and Criteria

Section 4 – Bidding Forms

Section 5 – Eligible Countries

# **PART 2 – Statement of Requirements**

## **Section 6 – Statement of Requirements**

## **PART 3 – Contract Forms**

Section 7 – General Conditions of Contract for  
the Procurement of Supplies

Section 8 – Special Conditions of Contract

Section 9 – Contract Forms

## Section 1. Instructions to Bidders

### Table of Contents

<b>A.General</b>		<b>5</b>
1.	Scope of Bid.....	5
2.	Source of Funds .....	5
3.	Corrupt Practices.....	5
4.	Eligible Bidders .....	6
5.	Eligible Supplies or Services .....	7
<b>B.Bidding Document</b>		<b>8</b>
6.	Contents of Bidding Document .....	8
7.	Clarification of Bidding Document .....	8
8.	Amendment of Bidding Document.....	9
<b>C.Preparation of Bids</b>		<b>9</b>
9.	Cost of Bidding .....	9
10.	Language of Bid and Communications.....	9
11.	Documents Comprising the Bid.....	9
12.	Bid Submission Sheet and Price Schedules .....	10
13.	Alternative Bids .....	11
14.	Bid Prices and Discounts .....	11
15.	Currencies of Bid .....	12
16.	Documents Establishing the Eligibility of the Bidder .....	13
17.	Documents Establishing the Eligibility of Supplies or Services .....	13
18.	Documents Establishing the Conformity of the Supplies or Services .....	13
19.	Documents Establishing the Qualifications of the Bidder.....	14
20.	Period of Validity of Bids .....	14
21.	Bid Security .....	14
22.	Format and Signing of Bid.....	15
<b>D.Submission and Opening of Bids</b>		<b>15</b>
23	Sealing and Marking of Bids .....	15
24	Deadline for Submission of Bids .....	15
25	Late Bids .....	16
26.	Withdrawal and Replacement of Bids .....	16
27.	Bid Opening .....	16
<b>E.Evaluation of Bids</b>		<b>17</b>
28.	Confidentiality .....	17
29.	Clarification of Bids.....	17
30.	Compliance and Responsiveness of Bids .....	17
31.	Nonconformities, Errors, and Omissions.....	18
32.	Preliminary Examination of Bids – Eligibility and Administrative Compliance .	19

33. Detailed Commercial and Technical Evaluation ..... 19  
34. Conversion to Single Currency ..... 19  
35. Margin of Preference ..... 20  
36. Financial Comparison of Bids ..... 20  
37. Determination of Best Evaluated Bid(s) ..... 20  
38. Post-qualification of the Bidder ..... 20  
39. Procuring and Disposing Entity’s Right to Accept or Reject Any or All Bids..... 21

**F.Award of Contract**

**21**

40. Award Procedure ..... 21  
41. Procuring and Disposing Entity’s Right to Vary Quantities at Time of Award ... 21  
42. Notification of Award and Letter of Bid Acceptance ..... 21  
43. Signing of Contract ..... 21  
44. Performance Security ..... 22

# **Section 1. Instructions to Bidders**

## **A. General**

### **1. Scope of Bid**

- 1.1 The Procuring and Disposing Entity indicated in the Bid Data Sheet (BDS), invites bids for the provision of Supplies or Services as specified in Section 6, Statement of Requirements. Bids are invited for an estimated quantity of Supplies or Services as specified in Section 6, Statement of Requirements, under a framework contract arrangement. The Instructions to Bidders should be read in conjunction with the BDS. The subject and procurement reference number, and number of lots of this Bidding Document are provided in the BDS.
- 1.2 Throughout these Bidding Documents:
  - (a) the term “in writing” means communicated in written form with proof of receipt;
  - (b) if the context so requires, singular means plural and vice versa; and
  - (c) “day” means working day.

### **2. Source of Funds**

- 2.1 The Procuring and Disposing Entity indicated in the BDS has an approved budget from Government funds towards the cost of the procurement named in the BDS. The Procuring and Disposing Entity intends to use these funds to place a contract for which these Bidding Documents are issued.
- 2.2 Payments will be made directly by the Procuring and Disposing Entity for each call-off order and will be subject in all respects to the terms and conditions of the resulting contract placed by the Procuring and Disposing Entity.

### **3. Corrupt Practices**

- 3.1 It is the Government of Uganda’s policy to require that Procuring and Disposing Entities, as well as Bidders and Providers observe the highest standards of ethics during procurement and the execution of contracts. In pursuit of this policy, the Government of Uganda represented by the Public Procurement and Disposal of Public Assets Authority (herein referred to as the Authority);
  - (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) (i) “corrupt practice” includes the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
    - (ii) (ii) “fraudulent practice” includes a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring and Disposing Entity, and includes collusive practices among Bidders prior to or after bid submission designed to establish bid prices at artificial, non competitive levels and to deprive the Procuring and Disposing Entity of the benefits of free and open competition;

- (b) will reject a recommendation for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the Contract;
  - (c) will suspend a Provider from engaging in any public procurement proceeding for a stated period of time, if it at any time determines that the Provider has engaged in corrupt or fraudulent practices in competing for, or in executing, a Government contract.
- 3.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 3.2 and Sub-Clause 35.1 (a)(iii) of the General Conditions of Contract.
- 3.3 In pursuit of the policy defined in Sub-Clause 3.1, the Procuring and Disposing Entity may terminate a contract for Supplies or Services if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Procuring and Disposing Entity or of a Bidder or Provider during the procurement or the execution of that contract, without the Procuring and Disposing Entity having taken timely and appropriate action satisfactory to the Government to remedy the situation.
- 3.4 In pursuit of the policy defined in Sub-clause 3.1, the Government of Uganda requires representatives of both the Procuring and Disposing Entities and of Bidders and Providers to adhere to the relevant codes of ethical conduct. The Code of Ethical Conduct for Bidders and Providers is available from the Authority and Bidders are required to indicate their acceptance of this Code through the declarations in the Bid Submission Sheet.
- 3.5 Any communications between a Bidder and the Procuring and Disposing Entity related to matters of alleged fraud or corruption must be made in writing and addressed to the Accounting Officer of the Procuring and Disposing Entity.

#### **4. Eligible Bidders**

- 4.1 A Bidder, and all parties constituting the Bidder, shall meet the following criteria to be eligible to participate in public procurement:
- (a) the bidder has the legal capacity to enter into a contract;
  - (b) the bidder is not:
    - (i) insolvent;
    - (ii) in receivership;
    - (iii) bankrupt; or
    - (iv) being wound up
  - (c) the bidder's business activities have not been suspended;
  - (d) the bidder is not the subject of legal proceedings for any of the circumstances in (b); and
  - (e) the bidder has fulfilled his or her obligations to pay taxes and social security contributions.
- 4.2 A Bidder may be a natural person, private entity, and government-owned entity, subject to ITB Sub-Clause 4.6, any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a joint venture,

consortium, or association. In the case of a joint venture, consortium, or association, unless otherwise specified in the BDS, all parties shall be jointly and severally liable.

- 4.3 A Bidder, and all parties constituting the Bidder including sub-contractors, shall have the nationality of an eligible country, in accordance with Section 5, Eligible Countries. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors for any part of the Contract including related services.
- 4.4 A Bidder shall not have a conflict of interest. All Bidders found to be in conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if they:
- (a) have controlling shareholders in common; or
  - (b) receive or have received any direct or indirect subsidy from any of them; or
  - (c) have the same legal representative for purposes of this bid; or
  - (d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder, or influence the decisions of the Procuring and Disposing Entity regarding this bidding process; or
  - (e) submit more than one bid in this bidding process, except for alternative offers permitted under ITB Clause 13. However, this does not limit the participation of subcontractors in more than one bid, or as Bidders and subcontractors simultaneously; or
  - (f) participated as a contractor or consultant in the preparation of the design or technical specifications of the Supplies or services that are the subject of the bid.
- 4.5 A firm that is under a declaration of suspension by the Authority in accordance with ITB Clause 3.1 (c), at the date of the deadline for bid submission or thereafter, shall be disqualified.
- 4.6 Government-owned enterprises shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law.
- 4.7 Bidders shall provide such evidence of their continued eligibility satisfactory to the Procuring and Disposing Entity, as the Procuring and Disposing Entity shall reasonably request.

## **5. Eligible Supplies or Services**

- 5.1 All Supplies or Services to be supplied under the Contract shall have as their country of origin an eligible country in accordance with Section 5, Eligible Countries.
- 5.2 For purposes of this Clause, the term “Supplies” means goods, raw materials, products, equipment or objects of any kind and description in solid, liquid or gaseous form, or in the form of electricity, or intellectual and proprietary rights as well as services incidental to the provision of such supplies where the value of such services does not exceed the value of the supplies.

- 5.3 The term “country of origin” means the country where the Supplies have been mined, grown, cultivated, produced, manufactured, or processed, or through manufacture, processing, or assembly, another commercially recognised article results that differs substantially in its basic characteristics from its imported components.
- 5.4 The nationality of the Provider that produces, assembles, distributes, or sells the Supplies shall not determine their origin.
- 5.5 If so required in the BDS, the Bidder shall demonstrate that it has been duly authorised by the Manufacturer of the Supplies to supply, in the Republic of Uganda, the Supplies indicated in its bid.

## **B. Bidding Document**

### **6. Contents of Bidding Document**

- 6.1 The Bidding Document consists of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any addenda issued in accordance with ITB Clause 8.

#### **PART 1 Bidding Procedures**

- Section 1. Instructions to Bidders (ITB)
- Section 2. Bid Data Sheet (BDS)
- Section 3. Evaluation Methodology and Criteria
- Section 4. Bidding Forms
- Section 5. Eligible Countries

#### **PART 2 Statement of Requirements**

- Section 6. Statement of Requirements

#### **PART 3 Contract**

- Section 7. General Conditions of Contract (GCC) for the Procurement of Supplies or Services
- Section 8. Special Conditions of Contract (SCC)
- Section 9. Contract Forms

- 6.2 The Bid Notice or any Pre-qualification Notice is not part of the Bidding Document.
- 6.3 Bidders who did not obtain the Bidding Document directly from the Procuring and Disposing Entity will be rejected during evaluation. Where a Bidding Document is obtained from the Procuring and Disposing Entity on a Bidder’s behalf, the Bidder’s name must be registered with the Procuring and Disposing Entity at the time of sale and issue.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document, may result in the rejection of the bid.

### **7. Clarification of Bidding Document**

- 7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Procuring and Disposing Entity in writing at the Procuring and Disposing Entity’s address indicated in the BDS. The Procuring and Disposing Entity will

respond in writing to any request for clarification, provided that such request is received no later than the number of days prior to the deadline for submission of bids indicated in the BDS. The Procuring and Disposing Entity shall forward copies of its response to all Bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the Procuring and Disposing Entity deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB Clause 8 and Sub-Clause 24.2.

## **8. Amendment of Bidding Document**

- 8.1 At any time prior to the deadline for submission of bids, the Procuring and Disposing Entity may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Procuring and Disposing Entity.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring and Disposing Entity may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 24.2.

## **C.Preparation of Bids**

### **9. Cost of Bidding**

- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Procuring and Disposing Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

### **10. Language of Bid and Communications**

- 10.1 The medium of communication shall be in writing unless otherwise specified in the BDS.
- 10.2 The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Procuring and Disposing Entity, shall be written in English unless otherwise specified in the BDS.
- 10.3 Supporting documents and printed literature that are part of the bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the bid, such translation shall govern.

### **11. Documents Comprising the Bid**

- 11.1 The bid shall comprise the following:
  - (a) the Bid Submission Sheet and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15;
  - (b) a Bid Security, in accordance with ITB Clause 21;
  - (c) written confirmation authorising the signatory of the bid to commit the Bidder, in accordance with ITB Clause 22;

- (d) documentary evidence in accordance with ITB Clause 16 establishing the Bidder's eligibility to bid;
- (e) documentary evidence in accordance with ITB Clause 17 establishing that the Supplies or Services to be supplied by the Bidder are of eligible origin;
- (f) documentary evidence in accordance with ITB Clauses 18 and 30, that the Supplies or Services conform to the Bidding Documents;
- (g) documentary evidence in accordance with ITB Clause 19 establishing the Bidder's qualifications to perform the contract if its bid is accepted; and
- (h) any other document(s) required in the BDS.

## **12. Bid Submission Sheet and Price Schedules**

12.1 The Bidder shall submit the Bid Submission Sheet using the form provided in Section 4, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested, which includes:

- (a) the reference of the Bidding Document and the number of each addenda received;
- (b) a brief description of the Supplies or Services offered;
- (c) the total bid price, based on the estimated quantities specified in Section 6, Statement of Requirements;
- (d) any discounts offered and the methodology for their application;
- (e) the period of validity of the bid ;
- (f) a commitment to submit any Performance Security required and the amount;
- (g) a declaration of nationality of the Bidder;
- (h) a commitment to adhere to the Code of Ethical Conduct for Bidders and Providers;
- (i) a declaration that the Bidder, including all parties comprising the Bidder, is not participating, as a Bidder, in more than one bid in this bidding process; except for alternative bids in accordance with ITB Clause 13;
- (j) confirmation that the Bidder has not been suspended by the Authority;
- (k) a declaration on gratuities and commissions; and
- (l) an authorised signature.

12.2 The Bidder shall submit the Price Schedule for Supplies or Services, using the format provided in Section 4, Bidding Forms. The Price Schedule shall include, as appropriate:

- (a) the item number;
- (b) a brief description of the Supplies or Services to be supplied;
- (c) their country of origin and percentage of Ugandan content;

- (d) the quantity, which shall be the estimated quantity specified in Section 6, Statement of Requirements;
- (e) the unit prices;
- (f) customs duties and all taxes paid or payable in Uganda;
- (g) the total price per item;
- (h) subtotals and totals per Price Schedule; and
- (i) an authorised signature.

### **13. Alternative Bids**

- 13.1 Alternative bids shall not be considered unless otherwise indicated in the BDS.
- 13.2 Where permitted, alternative bids do not need to conform precisely to the Statement of Requirements, but must -
- (a) meet the objectives and/or performance requirements prescribed in the Statement of Requirements;
  - (b) be substantially within any delivery or completion schedule, budget or other performance parameters stated in the solicitation document; and
  - (c) clearly state the benefits of the alternative bid over any solution which conforms precisely to the Statement of Requirements, in terms of technical performance, price, operating costs or any other benefit.
- 13.3 A bidder may submit both a main bid which conforms precisely to the Statement of Requirements and an alternative bid.
- 13.4 Where a bidder submits more than one bid, each bid shall be submitted as a completely separate bid and shall conform to the instructions for preparation and submission of bids in its own right, without any reliance on any other bid. In particular, each bid shall be separately signed, authorised, sealed, labelled and submitted in accordance with the instructions for submission of bids and shall be accompanied by a separate Bid Security, if so required. Such bids shall be labelled “Main Bid” and “Alternative Bid”.
- 13.5 The evaluation of alternative bids shall use the same methodology, criteria and weights as the evaluation of main bids, except that the detailed technical evaluation shall take into account only the objectives and/or performance requirements prescribed in the Statement of Requirements.

### **14. Bid Prices and Discounts**

- 14.1 The prices and discounts quoted by the Bidder in the Bid Submission Sheet and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All items in the Schedule of Supply must be listed and priced separately in the Price Schedules. Items not listed in the Price Schedule shall be assumed to be not included in the bid, and provided that the bid is substantially responsive, the corresponding adjustment shall be applied in accordance with ITB Sub-Clause 31.3.
- 14.3 The price to be quoted in the Bid Submission Sheet, in accordance with ITB Sub-Clause 12.1(c), shall be the total price of the bid, based on the estimated quantities specified, excluding any discounts offered.

- 14.4 The Bidder shall quote any unconditional and conditional discounts and the methodology for their application in the Bid Submission Sheet, in accordance with ITB Sub-Clause 12.1(d) and ITB Sub-Clause 14.8 respectively.
- 14.5 The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in the edition of Incoterms, published by The International Chamber of Commerce, as specified in the BDS.
- 14.6 Prices quoted on the Price Schedule for Supplies or Services, shall be disaggregated, when appropriate as indicated in this sub-clause. This disaggregation shall be solely for the purpose of facilitating the comparison of bids by the Procuring and Disposing Entity. This shall not in any way limit the Procuring and Disposing Entity's right to contract on any of the terms offered:
- (a) for Supplies;
    - (iii) (i)the price of the Supplies, quoted CIP or other Incoterm as specified in the BDS;
    - (iv) (ii)all custom duties, sales tax, and other taxes applicable in Uganda, paid or payable, on the Supplies or on the components and raw materials used in their manufacture or assembly, if the Contract is awarded to the Bidder; and
    - (v) (iii)the total price for the item.
  - (b) for Services;
    - (vi) (i)the price of the Services;
    - (vii) (ii)all custom duties, sales tax, and other taxes applicable in Uganda, paid or payable, on the Services, if the Contract is awarded to the Bidder; and(iii)the total price for the item.
- 14.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A bid submitted with an adjustable price quotation shall be treated as non responsive and shall be rejected, pursuant to ITB Clause 30. However, if in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 14.8 If so indicated in ITB Sub-Clause 1.1, bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Bidders wishing to offer any price reduction for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Price reductions or discounts shall be submitted in accordance with ITB Sub-Clause 14.4, provided the bids for all lots are submitted and opened at the same time.

## **15. Currencies of Bid**

- 15.1 Bid prices shall be quoted in the following currencies:
- (a) for Supplies or Services originating in Uganda, the bid prices shall be quoted in the currency of Uganda, unless otherwise specified in the BDS; and

- (b) for Supplies or Services originating outside Uganda, or for imported parts or components of Supplies or Services originating outside Uganda, the bid prices shall be quoted in the currency of the expense or in the currency of the Bidder's country unless otherwise specified in the BDS.
- 15.2 Alternatively, the Procuring and Disposing Entity may request that prices quoted be expressed in the currency specified in the BDS. If the Bidder wishes to be paid in a currency or a combination of currencies different from the one in which it was requested to express its quotation, it shall as part of its offer:
- (viii) (a) indicate its requirement to be paid in other currencies, including the amount in each currency or the percentage of the quoted price corresponding to each currency;
  - (ix) (b) justify, to the Procuring and Disposing Entity's satisfaction, the requirement to be paid in the currencies requested; and
  - (x) (c) utilise the rate of exchange specified by the Procuring and Disposing Entity to express its offer in the currency required by the Procuring and Disposing Entity. The source, date, and type of exchange rate to be used is indicated in the BDS, in accordance with ITB Clause 34, and shall not precede the bid submission deadline by less than twenty (20) days.

#### **16. Documents Establishing the Eligibility of the Bidder**

- 16.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall complete the eligibility declarations in the Bid Submission Sheet, included in Section 4, Bidding Forms and submit the documents required in Section 3 Evaluation Methodology and Criteria.

#### **17. Documents Establishing the Eligibility of Supplies or Services**

- 17.1 To establish the eligibility of the Supplies or Services, in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule included in Section 4, Bidding Forms.

#### **18. Documents Establishing the Conformity of the Supplies or Services**

- 18.1 To establish the conformity of the Supplies or Services to the Bidding Documents, the Bidder shall provide as part of its bid the documentary evidence specified in Section 6, Statement of Requirements.
- 18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed description of the essential technical and performance characteristics of the Supplies or Services, demonstrating substantial responsiveness of the Supplies or Services to those requirements, and if applicable, a statement of deviations and exceptions to the provisions of the Statement of Requirements.
- 18.3 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Procuring and Disposing Entity in the Statement of Requirement, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Procuring and Disposing Entity's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Statement of Requirement.

## **19. Documents Establishing the Qualifications of the Bidder**

- 19.1 To establish its qualifications to perform the Contract, the Bidder shall submit the evidence indicated for each qualification criteria specified in Section 3, Evaluation Methodology and Criteria.

## **20. Period of Validity of Bids**

- 20.1 Bids shall remain valid for the period specified in the BDS after the date of the bid submission deadline prescribed by the Procuring and Disposing Entity. A bid valid for a shorter period shall be rejected by the Procuring and Disposing Entity as non-compliant.
- 20.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Procuring and Disposing Entity may request Bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 21, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid.

## **21. Bid Security**

- 21.1 Unless otherwise specified in the BDS, the Bidder shall furnish as part of its bid, a Bid Security in original form and in the amount and currency specified in the BDS.
- 21.2 The Bid Security shall be, at the Bidder's option, in any of the following forms:
- (a) a demand guarantee;
  - (b) an irrevocable letter of credit;
  - (c) a cashier's or certified check; or
  - (d) another security indicated in the BDS,
- from a reputable source from an eligible country. The Bid Security shall be submitted either using the Bid Security Form included in Section 4, Bidding Forms, or in another substantially similar format. In either case, the form must include the complete name of the Bidder. The Bid Security shall be valid for twenty eight days beyond the end of the validity period of the bid. This shall also apply if the period for bid validity is extended.
- 21.3 Any bid not accompanied by a substantially responsive Bid Security, if one is required in accordance with ITB Sub-Clause 21.1 shall be rejected by the Procuring and Disposing Entity as non-compliant.
- 21.4 The Bid Security of all Bidders shall be returned as promptly as possible once the successful Bidder has signed the Contract and provided any required Performance Security.
- 21.5 The Bid Security may be forfeited:
- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB Sub-Clause 20.2; or

- (b) if the successful Bidder fails to: (i) sign the Contract in accordance with ITB Clause 43;
- (xi) (ii) furnish any Performance Security in accordance with ITB Clause 44; or
- (xii) (iii) accept the correction of its bid price pursuant to ITB Sub-Clause 31.5.

## **22. Format and Signing of Bid**

- 22.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 11 and clearly mark it “ORIGINAL.” In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark each of them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.
- 22.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorised to sign on behalf of the Bidder. This authorisation shall consist of a written confirmation as specified in the BDS and shall be attached to the bid. The name and position held by each person signing the authorisation must be typed or printed below the signature. All pages of the bid, except for unamended printed literature, shall be signed or initialled by the person signing the bid.
- 22.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the bid.

## **D Submission and Opening of Bids**

### **23 Sealing and Marking of Bids**

- 23.1 The Bidder shall enclose the original and each copy of the bid, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single plain envelope securely sealed in such a manner that opening and resealing cannot be achieved undetected.
- 23.2 The inner and outer envelopes shall:
  - (a) bear the name and address of the Bidder;
  - (b) be addressed to the Procuring and Disposing Entity in accordance with ITB Sub-Clause 24.1;
  - (c) bear the Procurement Reference number of this bidding process; and
  - (d) bear a warning not to open before the time and date for bid opening, in accordance with ITB Sub-Clause 27.1.
- 23.3 If all envelopes are not sealed and marked as required, the Procuring and Disposing Entity will assume no responsibility for the misplacement or premature opening of the bid.

### **24 Deadline for Submission of Bids**

- 24.1 Bids must be received by the Procuring and Disposing Entity at the address and no later than the date and time indicated in the BDS.

- 24.2 The Procuring and Disposing Entity may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 8, in which case all rights and obligations of the Procuring and Disposing Entity and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

## **25 Late Bids**

- 25.1 The Procuring and Disposing Entity shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 24. Any bid received by the Procuring and Disposing Entity after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

## **26. Withdrawal and Replacement of Bids**

- 26.1 A Bidder may withdraw or replace its bid after it has been submitted at any time before the deadline for submission of bids by sending a written notice, duly signed by an authorised representative, which shall include a copy of the authorisation in accordance with ITB Sub-Clause 22.2. Any corresponding replacement of the bid must accompany the respective written notice. All notices must be:
- (a) submitted in accordance with ITB Clauses 22 and 23 (except that withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” or “REPLACEMENT,” and
  - (b) received by the Procuring and Disposing Entity prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 24.
- 26.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 26.1 shall be returned unopened to the Bidder.
- 26.3 No bid may be withdrawn or replaced in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Sheet or any extension thereof.
- 26.4 Bids may only be modified by withdrawal of the original bid and submission of a replacement bid in accordance with ITB Sub-Clause 26.1. Modifications submitted in any other way shall not be taken into account in the evaluation of bids.

## **27. Bid Opening**

- 27.1 The Procuring and Disposing Entity shall conduct the bid opening in the presence of Bidders` designated representatives who choose to attend, at the address, date and time specified in the BDS.
- 27.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorisation to request the withdrawal and is read out at the bid opening.

All other envelopes including those marked “REPLACEMENT” shall be opened and the relevant details read out. Replacement bids shall be recorded as such on the record of the bid opening.

Only envelopes that are opened and read out at the bid opening shall be considered further.

- 27.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder; the bid price, per lot where applicable, including any discounts; the presence of a Bid Security, if required; and any other details that the Procuring and Disposing Entity may consider appropriate. Only discounts and alternative offers read out at the bid opening shall be considered for evaluation. No bid shall be rejected at the bid opening except for late bids, in accordance with ITB Sub-Clause 25.1.
- 27.4 The Procuring and Disposing Entity shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal and/or replacement; the bid price, per lot if applicable, including any discounts; and the presence or absence of a Bid Security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to Bidders upon payment of a fee and displayed on the Procuring and Disposing Entity's Notice Board within one working day from the date of the bid opening.

## **E. Evaluation of Bids**

### **28. Confidentiality**

- 28.1 Information relating to the examination, evaluation, comparison, and post-qualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until information detailing the Best Evaluated Bidder is communicated to all Bidders.
- 28.2 Any effort by a Bidder to influence the Procuring and Disposing Entity in the examination, evaluation, comparison, and post-qualification of the bids or contract award decisions may result in the rejection of its bid.
- 28.3 Notwithstanding ITB Sub-Clause 28.2, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Procuring and Disposing Entity on any matter related to the bidding process, it should do so in writing.

### **29. Clarification of Bids**

- 29.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Procuring and Disposing Entity may, at its discretion, ask any Bidder for a clarification of its bid. Any clarification submitted by a Bidder that is not in response to a request by the Procuring and Disposing Entity shall not be considered. The Procuring and Disposing Entity's request for clarification and the response shall be in writing. No change in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Procuring and Disposing Entity in the evaluation of the bids, in accordance with ITB Clause 31.4.

### **30. Compliance and Responsiveness of Bids**

- 30.1 The Procuring and Disposing Entity's determination of a bid's compliance and responsiveness is to be based on the contents of the bid itself.

- 30.2 A substantially compliant and responsive bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) affects in any substantial way the scope, quality, or performance of the Supplies or Services specified in the Contract; or
  - (b) limits in any substantial way, inconsistent with the Bidding Document, the Procuring and Disposing Entity's rights or the Bidder's obligations under the Contract; or
  - (c) if rectified would unfairly affect the competitive position of other Bidders presenting substantially compliant and responsive bids.
- 30.3 If a bid is not substantially compliant and responsive to the Bidding Document, it shall be rejected by the Procuring and Disposing Entity and may not subsequently be made compliant and responsive by the Bidder by correction of the material deviation, reservation, or omission.

### **31. Nonconformities, Errors, and Omissions**

- 31.1 Provided that a bid is substantially compliant and responsive, the Procuring and Disposing Entity may waive any non-conformity or omissions in the bid that does not constitute a material deviation.
- 31.2 Provided that a bid is substantially compliant and responsive, the Procuring and Disposing Entity may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the bid. Failure of the Bidder to comply with the request may result in the rejection of its bid.
- 31.3 Provided that a bid is substantially compliant and responsive, the Procuring and Disposing Entity shall rectify nonmaterial nonconformities or omissions. To this effect, the bid price shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The cost of any missing items will be added to the bid price using the highest price from other Bids submitted.
- 31.4 Provided that the bid is substantially compliant and responsive, the Procuring and Disposing Entity shall correct arithmetic errors on the following basis:
- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Procuring and Disposing Entity there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
  - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
  - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

31.5 If the Bidder that submitted the best evaluated bid does not accept the correction of errors, its bid shall be rejected and its Bid Security may be forfeited.

### **32. Preliminary Examination of Bids – Eligibility and Administrative Compliance**

32.1 The Procuring and Disposing Entity shall examine the legal documentation and other information submitted by Bidders to verify the eligibility of Bidders and Supplies or services in accordance with ITB Clauses 4 and 5.

32.2 If after the examination of eligibility, the Procuring and Disposing Entity determines that the Bidder's Supplies or Services are not eligible, it shall reject the bid.

32.3 The Procuring and Disposing Entity shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 11 have been provided, and to determine the completeness of each document submitted.

32.4 The Procuring and Disposing Entity shall confirm that the following documents and information have been provided in the bid. If any of these documents or information is missing, the offer shall be rejected.

- (a) the Bid Submission Sheet, including:
  - (i) a brief description of the Supplies or Services offered;
  - (ii) the price of the bid; and
  - (iii) the period of validity of the bid;
- (b) the Price Schedule;
- (c) written confirmation of authorisation to commit the Bidder; and
- (d) a Bid Security, if applicable.

### **33. Detailed Commercial and Technical Evaluation**

33.1 The Procuring and Disposing Entity shall examine the bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.

33.2 If, after the examination of the terms and conditions, the Procuring and Disposing Entity determines that the bid is not substantially responsive in accordance with ITB Clause 30, it shall reject the bid.

33.3 The Procuring and Disposing Entity shall evaluate the technical aspects of the bid submitted in accordance with ITB Clause 18, to confirm that all requirements specified in Section 6, Statement of Requirements of the Bidding Document have been met without any material deviation or reservation.

33.4 If, after the technical evaluation, the Procuring and Disposing Entity determines that the bid is not substantially compliant in accordance with ITB Clause 30, it shall reject the bid.

### **34 Conversion to Single Currency**

34.1 For evaluation and comparison purposes, the Procuring and Disposing Entity shall convert all bid prices expressed in amounts in various currencies into a single currency, using the selling exchange rate established by the source and on the date specified in the BDS.

### **35. Margin of Preference**

35.1 Unless otherwise specified in the BDS, a margin of preference shall not apply. Where a Margin of Preference applies, its application and detail shall be specified in Section 3, Evaluation Methodology and Criteria.

### **36. Financial Comparison of Bids**

36.1 The Procuring and Disposing Entity shall financially evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially compliant and responsive.

36.2 To financially evaluate a bid, the Procuring and Disposing Entity shall only use the criteria and methodologies defined in this Clause and in Section 3, Evaluation Methodology and Criteria. No other criteria or methodology shall be permitted.

36.3 The Procuring and Disposing Entity's financial comparison of bids may require the consideration of factors other than costs, in addition to the bid price quoted in accordance with ITB Clause 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Supplies or Services. The factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise specified in Section 3, Evaluation Methodology and Criteria. The factors to be used and the methodology of application shall be indicated of Section 3, Evaluation Methodology and Criteria.

36.4 To financially compare bids, the Procuring and Disposing Entity shall:

- (a) determine the bid price, taking into account the costs listed of Section 3, Evaluation Methodology and Criteria;
- (b) correct any arithmetic errors in accordance with ITB Sub-Clause 31.4;
- (c) apply any unconditional discounts offered in accordance with ITB Sub-Clause 12.1(d);
- (d) make adjustments for any nonmaterial nonconformities and omissions in accordance with ITB Sub-Clause 31.3;
- (e) apply any non-cost factors in accordance with ITB Sub-Clause 36.3;
- (f) convert all bids to a single currency in accordance with ITB Clause 34;
- (g) apply any margin of preference in accordance with ITB Clause 35;
- (h) determine the total evaluated price of each bid.

### **37. Determination of Best Evaluated Bid(s)**

37.1 The Procuring and Disposing Entity shall compare all substantially compliant and responsive bids to determine the best evaluated bid or bids, in accordance with Section 3, Evaluation Methodology and Criteria.

### **38. Post-qualification of the Bidder**

38.1 The Procuring and Disposing Entity shall determine to its satisfaction whether the Bidder that is selected as having submitted the best evaluated bid is qualified to perform the Contract satisfactorily.

- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 19, to clarifications in accordance with ITB Clause 29 and the qualification criteria indicated in Section 3, Evaluation Methodology and Criteria. Factors not included in Section 3 shall not be used in the evaluation of the Bidder's qualification.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Procuring and Disposing Entity shall proceed to the next best evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 38.4 If pre-qualification has been conducted, no post-qualification will be conducted but pre-qualification information shall be verified.

### **39. Procuring and Disposing Entity's Right to Accept or Reject Any or All Bids**

- 39.1 The Procuring and Disposing Entity reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.

## **F. Award of Contract**

### **40. Award Procedure**

- 40.1 The Procuring Entity shall issue a Notice of Best Evaluated Bidder, place such Notice on public display for a prescribed period and copy the Notice to all Bidders prior to proceeding with contract award.
- 40.2 The Procuring and Disposing Entity shall award the Contract to the Bidder whose offer has been determined to be the best evaluated bid, provided that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 40.3 The Contract shall be a Framework Contract and shall not purchase the quantities specified, with the exception of any contract value specified as a minimum. Supplies or Services shall be purchased through call-off orders, in accordance with the Contract.

### **41. Procuring and Disposing Entity's Right to Vary Quantities at Time of Award**

- 41.1 At the time the Contract is awarded, the Procuring and Disposing Entity reserves the right to increase or decrease the estimated quantity or minimum value of Supplies or Services originally specified in Section 6, Statement of Requirements, provided this does not exceed the percentages indicated in the BDS, and without any change in the unit prices or other terms and conditions of the bid and the Bidding Document.

### **42. Notification of Award and Letter of Bid Acceptance**

- 42.1 Prior to the expiration of the period of bid validity, the Procuring and Disposing Entity shall notify the successful Bidder, in writing, that its bid has been accepted by issue of a Letter of Bid Acceptance.
- 42.2 Until a formal contract is prepared and executed, the Letter of Bid Acceptance shall constitute a binding Contract.

### **43. Signing of Contract**

- 43.1 Promptly after notification of contract award by the issue of a Letter of Bid Acceptance, the Procuring and Disposing Entity shall send the successful Bidder the Agreement and the Special Conditions of Contract.
- 43.2 Within twenty-eight (28) days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Procuring and Disposing Entity.

**44. Performance Security**

- 44.1 Within twenty-eight (28) days of the receipt of the Letter of Bid Acceptance from the Procuring and Disposing Entity, the successful Bidder shall furnish any Performance Security required in accordance with the GCC, using for that purpose the Performance Security Form included in Section 9, Contract Forms, or another form acceptable to the Procuring and Disposing Entity.
- 44.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the contract award and forfeiture of the Bid Security. In that event, the Procuring and Disposing Entity may award the Contract to the next best evaluated Bidder who is determined by the Procuring and Disposing Entity to be qualified to perform the Contract satisfactorily.

Part 1: Section 2 Bid Data Sheet

**Section 2. Bid Data Sheet**

Instructions to Bidders Reference	Data relevant to the ITB
<b>A. General</b>	
<b>ITB 1.1</b>	The Procuring and Disposing Entity is: <b>Expanding Social Protection Programme.</b>
<b>ITB 1.1</b>	The subject of procurement is a framework contract for: <b>Procurement of Media and Advertising for a period up to June 2022.</b>
<b>ITB 1.1</b>	The Procurement Reference number of the Bidding Document is : <b>ESPP/FRWK/SRVCS/2020-21/00015</b>
<b>ITB 1.1</b>	The number and identification of lots comprising this Bidding Document is: <b>one</b> The proportion of each Lot that a Bidder may bid for is: <b>All</b> The minimum and maximum number of Lots a Bidder may bid for is: <b>N/A</b>
<b>ITB 5.5</b>	The Bidder <b>is</b> required to include with its Bid, documentation from the Manufacturer of the Supplies, that it has been duly authorised to supply, in Uganda, the Supplies indicated in its bid by submitting the Manufacturers Authorisation Form in Section 4 Bidding Forms.
<b>B. Bidding Document</b>	
<b>ITB 7.1</b>	For clarification purposes only the Procuring and Disposing Entity's address is: <b>Team leader/ Fund Manager, Expanding Social Protection Programme</b> Attention: <b>Senior Programme Officer, Administration, Procurement and Logistics.</b> Street Address: <b>Plot 9, Lourdel Road</b> Floor/Room number: <b>n/a</b> Town/City: <b>Kampala</b> Postal Code/PO Box No: <b>P.O. Box 28240</b> Country: <b>Uganda</b> Telephone: <b>+256 312202050/1,</b> Electronic mail address: <a href="mailto:esp.procurement@socialprotection.go.ug">esp.procurement@socialprotection.go.ug</a> or <a href="mailto:esp.procurement@socialprotection.go.ug">esp.procurement@socialprotection.go.ug</a>
<b>ITB 7.1</b>	The Procuring and Disposing Entity will respond to any request for clarification provided that such request is received no later than five working days prior to the deadline for submission of Bids.
<b>C. Preparation of Bids</b>	

Instructions to Bidders Reference	Data relevant to the ITB
ITB 10.1	The medium of communications shall be in writing.
ITB 10.2	The language for the bid is English.
ITB 11.1(h)	The Bidder shall submit with its bid the following additional documents: (a) <b>The company must be registered in accordance to the laws of Uganda.</b>
ITB 13.1	Alternative Bids <b>shall not</b> be permitted.
ITB 14.5	The Inco terms edition is: <b>2010</b>
ITB 14.6(a)(i)	For Supplies, the Bidder shall quote prices using the following Incoterms: N/A
ITB 14.7	The prices quoted by the Bidder shall be: <b>Uganda shillings</b>
ITB 15.1(a)	For Supplies or Services originating in Uganda the currency of the bid shall be: <b>Uganda shillings</b>
ITB 15.1(b)	For Supplies or Services originating outside of Uganda the currency of the bid shall be: <b>Uganda shillings.</b>
ITB 20.1	The bid validity period shall be <b>120</b> working days.
ITB 21.1	A Bid Security <b>shall not</b> be required.
ITB 21.2 (d)	Other types of acceptable securities are: N/A
ITB 22.1	In addition to the original of the Bid, the number of copies required is: <b>Three copies</b>
ITB 22.2	The written confirmation of authorisation to sign on behalf of the Bidder shall consist of: <b>Power of attorney in case the bidder is not the managing Director</b>
<b>D. Submission and Opening of Bids</b>	
ITB 24.1	For bid submission purposes only, the Procuring and Disposing Entity's  Attention: <b>Senior Programme Officer, Administration, Procurement, Logistics - Expanding Social Protection Programme</b> Street Address: <b>Plot 9, Lourdel Road</b> Town/City: <b>Kampala</b> Country: <b>Uganda</b>

Instructions to Bidders Reference	Data relevant to the ITB
	The deadline for bid submission is: <b>25<sup>th</sup> March, 2021</b> Time (local time): <b>11:30am</b>
<b>ITB 27.1</b>	The bid opening shall take place at: Street Address: Plot 9, Lourdel Road. Town/City: <b>Kampala</b> Postal Address: <b>P.O. Box 28240</b> Country: <b>Uganda</b> Date: <b>25<sup>th</sup> March, 2021</b> Time: <b>12:00 Noon</b>
<b>E. Evaluation of Bids</b>	
<b>ITB 34.1</b>	The currency that shall be used for financial comparison purposes to convert all bid prices expressed in various currencies into a single currency is: <b>Uganda Shillings</b> The source of exchange rate shall be: The date for the exchange rate shall be:
<b>ITB 35.1</b>	A margin of preference <b>shall not</b> apply. If a margin of preference applies, the application methodology and the level of margin shall be as stated in Section 3 Evaluation Methodology and Criteria.
<b>F. Award of Contract</b>	
<b>ITB 41.1</b>	The percentage by which the estimated quantity or minimum value may be increased is: 25%  The percentage by which the estimated quantity or minimum value may be decreased is: 25%

## Section 3. Evaluation Methodology and Criteria

### Part 1: Section 3 Evaluation Methodology and Criteria

Procurement Reference Number: ESPP/FRWK/SRVCS/2020-21/00015

#### A Evaluation Methodology

##### 1 Methodology Used

1.1 The evaluation methodology to be used for the evaluation of bids received shall be Technical Compliance Selection .

##### 2 Summary of Methodology

2.1 The Technical Compliance Selection methodology recommends the lowest priced bid, which is eligible, compliant and substantially responsive to the technical and commercial requirements of the Bidding Document, provided that the Bidder is determined to be qualified to perform the contract satisfactorily.

2.2 The Quality and Cost Based Selection methodology recommends the highest scoring bid, which is eligible and substantially responsive to the technical and commercial requirements of the Bidding Document, provided that the Bidder is determined to be qualified to perform the contract satisfactorily.

2.3 The evaluation shall be conducted in three sequential stages –

- (a) a preliminary examination to determine the eligibility of bidders and the administrative compliance of bids received;
- (b) a detailed evaluation to determine the commercial and technical responsiveness of the eligible and compliant bids; and
- (c) a financial comparison to compare costs of the eligible, compliant, responsive bids received and determine the best evaluated bid.

2.4 Failure of a bid at any stage of the evaluation shall prevent further consideration at the next stage of evaluation. Substantial responsiveness shall be considered a pass.

#### B Preliminary Examination Criteria

##### 3 Eligibility Criteria

3.1 The eligibility requirements shall be determined for:-

- (a) Eligible Bidders in accordance with ITB Clause 4; and
- (b) Eligible Supplies or Services in accordance with ITB Clause 5.

3.2 The documentation required to provide evidence of eligibility shall be:-

- (a) **a copy of the Bidder's Current Trading licence or equivalent;**
- (b) **a copy of the Bidder's Certificate of Registration or equivalent;**
- (c) **a copy of the Bidder's Current income tax clearance certificate or equivalent;**
- (d) **a copy of the Bidders VAT registration or equivalent;**
- (e) **a statement in the Bid Submission Sheet that the bidder meets the eligibility criteria stated in ITB 4.1;**
- (f) **a declaration in the Bid Submission Sheet of nationality of the Bidder;**

- (g) **a completed Price Schedule. This should contain the declaration of the origin of the supplies for Supplies;**
- (h) **a statement in the Bid Submission Sheet that the Bidder has no conflict of interest;**
- (i) **a declaration in the Bid Submission Sheet that the Bidder is not under suspension by the Public Procurement and Disposal of Public Assets Authority;**

#### **4 Administrative Compliance Criteria**

- 4.1 The evaluation of Administrative Compliance shall be conducted in accordance with ITB Sub-Clauses 32.3 and 32.4.

### **C Detailed Evaluation Criteria**

#### **5. Commercial Criteria**

- 5.1 The commercial responsiveness of bids shall be evaluated in accordance with ITB Clause 33. The criteria shall be:
  - (a) **acceptance of the conditions of the proposed contract;**
  - (b) **acceptable response time to call-off orders;**

#### **6 Technical Criteria**

The technical criteria shall consider the provider's response to the terms of reference in part six. A post qualification shall be part of the evaluation criteria.

- a) **Evidence of Past Experience (At least three previous jobs) in Similar media services to government bodies OR reputable organisation**

**The bidder should show documentary evidence of at least three similar past assignment in form of Contracts.**

**A copy of power of attorney registered with relevant authority**

#### **D Financial Comparison Criteria**

- 7. **Costs to be included in Bid Price:** The bid price shall include the price list of all services/facilities offered by the hotel.

- 7.1 The financial comparison shall be conducted in accordance with ITB Clause 36. The costs to be included in the bid price bid are:
- (a) for supplies; the unit and total delivered price based on the delivery terms requested and the estimated quantity specified. The bid with the lowest evaluated price, from among those which are eligible, compliant and substantially responsive shall be the best evaluated bid.
  - (b) for services, fees; reimbursables and miscellaneous costs, for each activity. The bid achieving the highest combined technical and financial score shall be the Best Evaluated Bid.N/A
  - (c) taxes, duties and levies; **All prices should indicate/include taxes.**

## **8 Non-cost Factors to be included in Evaluated Price**

- 8.1 The non-cost factors to be included in the evaluated price are:
- (a) other facilities offered by the hotel free of charge.

## **9 Margin of Preference**

## **10 Determination of Best Evaluated Bid or Bids**

- 10.1 (a) for supplies; the bid with the lowest evaluated price, from among those which are eligible, compliant and substantially responsive shall be the best evaluated bid.
- (b) for services, the bid achieving the highest combined technical and financial score shall be the Best Evaluated Bid .N/A
- 10.2 Notwithstanding paragraph 10.1, if this Bidding Document allows Bidders to quote different prices for single lots and for the award to a single Bidder of multiple lots, the Procuring and Disposing Entity shall conduct a further financial comparison to apply any conditional discounts. The bid or bids offering the lowest priced combination of all the lots shall be the best evaluated bid or bids.

## **E Post-qualification Criteria**

**Part 1: Section 4. Bidding Forms**

**Section 4. Bidding Forms**

**Table of Forms**

<b>Bid Submission Sheet</b>	<b>1</b>
<b>Price Schedule for Services</b>	<b>2</b>

*[This Bid Submission Sheet should be on the letterhead of the Bidder and should be signed by a person with the proper authority to sign documents that are binding on the Bidder]*

## **Bid Submission Sheet**

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

Procurement Reference No: *[insert Procurement Reference number]*

To: *[insert complete name of Procuring and Disposing Entity]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: *[insert the number and issue date of each Addenda]*;
- (b) We offer to conform with the Bidding Document and in accordance with the response times specified in the Statement of Requirements, Bills of Quantities or Terms of Reference the following Supplies or Services under a framework contract arrangement *[insert a brief description of the Supplies or Services. Amend wording and attach relevant details if alternative response times are is proposed]*;
- (c) We understand that any resulting contract will be a framework contract, with estimated quantities, and that you will not be bound to purchase any Supplies or Services with the exception of any guaranteed minimum value;
- (d) The total price of our Bid, excluding any discounts offered in item (d) below, is: *[insert the total bid price in words and figures, indicating the various amounts and the respective currencies]*;
- (e) The discounts offered and the methodologies for their application are:  
Unconditional discounts. If our bid is accepted, the following discounts shall apply. *[Specify in detail each discount offered (eg amount/percentage) and the specific item of the Statement of Requirements to which it applies.]*  
Methodology of application of the unconditional discounts. The discounts shall be applied using the following method: *[Specify precisely the method that shall be used to apply the discounts]*;  
Conditional discounts. If our bids for more than one lot are accepted, the following discounts shall apply. *[Specify precisely each discount offered (eg amount/percentage) and the conditions of the discount.]*  
Methodology of application of the conditional discounts. The discounts shall be applied using the following method: *[Specify in detail the method that shall be used to apply the discounts]*;
- (f) Our bid shall be valid for a period of *[specify the number of calendar days]* calendar days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (g) We, including any subcontractors or providers for any part of the contract resulting from this procurement process, are eligible to participate in public procurement in accordance with ITB Clause 4.1
- (h) If our bid is accepted, we commit to obtain a Performance Security in accordance with the Bidding Document in the amount of *[insert amount and currency in words and figures of the performance security]* for the due performance of the Contract;

- (i) We, including any subcontractors or Providers for any part of the contract, have nationals from the following eligible countries *[insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a Joint Venture consortium or association, and the nationality of each subcontractor]*;
- (j) We undertake to abide by the Code of Ethical Conduct for Bidders and Providers during the procurement process and the execution of any resulting contract;
- (k) We are not participating, as Bidders, in more than one bid in this bidding process, other than alternative bids in accordance with the Bidding Document;
- (l) We do not have any conflict of interest and have not participated in the preparation of the original Statement of Requirements for the Procuring and Disposing Entity;
- (m) We, our affiliates or subsidiaries, including any subcontractors or Providers for any part of the contract, have not been suspended by the Public Procurement and Disposal of Public Assets Authority in Uganda from participating in public procurement;
- (n) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, their full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity. If none has been paid or is to be paid, indicate "none."]* ]

Name of Recipient	Address	Reason	Amount & Currency
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- (l) We understand that this bid , together with your written acceptance thereof included in your Letter of Bid Acceptance, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (m) We understand that you are not bound to accept the lowest bid or any other bid that you may receive.

Signed: *[signature of person whose name and capacity are shown below ]*

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Duly authorised to sign the bid for and on behalf of: *[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

*[This Price Schedule should be signed by a person with the proper authority to sign documents for the Bidder. It should be included by the Bidder in its bid. The Bidder may reproduce this in landscape format but is responsible for its accurate reproduction].*

## **Price Schedule for Services**

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

Procurement Reference No: *[insert Procurement Reference number]*

Name of Bidder: *[Insert the name of the Bidder]*

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>	<i>6</i>
<b>Item No.</b>	<b>Services</b>	<b>Estimated Quantity (No. of units)</b>	<b>Unit price <sup>1</sup></b>	<b>Import Duties, Sales and other taxes per unit <sup>2</sup></b>	<b>Total Price</b>
<i>[insert number of item corresponding to Statement of Requirements]</i>	<i>[insert brief description name of Supplies or Services]</i>	<i>[insert estimated number of units of this item to be purchased]</i>	<i>[insert the unit price of this item, including delivery in accordance with the delivery terms (Incoterms) stated, but excluding all import duties and taxes, paid or payable in Uganda]</i>	<i>[insert all import duties, taxes paid or payable in Uganda on this item]</i>	<i>[insert the total price for this item, which should equate to columns 5x(6+7)]</i>

Signed: *[signature of person whose name and capacity are shown below ]*

Name: *[insert complete name of person signing the bid]*

In the capacity of *[insert legal capacity of person signing the bid]*

Duly authorised to sign the bid for and on behalf of: *[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

<sup>1</sup> In accordance with ITB Clauses 14 and 15

**Part 1: Section 5 Eligible Countries**

## **Section 5. Eligible Countries**

**Procurement Reference Number: ESPP/FRWK/SRVCS/2020-21/00015**

All countries are eligible except countries subject to the following provisions.

A country shall not be eligible if:

- (a) as a matter of law or official regulation, the Government of Uganda prohibits commercial relations with that country, provided that the Government of Uganda is satisfied that such exclusion does not preclude effective competition for the provision of supplies or services required; or
- (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government of Uganda prohibits any import of Supplies or Services from that country or any payments to persons or entities in that country.

**Part 2: Section 6 Statement of Requirements**

**Section 6. Statement of Requirements**

**Contents**

<b>1.List of Services</b>	<b>35</b>
<b>2.Delivery and Completion Schedule</b>	<b>39</b>
<b>3.Terms of Reference and Technical Specifications</b>	<b>40</b>
<b>5.Inspections and Tests</b>	<b>42</b>

## **Terms of Reference for Media and Advertising Services**

### **1.0 Background to ESP II Programme**

The Ministry of Gender, Labour and Social Development (MoGLSD), in partnership with the UK Department for International Development, Irish Aid and Government of Uganda, is implementing the Expanding Social Protection Programme phase II. The goal of ESP is to reduce chronic poverty and improve life chances for poor men, women and children in Uganda. The programme aims to embed a national social protection system, including social assistance for the poorest and most vulnerable, as a core element of Uganda's national planning and budgeting processes.

The programme is designed around two components: a) policy support focusing on strengthening leadership on social protection across government, developing a national social protection strategic and fiscal framework, generating evidence on the impacts of social protection, and building government commitment and investment in social protection; and b) the implementation of a direct income support pilot (Social Assistance Grants for Empowerment – SAGE). The specific objectives of the programmes are summarised in the following four outputs:

Output 1: Increased Government of Uganda capacity to develop social transfer policy and implement social transfer programmes

Output 2: Viable policy and fiscal framework for social protection approved

Output 3: Delivery of effective social transfers, through scalable systems, that generate evidence of feasibility and impact

Output 4: Increased commitment to social transfers

### **2.0 Introduction**

Information sharing and other public relations is one of the key elements in implementation of the Expanding Social Protection Programme. Expanding Social Protection Programme has developed Terms of reference to procure competent firms to provide media and advertising services. The terms of reference contain introduction, rationale, objectives, scope of service and guiding procedures.

Currently has an office in Kampala and regional technical support unit offices located in different regions. The programme is in the process of contracting a service provider for the provision of radio services for the announcement of payment beneficiaries, stakeholder meetings and other crucial messages for the programme aimed at increasing awareness as the need may arise.

Currently the programme is being implemented in 135 districts under the national roll out. The programme intends to have a framework agreement with one radio in each district to ensure programme messages reach the beneficiaries.

### **3.0 Objectives**

The overall objective of procuring media and advertising services is to create mass awareness about the programme implementation amongst stakeholders.

#### **Specific objectives are as follows:**

- 1) To provide credible information about the different programme activities
- 2) To create a mass awareness about the social assistance grants for empowerment.
- 3) To ensure that the programme messages reach the beneficiaries at all levels.
- 4) To minimize the misinformation, negative politicization of SAGE at all levels.

### **4.0 Scope of work**

Expanding Social Protection Programme intends to enter into a framework agreement with competent firms to provide media and advertising services for all components of the programme targeting all parts of the country a period of 2 years. Media and Advertising services will include: Radio, TV, Newspaper and Social media services such as whatsapp, twitter Facebook, Instagram etc.

Radio services will include but not limited to robo calls, spot messages, talk shows jingles, voiced production, DJ mentions.

Television services will include but not limited to tall shows, announcements.

Newspaper will include but not limited to print space, Newspaper coverage, story coverage.

Social media will include but not limited to tweets, free flyers, Facebook messages.

### **5.0 Guiding Procedures for this service include:**

1. In consideration for the said services whenever need arises, Expanding Social Protection Programme shall issue a call-off order to the media house in respect of the services required under the framework contract. The basis of the call off order will be the price schedule provided by the media houses.
2. Media houses are required to adhere to the negotiated time, duration and space.
3. Where the actions of the service provider lead to the loss of time and space, the respective service provider will compensate Expanding Social Protection Programme for the loss.
4. Any placement of order for the service shall be arranged with stakeholders involved in the programme and the media houses.
5. All changes in the commitments made shall be communicated giving reasonable time for adjustments.

### **Obligations of the media houses**

1. All the media houses shall be required to submit rate cards for different services aligned to the framework agreements.
2. Media Houses shall be required to provide discount where necessary.

3. All media and advertising services shall be required to submit advertising order forms which will form the basis for contracting.

## 1. List of Supplies

**Procurement Reference Number: ESPP/FRWK/SRVCS/2020-21/00015**

The quantity shown below is the estimated quantity which will be purchased under the contract. Services will be purchased by call-off orders in accordance with the contract.

The Procuring and Disposing Entity shall purchase Services with a minimum value of:

Item No	Description of Supplies	Quantity	Unit of Measure	Unit Price	Total Price
<b>A</b>	<b>Newspapers/ Magazines</b>				
1.	Full page ( Coloured)	1	Page		
2.	Full page (B/W)	1			
3.	Half page (coloured)	1			
4.	Half Page ( B/W)	1	Page		
5.	Quarter Page (Coloured)	1			
6.	Quarter Page (B/W)	1	Page		
7.	3 quarters (BW)	1	page		
8.	Two-Page	1	Page		
9.	Supplements	1	item		
10.	Collecting data, compiling, editing and designing per story	1	Per story		
<b>B</b>	<b>Television Advertising</b>				
11.	Television Advertisement per minute	1	Per minute		
12.	Television infomercial	1	Per spot		
13.	Television Talk shows per 30 mins	1	Per 30 mins		
14.	Television sponsorship	1	item		
15.	Television Live streaming	1	item		
<b>C</b>	<b>Online Advertising</b>				
16.	Online Advertisement	1	Per minute		
17.	Online Banners	1	Per banner		
18.	Online Campaign Per month	1	item		
19.	Online Live streaming	1	item		

<b>D</b>	<b>Radio Advertising</b>				
20.	Radio Announcements per word	1	Per word		
21.	Production	1	Per production		
22.	Radio sponsorship	1	Item		
19	Spot Messages per second	1	Per second		
20	Radio Talk shows per 30mins	1	Per 30mins		
				<b>Other additional costs</b>	
				<b>Subtotal</b>	
				<b>VAT @</b>	
				<b>Total</b>	

**The attached commodity specific conditions will form an integral part of any resulting contract.**

## 2. Delivery and Completion Schedule

**Procurement Reference Number: ESPP/FRWK/SRVCS/2020-21/00015**

The response time shall commence from the date of each call-off order. The Provider shall meet the response times for any call-off order, subject to the limitations in the contract.

Call-off orders may be issued at any time during a period of: Two years.

Item number	Brief Description of Supplies or Services	Response Time (days/wks/mths)	Delivery Point/ Site
<b>A</b>	<b>Newspapers/ Magazines</b>	Within 2 days	
1.	Full page ( Coloured)	Within 2 days	
2.	Full page (B/W)	Within 2 days	
3.	Half page (coloured)	Within 2 days	
4.	Half Page ( B/W)	Within 2 days	
5.	Quarter Page (Coloured)	Within 2 days	
6.	Quarter Page (B/W)	Within 2 days	
7.	3 quarters (BW)	Within 2 days	
8.	Two-Page	Within 2 days	
9.	Supplements	Within 2 days	
10.	Collecting data, compiling, editing and designing per story		
<b>B</b>	<b>Television Advertising</b>		
11.	Television Advertisement per minute		
12.	Television infomercial		
13.	Television Talk shows per 30 mins		
14.	Television sponsorship		
15.	Television Live streaming		
<b>C</b>	<b>Online Advertising</b>		
16.	Online Advertisement		
17.	Online Banners		
18.	Online Campaign Per month		
19.	Online Live streaming		
<b>D</b>	<b>Radio Advertising</b>		
20.	Radio Announcements per word		
21.	Production		
22.	Radio sponsorship		
23.	Spot Messages per second		
24.	Radio Talk shows per 30mins		

### 3. Terms of Reference and Technical Specifications

**Procurement Reference Number: ESPP/FRWK/SRVCS/2020-21/00015**

*Column b states the minimum terms of reference and technical specifications of the item(s) required by the Procuring and Disposing Entity.*

*The Bidder is to complete column c with the terms of reference and technical specification of the item(s) offered and to state “comply” or “not comply” and give details of the areas of non-compliance.*

<b>Item No</b>	<b>Technical Specification Required</b>	<b>Compliance of Specification Offered</b>	<b>Technical literature on specification offered in column c</b>
<i>a</i>	<i>B</i>	<i>c</i>	<i>d</i>
<b>A</b>	<b>Newspapers/ Magazines</b>		
1.	Full page ( Coloured)		
2.	Full page (B/W)		
3.	Half page (coloured)		
4.	Half Page ( B/W)		
5.	Quarter Page (Coloured)		
6.	Quarter Page (B/W)		
7.	3 quarters (BW)		
8.	Two-Page		
9.	Supplements		
10.	Collecting data, compiling, editing and designing per story		
<b>B</b>	<b>Television Advertising</b>		
11.	Television Advertisement per minute		
12.	Television infomercial		
13.	Television Talk shows per 30 mins		
14.	Television sponsorship		
15.	Television Live streaming		
<b>C</b>	<b>Online Advertising</b>		
	Online Advertisement		
	Online Banners		

<b>Item No</b>	<b>Technical Specification Required</b>	<b>Compliance of Specification Offered</b>	<b>Technical literature on specification offered in column c</b>
<i>a</i>	<i>B</i>	<i>c</i>	<i>d</i>
	Online Campaign Per month		
	Online Live streaming		
	<b>Radio Advertising</b>		
	Radio Announcements per word		
	Production		
	Radio sponsorship		
	Online Advertisement		
	Online Banners		
	Online Campaign Per month		
	Online Live streaming		

The detailed technical evaluation will examine the terms of reference and technical specification of the items offered in column c and determines whether this meets the minimum specifications or terms of reference in column b. Bidders must complete column c or the bid will be rejected.

**For supplies, bidders are required to include technical literature to support the details provided in column c.**

## 5. Inspections and Tests

Procurement Reference Number: ESPP/FRWK/SRVCS/2020-21/00015

<b>List of Inspections and Tests</b>	
Items subject to Inspection and Tests;	All
Type of inspection or tests and the standards to be met;	PHYSICAL INSPECTION
Location of the inspection or tests;	Expanding Social Protection Programme.
Inspection agency;	Expanding Social Protection Programme
Timing of the inspection;	After the required repairs and services
Notifications or documentation required from the provider;	DELIVERY NOTE
Provision of any samples for inspection;	N/A
Cost of the inspection;	N/A
Arrangements and costs for any re-inspection required;	N/A
Any other relevant details.	N/A

**Part 3: Section 7**  
**General Conditions of Contract for Framework Contracts**

# **Section 7. General Conditions of Contract**

## **Table of Clauses**

<b>1. Definitions .....</b>	<b>45</b>
<b>2. Contract Documents .....</b>	<b>45</b>
<b>3. Corrupt Practices .....</b>	<b>46</b>
<b>4. Interpretation .....</b>	<b>46</b>
<b>5. Language .....</b>	<b>47</b>
<b>6. Joint Venture, Consortium or Association .....</b>	<b>47</b>
<b>7. Eligibility .....</b>	<b>47</b>
<b>8. Notices .....</b>	<b>48</b>
<b>9. Governing Law .....</b>	<b>48</b>
<b>10. Settlement of Disputes .....</b>	<b>48</b>
<b>11. Scope of Supply .....</b>	<b>48</b>
<b>12. Delivery and Documents .....</b>	<b>48</b>
<b>13. Provider's Responsibilities.....</b>	<b>48</b>
<b>14. Procuring and Disposing Entity's Responsibilities.....</b>	<b>49</b>
<b>15. Contract Price .....</b>	<b>49</b>
<b>16. Terms of Payment.....</b>	<b>49</b>
<b>17. Taxes and Duties.....</b>	<b>49</b>
<b>18. Performance Security .....</b>	<b>50</b>
<b>19. Copyright.....</b>	<b>50</b>

<b>20.</b>	<b>Confidential Information .....</b>	<b>50</b>
<b>21.</b>	<b>Subcontracting .....</b>	<b>51</b>
<b>22.</b>	<b>Specifications and Standards.....</b>	<b>51</b>
<b>23.</b>	<b>Packing and Documents .....</b>	<b>51</b>
<b>24.</b>	<b>Insurance .....</b>	<b>52</b>
<b>25.</b>	<b>Transportation .....</b>	<b>52</b>
<b>26.</b>	<b>Inspections and Tests .....</b>	<b>52</b>
<b>27.</b>	<b>Liquidated Damages.....</b>	<b>53</b>
<b>28.</b>	<b>Warranty .....</b>	<b>53</b>
<b>29.</b>	<b>Patent Indemnity .....</b>	<b>54</b>
<b>30.</b>	<b>Limitation of Liability .....</b>	<b>54</b>
<b>31.</b>	<b>Change in Laws and Regulations .....</b>	<b>55</b>
<b>32.</b>	<b>Force Majeure.....</b>	<b>55</b>
<b>33.</b>	<b>Change Orders and Contract Amendments .....</b>	<b>55</b>
<b>34.</b>	<b>Extensions of Time .....</b>	<b>56</b>
<b>35.</b>	<b>Termination.....</b>	<b>56</b>
<b>36.</b>	<b>Assignment .....</b>	<b>57</b>

# Section 7. General Conditions of Contract

## Definitions

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) “Completion” means the fulfilment of the Supplies or Services by the Provider in accordance with the terms and conditions set forth in the Contract.
  - (b) “Contract” means the Agreement entered into between the Procuring and Disposing Entity and the Provider, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
  - (c) “Contract Documents” means the documents listed in the Agreement, including any amendments thereto.
  - (d) “Contract Price” means the price payable to the Provider as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
  - (e) “Day” means working day.
  - (f) “Delivery” means the transfer of the Supplies or Services from the Provider to the Procuring and Disposing Entity in accordance with the terms and conditions set forth in the Contract.
  - (g) “Eligible Countries” means the countries and territories eligible as listed in the SCC.
  - (h) “GCC” means the General Conditions of Contract.
  - (i) “Procuring and Disposing Entity” means the entity purchasing the Supplies or Services, as specified in the Agreement.
  - (j) “Provider” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Procuring and Disposing Entity and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Provider.
  - (k) “SCC” means the Special Conditions of Contract.
  - (l) “Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Supplies to be provided or execution of any part of the Services is subcontracted by the Provider.
  - (m) “Supplies” means goods, raw materials, products, equipment or objects of any kind and description in solid, liquid or gaseous form, or in the form of electricity, or intellectual and proprietary rights as well as services incidental to the provision of such supplies where the value of such services does not exceed the value of the supplies.
  - (n) “The Site,” where applicable, means the place named in the SCC.

## Contract Documents

The documents forming the Contract shall be interpreted in the following order of priority:

- (a) Agreement,
- (b) any Letter of Bid Acceptance,

- (c) The Provider’s Bid, as amended by any clarifications,
  - (d) Special Conditions of Contract,
  - (e) General Conditions of Contract,
  - (f) Statement of Requirements,
  - (g) any other document listed in the SCC as forming part of the Contract.
- 2.2 Subject to the order of precedence set forth in Sub-Clause 2.1, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.

### **Corrupt Practices**

- 3.1 It is the Government of Uganda’s policy to require that Procuring and Disposing Entities, as well as Bidders and Providers under Government financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, the Government of Uganda:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) “corrupt practice” means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution; and
    - (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring and Disposing Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, non-competitive levels and to deprive the Procuring and Disposing Entity of the benefits of free and open competition;
  - (b) will suspend a firm, either indefinitely or for a stated period of time, from being awarded a Government funded contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a Government funded Contract.
- 3.2 The Provider shall permit the Government of Uganda to inspect the Provider’s accounts and records relating to the performance of the Provider and to have them audited by auditors appointed by the Government of Uganda, if so required by the Government.
- 3.3 In pursuit of the policy defined in Sub-Clause 3.1, the Procuring and Disposing Entity may terminate a Contract for Supplies or Services if it at any time determines that corrupt or fraudulent practices were engaged in by representatives of the Procuring and Disposing Entity or of a Provider, during the procurement or the execution of that contract, without the Procuring and Disposing Entity having taken timely and appropriate action satisfactory to the Government of Uganda to remedy the situation.

### **Interpretation**

- 4.1 If the context so requires it, singular means plural and vice versa.
- 4.2 Inco terms
- (a) (a)Unless otherwise specified in the SCC, the meaning of any trade term and the rights and obligations of parties there under shall be as prescribed by Inco terms.

(b) EXW, CIF, CIP, and other similar terms, shall be governed by the rules prescribed in the edition of Inco terms, published by the International Chamber of Commerce as specified in the SCC.

#### 4.3 Entire Agreement

The Contract constitutes the entire agreement between the Procuring and Disposing Entity and the Provider and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

#### 4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorised representative of each party thereto.

#### 4.5 Nonwaiver

(a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

(b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorised representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### 4.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### **Language**

5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Provider and the Procuring and Disposing Entity, shall be written in English unless specified otherwise in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.

5.2 The Provider shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

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

6.1 Unless otherwise specified in the SCC, if the Provider is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Procuring and Disposing Entity for the fulfilment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Procuring and Disposing Entity.

### **Eligibility**

- 7.1 The Provider and its Subcontractors shall have the nationality of an eligible country. A Provider or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Supplies or Services to be provided under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the Supplies have been grown, mined, cultivated, produced, manufactured, or processed, or through manufacture, processing, or assembly, another commercially recognised article results that differs substantially in its basic characteristics from its imported components.

### **Notices**

- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

### **Governing Law**

- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of Uganda unless otherwise specified in the SCC.

### **Settlement of Disputes**

- 10.1 The Procuring and Disposing Entity and the Provider shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight (28) days from the commencement of such consultation, either party may require that the dispute be referred for resolution under the Arbitration law of Uganda or such other formal mechanism specified in the SCC.

### **Scope of Supply**

- 11.1 The Supplies or Services to be provided shall be as specified in the Statement of Requirements.
- 11.2 The Supplies or Services shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Delivery and Completion of the Supplies or Services as if such items were expressly mentioned in the Contract.

### **Delivery and Documents**

- 12.1 Subject to GCC Sub-Clause 33.1, the Delivery of the Supplies and Completion of the or Services shall be in accordance with the Bills of Quantities, Delivery and Completion Schedule specified in the Statement of Requirements. The details of shipping and other documents to be furnished by the Provider are specified in the SCC.

### **Provider’s Responsibilities**

- 13.1 The Provider shall provide all the Supplies or Services included in the Terms of Reference or Specifications in accordance with GCC Clause 11, and the Bills of Quantities, Delivery and Completion Schedule, as per GCC Clause 12.

## **Procuring and Disposing Entity's Responsibilities**

- 14.1 Whenever the provision of Supplies or Services requires that the Provider obtain permits, approvals, and import and other licenses from local public authorities in Uganda, the Procuring and Disposing Entity shall, if so required by the Provider, make its best effort to assist the Provider in complying with such requirements in a timely and expeditious manner.
- 14.2 The Procuring and Disposing Entity shall pay all costs involved in the performance of its responsibilities, in accordance with GCC Sub-Clause 14.1.

## **Contract Price**

- 15.1 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.
- 15.2 Prices charged by the Provider for the Supplies delivered and Services performed under the Contract shall not vary from the prices quoted by the Provider in its bid, with the exception of any price adjustments authorised in the SCC.

## **Terms of Payment**

- 16.1 The Contract Price shall be paid as specified in the SCC.
- 16.2 The Provider's request for payment shall be made to the Procuring and Disposing Entity in writing, accompanied by invoices describing, as appropriate, the Supplies delivered and Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfilment of all the obligations stipulated in the Contract.
- 16.3 Unless otherwise specified in the SCC, payments shall be made promptly by the Procuring and Disposing Entity, no later than thirty (30) days after submission of an invoice or request for payment by the Provider, and its certification by the Procuring and Disposing Entity. The Procuring and Disposing Entity shall certify or reject such invoices or payment requests within five (5) days from receipt. Where such invoices or payment requests are rejected, the Procuring and Disposing Entity shall advise the Provider of the reasons for rejection.
- 16.4 The currency or currencies in which payments shall be made to the Provider under this Contract shall be specified in the SCC.

## **Taxes and Duties**

- 17.1 Except as otherwise specifically provided in the SCC, the Provider shall bear and pay all taxes, import duties, and levies imposed on the Provider, by all municipal, state or national government authorities, both within and outside Uganda, in connection with the Supplies or Services to be supplied under the Contract.
- 17.2 Notwithstanding GCC Sub-Clause 17.1, and unless otherwise specified in the SCC, the Procuring and Disposing Entity shall bear and promptly pay all taxes, import duties, and levies imposed by law in Uganda on the Supplies or Services when such Supplies or Services are supplied from and delivered or completed outside Uganda.
- 17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Provider in Uganda, the Procuring and Disposing Entity shall use its best efforts to enable the Provider to benefit from any such tax savings to the maximum allowable extent.
- 17.4 For the purpose of the Contract, it is agreed that the Contract Price specified in the Agreement is based on the taxes, duties, levies, and charges prevailing at the date

twenty-eight (28) days prior to the date of bid submission in Uganda (called “tax” in this sub-clause). If any tax rates are increased or decreased, a new tax is introduced, an existing tax is abolished, or any change in interpretation or application of any tax occurs in the course of the performance of the Contract, which was or will be assessed on the Provider, its Subcontractors, or their employees in connection with performance of the Contract, an equitable adjustment to the Contract Price shall be made to fully take into account any such change by addition to or reduction from the Contract Price, as the case may be.

### **Performance Security**

- 18.1 If so stated in the SCC, the Provider shall, within twenty-eight (28) days of the notification of contract award, provide a Performance Security for the due performance of the Contract in the amount and currency specified in the SCC or in a freely convertible currency acceptable to the Procuring and Disposing Entity.
- 18.2 The proceeds of the Performance Security shall be payable to the Procuring and Disposing Entity as compensation for any loss resulting from the Provider’s failure to complete its obligations under the Contract.
- 18.3 The Performance Security shall be in one of the forms stipulated by the Procuring and Disposing Entity in the SCC, or in another form acceptable to the Procuring and Disposing Entity.
- 18.4 The Performance Security shall be discharged by the Procuring and Disposing Entity and returned to the Provider not later than twenty-eight (28) days following the date of completion of the Provider’s performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

### **Copyright**

- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Procuring and Disposing Entity by the Provider herein shall remain vested in the Provider, or, if they are furnished to the Procuring and Disposing Entity directly or through the Provider by any third party, including Providers of materials, the copyright in such materials shall remain vested in such third party.

### **Confidential Information**

- 20.1 The Procuring and Disposing Entity and the Provider shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Provider may furnish to its Subcontractor such documents, data, and other information it receives from the Procuring and Disposing Entity to the extent required for the Subcontractor to perform its work under the Contract, in which event the Provider shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Provider under GCC Clause 20.
- 20.2 The Procuring and Disposing Entity shall not use such documents, data, and other information received from the Provider for any purposes unrelated to the contract. Similarly, the Provider shall not use such documents, data, and other information received from the Procuring and Disposing Entity for any purpose other than the

- design, procurement, or other work and services required for the performance of the Contract.
- 20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:
- (a) the Procuring and Disposing Entity or Provider need to share with any institution participating in the financing of the Contract;
  - (b) now or hereafter enters the public domain through no fault of that party;
  - (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
  - (d) Otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.
- 20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.
- 20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

### **Subcontracting**

- 21.1 The Provider shall notify the Procuring and Disposing Entity in writing of all subcontracts awarded under the Contract if not already specified in the bid. Subcontracting shall in no event relieve the Provider from any of its obligations, duties, responsibilities, or liability under the Contract.
- 21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

### **Specifications and Standards**

- 22.1 Technical Specifications and Drawings
- (a) The Provider shall ensure that the Supplies or Services comply with the Statement of Requirements and other provisions of the Contract.
  - (b) The Provider shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Procuring and Disposing Entity, by giving a notice of such disclaimer to the Procuring and Disposing Entity.
  - (c) The Supplies and Services completed, delivered or performed under this Contract shall conform to the standards mentioned in the Statement of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the country of origin of the Supplies or Services.
- 22.2 Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Statement of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Procuring and Disposing Entity and shall be treated in accordance with GCC Clause 33.

### **Packing and Documents**

- 23.1 The Provider shall provide such packing of the Supplies as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the

Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Supplies' final destination and the absence of heavy handling facilities at all points in transit.

- 23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Procuring and Disposing Entity.

### **Insurance**

- 24.1 Unless otherwise specified in the SCC, the Supplies or Services provided under the Contract shall be fully insured, in a freely convertible currency from an eligible country, against loss, personal injury or death or damage of Plant, and Materials and supplies incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterm or in the manner specified in the SCC.

### **Transportation**

- 25.1 Responsibility for transportation of the Supplies shall be in accordance with the Incoterm specified in the SCC.

### **Inspections and Tests**

- 26.1 The Provider shall at its own expense and at no cost to the Procuring and Disposing Entity carry out all such tests and/or inspections of the Supplies or Services as are specified in the Statement of Requirements.
- 26.2 The inspections and tests may be conducted at the site, on the premises of the Provider or its Subcontractor, at point of delivery, and/or at the Supplies' final destination, or in another place in Uganda as specified in the SCC. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Provider or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring and Disposing Entity.
- 26.3 The Procuring and Disposing Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Procuring and Disposing Entity bears all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.
- 26.4 Whenever the Provider is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring and Disposing Entity. The Provider shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring and Disposing Entity or its designated representative to attend the test and/or inspection.
- 26.5 The Procuring and Disposing Entity may require the Provider to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Supplies or Services comply with the Statement of Requirements' codes and standards under the Contract, provided that the Provider's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Provider's performance of its other

obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

- 26.6 The Provider shall provide the Procuring and Disposing Entity with a report of the results of any such test and/or inspection.
- 26.7 The Procuring and Disposing Entity may reject any Supplies or Services that fail to pass any test and/or inspection or do not conform to the terms of reference and technical specifications. The Provider shall either rectify or replace such rejected Supplies or parts thereof or make alterations necessary to meet the specifications or correct the notified Defect at no cost to the Procuring and Disposing Entity, and shall repeat the test and/or inspection, at no cost to the Procuring and Disposing Entity, upon giving a notice pursuant to GCC Sub-Clause 26.4.
- 26.8 The Provider agrees that neither the execution of a test and/or inspection of the Supplies or Service, nor the attendance by the Procuring and Disposing Entity or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Provider from any warranties or other obligations under the Contract.

### **Liquidated Damages**

- 27.1 If so stated in the SCC and except as provided under GCC Clause 32, if the Provider fails to deliver any or all of the Supplies or perform the Services within the period specified in the Contract, the Procuring and Disposing Entity may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the Procuring and Disposing Entity may terminate the Contract pursuant to GCC Clause 35.

### **Warranty**

- 28.1 The Provider warrants that all the Supplies are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 28.2 Subject to GCC Sub-Clause 22.1, the Provider further warrants that the Supplies shall be free from defects arising from any act or omission of the Provider or arising from design, materials, and workmanship, under normal use in the conditions prevailing in Uganda.
- 28.3 Unless otherwise specified in the SCC, the warranty shall remain valid for twelve (12) months after the Supplies, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for eighteen (18) months after the date of shipment or loading in the country of origin, whichever period concludes earlier. The Defects Liability Period shall be specified in the SCC and extended for as long as the Defects remain to be corrected.
- 28.4 The Procuring and Disposing Entity shall give notice to the Provider stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Procuring and Disposing Entity shall afford all reasonable opportunity for the Provider to inspect such defects.
- 28.5 Upon receipt of such notice, the Provider shall, within two weeks or such other period specified in the SCC, expeditiously repair or replace the Supplies or parts thereof, at no cost to the Procuring and Disposing Entity.

28.6 If having been notified, the Provider fails to remedy the defect within the period specified in Sub-Clause 28.5, the Procuring and Disposing Entity may proceed to take within a reasonable period such remedial action as may be necessary, at the Provider's risk and expense and without prejudice to any other rights which the Procuring and Disposing Entity may have against the Provider under the Contract.

### **Patent Indemnity**

29.1 The Provider shall, subject to the Procuring and Disposing Entity's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Procuring and Disposing Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Procuring and Disposing Entity may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Supplies by the Provider or their use in Uganda or where the Site is located; and
- (b) the sale in any country of the products produced by the Supplies.

Such indemnity shall not cover any Supplies or Services or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the Supplies or Services or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Provider, pursuant to the Contract.

29.2 If any proceedings are brought or any claim is made against the Procuring and Disposing Entity arising out of the matters referred to in GCC Sub-Clause 29.1, the Procuring and Disposing Entity shall promptly give the Provider a notice thereof, and the Provider may at its own expense and in the Procuring and Disposing Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Provider fails to notify the Procuring and Disposing Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring and Disposing Entity shall be free to conduct the same on its own behalf.

29.4 The Procuring and Disposing Entity shall, at the Provider's request, afford all available assistance to the Provider in conducting such proceedings or claim, and shall be reimbursed by the Provider for all reasonable expenses incurred in so doing.

29.5 The Procuring and Disposing Entity shall indemnify and hold harmless the Provider and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Provider may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Procuring and Disposing Entity.

### **Limitation of Liability**

30.1 Except in cases of gross negligence or willful misconduct:

- (a) neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Provider to pay liquidated damages to the Procuring and Disposing Entity; and
- (b) the aggregate liability of the Provider to the Procuring and Disposing Entity, whether under the Contract, in tort, or otherwise, shall not exceed the total contract value or such other amount specified in the SCC, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Provider to indemnify the Procuring and Disposing Entity with respect to patent infringement.

### **Change in Laws and Regulations**

31.1 Unless otherwise specified in the Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Uganda or where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Provider has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

### **Force Majeure**

- 32.1 The Provider shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Provider that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Provider. Such events may include, but not be limited to, acts of the Government of Uganda in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 32.3 If a Force Majeure situation arises, the Provider shall promptly notify the Procuring and Disposing Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring and Disposing Entity in writing, the Provider shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

### **Change Orders and Contract Amendments**

- 33.1 The Procuring and Disposing Entity may at any time order the Provider through notice in accordance with GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Supplies to be furnished under the Contract are to be specifically manufactured for the Procuring and Disposing Entity;
  - (b) the method of shipment or packing;

- (c) the place of delivery; and
  - (d) the Related Services to be provided by the Provider.
- 33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Provider's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Provider for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Provider's receipt of the Procuring and Disposing Entity's change order.
- 33.3 Prices to be charged by the Provider for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Provider for similar services.

### **Extensions of Time**

- 34.1 If at any time during performance of the Contract, the Provider or its subcontractors should encounter conditions impeding timely delivery of the Supplies or Services pursuant to GCC Clause 12, the Provider shall promptly notify the Procuring and Disposing Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Provider's notice, the Procuring and Disposing Entity shall evaluate the situation and may at its discretion extend the Provider's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Provider in the performance of its Delivery and Completion obligations shall render the Provider liable to the imposition of liquidated damages pursuant to GCC Clause 27, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

### **Termination**

- 35.1 Termination for Default
- (a) The Procuring and Disposing Entity, without prejudice to any other remedy for breach of Contract, by notice of default sent to the Provider, may terminate the Contract in whole or in part if:
    - (i) the Provider fails to deliver, complete or perform any or all of the Supplies, and Services within the period specified in the Contract, or within any extension thereof granted by the Procuring and Disposing Entity pursuant to GCC Clause 34;
    - (ii) the Provider fails to perform any other obligation under the Contract; or
    - (iii) the Provider, in the judgment of the Procuring and Disposing Entity has engaged in corrupt or fraudulent practices, as defined in GCC 3, in competing for or in executing the Contract.
  - (b) In the event the Procuring and Disposing Entity terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Procuring and Disposing Entity may procure, upon such terms and in such manner as it deems appropriate Supplies or Services similar to those undelivered or not performed, and the Provider shall be liable to the Procuring and Disposing Entity for any additional costs for such similar Supplies or Services. However, the Provider shall continue performance of the Contract to the extent not terminated.

### 35.2 Termination for Insolvency

- (a) The Procuring and Disposing Entity may at any time terminate the Contract by giving notice to the Provider if the Provider becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Provider, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Procuring and Disposing Entity.

### 35.3 Termination for Convenience

- (a) The Procuring and Disposing Entity, by notice sent to the Provider, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring and Disposing Entity's convenience, the extent to which performance of the Provider under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Supplies that are complete and ready for shipment within twenty-eight (28) days after the Provider's receipt of notice of termination shall be accepted by the Procuring and Disposing Entity at the Contract terms and prices. For the remaining Supplies, the Procuring and Disposing Entity may elect:
  - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) to cancel the remainder and pay to the Provider an agreed amount for partially completed Supplies and Services and for materials and parts previously procured by the Provider.

### **Assignment**

- 36.1 Neither the Procuring and Disposing Entity nor the Provider shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

## Section 8. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

GCC clause reference	Special Conditions
	The Procurement Reference Number is: <b>ESPP/FRWK/SRVCS/2020-21/00015</b>
GCC 1.1(i)	The Procuring and Disposing Entity is: <b>Expanding Social Protection Programme.</b>
GCC 1.1 (g)	The Eligible Countries are those listed in Section 5 of the Bidding Document.
GCC 1.1 (o)	The Site(s) is/are: ESPP stores
GCC 1.1	<p>In addition to the definitions in GCC 1.1, the following words and expressions shall have the meanings hereby assigned to them:</p> <ul style="list-style-type: none"> <li>(p) “Framework Contract” means a contract arrangement for an estimated quantity or minimum value of Supplies or Services at fixed rates, where actual quantities are purchased by means of call-off orders and payment is made for the actual quantities delivered.</li> <li>(q) “Call-Off Order” means an order issued by the Procuring and Disposing Entity for the purchase of specified quantities of the Supplies or Services under a framework contract.</li> <li>(r) “Response Time” means the period for delivery of the Supplies or Services, calculated from the date of a call-off order.</li> </ul>
GCC 2.1(g)	The other documents forming part of the Contract are the call-off orders issued under the Contract.
GCC 4.2 (b)	The version of Incoterms shall be: 2010
GCC 5.1	The language shall be: English.
GCC 6.1	The individuals or firms in a joint venture, consortium or association be jointly and severally liable.
GCC 8.1	<p>For <b>notices</b>, and the issue of call-off orders, the Procuring and Disposing Entity’s address shall be:</p> <p>Attention: <b>Team leader/Fund manager</b>            Street Address: <b>Plot 9, Lourdel Road</b>            Postal Code/, <b>P.O Box 28240 Kampala.</b>            Town/City: <b>Kampala</b>            Country: <b>Uganda</b>            Telephone: <b>256-0414-534201/ +256-312-202050/1</b></p>

GCC clause reference	Special Conditions
	Facsimile number: Electronic mail address: <a href="mailto:Alex.Tumuhairwe@socialprotection.go.ug">Alex.Tumuhairwe@socialprotection.go.ug</a> For <b>notices</b> , including call-off orders, the Provider's address shall be: Attention: The person signing/authorised to sign the proposal on behalf of the company. Street Address: Floor/Room number: Town/City: Postal Code/PO Box: Country: Telephone: Facsimile number: Email address:
<b>GCC 9.1</b>	The Governing law shall be the law of Uganda.
<b>GCC 10.2</b>	The formal mechanism for the resolution of disputes shall be: <u>Arbitration</u>
<b>GCC 11.1</b>	Notwithstanding the provisions of GCC 11.1, the quantities specified in the Statement of Requirements are estimated and are not purchased by this contract. The quantity of Supplies or Services to be provided shall be as specified in call-off orders.
<b>GCC 12.1</b>	The Delivery of the Supplies and Services shall be in accordance with each call-off order. Delivery and Completion shall be within the response times specified in the Bills of Quantities and Delivery and Completion Schedule specified in the Statement of Requirements, calculated from the date of each call-off order.  The shipping and other documents to be furnished by the Provider for each call-off order are:
<b>GCC 15.1</b>	Notwithstanding the provisions of GCC 15.1 and GCC 1.1(d), the Contract Price specified in the Agreement shall be the estimated price payable to the Provider and the actual price payable to the Provider shall be calculated on the basis of the unit prices specified in the Price Schedule and the quantities specified in call-off orders, subject to any minimum value specified in the Statement of Requirements.
<b>GCC 15.2</b>	The price adjustment shall be: NA
<b>GCC 16.1</b>	Payment shall be made in full for each call-off order following delivery of the Supplies or Services specified in the call-off order and submission of an invoice and the documents listed in clause 12.1.
<b>GCC 16.3</b>	The payment period shall be: <b>within 30 days after presentation of Certified Invoice and Delivery.</b>

GCC clause reference	Special Conditions
GCC 16.4	The currency(ies) for payments shall be: <b>Uganda shillings</b>
GCC 17.1	The Provider shall be responsible for all taxes, import duties and levies imposed on the Provider except for the following: none
GCC 17.2	The Procuring and Disposing Entity shall be responsible for all taxes, import duties and levies imposed by law in Uganda on the Supplies or Services except for the following:
GCC 18.1	A Performance Security <b>shall not</b> be required. The amount of the Performance Security shall be: N/A The currency shall be: N/A
GCC 18.3	The forms of acceptable Performance Securities are: N/A
GCC 18.4	Discharge of the Performance Security shall take place not later than twenty-eight (28) days following the date of completion of the Provider's performance obligations under the Contract. The Performance Security shall be reduced in value following completion of the Provider's obligations under each call-off order, by an amount proportionate to the value of the contract price represented by the call-off order.
GCC 23.2	The packing, marking and documentation within and outside the packages shall be: N/A
GCC 24.1	The insurance coverage shall be: N/A
GCC 25.1	The INCOTERM shall be: <b>DDP</b>
GCC 26.2	The location for conducting inspections and tests shall be: <b>At suppliers stores.</b>
GCC 27.1	Liquidated Damages <b>shall</b> apply if the Provider fails to deliver any or all of the Supplies and Services specified in any call-off order within the response times specified in the Statement of Requirements. Notwithstanding the provisions of GCC 27.1, the amount of liquidated damages shall be calculated as a percentage of the value of the call-off order and shall apply only to the call-off order under which the Provider has failed to delivery the Supplies or perform the Services. The liquidated damage shall be:0.5 % of the value of the call-off order per week. The maximum amount of liquidated damages shall be: 10% of the value of the call-off order.
GCC 28.3	The period of validity of the Warranty shall be: N/A
GCC 28.5	The period within which the Provider shall repair or replace defective Supplies or Services shall be: <b>Within (two) 2 days</b>
GCC 30.1	The amount of aggregate liability shall be: <b>100%</b>

# Section 9. Contract Forms

## Table of Forms

<b>Agreement .....</b>	<b>62</b>
<b>Call-Off Order .....</b>	<b>64</b>
<b>Advance Payment Security .....</b>	<b>66</b>

# Agreement

## For a Framework Contract

**Procurement Reference No: MGLSD/FRWK/SRVCS/2020-21/00015**

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_ of \_\_\_\_\_ (hereinafter “the Procuring and Disposing Entity”), of the one part, and \_\_\_\_\_ of \_\_\_\_\_ (hereinafter “the Provider”), of the other part:

WHEREAS the Procuring and Disposing Entity invited bids for certain Supplies and Related \_\_\_\_\_ Services, \_\_\_\_\_ viz., \_\_\_\_\_ and has accepted a Bid by the Provider for the provision of those Supplies and Related Services in the sum of \_\_\_\_\_ (hereinafter “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract referred to.
2. In consideration of the payments to be made by the Procuring and Disposing Entity to the Provider as indicated in this Agreement, the Provider hereby covenants with the Procuring and Disposing Entity to provide the Supplies and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
3. The Procuring and Disposing Entity hereby covenants to pay the Provider in consideration of the provision of the Supplies and Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.
4. The quantities of Supplies specified in the Statement of Requirements are estimated quantities only and are not purchased by this contract. If the call-off orders under this contract do not result in total orders of the quantities described as estimates, that fact shall not constitute the basis for an equitable adjustment.
5. The Procuring and Disposing Entity shall order from the Provider all the Supplies specified in the contract that are required to be purchased by the Procuring and Disposing Entity during the period stated below, unless any Supplies are urgently required in an emergency situation and the Provider is unable to deliver such Supplies within the period required by the Procuring and Disposing Entity.
6. The Procuring and Disposing Entity guarantees to order at least the value of Supplies specified as the minimum value in the Statement of Requirements.
7. Any Supplies to be provided under this contract shall be ordered by the issue of call-off orders, which shall be issued by the Procuring and Disposing Entity as Notices in

accordance with GCC Clause 8, using the format attached to this Agreement. The authorised signatory for call-off orders shall be the official named in SCC Clause 8.

8. Call-off orders may be issued at any time during a period of one year from the date of contract indicated above. Any call-off order issued, but not completed, during this period, shall be governed by the Contract in the same way as if it had been completed during that period.
9. Call-off orders are subject to the following limitations and exceptions:
  - (a) where the value of a call-off order is less than 2½% of the contract price, the Provider is not obliged to provide the Supplies, provided that the Provider gives the Procuring and Disposing Entity a notice, within three working days of the date of the call-off order, stating its intention not to provide the Supplies;
  - (b) where the value of a call-off order, or the total value of all call-off orders within a period of one month, is more than 25% of the contract price, the Provider shall not be bound by the response times specified in the Statement of Requirements, provided that the Provider gives the Procuring and Disposing Entity a notice, within three working days of the date of the call-off order, stating its inability to deliver the Supplies within the response time and specifying the delivery period which will apply.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the law specified in the Special Conditions of Contract on the day, month and year indicated above.

Signed by \_\_\_\_\_ (for the Procuring and Disposing Entity)

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

Signed by \_\_\_\_\_ (for the Provider)

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

# Call-Off Order

## Under a Framework Contract

**Procurement Reference No:** \_\_\_\_\_

**Call-Off Order Reference No:** \_\_\_\_\_

**Procuring and Disposing Entity:** \_\_\_\_\_

**Provider:** \_\_\_\_\_

**Date of Call-Off Order:** \_\_\_\_\_

The Procuring and Disposing Entity indicated above issues this call-off order under the framework contract referenced above.

This call-off order is subject to the terms and conditions of the framework contract referenced above. In the event of a conflict, between this call-off order and the contract, the contract shall prevail.

Please proceed with delivery of the Supplies detailed on the attached List of Supplies and Price Schedule, in accordance with the response times specified in the contract.

The total value of this call-off order is \_\_\_\_\_.

Please confirm your receipt of this call-off order and that you are proceeding with delivery of the Supplies, in accordance with the terms and conditions of the contract.

**Authorised by:**

Signature:	
Name:	
Position:	



*[The Advance Payment Security should be on the letterhead of the issuing Financial Institution and should be signed by a person with the proper authority to sign documents that are binding on the Financial Institution]*

## **Advance Payment Security**

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

Procurement Reference No.: *[insert Procurement Reference Number]*

To: *[insert complete name of Procuring and Disposing Entity]*

In accordance with the payment provision included in the Contract, in relation to advance payments, *[insert complete name of Provider]* (hereinafter called “the Provider”) shall deposit with the Procuring and Disposing Entity a security consisting of *[indicate type of security]*, to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of *[insert currency and amount of guarantee in words and figures]*.

We, the undersigned *[insert complete name of Guarantor]*, legally domiciled in *[insert full address of Guarantor]* (hereinafter “the Guarantor”), as instructed by the Provider, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to the Procuring and Disposing Entity on its first demand without whatsoever right of objection on our part and without its first claim to the Provider, in the amount not exceeding *[insert currency and amount of guarantee in words and figures]*.

This security shall remain valid and in full effect from the date of the advance payment received by the Provider under the Contract until *[insert day, month and year]*.

Name: *[insert complete name of person signing the Payment Security]*

In the capacity of *[insert legal capacity of person signing the Payment Security]*

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

Signed: *[signature of person whose name and capacity are shown above]*

Duly authorised to sign the Payment Security for and on behalf of: *[insert complete name of the Financial Institution]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*