



USAID | CAMBODIA

FROM THE AMERICAN PEOPLE

June 16, 2015

Mr. Men Nimmith
Acting Executive Director
Arbitration Council Foundation (ACF)
No. 72, Street 592 (corner of St. 327),
Sangkat Boeung Kak II, Khan Tuol Kork, Phnom Penh

Subject: Grant No. AID-442-G-15-00006, with Arbitration Council Foundation (ACF) for the "Upholding Labor Rights for Women and Men in Cambodia"

Dear Mr. Men:

Pursuant to the authority contained in the Foreign Assistance Act of 1961, as amended, the U.S. Agency for International Development (USAID) hereby awards to Arbitration Council Foundation (ACF) (hereinafter referred to as the "Grantee" or "ACF"), the sum of \$700,000.00 to provide support for a program entitled "Upholding Labor Rights for Women and Men in Cambodia" as described in the Schedule of this award and in Attachment B, entitled "Program Description."

This Grant is effective and obligation is made beginning June 16, 2015 and shall apply to expenditures made by the Grantee in furtherance of program objectives during the period beginning with the effective date and ending June 30, 2018. USAID shall not be liable for reimbursing the Grantee for any costs in excess of the obligated amount.

This Grant is made to ACF, on condition that the funds will be administered in accordance with the terms and conditions as set forth in Attachment A (the Schedule), Attachment B (the Program Description), and Attachment C (the Standard Provisions), all of which have been agreed to by your organization.

Please sign this letter to acknowledge your receipt of the Grant, and return the original to the Agreement Officer.

Sincerely yours,

Brian K. Woody
Grant Officer
USAID/Cambodia

Grant No.: AID-442-G-15-00006, ACF

Attachments:

- A. Schedule
- B. Program Description
- C. Standard Provisions
- D. Branding Strategy and Marking Plan

ACKNOWLEDGED: Arbitration Council Foundation (ACF)

BY:

A handwritten signature in black ink, appearing to be 'M. J. ...', written over a horizontal line.

TITLE:

Acting Executive Director

DATE:

16 June 2015

A. GENERAL

- 1. Amount Obligated this Action: \$700,000.00
- 2. Total Estimated USAID Amount: \$700,000.00
- 3. Total Obligated USAID Amount: \$700,000.00
- 4. Cost-Sharing Amount (Non-Federal): \$1,598,682.00
- 5. Activity Title: Upholding Labor Rights for Women and Men in Cambodia
- 6. USAID Technical Office: USAID/Cambodia, Office of Democracy and Governance (ODG)
- 7. Tax I.D. Number: N/A
- 8. LOC Number: N/A
- 9. DUNS No.: 659700791

B. SPECIFIC

GLAAS Requisition: REQ-442-15-000024

<u>Fund Code</u>	<u>Document No.</u>	<u>Prog. Area/ Element</u>	<u>Sub-object Code</u>	<u>Amount (US\$)</u>
2014/2016-ES-DGP	AID-442-G-15-00006	A07/A032	4100200	\$200,000.00
2014/2016-DV-DGP	AID-442-G-15-00006	A07/A032	4100200	\$250,000.00
2014/2016-DV-DGP	AID-442-G-15-00006	A08/A034	4100200	\$250,000.00
Total				\$700,000.00

C. PAYMENT OFFICE

Office of Financial Management
 USAID/Cambodia
 C/O American Embassy
 #1, Street 96, S/K Wat Phnom, Khan Daun Penh
 Phnom Penh, Cambodia
 Tel: (855) 23-728-300
E-mail: PPPayment@usaid.gov

D. AGREEMENT OFFICER

Agreement Officer
 Office of Acquisition and Assistance (OAA)
 USAID/Cambodia
 C/O American Embassy
 #1, Street 96, S/K Wat Phnom, Khan Daun Penh
 Phnom Penh, Cambodia

E. AGREEMENT OFFICER'S REPRESENTATIVE (AOR)

Office of Democracy and Governance (ODG)
 USAID/Cambodia
 C/O American Embassy
 #1, Street 96, S/K Wat Phnom, Khan Daun Penh
 Phnom Penh, Cambodia
 Tel: (855) 23-728-300

Table of Contents

SCHEDULE	7
A.1 PURPOSE OF GRANT	7
A.2 PERIOD OF GRANT	7
A.3 AMOUNT OF GRANT AND PAYMENT	7
A.4 GRANT BUDGET	7
A.5 REPORTING AND EVALUATION	7
A.6 TITLE TO PROPERTY	10
A.7 AUTHORIZED GEOGRAPHIC CODE	10
A.8 COST SHARING	10
A.9 SPECIAL PROVISIONS	10
A.9.1 SPECIAL AWARD CONDITION	10
A.9.2 SALARY SUPPLEMENTS	10
A.9.3 BRANDING AND MARKING	10
A.9.4 ENVIRONMENTAL REGULATIONS	10
A.9.5 ELECTRONIC PAYMENTS SYSTEM	11
ATTACHMENT B	13
PROGRAM DESCRIPTION	13
ATTACHMENT C	27
STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS	27
M1.ALLOWABLE COSTS (DECEMBER 2014)	27
M2.ACCOUNTING, AUDIT, AND RECORDS (DECEMBER 2012)	27
M3.AMENDMENT OF AWARD AND REVISION OF BUDGET (AUGUST 2013)	29
M4.NOTICES (JUNE 2012)	30
M5.PROCUREMENT POLICIES (JUNE 2012)	30
M6.USAID ELIGIBILITY RULES FOR PROCUREMENT OF COMMODITIES AND SERVICES (JUNE 2012)	32
M7.TITLE TO AND USE OF PROPERTY (DECEMBER 2014)	34
M8.SUBMISSIONS TO THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE AND DATA RIGHTS (JUNE 2012)	36
M9.MARKING AND PUBLIC COMMUNICATIONS UNDER USAID-FUNDED ASSISTANCE (DECEMBER 2014)	37
M10. AWARD TERMINATION AND SUSPENSION (DECEMBER 2014)	39
M11. RECIPIENT AND EMPLOYEE CONDUCT (AUGUST 2013)	40
M12. DEBARMENT AND SUSPENSION (JUNE 2012)	42
M13. DISPUTES AND APPEALS (DECEMBER 2014)	43
M14. PREVENTING TERRORIST FINANCING (AUGUST 2013)	43
M15. TRAFFICKING IN PERSONS (JUNE 2012)	44

M16. VOLUNTARY POPULATION PLANNING ACTIVITIES - MANDATORY REQUIREMENTS (MAY 2006)..... 44

M17. EQUAL PARTICIPATION BY FAITH-BASED ORGANIZATIONS (JUNE 2012) 45

M18. NONDISCRIMINATION (JUNE 2012)..... 47

M19. USAID DISABILITY POLICY - ASSISTANCE (JUNE 2012) 47

M20. LIMITING CONSTRUCTION ACTIVITIES (AUGUST 2013) 47

M21. USAID IMPLEMENTING PARTNER NOTICES (IPN) PORTAL FOR ASSISTANCE (JULY 2014)..... 48

M22. PILOT PROGRAM FOR ENHANCEMENT OF GRANTEE EMPLOYEE WHISTLEBLOWER PROTECTIONS (SEPTEMBER 2014) 50

M23. SUBMISSION OF DATASETS TO THE DEVELOPMENT DATA LIBRARY (OCTOBER 2014) 50

REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS 53

RAA1. ADVANCE PAYMENT AND REFUNDS (DECEMBER 2014) 53

RAA2. RESERVED..... 54

RAA3. RESERVED..... 54

RAA4. RESERVED..... 54

RAA5. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER (DECEMBER 2014)..... 54

RAA6. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (DECEMBER 2014) 56

RAA7. RESERVED..... 60

RAA8. RESERVED..... 60

RAA9. RESERVED..... 60

RAA10. REPORTING HOST GOVERNMENT TAXES (JUNE 2012) 60

RAA11. RESERVED..... 61

RAA12. RESERVED..... 62

RAA13. RESERVED..... 62

RAA14. COST SHARE (JUNE 2012) 62

RAA15. RESERVED..... 63

RAA16. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)..... 64

RAA17. RESERVED..... 64

RAA18. RESERVED..... 64

RAA19. RESERVED..... 64

RAA20. RESERVED..... 64

RAA21. RESERVED 64
RAA22. RESERVED 65
RAA23. RESERVED 65
RAA24. RESERVED 65
RAA25. RESERVED 65
RAA26. LIMITATION ON SUBAWARDS TO NON-LOCAL ENTITIES (July 2014) 65
RAA27. CONTRACT PROVISION FOR DBA INSURANCE UNDER RECIPIENT PROCUREMENTS
(DECEMBER 2014) 65
ATTACHMENT D 68
BRANDING STRATEGY AND MARKING PLAN 68

SCHEDULE

A.1 PURPOSE OF GRANT

The purpose of this Grant is to provide support for the program described in Attachment B to this Grant entitled "Program Description."

A.2 PERIOD OF GRANT

1. The effective date of this Grant is June 16, 2015. The estimated completion date of this Grant is June 30, 2018.
2. Funds obligated hereunder are available for program expenditures for the estimated period June 16, 2015 to June 30, 2018.

A.3 AMOUNT OF GRANT AND PAYMENT

1. The total estimated amount and the total obligated amount of this Grant for the period shown in A.2.1 above is \$700,000.00.
2. Payment shall be made to the Recipient in accordance with the Standard Provision RAA1 "Advance Payment and Refunds (December 2014)."

A.4 GRANT BUDGET

The following is the Agreement Budget, including local cost financing items, if authorized. Revisions to this budget shall be made in accordance with the Mandatory Standard Provision entitled "AMENDMENT OF AWARD AND REVISION OF BUDGET (AUGUST 2013)."

Cost Element	Total Program Amount
Upholding Labor Rights for Women and Men in Cambodia	\$700,000
Recipient's Cost Share	\$1,598,682
Total Estimated Amount	\$2,298,682

NOTE: USAID/Cambodia will not reimburse the Arbitration Council Foundation the arbitration fee when Cambodian government officials serve as the arbitrator.

A.5 REPORTING AND EVALUATION

1. Financial Reporting

- a. The Recipient shall submit one original and two copies of the financial report on a quarterly basis, no later than 30 days after the end of the quarter (U.S. Government fiscal year), to the USAID/Cambodia Agreement

Officer and Agreement Officer's Representative. Financial Reports shall be in keeping with the Standard Provision, RAA1, Advance Payment and Refunds (December 2014).

- b.** Quarterly financial reports should be disaggregated by sub-element level and contain, at a minimum:
- a) Total funds awarded to date by USAID;
 - b) Total funds previously reported as expended by Recipient by main line items;
 - c) Total funds expended in the current quarter by the recipient by main line items;
 - d) Total unliquidated obligations by main line items; and

The Recipient must submit the original and two copies of all final financial reports to the Office of Financial Management at USAID/Cambodia, the Agreement Officer, and the AOR.

2. Program Reporting

The Recipient shall submit one copy each of a performance report to the Agreement Officer's Representative (AOR) at USAID/Cambodia. The Recipient shall prepare and submit to the USAID/Cambodia AOR quarterly reports due 30 days after the end of each quarter (U.S. Government fiscal year). These reports will be used by USAID to fulfill electronic reporting requirements to Washington; therefore, they need to conform to certain requirements. The quarterly reports must summarize progress in relation to the agreed upon targets contained in Attachment B, Program Description. The fourth Quarterly Report shall be combined with the Annual Report.

There are thus only three Quarterly Reports due each year. The Recipient shall submit an annual report, due 45 days after the end of each year (U.S. Government fiscal year), covering activities of the previous USG fiscal year. Please note that there is no annual report for the first year and there will be only one quarterly report for the period from July-September 2015.

The Recipient shall provide a succinct presentation of Program achievements, objectives, and targets in the previous year, with supporting discussion to explain any shortfalls. The report shall contain, at a minimum:

- Progress (activities completed, benchmarks achieved, performance standards completed) since the last report by program area;
- Problems encountered and whether they were solved or are still outstanding;
- Proposed solutions to new or ongoing problems;
- Success stories (if available);

- Documentation of best practices that can be taken to scale; and
- List of upcoming events, with dates if applicable, for the next quarter

USAID AOR may also request the award recipient to submit list of upcoming events with dates on a monthly basis to update USAID on the recipient's planned monthly activities.

3. Final Report

The Recipient shall submit the final performance report within 90 calendar days after the expiration or termination of the award. This report shall contain a summary and discussion of all activities conducted under the Grant Agreement, the results achieved, complete data from the performance monitoring and evaluation plan, lessons learned, the impact of the activity, and shall be no more than 20-25 pages in length, not including annexes. The Recipient should submit the monitoring of and reporting on significant milestone events that would help demonstrate progress towards the description of program success, including the final targets, data sources, collection methods, and baseline information or a timeline for collecting it. This should include narrative descriptions of success at the program end.

The Recipient shall submit the original and one copy to the Agreement Officer (if requested), and the AOR and as required in the Mandatory Standard Provision M8. "SUBMISSIONS TO THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE AND DATA RIGHTS (JUNE 2012)."

The final report shall include an executive summary of the Recipient's accomplishments in achieving results and conclusions about areas in need of future assistance; an overall description of the Recipient's activities and attainment of results, as appropriate, during the life of the Grant Agreement; an assessment of progress made toward accomplishing the Objective, Results and Expected Outcomes; significance of these activities; important research findings; comments and recommendations; and a fiscal report that describes how the Recipient's funds were used. In particular, the report shall include:

- A financial report detailing how funds were expended, by line item;
- A summary of the accomplishments against work plans, giving the final tangible results; and
- A summary of deliverables/benchmarks, addressing lessons learned during implementation and suggesting ways to resolve constraints identified.

The title page of all reports forwarded shall include a descriptive title, the author's name(s), grant number, the project number and title, grantee's name, name of the USAID program office, and the publication or issuance date of the report.

A.6 TITLE TO PROPERTY

Property Title will be vested with the Recipient subject to the requirements in accordance with the Mandatory Standard Provisions M7 "TITLE TO AND USE OF PROPERTY (December 2014)" of this Award set forth in Attachment C.

A.7 AUTHORIZED GEOGRAPHIC CODE

The authorized geographic code for the procurement of goods and services under this award is 937, which is defined as the United States, the recipient country, and developing countries other than advanced developing countries, but excluding any country that is prohibited source.

A.8 COST SHARING

The Grantee agrees to contribute the amount of \$1,598,682.00 as cost share to this Grant.

A.9 SPECIAL PROVISIONS

A.9.1 SPECIAL AWARD CONDITION

The Recipient shall address the organizational deficiencies identified in the "Non-U.S. Organization Pre-Award Survey (NUPAS) Report of ACF" dated May 26, 2015. The revised and corrected organizational and administrative policies (including human resources, and information technology), financial management policies and internal control systems, and procurement & Inventory policies must be submitted to USAID within six (6) months after the award. USAID will conduct a follow-on assessment within one year.

A.9.2 SALARY SUPPLEMENTS

Salary Supplements: Any payments by the Recipient to employees at any level of the Cambodian government shall be subject to the USAID policy on salary supplements (dated April 1988 or as amended). If this issue arises during the period of the agreement, the Recipient shall consult with USAID on any questions regarding the applicability of the policy.

A.9.3 BRANDING AND MARKING

The approved Branding Strategy and Marking Plan dated June 4, 2015 is hereby incorporated into this agreement and is included as Attachment D.

A.9.4 ENVIRONMENTAL REGULATIONS

- a) The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR

216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (<http://www.usaid.gov/policy/ADS/200/>), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. Recipient environmental compliance obligations under the regulations and procedures are specified in the following paragraphs of this grant.

- b) In addition, the recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between Host Country and USAID regulations, the latter shall govern.
- c) No activity funded under this grant will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE), or Environmental Assessment (EA) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.")
- d) The recipient, in collaboration with the USAID Agreement Officer's Representative and Mission Environmental Officer or Bureau Environmental Officer, as appropriate, shall review all ongoing and planned activities under this grant to determine if they are within the scope of the approved Regulation 216 environmental documentation.
- e) If the recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.
- f) Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

A.9.5 ELECTRONIC PAYMENTS SYSTEM

1. Definitions:

- a. "Cash Payment System" means a payment system that generates any transfer of funds through a transaction originated by cash, check, or similar paper instrument. This includes electronic payments to a financial institution or clearing house that subsequently issues cash, check, or similar paper instrument to the designated payee.
- b. "Electronic Payment System" means a payment system that generates any transfer of funds, other than a transaction originated by cash,

check, or similar paper instrument that is initiated through an electronic terminal, telephone, mobile phone, computer, or magnetic tape, for the purpose of ordering, instructing or authorizing a financial institution to debit or credit an account. The term includes debit cards, wire transfers, transfers made at automatic teller machines, and point-of-sale terminals.

2. The recipient agrees to use an electronic payment system for any payments under this award to beneficiaries, subrecipients, or contractors.
3. Exceptions. Recipients are allowed the following exceptions, provided the recipient documents its files with the appropriate justification:
 - a. Cash payments made while establishing electronic payment systems, provided that this exception is not used for more than six months from the effective date of this award.
 - b. Cash payments made to payees where the recipient does not expect to make payments to the same payee on a regular, recurring basis, and payment through an electronic payment system is not reasonably available.
 - c. Cash payments to vendors below \$3000, when payment through an electronic payment system is not reasonably available.
 - d. The Recipient has received a written exception from the Agreement Officer that a specific payment or all cash payments are authorized based on the Recipient's written justification, which provides a basis and cost analysis for the requested exception.
4. More information about how to establish, implement, and manage electronic payment methods is available to recipients at <http://solutionscenter.nethope.org/programs/c2e-toolkit>.

ATTACHMENT B

PROGRAM DESCRIPTION

EXECUTIVE SUMMARY

The Arbitration Council Foundation (ACF) is pleased to submit this application in support of a program to uphold labor rights for women and men in Cambodia through a well-functioning, transparent and credible labor dispute arbitration system. ACF seeks funding support for a 36-month period through USAID's *Civil Society APS*, in the amount of US\$700,000. This program will benefit workers and employers across Cambodia, with special consideration given to women and youth.

ACF is a local Cambodian organization established to support and facilitates the labor dispute resolution (LDR) work of the Arbitration Council (AC), Cambodia's independent national LDR institution. In a challenging environment where fundamental labor rights are not secure and where many institutions and legal processes are inaccessible to citizens, the AC and ACF have gained the confidence of the community for their integrity and proven ability to help citizens access their rights and resolve their disputes. ACF, through its integrated institutional relationship with the AC, will carry out this proposed program, using USAID support to strengthen, scale up, and improve the labor arbitration system, mechanics, and services in Cambodia. The program objectives are: (1) more effective and accessible LDR services in which stakeholders have confidence; (2) increased awareness and capacity of women and men to access their labor rights and the LDR processes through increased capacity building, partnerships and stakeholder outreach; and (3) strengthened institutional integrity and sustainability of ACF, the AC and their services.

ACF's proposed outcomes and technical approach focus on three interlinked components: labor dispute resolution; partnerships and stakeholder outreach and training; and institutional integrity and sustainability of the AC and ACF's services. By strengthening the system in which women and men are able to advocate for their rights and access trusted sustainable labor arbitration services and processes that can address their claims and disputes efficiently and effectively, ACF can help strengthen civil society in processes that promote democracy, government accountability and an enhanced respect for human rights.

While the AC and ACF were originally established to meet the demand for labor dispute resolution, in performing their services they have developed into a locus for industrial relations and labor rights activity in Cambodia: they are a key focal point for promoting constructive dialogue, strengthening employment relationships,

upholding fundamental rights, and promoting good governance and the rule of law. The higher level impact of this program can therefore be expected to transcend labor issues and include the advancement of legal and judicial reform, promotion of better governance, and more inclusive economic development for women and men in Cambodia.

This program will be managed by the ACF Executive Management Team, led by the Executive Director (ED), along with the four heads of each of ACF's respective departments who report directly to the ED. The ED has authority and overall responsibility for fulfilling contractual obligations. ACF's past performance includes the successful implementation of similar large multi-year projects, including with the World Bank under the recently completed *Demand for Good Governance Project*. As demonstrated by this application, ACF is fully qualified to receive an award from USAID and has the technical skill, experience, financial resources, and record of integrity and ethics to successfully carry out this program.

PROGRAM DESCRIPTION

A well-functioning, transparent and credible labor dispute arbitration system plays an essential role in upholding fundamental labor rights for women and men in Cambodia. The Arbitration Council Foundation (ACF) seeks funding through USAID's *Civil Society APS*, in the amount of US\$700,000 for a 36-month period to strengthen, scale up, and improve the labor arbitration system, mechanics, and services in Cambodia, including through more effective, accessible labor arbitration and related services, increased awareness and capacity of women and men to access their rights and dispute resolution processes, and strengthened institutional integrity and sustainability of the Arbitration Council (AC) and ACF.

Cambodia faces significant challenges at the intersection of human rights and labor relations, including rising incidents of labor disputation, violations of fundamental labor rights, a deficient governance system, and struggles for citizens to access their rights. Labor disputes have led to strikes and demonstrations, and consequent backlash in the form of legal prosecutions (civil and criminal) and violent crackdowns. Levels of disputation in Cambodia have been volatile, but show an overall increasing trend. In 2003, 31 collective labor disputes were reported to the AC; by 2014, this figure had swelled to 361 cases. The causes of conflict are multifaceted and implicate a range of conditions and actors in Cambodia. Strikes often arise from unmet demands by workers for respect of their rights and better working conditions. Labor unions continue to be plagued by disregard for, and violations of, freedom of association and the right to collectively bargain. At the same time, unions, as well as employers' organizations, lack professional industrial relations experience to mitigate disputes; and conflicts have been exacerbated by union politicization and multiplicity, especially in the garment

sector where unions are largely concentrated. According to data extracted from the *Human Rights Reports* of the U.S. Department of State, as of the end of 2010, there were more than 1,944 local unions, 44 federations and 8 confederations; unions represented approximately 5% of the total workforce (estimated at 8.8 million workers) or 60% of garment and footwear workers. According to the Ministry of Labor and Vocational Training (MoLVT), by 2013 2,891 local unions had been registered; and as of August 2014, 94 union federations and 10 union confederations were organized in Cambodia (Solidarity Center, 2014). Union expansion, however, has had little effect on increasing roles for women in union leadership positions. (See, for example, ILO's 2012 *Action-Oriented Research on Gender and the Working and Living Conditions of Garment Factory Workers in Cambodia*, finding that women are disproportionately underrepresented in union leadership positions.)

Cambodia has an established system for processing disputes and claims on labor rights. However, challenges in the governance and industrial relations environment -including the failure of the judiciary and many other state-sanctioned institutions to engender the trust of citizens, an inadequate labor administration system overseen by the MoLVT, and animosity and a lack constructive dialogue between workers and employers, and a lack of professional development among their representative organizations- render much of the system incapable of effectively addressing such disputes and claims. It is within this environment that the AC and ACF operate and have distinguished themselves as a trusted model for good governance, treating women and men with dignity and respect, providing credible, transparent and effective labor dispute arbitration, and upholding fundamental rights in Cambodia.

The Arbitration Council Foundation is local Cambodian organization established to support and facilitate the labor dispute resolution (LDR) work of the AC, Cambodia's independent, national LDR institution. In over a decade of operations, the AC has handled over 2,000 disputes, directly affecting a total of more than 900,000 workers, the large majority of them young women. Labor dispute cases are resolved successfully, often through mediated agreements, and with no backlog. As of the end of 2014, the AC has achieved a case resolution success rate of 73% of all cases since its establishment in 2003. In a challenging governance environment where many institutions and legal processes are not trusted by citizens, the AC and ACF have gained the confidence of the community for their integrity and proven ability to help citizens access their rights and resolve their disputes. Indeed, as illustrated herein, the role and achievements of ACF and the AC have extended beyond the direct work of resolving labour dispute cases, and include strategic actions to enable a more active and coordinated industrial relations community to contribute to the decisions that shape their lives and livelihoods, such as through capacity building, dissemination of legal and LDR information, and facilitation of dialogue and industrial bargaining.

For example, in 2010 the peak garment employers' organization (Garment Manufacturers Association in Cambodia) and several of the largest trade union confederations and federations signed the *Memorandum of Understanding on Improving Industrial Relations in the Garment Industry* (MoU). The MoU is a landmark, sectoral-level agreement and an important step forward for social dialogue and industrial relations in Cambodia. In 2012, parties renewed the MoU for an additional two years. When the MoU expired in October 2014, amidst significant political tension between the parties about then-ongoing debates on raising the industry minimum wage, the parties turned to ACF to lead negotiations on a temporary MoU extension which lasted until January 2, 2015. Currently, at the request of the parties, ACF is in the process of facilitating negotiations on a new, third-generation MoU. Thus far, negotiations have been challenging but are progressing and, with assistance from ACF, parties have not only agreed to basic rules governing good faith negotiations, they have also been actively participating in meetings and improving the content of the MoU. While parties have expressed some optimism about reaching agreement, no concrete deadline is set to execute the next Memorandum. In a still-developing industrial relations environment in Cambodia at times wrought with volatility and strife, the success of their coming to an agreement on the MoU - and then, renewing and extending it - must be recognized. It must also be recognized that the fundamental importance of the MoU extends beyond the mere signed document: parties' commitment to fundamental principles of improved relations and participation in good faith bargaining, monitoring and informed discourse on compliance form a foundation for enduring significant change and transformation within the industry. While, the timing and ultimate execution of the MoU are not assured, it is on these principles and this process that ACF seeks to capitalize for this proposed project. Thus, ACF's proposed project does not rely on a final technical signing of the MoU, nor is the project restricted to the scope of the MoU or even the garment industry alone. Rather, by this proposal, ACF will utilize a range of opportunities and channels to advance the goal of upholding labor rights for women and men in Cambodia. At the same time, regarding the MoU specifically, if it is ultimately signed again, ACF will continue to work with the parties towards strengthening compliance with its terms; if it is not signed, ACF will still continue working with the parties - as it has throughout this period when the MoU remains undetermined - including through existing ongoing activities, partnerships and consultative mechanisms such as ACF's Stakeholders Advisory Group and other forum and conferences available during and beyond the project.

The Arbitration Council Foundation, through its integrated institutional relationship with the Arbitration Council, will carry out this proposed program to uphold labor rights through a well-functioning, transparent and credible labor dispute arbitration system. ACF notes that the AC is comprised of 30 arbitrators who work on a case-by-case basis -ie, arbitrators are not full-time- and the AC does not itself employ any support staff. ACF therefore provides the necessary structure to enable the labor arbitration work of the AC through legal,

technical and other assistance to address labor rights claims in Cambodia. As described below, ACF's proposed technical approach focuses on 3 interlinked components: labor dispute resolution; partnerships and stakeholder outreach and training; and institutional integrity and sustainability. By strengthening the system in which women and men are able to advocate for their rights and access trusted sustainable services and processes that can address their claims and disputes efficiently and effectively, ACF can help provide channels for citizen voice and can help them influence the decisions that affect their lives.

GOAL AND OBJECTIVES

Goal: Uphold labor rights for women and men in Cambodia through a well-functioning, transparent and credible labor dispute arbitration system

Objectives:

1. More effective and accessible labor dispute resolution services in which women and men have confidence
2. Increased awareness and capacity of women and men to access their labor rights and the labor dispute resolution processes through increased capacity building, partnerships and stakeholder outreach
3. Strengthened institutional integrity and sustainability of the AC, ACF and their services

TARGET AUDIENCE AND GEOGRAPHIC FOCUS

Target Audience: The target audience is workers and employers. Special consideration is given to women and youth, who comprise the vast majority of beneficiaries of ACF and the AC's labor dispute resolution services.

Geographic Focus: Labor dispute resolution services and supporting activities will be offered throughout Cambodia to the extent the AC's jurisdiction covers the entire country. The focus of the program will be on areas with a high concentration of workers: Phnom Penh, Kandal, Kampong Chnang, Kampong Speu, Sihanoukville, Siem Reap and Svay Rieng.

PROPOSED OUTCOMES

ACF proposes the following outcomes by the end of the program period:

- Claims and disputes regarding labor rights are processed in a timely manner and resolved through the legal framework of arbitration
- Expanded reach of labor arbitration services to more fully represent Cambodian populace

- Workers, employers and government officials will have increased awareness and capacity regarding labor rights and labor dispute resolution, including increased capability of women to access and realize their rights
- Key labor, human rights, women and youth organizations, universities and other state and non-state actors are more united and coordinated in partnerships and joint efforts, and thus more able to impact rights issues that are important to Cambodians
- Institutional independence, credibility and sustainability of the AC, are assured
- Strengthened financial sustainability through diverse funding sources

TECHNICAL APPROACH

ACF, through its integrated institutional relationship with the AC, will carry out this proposed program. The technical approach of this program focuses on three interlinked components: (1) labor dispute resolution, (2) partnership and stakeholder outreach and training, and (3) institutional integrity and sustainability. Together, the coordinated strategic actions under these components, in which youth engagement and gender equality are integrated, will enable an effective, transparent and credible labor dispute arbitration system which has the confidence of and is accessible to citizens, which in turn will result in the upholding of fundamental labor rights for women and men in Cambodia.

This section describes the range of ACF's strategic actions and provides a holistic picture of the work it carries out. The particular actions proposed to be supported by USAID, some cases on a cost-sharing basis, are delineated here, as well as in the Budget.

ACF will monitor and evaluate this program and carry out regular reporting to management, USAID and others. ACF has baseline data for this program derived from an independent evaluation conducted for the close of the previous World Bank-funded project implemented by ACF; an end line evaluation will be performed for this program's closing. ACF will also continue to arrange for an annual financial audit of accounts and systems.

Component 1: Labor Dispute Resolution

Resolve labor disputes: Resolving labor disputes effectively, efficiently and based on law and equity is a core strategic action of this program. ACF and the AC work directly with workers and employers to address their claims of labor rights violations and resolve their workplace disputes. Stakeholder participation is integral to successful dispute settlement. During the labor arbitration process, parties choose arbitrators from 3 "arbitrator lists" (nominated by unions, employers associations and MoLVT) to hear their case. Arbitrators, irrespective of the list from which

they are chosen, act with impartiality and independence throughout the process. Parties are encouraged to seek common ground to settle their conflict by mediated agreement; otherwise, the case proceeds to formal arbitration where parties have an opportunity to give voice to their claims and viewpoints and submit evidence in support of their positions. Arbitrators issue a written decision to parties within an official timeframe (15 days, unless extended by parties' mutual consent), complete with articulated reasoning based on principles of law and justice for each decision. All decisions (arbitral awards) are also publicly available. ACF's legal team is involved in all phases of labor arbitration and enables the process through legal research and analysis, tracking jurisprudence and facilitating the preparation and issuance of arbitral awards. The arbitration process demands active stakeholder involvement, responsiveness from arbitrators, and transparency and integrity in decision-making. In effect, every arbitration case is an exercise in citizen engagement in a process that promotes democratic participation, official accountability and respect for rights.

The AC and ACF work with an array of actors and processes to resolve labor disputes, including MoLVT (which forwards disputes for arbitration and provides case administration support) and workers' and employers' organizations (which can represent parties at arbitration hearings). The work of resolving disputes, however, does not end at the conclusion of the hearing or the issuance of awards. ACF engages in a range of activities vital to effective LDR, including implementing a monitoring system, proposed to be augmented under the program, to track case data (disaggregated by sex and age, where possible) and outcomes such as compliance with decisions, as well as other activities as described herein.

Since 2003, the AC has received over 2,000 cases (including a record high of 361 cases in 2014 alone) for labor disputes affecting almost 900,000 workers, the large majority of whom are young women who have migrated from rural areas to work in factories in or near Phnom Penh. USAID funds will be used to manage the increasing caseloads across expanding sectors in Cambodia. The AC grapples with a multiplicity of issues involving labor rights and working conditions, including issues affecting fundamental human rights such as freedom of association, the right to collective bargaining and non-discrimination. With regard to issues affecting the labor rights of women, analysis of case records shows the AC has a strong record of upholding such rights: for example, 100% of cases pertaining to maternity leave have been resolved in favor of women workers and 78% of cases requesting nursing rooms and daycare centers have been resolved in the affirmative.

1. Actions for USAID program: Hearing labor dispute cases; and legal support to arbitration panels.

Build capacity of arbitrators and staff: To expand the impact of resolving claims regarding labor rights and issues in Cambodia, there is a need for strengthening the AC and ACF's capacity to perform

their work. As with all legal professionals, arbitrators and legal staff need continuing knowledge and skills training on developments in law and international best practices. Currently, ACF designs and carries out training on its own or in coordination with trainers; and develops and updates a range of legal research tools, such as legal research databases and legal benchbooks analyzing important prevalent legal issues, including a benchbook specifically regarding the labor rights of women. New programs and tools will be conceptualized and developed in line with evolving needs.

2. USAID supported actions: Continuing professional development for arbitrators.

Expand services: An important aim of this proposed program is to expand access to the conflict resolution service provision of ACF and the AC in scale and scope, including through geographic expansion. Mobile teams of arbitrators and support staff are organized to carry out necessary proceedings in the provinces to visit the site of a dispute or consider evidence or testimony that is difficult to transport to the hearing chambers in Phnom Penh. ACF is also considering expansion of the forms of LDR services accessible to the public. In response to requests from workers and employers who require expert assistance in the settlement of their disputes but seek a private or non-formal process, ACF will research, explore and pilot a new project to offer direct mediation services.

3. USAID supported actions: Mobile hearings; phase-1 research of mediation services.

Component 2: Partnerships and Stakeholder Outreach and Training

Strengthen partnerships: Under the proposed program, ACF will coordinate new and strengthen existing partnerships with key labor, human rights, women and youth organizations, and local universities, the private sector, and state civil society actors. **To be clear, "partnerships" as used here in this ACF application does not refer to arrangements with co-applicants, sub-recipients or any other arrangements with external entities to jointly-manage or implement the actions proposed under this program supported by USAID.** Rather, partnerships here refer to ACF's collaborative efforts with labor actors, human rights organizations and others whose roles are essential to enabling an effective and credible labor arbitration system and upholding labor rights in Cambodia. Success of ACF's work to date can be attributed to a high level of cooperation with key partners and stakeholders, including the tripartite partners -workers, employers and MoLVT- as well as other state, private and civil society organizations. Continued cooperation, however, depends on the concerted efforts of ACF to facilitate constructive dialogue among key partners and stakeholders, with actions that include: convening and participating in forums to engage in constructive dialogue, such as organizing national/regional industrial relations (IR) conferences, and coordinating with ACF's Stakeholder Advisory Group (SAG). ACF and MoLVT have previously

organized National IR Conferences in which key IR stakeholders - trade unions, employers, government, local and international CSOs - across multiple sectors were invited as active participants, speakers and panel members. This conference, the only one of its kind in Cambodia, offers a non-confrontational forum for dialogue on issues relevant to all actors in the IR landscape. The Conference is also an important means for disseminating information and publications LDR, labour rights and the services of ACF and the AC. Through this proposal, ACF seeks support from USAID to organize such National IR Conference, and expand the scope and coverage through the organization of a Regional IR Conference, with participants expected from around the Asia and Southeast Asia region. Both the National and Regional IR Conferences would take place in Cambodia. The SAG is a formal consultation vehicle established in accordance with ACF's Statute, comprised of tripartite partner representatives to represent the interests of social partners and other stakeholders in the governance of ACF. ACF convenes the SAG (in Phnom Penh) to share information and for consultation and coordination of joint or complementary activities, ensuring ACF has access to a diversity of views in the design, implementation and review of its programs and to build overall support for its work. Indeed, ACF consulted with and received the support of SAG members for the submission of this application to USAID. ACF seeks support by this APS award for organizing the National and Regional IR Conferences and SAG. Through this proposal ACF will also strengthen its work in establishing and maintaining relationships with local and international universities to provide youth with internship opportunities at ACF, and collaborating on pursuits toward common goals. ACF will continue to engage partners to explore and coordinate on cooperative efforts to uphold labor rights and comply with workplace obligations, and thus more widely impact rights issues that are important to Cambodians. ACF notes that, due to the sensitive nature of the work of resolving conflicts, judicious engagement and careful coordination with partners is especially important for pursuits which may otherwise implicate the actual or perceived independence and impartiality of the AC and ACF's work.

1. USAID supported actions: SAG; National/Regional IR Conference; partnerships with other dispute resolution bodies.

Disseminate publications and other information: ACF will produce, publish and disseminate arbitration awards and other relevant information to ensure stakeholders have reliable access to information, in order to maintain and enhance the transparency of the labor arbitration system. This commitment to transparency is among the reasons the AC has become a trusted, model institution of justice - not only do parties receive copies of the arbitral decisions issued in their case, all decisions are also posted on the public website within days of being issued; and ACF regularly publishes a multi-volume hardback series of awards and other relevant information. Looking forward, ACF plans to expand its collection and analysis of LDR data, including by examining compliance rates of arbitral decisions, and ensuring the wide dissemination and availability of

such data and analysis, thereby allowing workers, unions, employers and the public to not only monitor compliance but also to strengthen confidence in the transparency and effectiveness of the labor arbitration system.

2. USAID supported actions: Website maintenance and improvement; publication of arbitral decisions; development and production of publications and other tools.

Enhance media communications: Through careful, strategic and enhanced use of media, ACF promotes key messages to a wider audience - including the improved use of social media tools especially targeting youth- than could otherwise be reached by relying solely on direct outreach activities. Strategic media actions build on and enhance existing ACF strategies to further raise awareness and understanding of the national dispute resolution process, labor arbitration and knowledge and skills on how to effectively exercise labor rights. As an example of an ongoing (separately funded) media project, ACF collaborates with the Women's Media Centre to produce a weekly call-in radio program broadcast nationally to raise awareness on the Labor Law and arbitration across a broad spectrum of workers and other listeners in the public.

➤ **USAID supported actions:** N/A. *No USAID support is proposed for this action.*

Build capacity of stakeholders: Lack of understanding and the inability to effectively use the framework for LDR processes (on the part of workers, employers and government) are a constraint on attempts to obtain redress when rights violations occur and conflicts arise. To address this, ACF has developed a body of training curriculum and materials that will form the basis of conducting and extending capacity building training for stakeholders, with targeted programs for women and youth on labor rights and the labor dispute resolution process. To support this, ACF has an existing monitoring and evaluation system in place. Under the proposed program with USAID, this system will also be augmented to assess trainee participation (including disaggregating data by sex) and increase the reach and impact of capacity building activities. Such expansion can include promoting gender equality among trainees and increasing the capability of young women to realize their rights under the labor laws and labor arbitration process. Based on the feedback received from participants and trainers' observations, ACF will adjust or develop new training materials by the legal and training teams. Existing and planned expansion of the activities include: training advocates to prepare and present cases at the AC (to assist trainees in understanding the nuances of arbitral proceedings and effective representation), and trainings on workplace dispute prevention and resolution. In many cases, ACF's own staff will develop and conduct the capacity building activities; in other cases, ACF supervises external trainers.

- **USAID supported actions:** Trainings on case preparation and labor arbitration to workers and employers in Phnom Penh and targeted provinces; lawyer trainees; students at universities.

Component 3: Institutional Integrity and Sustainability

Ensure effective governance: Given the decision-making responsibility of the AC and the public, quasi-judicial nature of the services that the AC and ACF provide, a robust structure for governing these institutions is necessary. Also, because of the broader, external governance challenges in Cambodia, ACF and the AC must maintain their credibility through the coordination of policy, examination of jurisprudential, legal and ethical issues, as well as review of the quality and integrity of their service delivery. Furthermore, because of the unique integrated relationship between ACF and the AC, and as a practical, logistical matter, arbitrators and ACF need to meet, discuss, and make strategic and administrative decisions about operational, planning and policy matters. ACF has established and maintains a number of formal structures and activities for these purposes. These include: internal governance bodies such as ACF's Board of Directors and the AC's Representatives of the Arbitration Council (RAC), regular arbitrator assemblies, working retreats and working groups.

- **USAID supported actions:** Convocations of RAC; Regular Arbitrator Meetings.

Secure sustainability: Sustainability is a key issue for the AC and ACF. The AC itself is not a temporary project, but rather a statutory body that is provided for by law. Under the Labor Law, employers and workers are entitled to arbitration free of charge. Although the AC is a national institution, to date it has not been allocated national budget funding by the government. The fact that AC, ACF and labor arbitration services have been supported almost entirely by international donors means that future financial stability is not assured.

ACF has developed the Arbitration Council Sustainability Action Plan as a medium and long term roadmap for financial sustainability, and is embarking on its implementation. ACF has completed projections and a strategy for long term financing. In the near to medium term it is anticipated that donor financing will be necessary, but it is envisaged that this will involve diverse funding sources, not a single international donor. To diversify funding, a multi-stakeholder financing facility is being established to receive and manage funds from different contributors, including international donors and the AC's tripartite stakeholders. ACF has applied for a national budget allocation for the AC, via MoLVT; prospects for receiving such allocation are positive, but have yet to be received. For the medium to long term, ACF's roadmap conceives of commitments from the tripartite partners. This strategy represents a significant innovation for the sustainability of labor arbitration in Cambodia and requires extensive outreach and dialogue, as

well as careful planning, preparation and navigation. A myriad of legal, financial, administrative and management systems are expected to be required, necessitating extensive review, analysis, advocacy, establishment and enactment. ACF will seek limited term expatriate technical assistance to help facilitate this strategic action.

- **USAID supported actions:** Application and administration of national budget allocation; development/implementation of sustainability strategy.

EXPECTED IMPACT

By "expected impact" ACF refers here to the expected higher-level results or effects that occur in the medium or long term caused by or attributable to this proposed program. For **measurable indicators** of the proposed outcomes, please refer to the *Performance Monitoring Plan* annexed to this application.

The expected higher level impacts of ACF's proposed program are consistent with USAID's *Country Development Cooperation Strategy 2014 - 2018* for Cambodia and may be expected to transcend labor issues. ACF, through its work with the AC to engage citizens under the program, can contribute to expanding the demand for greater democratization, accountable governance and the promotion of human rights. The impact of this program can be expected to include the advancement of legal and judicial reform and promotion of better governance in Cambodia. As observed by the 2009 *Labor/Industrial Productivity Activity Evaluations* produced for review by USAID, the AC itself "...serves as a model of good governance and probity for the entire Cambodian judicial system. It alone has produced a consistent record of efficient decision making based on the evidence presented and applicable provisions of the labor law without regard to personal interest or the potential for unofficial payments which might be offered by a party to a dispute." Furthermore, while reflecting that the AC's ultimate influence remained to be determined, the *Evaluation* concluded, "...there is no question that it has created a unique Cambodian standard that government officials can reference and learn from in the wider judicial reform process in the country." In this regard, expected impacts may well extend beyond Cambodia's borders to the wider global community. As observed by the World Bank in its September 2014 mission report to assess the *Demand for Good Governance Project* in Cambodia: "Within the sector, Cambodia's Arbitration Council is considered to be a center of excellence, providing a model for labor resolution that can be replicated in other countries with weak judicial systems and unpredictable governance."

Broader, more inclusive economic development in Cambodia can also be expected to be impacted. Sustainable, predictable and effective labor dispute arbitration services based on the law and international standards improves the climate for investment and economic growth, ensures safe and productive working conditions for women and men, and allows individuals and businesses to get back to work.

Furthermore, this program can also be expected to contribute to promoting decent work for all Cambodians, and is therefore also consistent with the ILO's *Decent Work* agenda, including obtaining recognition and respect for the rights of workers -in particular marginalized or poor workers- who need representation, participation and laws that work for their interest, and promoting more informed and constructive social dialogue especially among workers" and employers" organizations in order to increase productivity, prevent disputation and build a more cohesive Cambodian society.

While the AC and ACF were originally established to meet the demand for labor dispute resolution, in performing their services they have developed into a locus for industrial relations and labor rights activity in Cambodia: they are a key focal point for promoting constructive dialogue, strengthening employment relationships, upholding fundamental rights, and promoting good governance and the rule of law. ACF and the AC show to everyday Cambodians that conflicts can be resolved under the law in a transparent, fair and impartial process. During arbitration, people can access their rights in a democratic forum, where they can give voice to their claims, have their voices heard and considered seriously by qualified Cambodian professionals, and receive decisions based on the merits of each claim and principles of justice and equity.

IMPLEMENTATION SCHEDULE

Implementation Schedule: July 2015 to June 2018														
Description	Key Person/ Unit resp.	2015			2016			2017			2018			
		Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
Component 1: Labour Dispute Resolution														
Resolve labor disputes														
Hearing labor disputes	AC	[Blue bar]												
Legal support to arb panels	LSD	[Blue bar]												
Build capacity of arbitrator and staff														
Cont'd prof dev. prgms for arb	TCD & LSD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Training & exchange visit, intl conf	TCD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Expand services														
Mobile hearings	AC & LSD	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]
Mediation service	LSD	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]
Phase 1: In-house research		[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]
Procurement: equipment														
Computer desktop	FAD				[Green]	[Green]	[Green]							
Computer laptop	FAD				[Green]	[Green]	[Green]							
Component 2: Partnerships and Stakeholder Outreach and Training														
Strengthen partnerships														
SAG	ED		[Red]	[Red]			[Red]	[Red]			[Red]	[Red]		
Nat'l/Reg'l IR Conf	TCD				[Orange]				[Orange]					[Orange]
Partnership w/ other disp res bodies	ED	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]
Disseminate publications														
Website maint., improvment.	LSD & TCD	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]
Publication of arb decisions	TCD & FAD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Devpt, prod. of publications & tools	TCD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Annual Rpt. and Qtrly Newsletter	LSD & TCD	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]	[Blue]
Build capacity of stakeholders														
Case prep, labor arb: Ws/ER in PNH	TCD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Case prep, labor arb: Ws/ER in targeted provinces	TCD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Labor arb: lawyer trainees	TCD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Labor arb: university students	TCD	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]	[Orange]
Procurement: equipment														
Computer desktop	FAD				[Green]	[Green]	[Green]							
Computer laptop	FAD				[Green]	[Green]	[Green]							
LCD projector	FAD				[Green]	[Green]	[Green]							
LCD projector screen	FAD				[Green]	[Green]	[Green]							
Component 3: Institutional Integrity and Sustainability														
Ensure effective governance														
RAC	RACSec	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]
Regular Arbitrators Meeting	RAC, MT	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]
Secure sustainability														
Natl budget applic./administr.		[Green]	[Green]	[Green]	[Green]	[Green]	[Green]	[Green]	[Green]	[Green]	[Green]	[Green]	[Green]	[Green]
Develoop. implement Sust. Strat.	MT	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]
Project Management and General Operation														
Project management														
Project monitoring and evaluation	ED & MEC	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]	[Red]
Project endline evaluation study	MEC											[Yellow]	[Yellow]	[Yellow]
Financial management/audit														
Financial audit	FAD				[Green]	[Green]				[Green]	[Green]			[Green]

ATTACHMENT C

STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS

MANDATORY STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS

M1. ALLOWABLE COSTS (DECEMBER 2014)

The recipient will be reimbursed for costs incurred in carrying out the purposes of this award in accordance with the terms of this award and the applicable cost principles in effect on the date of this award. The recipient may obtain a copy of the applicable cost principles from the Agreement Officer (AO):

2 CFR 200, Subpart E, Cost Principles

48 CFR 31.2 Federal Acquisition Regulations (FAR) and 48 CFR 731.2 USAID Acquisition Regulations (AIDAR) - Cost Principles for Commercial Organizations

It is the recipient's responsibility to ensure that costs incurred are in accordance with the applicable cost principles, meaning the costs are (1) reasonable: costs which are generally recognized as ordinary and necessary and would be incurred by a prudent person in the conduct of normal business; (2) allocable: incurred specifically for this award; and (3) allowable: conform to any limitations in this award. The recipient must obtain any prior written approvals from the AO that are required by the applicable cost principles. The recipient may obtain the AO's written determination on whether specific costs not clearly addressed in the applicable cost principles are allowable or allocable. The AO reserves the right to make a final determination on the allowability of costs.

USAID will not pay any profit or fee to the recipient or subrecipients of a grant or cooperative agreement. This restriction does not apply to procurements under this award made in accordance with Standard Provision, "Procurement Policies."

The recipient must retain documentation to support charges to this award for a period of three years from the date of submission of the final expenditure report in accordance with the Standard Provision, "Accounting, Audit, and Records."

This provision must be incorporated into all subawards and contracts, which are paid on a cost reimbursement basis.

[END OF PROVISION]

M2. ACCOUNTING, AUDIT, AND RECORDS (DECEMBER 2012)

a. Records and Accounting. The recipient must maintain financial recording documents, statistical records and all other records, to

support performance of, and charges to, this award. Such records must comply with accounting principles generally accepted in the U.S., the cooperating country, or by the International Accounting Standards Board (a subsidiary of the International Financial Reporting Standards Foundation). Accounting records and supporting documentation must, at a minimum, be adequate to show all costs incurred under this award; receipt and use of goods and services acquired under this award; the costs of the program supplied from other sources; and the overall progress of the program. Unless otherwise notified by USAID, the recipient records and subrecipient records that pertain to this award must be retained for a period of three years from the date of submission of the final expenditure report.

b. Audits.

- (1) The recipient must have an annual audit conducted in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the USAID Inspector General, for any recipient fiscal year in which the recipient expends a combined total of \$300,000 or more in all USAID awards, either directly or through another USAID contractor or recipient, excluding fixed price contracts and fixed obligation grants.
 - i. The audit report must be submitted to USAID within 30 days after receipt of the auditor's report, but no later than nine months after the end of the period audited.
 - ii. The USAID Inspector General will review this report to determine whether it complies with the audit requirements of this award. USAID will only pay for the cost of audits conducted in accordance with the terms of this award.
 - iii. In cases of continued inability or unwillingness to have an audit performed in accordance with the terms of this provision, USAID will consider appropriate sanctions which may include suspension of all, or a percentage of, disbursements until the audit is satisfactorily completed.
- (2) The recipient is not required to have an annual audit for any recipient fiscal year in which the recipient expends a combined total of less than \$300,000 in all USAID awards, either directly or through a prime contractor or recipient, excluding fixed price contracts or fixed obligation grants. However, the recipient must make records pertaining to this award for that fiscal year available for review by USAID officials or their designees upon request.
- (3) USAID retains the right to conduct a financial review, require an audit, or otherwise ensure adequate accountability of organizations expending USAID funds, regardless of the audit requirement.

c. Subawards and Contracts.

- (1) If the recipient provides USAID resources to other organizations to carry out the USAID-financed program and activities, the recipient is responsible for monitoring such subrecipients or contractors. The costs for subrecipient audits for organizations that meet the threshold in paragraph b. are allowable. The costs for subrecipient audits for organizations that do not meet the threshold in paragraph b. are allowable only for the following types of compliance audits: activities allowed or unallowed; allowable costs/cost principles; eligibility; cost share; level of effort; earmarking; and reporting.
- (2) This provision must be incorporated in its entirety into all subawards and contracts with non-U.S. organizations that are for more than \$10,000. Subawards of grants and cooperative agreements made to U.S. organizations must state that the U.S. organization is subject to the audit requirements contained in **2 CFR 200, subpart F**.

[END OF PROVISION]

M3. AMENDMENT OF AWARD AND REVISION OF BUDGET (AUGUST 2013)

- a. This award may only be amended in writing, by formal amendment or letter, signed by the Agreement Officer (AO), and in the case of a bilateral amendment, by the AO and an authorized official of the recipient.
- b. In addition to other approvals required in this award, the recipient must receive prior written approval from the AO to:
 - (1) Change the scope or the objectives of the program, and/or revise the total award amount or the period of the award (amendment required);
 - (2) Receive an additional obligation of USAID funds in excess of the amount currently obligated (amendment required);
 - (3) Change key personnel, if specified in the award;
 - (4) Permit the absence of more than three months from, or a 25 percent reduction in time devoted to, the award by the principal project leader approved for the award;
 - (5) Transfer funds from the indirect cost line item to absorb increases in direct costs, or vice versa;
 - (6) Obtain reimbursement for costs that require prior approval in accordance with the Standard Provision, "Allowable Costs";
 - (7) Transfer funds allotted for training allowances (direct payment to trainees) to other cost categories;

- (8) Transfer funds allotted for construction activities (as defined in the Mandatory Provision entitled, "Limiting Construction Activities") to other cost categories, or vice versa;
 - (9) Subaward or contract any work under this award, if such subawards or contracts were not described in this award and funded in the approved budget. This does not apply to the purchase of supplies, material, equipment, or general support services; or
 - (10) If specified in this award, transfer funds among direct cost categories, or programs, functions, and activities listed in the award budget, when the cumulative amount of such transfers exceeds or is expected to exceed 10% of the total award amount, as last approved by the AO.
- c. Failure by the recipient to obtain the approvals required above, or elsewhere in this award, may result in the AO disallowing such costs. USAID is under no obligation to reimburse the recipient for costs incurred in excess of the total amount obligated under this award. If the total obligated amount under this award has been increased, the AO will notify the recipient of the increase and specify the new total obligated amount by written amendment to the award.

[END OF PROVISION]

M4. NOTICES (JUNE 2012)

Any notice given by USAID or the recipient is sufficient only if in writing and delivered in person, mailed or e-mailed as follows:

- (1) To the USAID Agreement Officer, at the address specified in this award; or
- (2) To the recipient, at the recipient's address shown in this award, or to such other address specified in this award.

[END OF PROVISION]

M5. PROCUREMENT POLICIES (JUNE 2012)

The recipient must use its own procurement policies and procedures for the procurement of commodities and services necessary for this award, provided they conform to the requirements listed below and the Standard Provision, "USAID Eligibility Rules for Procurement of Commodities and Services." A procurement is not a subaward, which is an award of financial assistance to carry out the purposes of the program in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. If subawards are authorized under this award, then the recipient must comply with the Standard Provision "Subawards."

- a. Procurement Policies and Procedures. The recipient must maintain and

conduct all of its procurements according to written policies and procedures for the award and administration of contracts, and ensure that the price is fair and reasonable for all procurements. The recipient may designate a reasonable micro-purchase threshold (e.g., \$2,500) under which more simplified acquisition procedures may apply. The recipient's procurement procedures must provide, at a minimum:

- (1) Procurements above the recipient's micro-purchase threshold must be conducted in a manner to provide fair and unbiased competition, including the following:
 - (i) All responsible sources are permitted to compete in an equal manner.
 - (ii) Purchase requests must clearly establish all requirements that the bidder or offeror must fulfill in order to be evaluated by the recipient.
 - (iii) Contracts must be made to the offeror whose offer is responsive to the purchase request and has the most advantageous price, quality, and other factors.
 - (iv) The recipient is encouraged to use U.S. small businesses whenever practicable.
- (2) Where appropriate, the recipient must determine the most economical and practical means by which to accomplish program objectives, including the necessity of the commodities or services, lease or purchase options, and reasonableness of costs.
- (3) The recipient must maintain a system for contract administration to ensure that goods and services are provided in accordance with the terms, conditions, and specifications of the contract, including full and timely delivery and performance.
- (4) Conflicts of Interest. The recipient must avoid conflicts of interest, including bias and unfair competitive advantage. The recipient's standards of conduct must provide for disciplinary actions for violations of such standards by officers, employees, or agents of the recipient.
 - (i) Bias. The recipient must ensure that competitions are not biased in favor of one offeror over another. For instance, the recipient, an employee, officer or agent of the recipient, or any member of an employee's immediate family must not receive an award, or have a financial or other interest in the individual or firm selected for an award. The officers, employees, and agents of the recipient must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subagreements. In addition, a contractor that develops or drafts specifications, requirements, statements of work, invitations for bids, and/or requests for proposals must be excluded from competing for such procurements.
 - (ii) Unfair Competitive Advantage. The recipient must ensure that no

potential contractor has unequal access to information that may provide that contractor an unfair competitive advantage. For instance, a potential contractor who has received procurement sensitive information, such as others' offered prices that are not available to all competitors must be excluded from the competition.

- b. The recipient must retain all procurement records related to this award in accordance with the Standard Provision, "Accounting, Audit and Records," and make such records available to USAID upon request. In addition, for awards above the recipient's micro-purchase threshold, the recipient must also retain the following written documentation:
 - (1) Basis for contractor selection;
 - (2) Justification for lack of competition when competitive bids or offers are not obtained; and
 - (3) Basis for award cost or price.
- c. The type of procurement instruments used (for example, fixed price contracts, cost reimbursable contracts, purchase orders, incentive contracts) must be appropriate for the particular procurement and for promoting the best interest of the program or project. The recipient must not use a "cost-plus-a- percentage-of-cost," "percentage of construction cost," or any other method that provides for a fee payable as a percentage of costs incurred, because such arrangements encourage the contractor to increase costs to increase its fee.
- d. For contracts under this award, the recipient must include all provisions required by this award to be included in contracts, any other provisions necessary to define a sound and complete contract, and the following provisions:
 - (1) Contracts in excess of the recipient's micro-purchase threshold must contain provisions that allow for administrative, contractual, or legal remedies if a contractor violates the contract terms; and
 - (2) In all contracts for construction or facility improvement awarded for more than \$100,000, the recipient must observe generally accepted bonding requirements.

[END OF PROVISION]

M6. USAID ELIGIBILITY RULES FOR PROCUREMENT OF COMMODITIES AND SERVICES (JUNE 2012)

- a. This provision is not applicable to commodities or services that the recipient provides with private funds as part of a cost-sharing requirement, or with Program Income generated under this award.
- b. Ineligible and Restricted Commodities and Services:
 - (1) Ineligible Commodities and Services. The recipient must not, under any

circumstances, procure any of the following under this award:

- (i) Military equipment,
- (ii) Surveillance equipment,
- (iii) Commodities and services for support of police or other law enforcement activities,
- (iv) Abortion equipment and services,
- (v) Luxury goods and gambling equipment, or
- (vi) Weather modification equipment.

(2) Ineligible Suppliers. Any firms or individuals that do not comply with the requirements in Standard Provision "Debarment and Suspension" and Standard Provision "Preventing Terrorist Financing" must not be used to provide any commodities or services funded under this award.

(3) Restricted Commodities. The recipient must obtain prior written approval of the Agreement Officer (AO) or comply with required procedures under an applicable waiver, as provided by the AO when procuring any of the following commodities:

- (i) Agricultural commodities,
- (ii) Motor vehicles,
- (iii) Pharmaceuticals,
- (iv) Pesticides,
- (v) Used equipment,
- (vi) U.S. Government-owned excess property, or
- (vii) Fertilizer.

c. Source and Nationality:

Except as may be specifically approved in advance by the AO, all commodities and services that will be reimbursed by USAID under this award must be from the authorized geographic code specified in this award and must meet the source and nationality requirements set forth in 22 CFR 228. If the geographic code is not specified, the authorized geographic code is 937. When the total value of procurement for commodities and services during the life of this award is valued at \$250,000 or less, the authorized geographic code for procurement of all goods and services to be reimbursed under this award is code 935. For a current list of countries within each geographic code, see [ADS 310, Source and Nationality Requirements for Procurement of Commodities and Services Financed by USAID.](#)

d. Guidance on the eligibility of specific commodities and services may be obtained from the AO. If USAID determines that the recipient has procured any commodities or services under this award contrary to the requirements of this provision, and has received payment for such purposes, the AO may require the recipient to refund the entire amount of the purchase.

e. This provision must be included in all subagreements, including subawards and contracts, which include procurement of commodities or services.

[END OF PROVISION]

M7. TITLE TO AND USE OF PROPERTY (DECEMBER 2014)

- a. Title to all Property financed under this award vests in the recipient upon acquisition unless otherwise specified in this award.
- b. Property means equipment, supplies, real property, and intangible property, each defined individually below, financed under this award or furnished by USAID:
 - (1) Equipment means tangible nonexpendable personal property (including information technology systems) having a useful life of more than one year, and an acquisition cost of \$5,000 or more per unit. However, consistent with the recipient's policy, lower limits may be established.
 - (2) Real Property means land, including land improvements, structures and appurtenances, including permanent fixtures.
 - (3) Intangible Property includes, but is not limited to, intellectual property, such as trademarks, copyrights, patents and patent applications, and debt instruments, such as bonds, mortgages, leases or other agreements between a lender and a borrower.
- c. The recipient agrees to use and maintain all Property for the purpose of this award in accordance with the following procedures:
 - (1) The recipient must use the Property for the program for which it was acquired during the period of this award, and must not provide any third party a legal or financial interest in the property (e.g., through a mortgage, lien, or lease) without approval of USAID.
 - (2) When the Property is no longer needed for the program for which it was acquired during the period of this award, the recipient must use the Property in connection with its other activities, in the following order of priority:
 - (i) Activities funded by USAID, then
 - (ii) Activities funded by other United States Government (USG) agencies, then
 - (iii) As directed by the Agreement Officer (AO).
- d. The recipient must maintain the Property in good condition, have management procedures to protect the Property, and maintain an accurate inventory of all Property. Maintenance procedures must include the following:
 - (1) Accurate description of the Property, including serial number, model number, or other identifying number, acquisition date and cost, location and condition, and data on the disposition of any

Property (date of disposition, sales price, method used to determine current fair market value, etc.), as applicable.

- (2) A physical inventory of Property that must be taken, and the results reconciled with the equipment records, at least once every two years during the period of this award.
 - (3) A control system must be in effect to maintain the Property and ensure adequate safeguards to prevent loss, damage, or theft of the Property. The recipient must maintain appropriate insurance equivalent to insurance the recipient maintains for its own property. Any loss, damage, or theft must be investigated and fully documented, and the recipient must promptly notify the AO. The recipient may be liable where insurance is not sufficient to cover losses or damage.
- e. Upon completion of this award, the recipient must submit to the AO a property disposition report of the following types of Property, along with a proposed disposition of such Property.
- (1) All equipment that has a per unit current fair market value at the end of this award of \$5,000 or more.
 - (2) New/unused supplies with an aggregate current fair market value at the end of this award of \$5,000 or more.
 - (3) Real or intangible property, of any value.
- f. The recipient must dispose of Property at the end of this award in accordance with the recipient's property disposition report, unless the AO directs the recipient in writing within 60 days of the AO's receipt of the recipient's property disposition report to dispose of the Property in a different manner. Disposition may include the following:
- (1) The recipient may retain title with no further obligation to USAID.
 - (2) The recipient may retain title, but must compensate USAID for the USAID share, based on the current fair market value of the Property.
 - (3) The recipient may be directed to transfer title to USAID or a third party, including another implementing partner or the host country government. In such case, the recipient will be compensated for its proportional share of the Property that the recipient financed with its own funds, if any, based on the current fair market value of the Property.
- g. The AO may direct, at any time during this award, that title to the Property vests in the USG or a third party, such as the cooperating country. In such cases, the recipient must maintain custody and control of the Property, until directed otherwise, and must allow reasonable access to the Property to the title holder. While in its custody and control, the recipient must follow the provisions above for protection

and maintenance of the Property, and provide the AO with an annual inventory of such Property and follow any additional instructions on protection and maintenance as may be provided by the AO.

h. This provision must be included in all subawards and contracts.

[END OF PROVISION]

M8. SUBMISSIONS TO THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE AND DATA RIGHTS (JUNE 2012)

a. Submissions to the Development Experience Clearinghouse (DEC).

- 1) The recipient must provide the Agreement Officer's Representative one copy of any Intellectual Work that is published, and a list of any Intellectual Work that is not published.
- 2) In addition, the recipient must submit Intellectual Work, whether published or not, to the DEC, either on-line (preferred) or by mail. The recipient must review the DEC Web site for submission instructions, including document formatting and the types of documents to submit. Submission instructions can be found at: <http://dec.usaid.gov>
- 3) For purposes of submissions to the DEC, Intellectual Work includes all works that document the implementation, evaluation, and results of international development assistance activities developed or acquired under this award, which may include program and communications materials, evaluations and assessments, information products, research and technical reports, progress and performance reports required under this award (excluding administrative financial information), and other reports, articles and papers prepared by the recipient under the award, whether published or not. The term does not include the recipient's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information.
- 4) Each document submitted should contain essential bibliographic information, such as 1) descriptive title; 2) author(s) name; 3) award number; 4) sponsoring USAID office; 5) development objective; and 6) date of publication.
- 5) The recipient must not submit to the DEC any financially sensitive information or personally identifiable information, such as social security numbers, home addresses and dates of birth. Such information must be removed prior to submission. The recipient must not submit classified documents to the DEC.

b. Rights in Data

- 1) Data means recorded information, regardless of the form or the media on which it may be recorded, including technical data and computer software,

and includes Intellectual Work, defined in a. above.

- 2) Unless otherwise provided in this provision, the recipient may retain the rights, title and interest to Data that is first acquired or produced under this award. USAID reserves a royalty-free, worldwide, nonexclusive, and irrevocable right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.
- c. Copyright. The recipient may copyright any books, publications or other copyrightable materials first acquired or produced under this award. USAID reserves a royalty-free, worldwide, nonexclusive, and irrevocable right to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so.
- d. The recipient will provide the U.S. Government, on request or as otherwise provided in this award, a copy of any Data or copyrighted material to which the U.S. Government has rights under paragraphs b. and c. of this provision. The U.S. Government makes no representations or warranties as to title, right to use or license, or other legal rights or obligations regarding any Data or copyrighted materials.

[END OF PROVISION]

**M9. MARKING AND PUBLIC COMMUNICATIONS UNDER USAID-FUNDED ASSISTANCE
(DECEMBER 2014)**

- a. The USAID Identity is the official marking for USAID, comprised of the USAID logo and brandmark with the tagline "from the American people", unless amended by USAID to include additional or substitute use of a logo or seal and tagline representing a presidential initiative or other high level interagency initiative. The standard USAID logo must be used unless the award requires use of an additional or substitute logo. The USAID Identity (including any required presidential initiative or related identity) is available on the USAID Web site at www.usaid.gov. Recipients must use the USAID Identity, of a size and prominence equivalent to or greater than any other identity or logo displayed, to mark the following:
 - (1) Programs, projects, activities, public communications, and commodities partially or fully funded by USAID;
 - (2) Program, project, or activity sites funded by USAID, including visible infrastructure projects or other physical sites;
 - (3) Technical assistance, studies, reports, papers, publications, audio-visual productions, public service announcements, Web sites/Internet activities, promotional, informational, media, or communications products funded by USAID;
 - (4) Commodities, equipment, supplies, and other materials funded by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs; and

- (5) Events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities. If the USAID Identity cannot be displayed, the recipient is encouraged to otherwise acknowledge USAID and the support of the American people.
- b. The recipient must implement the requirements of this provision following the approved Marking Plan in the award.
- c. The AO may require a preproduction review of program materials and "public communications" (documents and messages intended for external distribution, including but not limited to correspondence; publications; studies; reports; audio visual productions; applications; forms; press; and promotional materials) used in connection with USAID-funded programs, projects or activities, for compliance with an approved Marking Plan.
- d. The recipient is encouraged to give public notice of the receipt of this award and announce progress and accomplishments. The recipient must provide copies of notices or announcements to the Agreement Officer's Representative (AOR) and to USAID's Office of Legislative and Public Affairs in advance of release, as practicable. Press releases or other public notices must include a statement substantially as follows:
- "The U.S. Agency for International Development administers the U.S. foreign assistance program providing economic and humanitarian assistance in more than 80 countries worldwide."*
- e. Any "public communication" in which the content has not been approved by USAID must contain the following disclaimer:
- "This study/report/audio/visual/other information/media product (specify) is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents are the responsibility of [insert recipient name] and do not necessarily reflect the views of USAID or the United States Government."*
- f. The recipient must provide the USAID AOR, with two copies of all program and communications materials produced under this award.
- g. The recipient may request an exception from USAID marking requirements when USAID marking requirements would:
- (1) Compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials;
 - (2) Diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent;

- (3) Undercut host-country government "ownership" of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications;
- (4) Impair the functionality of an item;
- (5) Incur substantial costs or be impractical;
- (6) Offend local cultural or social norms, or be considered inappropriate; or
- (7) Conflict with international law.

h. The recipient may submit a waiver request of the marking requirements of this provision or the Marking Plan, through the AOR, when USAID-required marking would pose compelling political, safety, or security concerns, or have an adverse impact in the cooperating country.

- (1) Approved waivers "flow down" to subagreements, including subawards and contracts, unless specified otherwise. The waiver may also include the removal of USAID markings already affixed, if circumstances warrant.
- (2) USAID determinations regarding waiver requests are subject to appeal by the recipient, by submitting a written request to reconsider the determination to the cognizant Assistant Administrator.
- (3) The recipient must include the following marking provision in any subagreements entered into under this award:

"As a condition of receipt of this subaward, marking with the USAID Identity of a size and prominence equivalent to or greater than the recipient's, subrecipient's, other donor's, or third party's is required. In the event the recipient chooses not to require marking with its own identity or logo by the subrecipient, USAID may, at its discretion, require marking by the subrecipient with the USAID Identity."

[END OF PROVISION]

M10. AWARD TERMINATION AND SUSPENSION (DECEMBER 2014)

- a. The recipient or Agreement Officer (AO) may terminate this award at any time, in whole or in part, upon written notice to the other party in accordance with the Standard Provision, "Notices." The termination notice must contain the reason(s) for the termination; the effective date; and, in the case of a partial termination, the portion to be terminated. If the termination is based on non-compliance, note that this termination decision may be considered in selection for future awards.
- b. USAID may suspend this award, in whole or in part, at any time, following notice to the recipient, and prohibit the recipient from incurring additional obligations chargeable to this award other than

those costs specified in the notice of suspension during the period of suspension.

- c. In the event the recipient or any of its employees, subrecipients, or contractors are found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR 140, USAID reserves the right to terminate this award, in whole or in part, or take any other appropriate measures including, without limitation, refund or recall of any award amount. Additionally, the recipient must make a good-faith effort to maintain a drug-free workplace and USAID reserves the right to terminate or suspend this award if the recipient materially fails to do so.
- d. Termination and Suspension Procedures. Upon receipt of, and in accordance with, a termination or suspension notice from USAID as specified above, the recipient must take immediate action to minimize all expenditures and, in the event of termination, cancel all obligations financed by this award to the greatest extent possible. Except as provided in this provision or as approved in writing by the AO, the recipient is not entitled to costs incurred after the effective date of termination.
- e. Within 30 calendar days after the effective date of such termination, the recipient must repay to the U.S. Government all unexpended USAID funds as of the effective date of termination, which is not otherwise obligated by a non-cancelable legally binding transaction applicable to this award.
- f. Should the funds paid by USAID to the recipient prior to the effective date of the termination of this award be insufficient to cover legally binding obligations to third parties by the recipient, the recipient may submit to USAID within 90 calendar days after the effective date of a termination a written claim covering such recipient obligations. The AO must determine the amount(s) to be paid by USAID to the recipient under such claim in accordance with this provision and the Standard Provision, "Allowable Costs."
- g. The recipient must, to the greatest extent possible, include a provision in all subawards, including subawards and contracts, affording the recipient the right to terminate the subaward in the event USAID terminates this award, including the refund requirement in paragraph c.

[END OF PROVISION]

M11. RECIPIENT AND EMPLOYEE CONDUCT (AUGUST 2013)

- a. The recipient must have written policies and procedures in place to prevent personal conflicts of interest and to prevent its officers, employees, or agents from using their positions for personal gain or presenting the appearance of a personal conflict of interest. A personal conflict of interest is a situation in which an officer,

employee, or agent of the recipient has a financial interest, personal activity, or relationship that could impair the employee's ability to act impartially when performing under the award. The recipient's written policy must state that an employee, officer, or agent of the recipient, or any member of an employee's immediate family cannot receive a subaward, or have a financial or other interest in the entity selected for a subaward without disclosing the conflict and following the recipient's written policies and procedures for mitigating the conflict. In addition, the written policy must state that the officers, employees, and agents of the recipient must neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or prospective subrecipients

- b. The recipient, its employees, and consultants are prohibited from using U.S. Government information technology systems (such as Phoenix, GLAAS, etc.), must be escorted to use U.S. Government facilities (such as office space or equipment), and may not rely on assistance from any U.S. Government clerical or technical personnel in the performance of this award, except as otherwise provided in this award.
- c. The recipient, its employees, and consultants are private individuals, are not employees of the U.S. Government, and must not represent themselves as such.
- d. The following requirements in this provision apply to the recipient's employees who are not citizens of the cooperating country.
 - (1) If the recipient's employees enjoy exemptions from import limitations, customs duties or taxes on personal property in connection with performance of this award, the sale of such personal property is governed by the rules contained in 22 CFR 136, including a prohibition from profiting from such sale, except as this may conflict with host government regulations.
 - (2) Any outside business dealings of the recipient's employees must be legal and not conflict in any manner with this award. Outside business dealings include, but are not limited to, any investments, loans, employment, or business ownership by the recipient's employees, other than work to be performed under this award.
- e. In the event the conduct of any recipient employee is not in accordance with this provision or this award, the recipient must coordinate with the USAID Mission to resolve the situation with regard to such employee including, if necessary, termination of the employee. In the case of termination of a non-host country national, the recipient must use its best efforts to cause the return of such employee to the United States, or point of origin, as appropriate.
- f. The parties recognize the rights of the U.S. Chief of Mission to direct the removal from a country of any U.S. citizen, or direct the discharge

from this award of any individual when, at the discretion of the U.S. Chief of Mission, it is in the best interest of the United States.

g. This provision in its entirety, including this paragraph g. must be included in all subawards.

[END OF PROVISION]

M12. DEBARMENT AND SUSPENSION (JUNE 2012)

- a. The recipient must not transact or conduct business under this award with any individual or entity that has an active exclusion on the System for Award Management (SAM) (www.sam.gov) unless prior approval is received from the Agreement Officer. The list contains those individuals and entities that the U.S. Government has suspended or debarred based on misconduct or a determination by the U.S. Government that the person or entity cannot be trusted to safeguard U.S. Government funds. Suspended or debarred entities or individuals are excluded from receiving any new work or any additional U.S. Government funding for the duration of the exclusion period. If the recipient has any questions about listings in the system, these must be directed to the Agreement Officer.
- b. The recipient must comply with Subpart C of 2 CFR Section 180, as supplemented by 2 CFR 780. USAID may disallow costs, annul or terminate the transaction, debar or suspend the recipient, or take other remedies as appropriate, if the recipient violates this provision. Although doing so is not automatic, USAID may terminate this award if a recipient or any of its principals meet any of the conditions listed in paragraph c. below. If such a situation arises, USAID will consider the totality of circumstances—including the recipient's response to the situation and any additional information submitted—when USAID determines its response.
- c. The recipient must notify the Agreement Officer immediately upon learning that it or any of its principals, at any time prior to or during the duration of this award:
 - (1) Are presently excluded or disqualified from doing business with any U.S. Government entity;
 - (2) Have been convicted or found liable within the preceding three years for committing any offense indicating a lack of business integrity or business honesty such as fraud, embezzlement, theft, forgery, bribery or lying;
 - (3) Are presently indicted for or otherwise criminally or civilly charged by any governmental entity for any of the offenses enumerated in paragraph c.(2); or
 - (4) Have had one or more U.S.-funded agreements terminated for cause or default within the preceding three years.

d. Principal means-

- (1) An officer, director, owner, partner, principal investigator, or other person within a participant with management or supervisory responsibilities related to a covered transaction; or
- (2) A consultant or other person, whether or not employed by the participant or paid with Federal funds, who-
 - (i) Is in a position to handle Federal funds;
 - (ii) Is in a position to influence or control the use of those funds; or,
 - (iii) Technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

e. The recipient must include this provision in its entirety except for paragraphs c.(2)-(4) in any subagreements, including subawards or contracts, entered into under this award.

[END OF PROVISION]

M13. DISPUTES AND APPEALS (DECEMBER 2014)

- a. Any dispute under this award will be decided by the Agreement Officer (AO). The AO must furnish the recipient a written copy of the decision.
- b. Decisions of the AO are final unless the recipient appeals the decision to USAID's Deputy Assistant Administrator, Bureau for Management. Any appeal made under this provision must be in writing, postmarked within 30 calendar days of receipt of the AO's decision; include all relevant and material evidence; and be addressed to the Deputy Assistant Administrator, Bureau for Management, U.S. Agency for International Development, Management Bureau, 1300 Pennsylvania Ave, NW, Washington, D.C. 20523. A copy of the appeal must be concurrently furnished to the AO. No hearing will be provided.
- c. A decision under this provision by the Deputy Assistant Administrator, Bureau for Management is final.
- d. Notwithstanding any other term of this award, subawardees and contractors have no right to submit claims directly to USAID and USAID assumes no liability for any third party claims against the recipient.

[END OF PROVISION]

M14. PREVENTING TERRORIST FINANCING (AUGUST 2013)

- a. The recipient must not engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism including those individuals or entities that appear on the Specially

Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (online at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>) or the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/ag_sanctions_list.shtml).

- b. This provision must be included in all subagreements, including subawards and contracts issued under this award.

[END OF PROVISION]

M15. TRAFFICKING IN PERSONS (JUNE 2012)

- a. USAID is authorized to terminate this award, without penalty, if the recipient or its employees, or any subrecipient or its employees, engage in any of the following conduct:

- (1) Trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime) during the period of this award;
- (2) Procurement of a commercial sex act during the period of this award;
or
- (3) Use of forced labor in the performance of this award.

- b. For purposes of this provision, "employee" means an individual who is engaged in the performance of this award as a direct employee, consultant, or volunteer of the recipient or any sub recipient.

- c. The recipient must include in all sub agreements, including sub awards and contracts, a provision prohibiting the conduct described in a(1)-(3) by the sub recipient, contractor or any of their employees.

[END OF PROVISION]

M16. VOLUNTARY POPULATION PLANNING ACTIVITIES - MANDATORY REQUIREMENTS (MAY 2006)

a. Requirements for Voluntary Sterilization Programs

- (1) Funds made available under this award must not be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any individual to practice sterilization.

b. Prohibition on Abortion-Related Activities:

- (1) No funds made available under this award will be used to finance, support, or be attributed to the following activities: (i) procurement or distribution of equipment intended to be used for the purpose of inducing abortions as a method of family planning; (ii) special fees or incentives to any person to coerce or motivate them to have abortions; (iii) payments to persons to perform abortions or to solicit persons to undergo abortions; (iv) information, education, training, or communication programs that seek to promote abortion as a method of family planning; and (v) lobbying for or against abortion. The term "motivate," as it relates to family planning assistance, must not be construed to prohibit the provision, consistent with local law, of information or counseling about all pregnancy options.
- (2) No funds made available under this award will be used to pay for any biomedical research which relates, in whole or in part, to methods of, or the performance of, abortions or involuntary sterilizations as a means of family planning. Epidemiologic or descriptive research to assess the incidence, extent, or consequences of abortions is not precluded.

[END OF PROVISION]

M17. EQUAL PARTICIPATION BY FAITH-BASED ORGANIZATIONS (JUNE 2012)

a. Faith-Based Organizations Encouraged.

Faith-based organizations are eligible to compete on an equal basis as any other organization to participate in USAID programs. Neither USAID nor entities that make and administer subawards of USAID funds will discriminate for or against an organization on the basis of the organization's religious character or affiliation. A faith-based organization may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, within the limits contained in this provision. More information can be found at the USAID

Faith-Based and Community Initiatives Web site: <http://www.usaid.gov> and 22 CFR 205.1.

b. Inherently Religious Activities Prohibited.

- (1) Inherently religious activities include, among other things, worship, religious instruction, prayer, or proselytization.
- (2) The recipient must not engage in inherently religious activities as part of the programs or services directly funded with financial assistance from USAID. If the recipient engages in inherently religious activities, it must offer those services at a different time or location from any programs or services directly funded by this award, and participation by beneficiaries in any such inherently religious activities must be voluntary.
- (3) These restrictions apply equally to religious and secular organizations. All organizations that participate in USAID programs, including religious ones, must carry out eligible activities in accordance with all program

requirements and other applicable requirements governing USAID-funded activities.

- (4) These restrictions do not apply to USAID-funded programs where chaplains work with inmates in prisons, detention facilities, or community correction centers, or where USAID funds are provided to religious or other organizations for programs in prisons, detention facilities, or community correction centers, in which such organizations assist chaplains in carrying out their duties.
 - (5) Notwithstanding the restrictions of b.(1) and (2), a religious organization that participates in USAID-funded programs or services
 - (i) Retains its independence and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from USAID to support any inherently religious activities,
 - (ii) May use space in its facilities, without removing religious art, icons, scriptures, or other religious symbols, and
 - (iii) Retains its authority over its internal governance, and it may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.
- c. Construction of Structures Used for Inherently Religious Activities Prohibited. The recipient must not use USAID funds for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities, such as sanctuaries, chapels, or other rooms that the recipient uses as its principal place of worship. Except for a structure used as its principal place of worship, where a structure is used for both eligible and inherently religious activities, USAID funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities.
- d. Discrimination Based on Religion Prohibited. The recipient must not discriminate against any beneficiary or potential beneficiary on the basis of religion or religious belief as part of the programs or services directly funded with financial assistance from USAID.
- e. A religious organization's exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in Sec. 702(a) of the Civil Rights Act of 1964, 42 U.S.C. 2000e-1 is not forfeited when the organization receives financial assistance from USAID.
- f. The Secretary of State may waive the requirements of this section in whole or in part, on a case-by-case basis, where the Secretary determines that such waiver is necessary to further the national security or foreign policy interests of the United States.

[END OF PROVISION]

M18. NONDISCRIMINATION (JUNE 2012)

No U.S. citizen or legal resident shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination on the basis of race, color, national origin, age, disability, or sex under any program or activity funded by this award when work under the grant is performed in the U.S. or when employees are recruited from the U.S.

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

In addition, the Agency strongly encourages its recipients and their subrecipients and vendors (at all tiers), performing both in the U.S. and overseas, to develop and enforce comprehensive nondiscrimination policies for their workplaces that include protection for all their employees on these expanded bases, subject to applicable law.

[END OF PROVISION]

M19. USAID DISABILITY POLICY - ASSISTANCE (JUNE 2012)

The recipient must not discriminate against people with disabilities in the implementation of USAID funded programs and should demonstrate a comprehensive and consistent approach for including men, women, and children with disabilities. The text of the USAID Disability Policy can be found at the following Web site: http://pdf.usaid.gov/pdf_docs/PDABQ631.pdf.

[END OF PROVISION]

M20. LIMITING CONSTRUCTION ACTIVITIES (AUGUST 2013)

APPLICABILITY: *In accordance with the policy at ADS 303.3.30, AOs must include this provision in all solicitations and awards. When no construction activities are contemplated under the award, the AO must insert "Construction is not eligible for reimbursement under this award" in section d) of this provision. If the award permits construction activities based on the policy above (or as authorized by waiver), the AO must insert the description and location(s) of the specific construction activities in section d) of this provision. The AO must not make a general reference to the Program Description. The AO must also ensure that there is a specific line item for construction activities in the award budget.*

LIMITING CONSTRUCTION ACTIVITIES (AUGUST 2013)

- a) Construction is not eligible for reimbursement under this award unless specifically identified in paragraph d) below.
- b) Construction means –construction, alteration, or repair (including dredging and excavation) of buildings, structures, or other real property and includes, without limitation, improvements, renovation, alteration and refurbishment. The term includes, without limitation, roads, power plants, buildings, bridges, water treatment facilities, and vertical structures.
- c) Agreement Officers will not approve any subawards or procurements by recipients for construction activities that are not listed in paragraph d) below. USAID will reimburse allowable costs for only the construction activities listed in this provision not to exceed the amount specified in the construction line item of the award budget. The recipient must receive prior written approval from the AO to transfer funds allotted for construction activities to other cost categories, or vice versa.
- d) Construction is not eligible for reimbursement under this award.
- e) The recipient must include this provision in all subawards and procurements and make vendors providing services under this award and subrecipients aware of the restrictions of this provision.

[END OF PROVISION]

M21. USAID IMPLEMENTING PARTNER NOTICES (IPN) PORTAL FOR ASSISTANCE (JULY 2014)

USAID IMPLEMENTING PARTNER NOTICES (IPN) PORTAL FOR ASSISTANCE

(a) Definitions

"USAID Implementing Partner Notices (IPN) Portal for Assistance ("IPN Portal)" means the single point where USAID posts proposed universal bilateral amendments for USAID awards, which can be accessed electronically by registered USAID recipients. The IPN Portal is located at <https://sites.google.com/site/usaidipnforassistance/>. Universal amendments are those which affect all assistance awards or a designated class of awards as specified in each amendment by the IPN Portal Administrator.

"IPN Portal Administrator" means the USAID official designated by the Director, M/OAA, who has overall responsibility for managing the USAID Implementing Partner Notices Portal for Assistance.

"Universal bilateral amendment" means those amendments with revisions or new requirements or provisions that affect all awards or a designated

class of awards, as specified in the Agency notification of such revisions or new requirements.

- (b) By submission of an application and execution of an award, the Applicant/Recipient acknowledges the requirement to:
 - (1) Register with the IPN Portal if awarded an assistance award resulting from this solicitation, and
 - (2) Receive universal bilateral amendments to this award and general notices via the IPN Portal.
- (c) Procedure to register for notifications.

Go to <https://sites.google.com/site/usaidipnforassistance/> and click the "Register" button at the top of the page. Recipient representatives must use their official organization email address when subscribing, not personal email addresses.

- (d) Processing of IPN Portal Amendments

The Recipient may access the IPN Portal at any time to review all IPN Portal amendments; however, the system will also notify the Recipient by email when the USAID IPN Portal Administrator posts a universal bilateral amendment for Recipient's review and signature. Proposed USAID IPN Portal amendments distributed via the IPN Portal are applicable to all awards, unless otherwise noted in the proposed amendment.

Within 15 calendar days from receipt of the notification email from the IPN Portal, the Recipient must do one of the following:

- (1) (a) verify applicability of the proposed amendment for their award(s) per the instructions provided with each amendment; (b) download the amendment and incorporate the following information on the amendment form: award number, organization name, and organization mailing address as it appears in the basic award; (c) sign the hardcopy version; and (d) send the signed amendment (by email or hardcopy) to the AO for signature. The Recipient must not incorporate any other changes to the IPN Portal amendment. Bilateral amendments provided through the IPN Portal are not effective until the both the Recipient and the AO sign the amendment;
- (2) Notify the AO in writing if the amendment requires negotiation of additional changes to terms and conditions of the award; or
- (3) Notify the AO that the Recipient declines to sign the amendment.

Within 30 calendar days of receipt of a signed amendment from the Recipient, the AO must provide the fully executed amendment to the Recipient or initiate discussions with the Recipient.

[END OF PROVISION]

M22. PILOT PROGRAM FOR ENHANCEMENT OF GRANTEE EMPLOYEE WHISTLEBLOWER PROTECTIONS (SEPTEMBER 2014)

The requirement to comply with and inform all employees of the "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections" is retroactively effective for all assistance awards and subawards (including subcontracts) issued beginning July 1, 2013.

The Grantee must:

1. Inform its employees working under this award in the predominant native language of the workforce that they are afforded the employee whistleblower rights and protections provided under 41 U.S.C. § 4712; and
2. Include such requirement in any subaward or subcontract made under this award.

41 U.S.C. § 4712 states that an employee of a Grantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for "whistleblowing." In addition, whistleblower protections cannot be waived by any agreement, policy, form, or condition of employment.

Whistleblowing is defined as making a disclosure "that the employee reasonably believes" is evidence of any of the following:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract or grant (including the competition for, or negotiation of, a contract or grant).

To qualify under the statute, the employee's disclosure must be made to:

- A Member of the U.S. Congress, or a representative of a U.S. Congressional Committee;
- A cognizant U.S. Inspector General;
- The U.S. Government Accountability Office;
- A Federal employee responsible for contract or grant oversight or management at the relevant agency;
- A U.S. court or grand jury; or,
- A management official or other employee of the Grantee who has the responsibility to investigate, discover, or address misconduct.

[END OF PROVISION]

M23. SUBMISSION OF DATASETS TO THE DEVELOPMENT DATA LIBRARY (OCTOBER 2014)

- a. Definitions. For the purpose of submissions to the DDL:

(1) "Dataset" is an organized collection of structured data, including data contained in spreadsheets, whether presented in tabular or non-tabular form. For example, a Dataset may represent a single spreadsheet, an extensible mark-up language (XML) file, a geospatial data file, or an organized collection of these. This requirement does not apply to aggregated performance reporting data that the recipient submits directly to a USAID portfolio management system or to unstructured data, such as email messages, PDF files, PowerPoint presentations, word processing documents, photos and graphic images, audio files, collaboration software, and instant messages.

Neither does the requirement apply to the recipient's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information. Datasets submitted to the DDL will generally be those generated with USAID resources and created in support of Intellectual Work that is uploaded to the Development Experience Clearinghouse (DEC) (See M8. SUBMISSIONS TO THE DEVELOPMENT EXPERIENCE CLEARINGHOUSE AND DATA RIGHTS (JUNE 2012)).

(2) "Intellectual Work" includes all works that document the implementation, monitoring, evaluation, and results of international development assistance activities developed or acquired under this award, which may include program and communications materials, evaluations and assessments, information products, research and technical reports, progress and performance reports required under this award (excluding administrative financial information), and other reports, articles and papers prepared by the recipient under the award, whether published or not. The term does not include the recipient's information that is incidental to award administration, such as financial, administrative, cost or pricing, or management information.

b. Submissions to the Development Data Library (DDL)

(1) The recipient must submit to the Development Data Library (DDL) at www.usaid.gov/data, in a machine-readable, non-proprietary format, a copy of any Dataset created or obtained in performance of this award, including Datasets produced by a subawardee or a contractor at any tier. The submission must include supporting documentation describing the Dataset, such as code books, data dictionaries, data gathering tools, notes on data quality, and explanations of redactions.

(2) Unless otherwise directed by the Agreement Officer (AO) or the Agreement Officer Representative (AOR), the recipient must submit the Dataset and supporting documentation to the DDL within thirty (30) calendar days after the Dataset is first used to produce an Intellectual Work or is of sufficient quality to produce an Intellectual Work. Within thirty (30) calendar days after award completion, the recipient must submit to the DDL any Datasets and supporting documentation that have not previously been submitted to the DDL, along with an index of all Datasets and Intellectual Work created or obtained under the award. The recipient must also provide to the AOR an itemized list of any and all DDL submissions.

The recipient is not required to submit the data to the DDL, when, in accordance with the terms and conditions of this award, Datasets containing

results of federally funded scientific research are submitted to a publicly accessible research database. However, the recipient must submit a notice to the DDL by following the instructions at www.usaid.gov/data, with a copy to the agreement officer representative, providing details on where and how to access the data. The direct results of federally funded scientific research must be reported no later than when the data are ready to be submitted to a peer-reviewed journal for publication, or no later than five calendar days prior to the conclusion of the award, whichever occurs earlier.

(3) The recipient must submit the Datasets following the submission instructions and acceptable formats found at www.usaid.gov/data.

(4) The recipient must ensure that any Dataset submitted to the DDL does not contain any proprietary or personally identifiable information, such as social security numbers, home addresses, and dates of birth. Such information must be removed prior to submission.

(5) The recipient must not submit classified data to the DDL.

[END OF PROVISION]

[END OF MANDATORY PROVISIONS]

REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS

RAA1. ADVANCE PAYMENT AND REFUNDS (DECEMBER 2014)

a. The recipient is not required to maintain separate bank accounts for USAID funds, unless otherwise required. However, when advances are authorized by this award, the recipient must deposit such funds in a reputable bank and be able to account for the receipt and expenditure of funds and interest earned on the advances provided by the U.S. Government (USG).

b. The recipient must maintain advances of USAID funds in interest-bearing accounts, unless:

- (1) The recipient receives less than \$120,000 in USG awards per year;
- (2) The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$250 in a twelve month period on USG cash balances; or
- (3) The bank would require an average or minimum balance so high that it would not be practical to maintain the advance in an interest-bearing account.

c. The recipient may retain up to \$250 of interest earned in a twelve-month period on USG cash balances for administrative expenses. Any additional interest earned on advances must be remitted to the USAID payment office specified in this award, or such other location as the payment office advises.

d. The recipient must request advance payments for anticipated expenditures at time intervals as close as is administratively feasible to the actual disbursements by the recipient, and for the minimum amounts necessary.

e. To request an advance payment, the recipient must submit (preferably electronically) to the payment office the Standard Form-270 Request for Advance, Standard Form-425 Federal Financial Report or Standard Form-1034 Public Voucher for Purchases and Services Other Than Personal. (See The recipient must print the statement "Request for Advance" at the top of the form.

f. In order to obtain the initial advance, the recipient must request an advance for the initial thirty-day period of projected cash disbursement needs immediately upon signing this award. Additional advance payment requests must be submitted at least three weeks prior to the period for which funds are needed, in order to maintain a consistent cash flow. The recipient may submit requests for advances to the paying office specified in this award as often as may be necessary to meet projected expenses. An advance may not exceed 30 days of the organization's projected expenses. Subject to Chief Financial Officer (CFO) or Mission Controller approval (as appropriate), requests may be submitted:

- (1) Every 30 days covering a 30-day period;
- (2) Three requests may be submitted covering 30-day sub-periods of a 90-day period to be paid automatically every 30 days; or

(3) One request for 90 days may be submitted to be automatically disbursed in 30-day equal increments. Requests must state the estimated disbursements to be made during the period covered by the request, the estimated balance of cash on hand from prior advance requests, and the advance amount being requested.

g. The recipient must submit an SF-270, SF-425, or SF-1034 (with the words "Liquidation of Advances" printed at the top of the form), quarterly, no later than 30 days after the end of the quarter, to the paying office specified in this award in order to liquidate outstanding advances. Failure to provide these quarterly reports may result in the suspension, disruption, or termination of additional payments.

Within 90 days following the expiration of this award, the recipient must submit the final financial report using the SF-270, SF-425, or SF-1034 showing total disbursements, total advances received, and any cash remaining on hand, which the recipient must refund to USAID.

h. When this award expires, the recipient must immediately return all unexpended funds that USAID has advanced to the recipient, unless such advanced funds have already been spent or committed in a legally binding transaction during the period of this award, or are required for approved close-out costs. USAID reserves the right, at any time, to 1) withhold or offset payments to or 2) require refund by, the recipient of any amount that the recipient did not spend according to the terms and conditions of this award or are otherwise determined by the Agreement Officer to be unallowable. USAID retains the right to a refund of all amounts paid under this award until all outstanding audit findings and settlement claims have been resolved between USAID and the recipient.

i. Cash advances made by the recipient to subrecipients or the recipient's field organizations must conform substantially to paragraphs a., b., c., d. and h. of this provision. In the case of paragraph c., any interest over \$250 per account, per year must be remitted through the prime recipient.

[END OF PROVISION]

RAA2. RESERVED

RAA3. RESERVED

RAA4. RESERVED

RAA5. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER (DECEMBER 2014)

APPLICABILITY: *This provision is required in accordance with 2 CFR 25, Award Term for Central Contractor Registration and Universal Identifier. Agreement Officers (AOs) must include this provision in all assistance solicitations and all awards, unless the AO exempts an organization from compliance with the provision under one of the following exceptions, from paragraph d. below:*

Exceptions: *The requirements of this provision to obtain a Data Universal Numbering System (DUNS) number and maintain a current registration in the*

Central Contractor Registration (CCR) do not apply, at the prime award or sub award level, to:

- (1) Awards to individuals*
- (2) Awards less than \$25,000 to foreign recipients to be performed outside the United States (based on a USAID determination)*
- (3) Awards where the AO determines, in writing, that these requirements would cause personal safety concerns.*

CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER (OCTOBER 2010)

a. Requirement for Central Contractor Registration (CCR). Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently, if required by changes in your information or another award term.

b. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make sub awards under this award, you:

- (1) Must notify potential sub recipients that no entity (see definition in paragraph c. of this award term) may receive a sub award from you unless the entity has provided its DUNS number to you.
- (2) May not make a sub award to an entity unless the entity has provided its DUNS number to you.

c. Definitions. For purposes of this award term:

- (1) Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at www.ccr.gov/).
- (2) Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at fedgov.dnb.com/webform).
- (3) Entity, as it is used in this award term, means all of the following, as defined at 2 CFR 25, subpart C:
 - (i) A governmental organization, which is a State, local government, or Indian tribe;

- (ii) A foreign public entity;
 - (iii) A domestic or foreign nonprofit organization;
 - (iv) A domestic or foreign for-profit organization; and
 - (v) A Federal agency, but only as a sub recipient under an award or sub award to a non-Federal entity.
- (4) Sub award:
- (i) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you, as the recipient, award to an eligible sub recipient.
 - (ii) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200 subpart F Audit Requirements).
 - (iii) A sub award may be provided through any legal agreement, including an agreement that you consider a contract.
- (5) Sub recipient means an entity that:
- (i) Receives a sub award from you under this award; and
 - (ii) Is accountable to you for the use of the Federal funds provided by the sub award.

ADDENDUM (JUNE 2012):

- d. Exceptions.** The requirements of this provision to obtain a Data Universal Numbering System (DUNS) number and maintain a current registration in the Central Contractor Registration (CCR) do not apply, at the prime award or sub award level, to:
- (1) Awards to individuals
 - (2) Awards less than \$25,000 to foreign recipients to be performed outside the United States (based on a USAID determination)
 - (3) Awards where the Agreement Officer determines, in writing, that these requirements would cause personal safety concerns.
- e.** This provision does not need to be included in sub awards.

[END OF PROVISION]

RAA6. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (DECEMBER 2014)

APPLICABILITY: *This provision is required in accordance with 2 CFR 170, Award Term for Reporting Sub awards and Executive Compensation. AOs must include this provision in all assistance solicitations and all awards expected to exceed \$25,000, unless an exemption applies under paragraph d. of the*

provision or the exemptions listed below in this applicability statement. If the AO determines that an exemption applies, the AO must provide guidance to the recipient on reporting with generic information.

Exemptions

- (1) *The requirements to report under this provision do not apply to:*
 - (i) *Awards to individuals*
 - (ii) *Awards less than \$25,000*
- (2) *When the AO determines, in writing, that these requirements would cause personal safety concerns, reporting under this provision can be accomplished using generic information.*

REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (OCTOBER 2010)

a. Reporting of First-Tier Sub awards.

- (1) **Applicability.** Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a sub award to an entity (see definitions in paragraph e. of this award term).
- (2) **Where and when to report.**
 - (i) You must report each obligating action described in paragraph a.(1) of this award term to www.fsrs.gov.
 - (ii) For sub award information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- (3) **What to report.** You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.

b. Reporting Total Compensation of Recipient Executives

- (1) **Applicability and what to report.** You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if -
 - (i) The total Federal funding authorized to date under this award is \$25,000 or more;
 - (ii) In the preceding fiscal year, you received-

- (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and
- (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
- (iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at www.sec.gov/answers/execomp.htm.)

(2) Where and when to report. You must report executive total compensation described in paragraph b.(1) of this award term:

(i) As part of your registration profile at www.ccr.gov/.

(ii) By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Sub recipient Executives

(1) Applicability and what to report. Unless you are exempt, as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you must report the names and total compensation of each of the sub recipient's five most highly compensated executives for the sub recipient's preceding completed fiscal year, if -

(i) In the sub recipient's preceding fiscal year, the sub recipient received-

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and sub awards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and sub awards); and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S.

Security and Exchange Commission total compensation filings at www.sec.gov/answers/execomp.htm.)

(2) Where and when to report. You must report subrecipient executive total compensation described in paragraph c.(1) of this award term:

(i) To the recipient.

(ii) By the end of the month following the month during which you make the sub award. For example, if a sub award is obligated on any date during the month of October of a given year (for example, between October 1 and 31), you must report any required compensation information of the sub recipient by November 30 of that year.

d. Exemptions

If in the previous tax year you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- (1) Sub awards, and
- (2) The total compensation of the five most highly compensated executives of any sub recipient.

e. Definitions

For purposes of this award term:

(1) Entity means all of the following, as defined in 2 CFR 25:

(i) A governmental organization, which is a State, local government, or Indian tribe;

(ii) A foreign public entity;

(iii) A domestic or foreign nonprofit organization;

(iv) A domestic or foreign for-profit organization;

(v) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

(2) Executive means officers, managing partners, or any other employees in management positions.

(3) Subaward:

(i) This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

(ii) The term does not include your procurement of property and services

needed to carry out the project or program (for further explanation, see 2 CFR 200 subpart F Audit Requirements).

(iii) A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

(4) Subrecipient means an entity that:

(i) Receives a subaward from you (the recipient) under this award; and

(ii) Is accountable to you for the use of the Federal funds provided by the subaward.

(5) Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or sub recipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(i) Salary and bonus.

(ii) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

(iii) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(v) Above-market earnings on deferred compensation which is not tax-qualified.

(vi) Other compensation, if the aggregate value of all such other compensation (for example, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

[END OF PROVISION]

RAA7. RESERVED

RAA8. RESERVED

RAA9. RESERVED

RAA10. REPORTING HOST GOVERNMENT TAXES (JUNE 2012)

APPLICABILITY: *This provision is applicable to all USAID agreements that obligate or subobligate FY 2003 or later funds except for agreements funded with Operating Expense, Pub. L. 480 funds, or trust funds, or agreements where there will be no commodity transactions in a foreign country over the amount of \$500. Please insert address and point of contact at the Embassy, Mission, or M/CFO/CMP as appropriate under section (b) of this provision.*

REPORTING HOST GOVERNMENT TAXES (JUNE 2012)

- a. By April 16 of each year, the recipient must submit a report containing:
- (i) Contractor/recipient name.
 - (ii) Contact name with phone, fax and e-mail.
 - (iii) Agreement number(s).
 - (iv) The total amount of value-added taxes and customs duties (but not sales taxes) assessed by the host government (or any entity thereof) on purchases in excess of \$500 per transaction of supplies, materials, goods or equipment, during the 12 months ending on the preceding September 30, using funds provided under this contract/agreement.
 - (v) Any reimbursements received by April 1 of the current year on value-added taxes and customs duties reported in (iv).
 - (vi) Reports are required even if the recipient did not pay any taxes or receive any reimbursements during the reporting period.
 - (vii) Cumulative reports may be provided if the recipient is implementing more than one program in a foreign country.
- b. Submit the reports to: Controller
Office of Financial Management
USAID/Cambodia
#1, Street 96, Sangkat Wat Phnom, Khan Daun Penh
Phnom Penh, Cambodia
- c. Host government taxes are not allowable where the Agreement Officer provides the necessary means to the recipient to obtain an exemption or refund of such taxes, and the recipient fails to take reasonable steps to obtain such exemption or refund. Otherwise, taxes are allowable in accordance with the Standard Provision, "Allowable Costs," and must be reported as required in this provision.
- d. The recipient must include this reporting requirement in all applicable subagreements, including subawards and contracts.

[END OF PROVISION]

RAA11. RESERVED

RAA12. RESERVED

RAA13. RESERVED

RAA14. COST SHARE (JUNE 2012)

APPLICABILITY: *This provision is applicable when the recipient provides a Cost Share.*

COST SHARE (JUNE 2012)

- a. During the period of this award, the recipient agrees to spend an amount of funds from non-U.S. Government sources specified as Cost Share, as provided in the award budget. Any Cost Share restrictions contained in this award take precedence over the terms of this provision.
- b. The recipient's Cost Share under this award may include project costs incurred by the recipient from its own funds, or project costs financed with cash, services, or property contributed or donated to the recipient from other non-U.S. Government sources, including subrecipients. Not all Cost Share requires cash outlays by the recipient; examples are depreciation and use charges for buildings and equipment.
- c. The recipient's Cost Share contributions, both cash and in-kind, must meet all of the following criteria:
 - (1) Are verifiable from the recipient's records;
 - (2) Are not included as cost share contributions for any other U.S. Government (USG) -assisted program;
 - (3) Are necessary and reasonable for proper and efficient accomplishment of this award's objectives;
 - (4) Are allowable under the Standard Provision, "Allowable Costs";
 - (5) Are not paid by the USG under another grant or agreement (unless the grant or agreement is authorized to be used for Cost Share); and
 - (6) Are included in the approved budget.
- d. The source, nationality, and restricted goods requirements in the Standard Provision "USAID Eligibility Rules for Procurement of Commodities and Services" do not apply to cost share expenditures.
- e. The value of non-U.S. Government in-kind contributions applied to Cost Share is established by the following procedures:
 - (1) Volunteer services must be an integral and necessary part of an approved program. Rates for volunteers must be consistent with those paid for similar work in the recipient's organization, or consistent with those paid for similar work in the labor market in which the recipient competes. Volunteer services furnished by others must be valued at the employee's regular rate of pay, exclusive of overhead costs, provided these services are of the same skill for which the employee is normally paid. In any case, paid fringe benefits that are reasonable, allowable, and allocable may be included in the valuation.

- (2) The assessed value of donated supplies and equipment must be reasonable and must not exceed the fair market value of the property at the time of the donation.
- (3) The value of donated property must be determined in accordance with the usual accounting policies of the recipient with the following qualifications:
 - (i) If the purpose of this award is to assist the recipient in the acquisition of equipment, buildings, or land, the total value of the donated property may be claimed as Cost Share.
 - (ii) If the purpose of this award is to support activities that require the use of equipment, buildings, or land, normally only depreciation or use charges for equipment and buildings may be made. However, the Agreement Officer (AO) may approve the charge of the full value of equipment or other capital assets and fair rental charges for land.
 - iii) The value of donated land and buildings must not exceed its fair market value at the time of donation to the recipient as established by an independent appraiser.
 - (iv) The value of donated equipment must not exceed the fair market value of equipment of the same age and condition at the time of donation.
 - (v) The value of donated space must not exceed the fair rental value of comparable space and facilities in a privately owned building in the same locality, as determined by adequate market research.
 - (vi) The value of loaned equipment must not exceed its fair rental value.
- f. The recipient must provide supporting records for in-kind contributions from third parties.
 - (1) Volunteer services must be documented and, to the extent feasible, supported by the same methods used by the recipient for its employees.
 - (2) The basis for determining the valuation for personal services, material, equipment, buildings, and land must be documented.
- g. If the recipient expends less than the agreed upon Cost Share as specified in this award, the AO may apply the difference to reduce the amount of USAID funding for the following funding period, require the recipient to refund the difference to USAID when this award expires or is terminated, or reduce the amount of cost share required under the award.
- h. In the event of any disallowance of expenditures from USAID award funds, the recipient may substitute expenditures made with funds provided from non-U.S. Government sources, provided they are eligible in accordance with all the Standard Provisions of this award.

[END OF PROVISION]

RAA15. RESERVED

RAA16. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)

APPLICABILITY: *Include this provision in agreements funded from the following accounts:*

- *Development Assistance, including assistance for sub-Saharan Africa,*
- *Global Health Programs, and*
- *Micro and Small Enterprise Development Program Account.*

Further information found in the Mandatory Reference for ADS 303, "Guidance on Funding Foreign Government Delegations to International Conferences," (<http://www.usaid.gov/ads/policy/300/350maa>).

FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)

a. U.S. Government funds under this award must not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a multilateral organization, as defined below, unless approved by the Agreement Officer in writing.

b. Definitions:

- (1) A foreign government delegation is appointed by the national government (including ministries and agencies but excluding local, state and provincial entities) to act on behalf of the appointing authority at the international conference. A conference participant is a delegate for the purposes of this provision, only when there is an appointment or designation that the individual is authorized to officially represent the government or agency. A delegate may be a private citizen.
- (2) An international conference is a meeting where there is an agenda, an organizational structure, and delegations from countries other than the conference location, in which country delegations participate through discussion, votes, etc.
- (3) A multilateral organization is an organization established by international agreement and whose governing body is composed principally of foreign governments or other multilateral organizations.

[END OF PROVISION]

RAA17. RESERVED

RAA18. RESERVED

RAA19. RESERVED

RAA20. RESERVED

RAA21. RESERVED

RAA22. RESERVED

RAA23. RESERVED

RAA24. RESERVED

RAA25. RESERVED

RAA26. LIMITATION ON SUBAWARDS TO NON-LOCAL ENTITIES (July 2014)

(For use in all solicitations and resulting awards where competition is limited to local entities. This provision must be used for all awards financed fully or in part with FY14 funds. Please refer to ADS 303, section 303.3.6.6 a.(2), "Other Exceptions to Competition - Local Competition" for additional guidance.)

302.3.5.17 LIMITATION ON SUBAWARDS TO NON-LOCAL ENTITIES (JULY 2014)

- (a) By submission of an application and execution of the award, the applicant/recipient agrees that at least fifty (50) percent of the cost of award performance incurred for personnel must be expended for employees of the prime/local entity.
- (b) By submission of an application and execution of the award, the Applicant/Recipient represents that it is an individual, a corporation, a nonprofit organization, or another body of persons that:
 - (1) Is legally organized under the laws of;
 - (2) Has as its principal place of business or operations in
 - (3) Is majority owned by individuals who are citizens or lawful permanent residents of; and
 - (4) Is managed by a governing body the majority of who are citizens or lawful permanent residents of the country in which this award will be primarily performed.
- (c) For purposes of this provision, "majority owned" and "managed by" include, without limitation, beneficiary interests and the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the organization's managers or a majority of the organization's governing body by any means.

(END OF PROVISION)

**RAA27. CONTRACT PROVISION FOR DBA INSURANCE UNDER RECIPIENT
PROCUREMENTS (DECEMBER 2014)**

DEFENSE BASE ACT (DBA) WORKERS' COMPENSATION INSURANCE FOR PROCUREMENT
CONTRACT (DECEMBER 2014)

All contracts made by the recipient under this award for services to be performed overseas must contain the following provision, as applicable.
WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT)

(a) The Contractor must--

(1) Before commencing performance under this contract, establish provisions to provide for the payment of disability compensation and medical benefits to covered employees and death benefits to their eligible survivors, by purchasing Defense Base Act (DBA) insurance pursuant to the terms of the contract between USAID and USAID's DBA insurance carrier unless the Contractor qualifies as a self-insurer under the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 932) as extended by the Defense Base Act (42 U.S.C. 1651, et seq.), or has an approved retrospective rating agreement for DBA. The Contractor must continue to maintain these provisions to provide such Defense Base Act benefits until contract performance is completed.

(2) If USAID or the Contractor has secured a waiver of DBA coverage in accordance with AIDAR 728.305-70(a) for contractor's employees who are not citizens of, residents of, or hired in the United States, the contractor agrees to provide such employees with worker's compensation benefits as required by the laws of the country in which the employees are working, or by the laws of the employee's native country, whichever offers greater benefits. The Department of Labor has granted partial blanket waivers of DBA coverage applicable to USAID-financed contracts performed in countries listed in the DEFENSE BASE ACT (DBA) WAIVER LIST.

(3) Within ten days of an employee's injury or death or from the date the Contractor has knowledge of the injury or death, submit Form LS-202 (Employee's First Report of Injury or Occupational Illness) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 930(a), 20 CFR 702.201 to 702.203).

(4) Pay all compensation due for disability or death within the timeframes required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914, 20 CFR 702.231 and 703.232).

(5) Provide for medical care as required by the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 907, 20 CFR 702.402 and 702.419).

(6) If controverting the right to compensation, submit Form LS-207 (Notice of Controversion of Right to Compensation) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(d), 20 CFR 702.251).

(7) Immediately upon making the first payment of compensation in any case, submit Form LS-206 (Payment of Compensation Without Award) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914(c), 20 CFR 702.234).

(8) When payments are suspended or when making the final payment, submit Form LS-208 (Notice of Final Payment or Suspension of Compensation Payments) to the Department of Labor in accordance with the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 914 (c) and (g), 20 CFR 702.234 and 702.235).

(9) Adhere to all other provisions of the Longshore and Harbor Workers' Compensation Act as extended by the Defense Base Act, and Department of Labor regulations at 20 CFR Parts 701 to 704. For additional information on the Longshore and Harbor Workers' Compensation Act requirements see <http://www.dol.gov/owcp/dlhwc/lbdba.htm>.

The Contractor must insert the substance of this clause including this paragraph (c), in all subcontracts to which the Defense Base Act applies.

[END OF PROVISION]

[END OF THE STANDARD PROVISIONS]

ATTACHMENT D

BRANDING STRATEGY AND MARKING PLAN

BRANDING STRATEGY AND MARKING PLAN

The Arbitration Council Foundation (**ACF**) will brand and mark this proposed program consistent with USAID policy (ADS 320), including with the “USAID Standard Graphic Identity,” (or USAID Identity”) as stated in ADS 320 (effective date 01/08/2007; partial revision date 01/02/2015) and the Graphic Standards Manual (GSM). This plan will follow the provisions outlined broadly in 22 C.F.R 226.91. ACF will consult with USAID on exceptions, waivers or modification, where necessary and appropriate.

I. Branding Strategy

Naming, Positioning and Acknowledgements

Name of Program: “Upholding Labor Rights for Women and Men in Cambodia”

Logo: Please find the ACF logo attached hereto.

The public identity of activities under ACF’s “Upholding Labor Rights for Women and Men in Cambodia” program (**Program**) will be linked to USAID. The activities will not assume a public identity independent of USAID so that stakeholders, direct beneficiaries of the Program, and the target audiences of the general public in Cambodia recognize that work done by the Program is made possible through the generosity of the American people. ACF will ensure promotion and communication of a consistent message –that USAID assistance for the Program is “From the American people”.

Program Communications and Publicity

Target Audience: Workers and employers in Cambodia

The Program’s activities and communications will be marked with the USAID Identity, of a size and prominence equivalent to as ACF’s, other donor’s or any other third party’s identity or logo, subject to relevant regulations or consultations USAID.

Subject to the provisions of §226.91 of 22 C.F.R. 226, technical assistance, studies, reports, papers, audio-visual productions, public service announcements, Web sites/Internet activities and other promotional, informational, media or communications products funded by USAID will be marked with the USAID Identity.

“Public communications” as defined in §226.2, funded by USAID, in which the content has not been approved by USAID, will contain the following disclaimer:

“The _____ (specify) is made possible by the generous support of the American people through the United State Agency for International Development (USAID). The contents are the responsibility of the Arbitration Council Foundation/Arbitration Council/[other] (specify) and do not necessarily reflect the views of USAID or the United State Government.”

(Above example of disclaimer will be in English or Khmer, depending on the language of the materials.)

ACF will generate awareness of USAID support for the Program as well as visibility of USAID through a creative mix of products:

- ACF will gather high quality photographs and video depicting USAID-funded Program activities. The visual materials will be published and displayed at ACF's premises, website and social media channels. They will be used in project reports and dissemination documents as well, including quarterly newsletters, reports and other publications.
- ACF's website will recognize donors and partners, including current and former donors. USAID would be included on a list of current donors and partners; and even after the conclusion of the Program, USAID will continue to be recognized on ACF's website. ACF notes that it is currently receives funding support from multiple donors, and other donors may be added in the future.
- USAID-supported communication and program materials such as the Compilation of Arbitral Awards & Orders, training guides and booklets, information leaflets and brochures on the Arbitration Council and labor arbitration process, and other outreach and awareness raising materials will include the USAID logo of a size and prominence equivalent to the ACF logo.
- All promotional materials developed for USAID-supported public events such National/Regional Industrial Relations Conferences and training and outreach activities will include the USAID logo on the flyer, posters and signage materials, of a size and prominence equivalent to the ACF logo.
- Regarding co-branding, ACF will ensure the USAID Identity is placed of a size and prominence equivalent to ACF's and other donor's logos. In case the logo of the Royal Government of Cambodia, Ministry of Labour and Vocational Training, Arbitration Council or other ministry or state institution is to be included, such logo may be of equal size or more prominent.

Acknowledgements

All events and materials developed by ACF under the Program will comply with USAID branding and marking guidelines. The USAID Identity will appear on publications produced under the Program. Other partners and donors participating in the Program or Program activities –including through support, design, implementation, hosting, etc.– may also be acknowledged on program materials and related communications; their logos and identities will appear alongside the USAID and ACF identities and balanced in size and prominence, as appropriate.

Monitoring of Branding and Marking under the ACF's Program

Monitoring of compliance with branding and marking requirements will be responsibility of the Manager of Training and Communications. ACF Executive Management, including ACF's Monitoring and Evaluation Coordinator, will assist in review of branding and marking requirements. ACF's Executive Director will also provide oversight for adherence to branding and marking requirements.

II. Marking Plan

ACF intends to mark deliverables and public communications under the Program as outlined in this marking plan:

Table 1: Deliverables that the Program will mark

Deliverable	Type of Marking
a. Website (donors and partners page)	USAID Identity incorporated with other donor
b. Compilation of Arbitral Awards & Orders	USAID Identity incorporated with other donor, including language to acknowledge the generous support of the American people through USAID
c. Training guides (including PowerPoint presentations) and materials (including materials disseminated to trainees) on Case Preparation and Labor Arbitration	USAID Identity incorporated with other donor
d. Handbook on Party information toolkits, Q&A booklets and other materials, public research reports	USAID Identity incorporated with other donor; in case only logos of ACF and other donors are displayed, USAID logo will be included in equivalent size and prominence
e. Quarterly newsletters, IR weekly report, annual reports, brochures, posters	USAID Identity incorporated with other donor; in case only logos of ACF and other donors are displayed, USAID logo will be included in equivalent size and prominence; where materials include narrative language acknowledging support, then ACF will acknowledge the generous support of the American people through USAID
f. Public events (Regional/National Industrial Relations Conference, workshops)	USAID Identity incorporated with other donor into banners, presentation and participant materials prepared by ACF

Table 2: Deliverables that the Program will Not mark

Deliverable	Rational (explain how the exception applies)
a. Hearings of the Arbitration Council and individually issued arbitral awards	Incorporating the USAID Identity into the arbitration hearing or arbitral award could compromise the independence and neutrality of the arbitration panel/Arbitration Council, and risk diminishing the credibility of the process and decision-making which must be seen as independent
b. Press releases	Incorporating the USAID Identity into ACF press

	<p>releases could compromise its status as an independent civil society organization</p> <ul style="list-style-type: none"> • In case ACF prepares a non-marked press release to provide information on the Program, ACF will submit such press release to USAID for clearance, pre-issuance (General publicity and marketing materials for Program activities prepared for dissemination –including to the press– are not considered press releases and will be marked) • In case ACF prepares a press release that does not implicate USAID, the US Embassy or US Government, but is required in response to news, events or issues that place at risk the independence, neutrality or integrity of ACF or the Arbitration Council and/or time is of the essence, ACF will not seek clearance for such issuance; however all ACF press releases will be available to USAID as part of the monitoring of this Branding and Marking Plan
<p>c. Meetings of Stakeholder Advisory Group, Arbitration Council assemblies, regular arbitrator and ACF meetings</p>	<p>Incorporating the USAID Identity into such non-public meetings could compromise the independence and neutrality of the governance sessions and risk diminishing the credibility of decisions and recommendations arising therefrom</p>

Additional potential exceptions: Based on the integrated institutional relationship between ACF and the Arbitration Council, the legal personality of the of ACF as a local civil society organization and the Arbitration Council as a statutory, national institution, and the law-based function of their services, additional exception may be required to minimize the risk of compromising the intrinsic independence and neutrality of their functions. Any such exceptions would be considered and made in collaboration with USAID.

ACF logo and letterhead



មូលនិធិក្រុមប្រឹក្សាអាជ្ញាកណ្តាល

ARBITRATION COUNCIL FOUNDATION