

|  |  |
| --- | --- |
| **CONTRACT REFERENCE NUMBER** |  |
| **PROJECT NUMBER** |  |
| **AWARD NUMBER** |  |

CONSULTANCY AGREEMENT

(the “Agreement”)

**between**

**IUCN, International Union for Conservation of Nature and Natural Resources**, an international association established under the laws of Switzerland, with its World Headquarters located at Rue Mauverney 28, 1196 Gland, Switzerland, represented by its Regional Office for Eastern Europe and Central Asia - IUCN ECARO, located at Japanska 35, 11073 Belgrade, Serbia (hereafter “IUCN” or “Sub-Awardee”),

**and**

**[full legal name of other party]**, [type of company] established under the laws of [name of country], with headquarters located at [address], [country] (hereafter “**Consultant”)**

IUCN and the Consultant shall be referred to herein individually as a “Party” and together as the “Parties”.

**PREAMBLE**

**Whereas** the mission of IUCN is to influence, encourage and assist societies throughout the world to conserve the integrity and diversity of nature and to ensure that any use of natural resources is equitable and ecologically sustainable;

**Whereas** IUCN, as a member of consortium, is implementing the Project **“Together for the Environment”**-funding for this Project is provided by the US Agency for International Development (USAID) pursuant to Cooperative Agreement number 72016922CA00005 awarded to the Belgrade Open School (BOS) as a Prime Awardee.

**Whereas** IUCN and BOS have entered a Sub-Agreement number EKŽ/TEP/USAID/3/2022 within Cooperative Agreement number 72016922CA00005.

**Whereas** IUCN wishes to benefit from certain skills and abilities of the Consultant with the aim of providing IUCN with assistance and support in [describe the activities for which support is expected from Consultant].

**Whereas** the Consultant has represented to IUCN that it has the required expertise and experience;

**Now therefore** the Parties agree as follows:

* 1. **SERVICES**
	2. The Consultant will [short description of the services], perform the tasks and deliver the deliverables no later than the agreed deadline(s) as set out in the terms of reference attached as Annex I (the “Services”).
	3. The Consultant will assign [name of the person(s) and title(s)] (the “Key Personnel”), who is/are(an) employee(s) of the Consultant, to the performance of the Services on behalf of the Consultant. The replacement of any Key Personnel must be approved in advance by IUCN in writing.
	4. IUCN reserves the right to request any reports (progress, financial or otherwise additional to those required under the Agreement), which could be considered to be reasonably required to evidence satisfactory performance under the Agreement. All financial records and other relevant documents relevant to or pertaining to this Agreement may be subject to inspection and/or audit at the discretion of IUCN or of BOS or USAID, the primary donor. The Consultant agrees to allow IUCN, BOS or USAID auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. In the event of inspection or audit, IUCN, BOS or USAID shall provide the Consultant reasonable prior written notice.
	5. In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the Consultant to the extent necessary to ensure that funds, including supplies and services, available under this Agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations.
	6. The Consultant shall not subcontract the Services to third parties without the prior written consent of IUCN. However, the Consultant may under its own responsibility use the services of others provided such services are of an auxiliary or clerical nature.
	7. **TERM**

This Agreement comes into effect on [date] [or] [upon its signature by both Parties] (the “Effective Date”) and will expire on [date] (the “Expiration Date”).

* 1. **INDEPENDENT STATUS**
	2. The employees, directors or shareholders of the Consultant shall not be entitled to any pension, bonus or other fringe benefits from IUCN.
	3. The Consultant shall have no authority to enter into contracts or to incur any other legally binding commitment on behalf of IUCN.
	4. No employee, director or other representative of the Consultant shall hold him or herself out or permit itself to be held out as having authority to do or say anything on behalf of or in the name of IUCN.
	5. The Consultant shall be solely and exclusively liable for any and all taxes, levies or dues required to be paid in any of the countries where this Agreement applies, on any amounts paid to the Consultant by IUCN and has sole responsibility for declaring such amounts to the relevant tax authorities.
	6. **OBLIGATIONS**
	7. The Consultant shall carry out its duties in an expert and diligent manner and to the best of its ability and shall promptly and faithfully comply with all lawful and reasonable requests which may be made by the IUCN Contact Person.
	8. The Consultant shall give written or oral advice or information regarding the execution of the Services as and when required by IUCN.
	9. The Consultant shall, in terms of this Agreement, read and acknowledge the USAID Mandatory Standard Provisions which are shown in Attachment A and shall fully comply with their provisions to the extent that they apply to the Consultant. For the purposes of this Agreement, obligations of the Sub-awardee shall also apply to the Consultant to the extent they are relevant to the Consultant. IUCN shall have the right to enforce the said provisions on behalf of BOS or USAID as applicable.
	10. In the case of illness or accident or a case of Force Majeure as described under clause 16.3 preventing the Key Personnel from performing the Services, the Consultant shall promptly notify IUCN in writing of impediment.
	11. **REMUNERATION**
	12. As full remuneration for the Services performed under the terms of this Agreement, IUCN shall pay the Consultant a fixed and firm lump sum of [**currency/amount in numbers (amount spelled out in letters)**] (“the Remuneration”) based on [number of days] days of work at a daily rate of [daily rate] as follows:
		1. A first instalment of [currency/amount in numbers (amount spelled out in letters)] corresponding to 30% of the Remuneration upon receipt of a signed copy of this Agreement together with a first invoice;
		2. A second instalment of [currency/amount in numbers (amount spelled out in letters)] corresponding to 30% of the Remuneration [please indicate what task(s)/deliverable(s) will trigger payment] and presentation of the corresponding invoice; and
		3. A third and last instalment of [currency/amount in numbers (amount spelled out in letters)] corresponding to remaining 40% of the Remuneration upon satisfactory and timely completion and IUCN written acceptance of all Services as specified in Annex I. The final invoice must be submitted no later than [insert the no. of days e.g. 30 days] after IUCN’s written acceptance of all Services or after the Agreement end date whichever is later.
	13. The Consultant must submit a valid invoice quoting the Contract Reference Number and number of the instalment for each payment to be made.
	14. If the tasks defined in the Agreement are not fulfilled to the satisfaction of IUCN within the requested time limit, IUCN reserves the right to withhold any further payments and recuperate any funds already paid for unfulfilled Services.
	15. IUCN shall make payments to the Consultant’s bank account (to be opened in the name of the Consultant in the place where Consultant is established or where the Services are provided) as follows:

Complete Account name: [xxx]

Account type and currency: [xxx]

Bank name: [xxx]

Bank address: [xxx]

Account No.: [xxx]

SWIFT Code or other bank routing code: [xxx]

IBAN No: [xxx]

* 1. The Consultant shall bear bank charges for international wire-transfers (namely from the Consultant’s bank or any intermediary banks) associated with any transfer of funds that IUCN may make hereunder.
	2. Funds that remain unused at the Expiration Date or termination date of this Agreement must be returned to IUCN within sixty (60) days following either of such dates, as applicable.
	3. **PROCUREMENT AND TRAVEL EXPENSES**
	4. In addition to the requirements in Attachment 1, section M5. PROCUREMENT POLICIES (JUNE 2012), any procurement of good and services shall be carried out in accordance with the IUCN’s Procurement Policy here (<https://www.iucn.org/about-iucn/accountability-and-reporting/values-policies-and-procedures>).

* 1. Travel expenses in connection with this Agreement shall not exceed [currency/amount in numbers] [(currency and amount in words)]. All travel has to be approved in writing (email accepted) by the IUCN Contact Person before any reservation is made.
	2. In addition to the requirements in Attachment 1, PART 2. REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS section RAA9. TRAVEL AND INTERNATIONAL AIR TRANSPORTATION (DECEMBER 2014), the IUCN Travel Policy and Procedures for Non-Staff shall also apply to all travel expenses and is available at <https://www.iucn.org/corporate/finance/procurement/iucn-travel-policy>.
	3. A financial report with receipts (e.g. transportation, accommodation, meals and incidentals) must be submitted in the currency of the Agreement to the IUCN Contact Person in order for reimbursement to be made.
	4. **CONSULTANT’S WARRANTIES AND UNDERTAKINGS**
	5. The Consultant warrants that its performance of the Services under the terms of this Agreement will not infringe on the rights of any third party or cause the Consultant to be in breach of any obligation towards a third party.
	6. The Consultant warrants that it has obtained the assignment of all Results and Intellectual Property rights pertaining to the Results from his employees (including without limitation the Key Personnel).
	7. The Consultant shall maintain at its sole expense liability and any other relevant insurance covering the performance of this Agreement. IUCN may require the Consultant to provide a certificate of insurance evidencing such coverage.
	8. The Consultant represents and warrants that no part of the Remuneration shall be provided to, or used to support, individuals and organizations associated with terrorism as identified on any sanction list published by the European Union, the United States Government, the United Nations Security Council or other relevant agency or body.
	9. **CONFIDENTIALITY**
	10. The Consultant will not disclose or use, at any time during or subsequent to this Agreement, any confidential information of IUCN or any other non-public information relating to the business, financial, technical or other affairs of IUCN except as required by IUCN in connection with the Consultant’s performance of this Agreement or as required by law. In particular, but without prejudice to the generality of the foregoing, the Consultant shall keep confidential all Intellectual Property and know-how disclosed to it by IUCN, which becomes known to it during the period of this Agreement or which it develops or helps to develop in providing the Services to IUCN.
	11. The Consultant may communicate confidential information only to those of its employees who are directly and necessarily involved in the performance of this Agreement or who are bound to the Consultant by obligations no less stringent as the ones mentioned in this Agreement.
	12. The Consultant shall:
		1. not disclose to third parties (including news and social media) without express prior written consent of IUCN the contents of this Agreement and the results of work performed as part of the provision of the Services;
		2. disclose know-how and other confidential information of IUCN which is provided by IUCN to the Consultant for the purpose of carrying out the Services only to those persons necessary to accomplish the Services and only to the extent necessary for the proper performances of the Services or to persons bound to the Consultant by obligations no less stringent as the ones mentioned in this Agreement.
	13. The Consultant agrees to immediately notify IUCN in writing if it becomes aware of any disclosure in breach of the obligations of this clause 8. It shall be responsible for any breach of these obligations by its employees or subcontractors. The Consultant will take all steps necessary to prevent further disclosure.
	14. **PROPERTY OF RESULTS**
1. All notes, memoranda, correspondence, records, documents and other tangible items made, by the Consultant in the course of providing the Services will be and remain at all times the property of IUCN. At any time, even after the termination of this Agreement, the Consultant shall, upon request, promptly deliver to IUCN all such tangible items which are in its possession or under its control and relate to IUCN, its business affairs and clients and/or the Services.
	1. **INTELLECTUAL PROPERTY**
	2. Intellectual Property rights are any and all rights and prerogatives, registered or not, arising from the Swiss and international legislation on the protection of notably patents, design, trademark, as well as know-how and trade secrets.
	3. Pre-existing Intellectual Property (Pre-existing Rights”) of a Party means any rights, title and interests in, to and under any and Intellectual Property that have been conceived or developed by such Party prior to the Effective Date or that is conceived or developed by such a Party at any time wholly independently of the implementation of this Agreement. Subject to the rights and licenses expressly granted under this Agreement, each Party shall retain ownership of its Pre-existing Rights. The Consultant hereby grants to IUCN a non-exclusive, worldwide, perpetual, royalty free, sub-licensable license to use Pre-existing Rights incorporated in the Services. The Consultant shall ensure that it has obtained all the rights to use any Pre-existing Rights belonging to third parties that are necessary to implement this Agreement.
	4. All Intellectual Property rights, including copyright, in the Services produced under this Agreement are vested in IUCN and the Consultant hereby assigns and agrees to assign to IUCN or its nominee, with full title guarantee, all rights in and to any Intellectual Property resulting from the implementation of this Agreement for the full duration of such rights, including, without any limitations, the right to use, publish, license, translate, sell or distribute, privately or publicly, any item or part thereof wherever in the world enforceable.
	5. The Consultant confirms that IUCN shall have all rights of development, manufacture, promotion, distribution and exploitation in relation to the projects undertaken and products developed in the course of the provisions of the Services and the Intellectual Property created or arising from the provision of the Services.
	6. Neither Party shall have the right to use the other Party’s name, logo and/or other trademarks in any medium and for whatever purpose without the other Party’s prior written consent in each instance of use.

10.6 All materials and public communication produced under this Agreement and/or presented to external audiences must be branded in accordance to the requirements stipulated in M9. and shall follow any agreed communication and visibility approval procedure agreed with IUCN.

10.7 As a condition of receipt of funding, marking with the USAID Identity of a size and prominence equivalent to or greater than the Sub-Awardee’s, subrecipient’s, other donor’s, or third party’s is required. In the event the Sub-Awardee 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.”

* 1. **LIABILITY AND INDEMNITY**

11.1 IUCN shall not be held liable for any damage caused or sustained by the Consultant, including any damage caused to its employees and / or third parties as a consequence of or during the provision of the Services or the implementation of the Present Agreement.

11.2 The Consultant agrees to indemnify and hold IUCN harmless from any and all losses and damages that IUCN may incur as a result of Consultant’s actions or omissions in rendering the Services or the breach of any of the Consultant’s obligations contained in this Agreement.

* 1. **COMMUNICATION AND NOTICES**
	2. All correspondence and notices in connection with the implementation of this Agreement must be directed as follows:

|  |  |
| --- | --- |
| IUCN Contact Person | Consultant Contact Person |
| [name][title][name of IUCN Programme/Office][address][phone][email] | [name][title] [address][phone][email] |

* 1. In case the Contact Person is being changed, the authorized representative of each Party shall notify the other Party in writing (email accepted).
	2. **ETHICS, FRAUD AND CORRUPTION**

13.1 The Consultant shall comply with the principles and expected standards of conduct equivalent to those stipulated in Section 4 of the Code of Conduct and Professional Ethics for the Secretariat, available at <https://www.iucn.org/downloads/code_of_conduct_and_professional_ethics.pdf>, which by signing this Agreement, the Consultant confirms it has reviewed and accepted.

13.2 The Consultant shall take all necessary measures to prevent any situation where the impartial and objective implementation of the Agreement is compromised for reasons involving economic interest, political or national affinity, family or emotional ties or any other shared interest.

13.3 The Consultant represents and warrants that there are no potential or actual conflicts of interests in relation to the implementation of this Agreement. If, during the course of this Agreement, the Consultant becomes aware of facts which constitute or may give rise to a conflict of interest, the Consultant shall promptly inform the IUCN Contact Person in clause 12.1 in writing, without delay. The Consultant shall immediately take all the necessary steps to rectify this situation. IUCN reserves the right to verify that the measures taken are appropriate and may require additional measures to be taken within a specified deadline.

13.4 The Consultant shall take all necessary precautions to avoid fraud and corrupt practices in implementing this Agreement. The Consultant shall comply with the standards of conduct equivalent to those stipulated in IUCN's Anti-fraud Policy, available at <https://www.iucn.org/downloads/anti_fraud_policy.pdf>, which by signing this Agreement, the Consultant confirms it has reviewed and accepted.

13.5 The Consultant shall cooperate fully in any investigations linked to events under this clause which may be carried out by IUCN and/or BOS or the Primary donor, USAID and shall give access to all records (and to its staff if applicable) in the event that this is needed to support investigations of complaints of unethical behavior, fraud or corruption. IUCN reserves the right to take necessary legal action and/or terminate the Agreement in accordance with clause 16 if it determines that any fraud, corruption and/or unethical behaviour has occurred. Any repayment claim may also include interest, investment income or any other financial gain obtained as a result of the fraud.

* 1. **NON-DISCRIMINATION AND POLICY ON THE PROTECTION FROM SEXUAL EXPLOITATION, SEXUAL ABUSE, AND SEXUAL HARASSMENT (SEAH POLICY)**
	2. IUCN recommends the Consultant to apply non-discriminatory practices in terms of benefits and remuneration for both men and women employees in the performance of this Agreement.

14.2 The Consultant will comply with the principles and standards of protection equivalent to those stipulated in the SEAH Policy available at https://www.iucn.org/sites/dev/files/seah\_revised\_version\_2020apr27.pdf

* 1. **PROCESSING OF PERSONAL DATA**

15.1 Personal Data is any information relating to an identified or identifiable individual, unless otherwise defined under applicable law. The Parties commit themselves to respect applicable data protection laws and regulations and process Personal Data in accordance with the terms of this Agreement.

15.2 IUCN may share Personal Data of the Consultant and / or Consultant Key Personnel with the Donor and other IUCN partners strictly involved in the implementation of the Project. The Consultant will have the right of access its Personal Data and the right to rectify any such Personal Data held by IUCN. If the Consultant has any queries concerning the processing of Personal Data, it shall address them to IUCN using the online form located at (https://portals.iucn.org/dataprotection/requestform).

15.3 IUCN may in the course of performance of this Agreement provide the Consultant with Personal Data. The Consultant shall limit access and use of Personal Data to that strictly necessary for the performance of this Agreement and shall adopt all appropriate technical and organizational security measures necessary to preserve the strictest confidentiality and limit access to Personal Data.

15.4 Where the Consultant engages another processor for carrying out specific processing activities on behalf of IUCN, the same data protection obligations as set out in this Agreement and the applicable law shall be imposed on that other processor by way of an agreement. Where that other processor fails to fulfil its data protection obligations, the Consultant shall remain fully liable to IUCN for the performance of that other processor’s obligations.

15.5 Where Personal Data is transferred to a country that has not been deemed to provide an adequate level of protection for Personal Data or to an International Organization within the meaning of Regulation (EU) 2016/679, the Consultant shall ensure that appropriate safeguards in accordance with applicable law are provided.

15.6 The Consultant shall promptly, and in any case within twenty-four (24) hours inform IUCN through the online form located at (https://portals.iucn.org/dataprotection/requestform), if it determines and/or discloses to a competent public authority and/or affected data subjects that a Personal Data breach has occurred.

**16. TERMINATION**

16.1 Termination for cause

16.1.1 IUCN reserves the right to terminate this Agreement in whole or in part, upon written notice with immediate effect in the event that the Consultant:

1. has falsified or provided inaccurate, incomplete or misleading information in any documentation provided to IUCN;
2. defaults in carrying out any of its obligations under this Agreement;
3. has engaged in illegal acts, including, without limitation fraudulent or corrupt actions as defined in Code of Conduct and Professional Ethics for the Secretariat and IUCN's Anti-fraud Policy (hereafter referred to as a “Fraud”);
4. enters into liquidation or dissolution other than for the purpose of an amalgamation or reconstruction; or
5. ceases to carry on business, has a receiver or administrator appointed over all or any part of its assets or undertaking, enters into any composition or arrangement with its creditors or takes or suffers any similar action in consequence of a debt or other liability, or undergoes any process analogous to the foregoing in any jurisdiction throughout the world.

16.1.2 If it is determined that the Consultant has committed Fraud in competing for or in the performance of this Agreement, all expenditures incurred under this Agreement shall be undue and the Consultant shall promptly reimburse IUCN for all expenditures incurred in the performance of this Agreement.

* 1. Termination for lack of Donor funds

IUCN shall have the right to terminate this Agreement with immediate effect and without any liability for damages to the Consultant in case the agreement between IUCN and BOS is terminated and/or the Remuneration funds become unavailable to IUCN.

* 1. Termination for force majeure

16.3.1 The performance of this Agreement by either Party is subject to acts of God, war, government regulations, epidemics, pandemics, disaster, strikes (excluding strikes of respective Parties’ personnel), civil disorders, curtailment of transportation facilities, or other emergencies making it illegal or impossible for either Party to perform its obligations (“Force Majeure Event”). The Party subject to a Force Majeure Event shall promptly notify the other Party of the occurrence and particulars of such Force Majeure Event, including how it impacts the performance of its obligations under this Agreement. The Party so affected shall use diligent efforts to avoid or remove such causes of non or delayed performance as soon as is reasonably practicable.

16.3.2 This Agreement may be terminated unilaterally without compensation for any one or more of the foregoing reasons by written notice from one Party to the other.

16.3.3 Notwithstanding the above, the Parties may agree to a suspension or an extension of the Agreement as deemed appropriate. Upon termination of the Force Majeure Event, the performance of the suspended Services shall without delay recommence.

16.3.4 The Party subject to the Force Majeure Event shall not be liable to the other Party for any damages arising out of or relating to the suspension or termination of Services by reason of the occurrence of a Force Majeure Event, provided such Party complies with all the requirements under this article 16.3.

* 1. Effects of Termination

In the event of termination under this clause, IUCN shall pay the Consultant any outstanding Remuneration in respect of Services performed by the Consultant up until the effective date of termination, it being understood that the total amount payable by IUCN to the Consultant shall not exceed the Remuneration stated in clause 5 of the Agreement. The Consultant shall within thirty (30) days of termination, and at IUCN’s request:

* + 1. to the extent possible, complete the Services subject to the Remuneration made available until the date of termination and stop all ongoing activities;
		2. refund to IUCN any advance payments received in excess of the total expenditure incurred as evidenced in the invoices submitted to IUCN,
		3. reimburse IUCN for any expenditures made in breach of the terms of this Agreement and
		4. submit final technical and financial reports and any other materials, deliverables, works or other outputs created as at the date of termination under this Agreement.

**17. APPLICABLE LAW AND DISPUTE RESOLUTION**

* 1. The performance and interpretation of this Agreement will be subject exclusively to the laws of Switzerland, excluding its conflict of laws principles.
	2. Any dispute arising out of or in relation with this Agreement that cannot be resolved amicably by the Parties or by way of mediation shall be submitted to the competent courts of Lausanne, Switzerland.

**18. GENERAL PROVISIONS**

* 1. This Agreement is the complete understanding between IUCN and the Consultant and replaces all other agreements and understandings in reference to the subject matter of this Agreement.
	2. Any modification or amendment of this Agreement shall be in writing and shall become effective if and when signed by both Parties.
	3. This Consultancy Agreement is non-exclusive. IUCN is free to consult other experts in the Consultant’s field of specialization.
	4. This Agreement is personal to IUCN and the Consultant, and neither Party may sell, assign or transfer any duties, rights or interests created under this Agreement without the prior written consent of the other.
	5. Either Party waives all and any rights of set-off against any payments due hereunder and agrees to pay all sums due hereunder regardless of any set-off or cross claim.
	6. All provisions that logically ought to survive termination of this Agreement shall survive.
	7. In case of conflict between this Agreement proper and any of its Annexes, the Agreement proper and the Annexes shall be interpreted and applied in the following order:

1. This agreement proper

2. Attachment A: Mandatory Standard Provision

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement. The Parties agree that the signed counterparts may be delivered by e-mail in a ".pdf" format data file or electronic signature (e.g., DocuSign or similar electronic signature technology) and thereafter maintained in electronic form, and that in this case such signature shall create a valid and binding obligation of the party executing with the same force and effect as if such ".pdf" or electronic signature page were an original thereof.

**Signed on behalf of:**

**IUCN, International Union for [full name of OTHER PARTY]**

**Conservation of Nature and**

**Natural Resources**

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Name of representative] [Name of representative]**

**[Position of representative] [Position of representative]**

**Attachment A:**

Funding for this contract is provided by the US Agency for International Development (USAID) pursuant to Cooperative Agreement number 72016922CA00005 awarded to the Belgrade Open School (BOS) as a Prime Awardee.

BOS and IUCN, International Union for the Conservation of Nature and Natural Resources, represented by its Regional Office for Eastern Europe and Central Asia - IUCN (Sub-Awardee) have entered a Sub-Agreement number EKŽ/TEP/USAID/3/2022 (“Sub-Agreement”).

As required for Contracts using these funds, the Sub-Awardee, IUCN, is attaching a copy of the Mandatory Standard Provision of the Agreement as Attachment A.

Provisions in this Attachment A are numbered and named as they are numbered and named in the Cooperative Agreement number 72016922CA00005 between the US Agency for International Development (USAID) and the Belgrade Open School (BOS) as a Prime Awardee, and as they are numbered and named in the Attachment C of the Sub-Agreement number EKŽ/TEP/USAID/3/2022.

**MANDATORY STANDARD PROVISIONS**

**Part I. Mandatory Standard Provisions**

**M1. ALLOWABLE COSTS (NOVEMBER 2020)**

1. To the extent applicable, the Consultant will be paid/reimbursed for costs incurred in carrying out the purposes of this contract in accordance with the terms of this TEP award and the applicable cost principles in effect on the date of TEP award. The Consultant may obtain a copy of the applicable cost principles from IUCN, who will obtain a copy from BOS and the Agreement Officer (AO):
	1. 2 CFR 200, Subpart E, Cost Principles
	2. 48 CFR 31.2 Federal Acquisition Regulations (FAR) and 48 CFR 731.2 USAID Acquisition Regulations (AIDAR) - Cost Principles for Commercial Organizations
2. It is the Consultant’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 Consultant must obtain any prior written approvals from IUCN, BOS and the AO that are required by the applicable cost principles. The Consultant may obtain through IUCN 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.

1. IUCN will not pay any profit or fee to the Consultant or sub-grantees of a sub-grant. This restriction does not apply to procurements under this award made in accordance with Standard Provision, “Procurement Policies.”
2. The Consultant must retain documentation to support charges to this contract 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.”
3. **This provision must be incorporated into all subgrants and contracts, which are paid on a cost reimbursement basis**.

**M2. ACCOUNTING, AUDIT, AND RECORDS (MARCH 2021)**

1. Accounting, Retention, and Access to Records.
	1. The Consultant must maintain financial records, supporting documents, statistical records and all other records, to support performance of, and charges to, this award.
	2. 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 Consultant 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.
	3. The Consultant must grant timely access to IUCN, BOS, USAID, the USAID Inspector General, and the Comptroller General of the United States, or any of their authorized representatives, to any documents, papers, or other records of the Consultant and any subrecipients, which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. This includes timely and reasonable access to the Consultant’s personnel for the purpose of interview and discussion related to such documents.
2. Audits.
	1. The Consultant must have an annual audit, consistent with 2 CFR Part 200, Subpart F, for any Consultant’s fiscal year in which the Consultant expends a combined total of $750,000 or more in all federal awards, either directly or through another contractor or Consultant, excluding fixed price contracts.
		1. 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.
		2. 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.
		3. 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 Consultant is not required to have an annual audit for any Consultant fiscal year in which the Consultant expends a combined total of less than $750,000 in all federal awards, either directly or through a prime contractor or Consultant, excluding fixed price contracts. However, the Consultant 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.
3. Subawards/sub-grants and Contracts.
	1. If the Consultant provides USAID resources to other organizations to carry out the USAID- financed program and activities, the Consultant is responsible for monitoring such subrecipients/sub-grantees or contractors. The costs for sub-recipient 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/sub-grants 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.

# **M5. PROCUREMENT POLICIES (JUNE 2012)**

The Consultant 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 Sub-Awardee to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. If subawards are authorized under this award, then the Sub-Awardee must comply with the Standard Provision “Subawards.”

1. Procurement Policies and Procedures. The Consultant 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 Consultant may designate a reasonable micro-purchase threshold (e.g., $2,500) under which more simplified acquisition procedures may apply. The Consultant’s procurement procedures must provide, at a minimum:
	1. Procurements above the Consultant’s micro-purchase threshold must be conducted in a manner to provide fair and unbiased competition, including the following:
		1. All responsible sources are permitted to compete in an equal manner.
		2. Purchase requests must clearly establish all requirements that the bidder or offeror must fulfill in order to be evaluated by the Consultant.
		3. 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.
		4. The Consultant is encouraged to use U.S. small businesses whenever practicable.
	2. Where appropriate, the Consultant 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 Consultant 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 Consultant must avoid conflicts of interest, including bias and unfair competitive advantage. The Consultant’s standards of conduct must provide for disciplinary actions for violations of such standards by officers, employees, or agents of the Consultant.
		1. Bias. The Consultant must ensure that competitions are not biased in favor of one offeror over another. For instance, the Consultant, an employee, officer or agent of the Consultant, 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 Consultant must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subawards. 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.
		2. Unfair Competitive Advantage. The Consultant 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.
	5. The Consultant 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 Consultant’s micro- purchase threshold, the Consultant 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.
	6. 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 Consultant 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.
2. **For contracts under this award, the Consultant 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 Consultant’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 Consultant must observe generally accepted bonding requirements.

# **M6. USAID ELIGIBILITY RULES FOR PROCUREMENT OF COMMODITIES AND SERVICES (MAY 2020)**

1. This provision is not applicable to commodities or services that the Consultant provides with private funds as part of a cost-sharing requirement, or with Program Income generated under this award.
2. Ineligible and Restricted Commodities and Services:
	1. Ineligible Commodities and Services. The Consultant must not, under any circumstances, procure any of the following under this award:
		1. Military equipment,
		2. Surveillance equipment,
		3. Commodities and services for support of police or other law enforcement activities,
		4. Abortion equipment and services,
		5. Luxury goods and gambling equipment, or
		6. Weather modification equipment.
	2. Ineligible Suppliers. Any firms or individuals that do not comply with the requirements in [Standard](https://www.epls.gov/) Provision “Debarment and Suspension” and Standard Provision “Preventing Transactions with, or the Provision of Resources or Support to, Sanctioned Groups and Individuals” must not be used to provide any commodities or services funded under this award.
	3. Restricted Commodities. The Consultant through IUCN 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:
		1. Agricultural commodities,
		2. Motor vehicles,
		3. Pharmaceuticals,
		4. Pesticides,
		5. Used equipment,
		6. U.S. Government-owned excess property, or
		7. Fertilizer
3. 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](http://www.usaid.gov/ads/policy/300/310) [for Procurement of Commodities and Services Financed by USAID.](http://www.usaid.gov/ads/policy/300/310)

1. Guidance on the eligibility of specific commodities and services may be obtained from the AO. If USAID determines that the Consultant 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 Consultant to refund the entire amount of the purchase.
2. **This provision must be included in all subawards and contracts, which include procurement of commodities or services.**

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

1. Title to all Property financed under this award vests in the Sub-Awardee upon acquisition unless otherwise specified in this award.
2. 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 Sub-Awardee’s policy, lower limits may be established.
	2. Supplies means tangible personal property excluding equipment. A computing device is a supply if the acquisition cost is less than $5,000 per unit.
	3. Real Property means land, including land improvements, structures and appurtenances, including permanent fixtures.
	4. 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.
3. The Sub-Awardee agrees to use and maintain all Property for the purpose of this award in accordance with the following procedures:
	1. The Sub-Awardee 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 Sub-Awardee must use the Property in connection with its other activities, in the following order of priority:
		1. Activities funded by USAID, then
		2. Activities funded by other United States Government (USG) agencies, then
		3. As directed by the Agreement Officer (AO).
4. The Sub-Awardee 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 Sub-Awardee must maintain appropriate insurance equivalent to insurance the Sub-Awardee maintains for its own property. Any loss, damage, or theft must be investigated and fully documented, and the Sub-Awardee must promptly notify BOS to notify the AO. The Sub-Awardee may be liable where insurance is not sufficient to cover losses or damage.
5. Upon completion of this award, the Sub-Awardee must submit to BOS to 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.
6. The Sub-Awardee must dispose of Property at the end of this award in accordance with the Sub-Awardee’s property disposition report, unless the AO directs to BOS and the Sub-Awardee in writing within 60 days of the AO’s receipt of the Sub-Awardee’s property disposition report to dispose of the Property in a different manner. Disposition may include the following:
	1. The Sub-Awardee may retain title with no further obligation to USAID.
	2. The Sub-Awardee may retain title, but must compensate USAID for the USAID share, based on the current fair market value of the Property.
	3. The Sub-Awardee 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 Sub-Awardee will be compensated for its proportional share of the Property that the Sub-Awardee financed with its own funds, if any, based on the current fair market value of the Property.
7. 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 Sub-Awardee 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 Sub-Awardee must follow the provisions above for protection and maintenance of the Property, and provide the BOS to 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.
8. **This provision must be included in all subawards and contracts.**

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

1. 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.](http://www.usaid.gov/) To the extent applicable, Consultant 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 Consultant is encouraged to otherwise acknowledge USAID and the support of the American people.
2. The Consultant must implement the requirements of this provision following the approved Marking Plan in the award.
3. 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.
4. The Consultant is encouraged to give public notice of the receipt of this award and announce progress and accomplishments. The Consultant must provide copies of notices or announcements to IUCN to provide them to BOS and/or 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."

1. 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 Sub-Awardee name] and do not necessarily reflect the views of USAID or the United States Government.”

1. **The Consultant must provide, Sub-Awardee, the BOS and the USAID AOR, with two copies of all program and communications materials produced under this award.**
2. The Consultant through the Sub-Awardee 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.
3. The Sub-Awardee may submit a waiver request of the marking requirements of this provision or the Marking Plan, through BOS to 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 subawards/sub-grants 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 Sub-Awardee, by submitting a written request to reconsider the determination to the cognizant Assistant Administrator.
		1. The Consultant must include the following marking provision in any subawards/sub-grants entered into under this award:

“As a condition of receipt of this subaward/sub-grant, marking with the USAID Identity of a size and prominence equivalent to or greater than the Consultant, the Sub-Awardee’s, subrecipient’s, other donor’s, or third party’s is required. In the event the Consultant 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.”

# **M10. AWARD TERMINATION AND SUSPENSION (DECEMBER 2014)**

1. The Sub-Awardee, BOS 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.
2. USAID may suspend this award, in whole or in part, at any time, following notice to the BOS who will give notice the Sub-Awardee and the Sub-Awardee will give notice to the Consultant, and prohibit the Consultant from incurring additional obligations chargeable to this award other than those costs specified in the notice of suspension during the period of suspension.
3. In the event the Consultant 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 Consultant must make a good-faith effort to maintain a drug- free workplace and USAID reserves the right to terminate or suspend this contract if the Consultant materially fails to do so.
4. Termination and Suspension Procedures. Upon receipt of, and in accordance with, a termination or suspension notice from IUCN, BOS and USAID as specified above, the Consultant 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 Consultant is not entitled to costs incurred after the effective date of termination.
5. Within 30 calendar days after the effective date of such termination, the Consultant must repay to IUCN to repay to BOS who in turn repays the U.S. Government all unexpended USAID funds as of the effective date of termination, which are not otherwise obligated by a non- cancelable legally binding transaction applicable to this award.
6. Should the funds paid by USAID to the Consultant prior to the effective date of the termination of this award be insufficient to cover legally binding obligations to third parties by the Consultant, the Consultant may submit to IUCN to submit to BOS and USAID within 30 calendar days after the effective date of a termination a written claim covering such Consultant obligations. The AO must determine the amount(s) to be paid by USAID to IUCN to be paid to the Consultant under such claim in accordance with this provision and the Standard Provision, “Allowable Costs.”
7. **The Consultant must, to the greatest extent possible, include a provision in all subawards, including subawards and contracts, affording the Consultant the right to terminate the subaward in the event USAID terminates this award, including the refund requirement in paragraph c.**

# **M11. SUB-AWARDEE AND EMPLOYEE CONDUCT (JUNE 2018)**

1. The Consultant 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 Consultant has a financial interest, personal activity, or relationship that could impair the employee’s ability to act impartially when performing under the award. The Consultant’s written policy must state that an employee, officer, or agent of the Consultant, or any member of an employee’s immediate family cannot receive a subaward/sub-grant, or have a financial or other interest in the entity selected for a subaward/sub-grant without disclosing the conflict and following the Consultant’s written policies and procedures for mitigating the conflict. In addition, the written policy must state that the officers, employees, and agents of the Consultant must neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or prospective subrecipients.
2. The Consultant, its employees, and subcontractors 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.
3. The Consultant, its employees, and subcontractors are private individuals, are not employees of the U.S. Government, and must not represent themselves as such.
4. The following requirements in this provision apply to the Consultant employees who are not citizens of the cooperating country.
	1. If the Consultant’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 Consultant’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 Consultant’s employees, other than work to be performed under this award.
5. As part of the Consultant’s internal controls and standards of employee conduct, the Consultant must ensure that its employees adhere to these standards of conduct in a manner consistent with the standards for United Nations (UN) employees in Section 3 of the UN Secretary- General’s Bulletin - Special measures for protection from sexual exploitation and sexual abuse (ST/SGB/2003/13).
6. If the Consultant determines that the conduct of any Consultant employee is not in accordance with this provision or this award, the Consultant must promptly notify the Sub-Awardee’s Chief of Party who must coordinate with the BOS to coordinate with the Agreement Officer and the USAID Mission Director 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 Consultant must use its best efforts to cause the return of such employee to the United States, or point of origin, as appropriate.
7. 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 (U.S., third-country, or cooperating-country national) when, at the discretion of the U.S. Chief of Mission, it is in the best interest of the United States.
8. If it is determined, under paragraph (f) or (g) above, that the services of such employee should be terminated, the Consultant must use its best efforts to cause the return of such employee to the United States, or third-country point of origin, as appropriate, and replace the employee with an acceptable substitute at no cost to USAID.
9. **The substance of this provision, including this paragraph g., must be included in all subawards.** Any matters relating to subrecipients, including the employees of Consultants, must be coordinated through the Sub-Awardee’s responsible personnel with BOS Chief of Party.

# **M12. DEBARMENT AND SUSPENSION (JUNE 2012)**

1. The Consultant 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](http://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 Consultant has any questions about listings in the system, these must be directed to the Agreement Officer.
2. The Consultant 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 Consultant, or take other remedies as appropriate, if the Consultant violates this provision. Although doing so is not automatic, USAID may terminate this award if a Consultant 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 Consultant’s response to the situation and any additional information submitted—when USAID determines its response.
3. The Consultant must notify BOS to 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.
4. 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—
		1. Is in a position to handle Federal funds;
		2. Is in a position to influence or control the use of those funds; or,
		3. Occupies a technical or professional position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.
5. **The Consultant must include this provision in its entirety except for paragraphs c.(2)-(4) in any subawards/sub-grants or contracts entered into under this award.**

# **M14. PREVENTING TRANSACTIONS WITH, OR THE PROVISION OF RESOURCES OR SUPPORT TO, SANCTIONED GROUPS AND INDIVIDUALS (MAY 2020)**

1. In carrying out activities under this award, except as authorized by a license issued by the Office of Foreign Assets Control (OFAC) of the U.S. Department of Treasury, the Consultant will not engage in transactions with, or provide resources or support to, any individual or entity that is subject to sanctions administered by OFAC or the United Nations (UN), including any individual or entity that is included on the Specially Designated Nationals and Blocked Persons List maintained by OFAC ([https://www.treasury.gov/resource-](https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx/) [center/sanctions/SDN- List/Pages/default.aspx/](https://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx/)) or on the UN Security Council consolidated list (<https://www.un.org/securitycouncil/content/un-sc-consolidated-list>).
2. Any violation of the above will be grounds for unilateral termination of the agreement by USAID.
3. **The Consultant must include this provision in all subawards/sub-grants and contracts issued under this award.**

# **M15. TRAFFICKING IN PERSONS (April 2016)**

1. The Consultant, subrecipient/subgrantee, or contractor, at any tier, or their employees, labor recruiters, brokers or other agents, must not engage in:
	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;
	3. Use of forced labor in the performance of this award;
	4. Acts that directly support or advance trafficking in persons, including the following acts:
		1. Destroying, concealing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
		2. Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:
			1. exempted from the requirement to provide or pay for such return transportation by USAID under this award; or
			2. the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action;
		3. Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;
		4. Charging employees recruitment fees; or
		5. Providing or arranging housing that fails to meet the host country housing and safety standards.
2. In the event of a violation of section (a) of this provision, USAID is authorized to terminate this award, without penalty, and is also authorized to pursue any other remedial actions authorized as stated in section 1704(c) of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239, enacted January 2, 2013).
3. If the estimated value of services required to be performed under the award outside the United States exceeds $500,000, the Consultant through the Sub-Awardee must submit to BOS to submit to the Agreement Officer, the annual “Certification regarding Trafficking in Persons, Implementing Title XVII of the National Defense Authorization Act for Fiscal Year 2013” as required prior to this award, and must implement a compliance plan to prevent the activities described above in section (a) of this provision. The Consultant through the Sub-Awardee must provide a copy of the compliance plan to BOS to provide a copy to the Agreement Officer upon request and must post the useful and relevant contents of the plan or related materials on its website (if one is maintained) and at the workplace.
4. The Consultant’s compliance plan must be appropriate to the size and complexity of the award and to the nature and scope of the activities, including the number of non-United States citizens expected to be employed. The plan must include, at a minimum, the following:
	1. An awareness program to inform employees about the trafficking related prohibitions included in this provision, the activities prohibited and the action that will be taken against the employee for violations.
	2. A reporting process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking, including a means to make available to all employees the Global Human Trafficking Hotline at 1-844-888-FREE and its e-mail address at help@befree.org.
	3. A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging of recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.
	4. A housing plan, if the Consultant or any subrecipient/subgrantee intends to provide or arrange housing. The housing plan is required to meet any host-country housing and safety standards.
	5. Procedures for the Consultant to prevent any agents or subrecipient at any tier and at any dollar value from engaging in trafficking in persons activities described in section a of this provision. The Consultant must also have procedures to monitor, detect, and terminate any agents or subrecipient or subrecipient employees that have engaged in such activities.
5. If the Consultant receives any credible information regarding a violation listed in section a(1)-(4) of this provision, the Consultant through the Sub-Awardee must immediately notify BOS to notify the cognizant Agreement Officer and the USAID Office of the Inspector General; and must fully cooperate with any Federal agencies responsible for audits, investigations, or corrective actions relating to trafficking in persons.
6. The Agreement Officer may direct BOS and the Sub-Awardee to direct the Consultant to take specific steps to abate an alleged violation or enforce the requirements of a compliance plan.
7. 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 Consultant.
8. **The Consultant must include in all subawards and contracts a provision prohibiting the conduct described in section a (1)-(4) by the subrecipient, contractor, or any of their employees, or any agents. The Consultant must also include a provision authorizing the Consultant to terminate the award as described in section b of this provision.**

[END OF PROVISION]

**M17. EQUAL PARTICIPATION BY FAITH-BASED ORGANIZATIONS (JUNE 2016)**

a. Faith-Based Organizations Encouraged

Faith-based organizations are eligible, on the same basis as any other organization, to participate in any USAID program for which they are otherwise eligible. Neither USAID nor entities that make and administer subawards of USAID funds shall discriminate for or against an organization on the basis of the organization’s religious character or affiliation. Additionally, religious organizations shall not be disqualified from participating in USAID programs because such organizations are motivated or influenced by religious faith to provide social services, or because of their religious character or affiliation.

Decisions about awards of USAID financial assistance must be free from political interference or even the appearance of such interference. Awards must be made on the basis of merit, not the basis of the religious affiliation of an applicant, or lack thereof. A faith-based organization may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, within the limits contained in this provision. For more information, see the USAID Faith- Based and Community Initiatives Web site and 22 CFR 205.1.

b. Explicitly Religious Activities Prohibited.

(1) Explicitly religious activities include activities that involve overt religious content such as worship, religious instruction, prayer, or proselytization.

(2) The Sub-Awardee must not engage in explicitly religious activities as part of the programs or services directly funded with financial assistance from USAID. If the Consultant engages in explicitly religious activities, the activities must be offered separately, in time or location, from any programs or services directly funded by this award, and participation must be voluntary for beneficiaries of the programs or services funded with USAID assistance.

(3) These restrictions apply equally to religious and secular organizations. All organizations that participate in USAID programs, as Sub-Awardees or subrecipients/sub-grantees, including religious ones, must carry out eligible activities in accordance with all program requirements and other applicable requirements governing USAID- funded activities.

(4) Notwithstanding the restrictions of b.(1) and (2), a religious organization that participates in USAID-funded programs or services:

(i) May retain its independence and may continue to carry out its mission, including the definition, development, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from USAID to support or engage in any explicitly religious activities or in any other manner prohibited by law;

(ii) May use space in its facilities, without removing religious art, icons, scriptures, or other religious symbols; and

(iii) May retains its authority over its internal governance, and 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. Implementation in accordance with the Establishment Clause: Nothing in this provision shall be construed as authorizing the use of USAID funds for activities that are not permitted by Establishment Clause jurisprudence or otherwise by law.

d. Discrimination Based on Religion Prohibited: The Sub-Awardee must not, in providing services, discriminate against a program beneficiary or potential program beneficiary on the basis of religion or religious belief, refusal to hold a religious belief or a refusal to attend or participate in a religious practice.

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.

g. **This provision must be included in all subawards/sub-grants under this award.**

[END OF PROVISION]

**M20. LIMITING CONSTRUCTION ACTIVITIES (AUGUST 2013)**

a) **Construction is not eligible cost 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/sub-grants or procurements by Sub-Awardees or Consultant for construction activities that are not listed in paragraph d) below. USAID will reimburse or pay 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 Consultant through the Sub-Awardee must receive prior written approval from BOS, received from the AO to transfer funds allotted for construction activities to other cost categories, or vice versa.

d) Description [See paragraph a) above]

**e) The Consultant 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]

**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 Consultant 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 Consultant 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 Sub-Awardee who has the responsibility to investigate, discover, or address misconduct.

[END OF PROVISION]

**M24. PROHIBITION ON REQUIRING CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS OR STATEMENTS (MAY 2017)**

(a) Definitions.

“Contract” has the meaning given in 2 CFR Part 200.

“Contractor” means an entity that receives a contract as defined in 2 CFR Part 200.

“Internal confidentiality agreement or statement” means a confidentiality agreement or any other written statement that the Sub-Awardee requires any of its employees or subrecipients to sign regarding nondisclosure of Consultant information, except that it does not include confidentiality agreements arising out of civil litigation or confidentiality agreements that the Consultant employees or subrecipients sign at the behest of a Federal agency.

“Subaward” has the meaning given in 2 CFR Part 200. “Subrecipient” has the meaning given in 2 CFR Part 200.

(b) The Consultant must not require its employees, subrecipients, or contractors to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict employees, subrecipients, or contractors from lawfully reporting waste, fraud, or abuse related to the performance of a Federal award to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information (for example, the Agency Office of the Inspector General).

(c) The Consultant must notify current employees and subrecipients that prohibitions and restrictions of any pre-existing internal confidentiality agreements or statements covered by this provision, to the extent that such prohibitions and restrictions are inconsistent with the prohibitions of this provision, are no longer in effect.

(d) The prohibition in paragraph (b) of this provision does not contravene the requirements applicable to Standard Form 312 (Classified Information Nondisclosure Agreement), Form 4414 (Sensitive Compartmented Information Nondisclosure Agreement), or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(e) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Appropriations Act, 2015, (Pub. L. 113-235), and its successor provisions in subsequent appropriations acts (and as extended in continuing resolutions) use of funds appropriated (or otherwise made available) is prohibited, if the Government determines that the Sub-Awardee is not in compliance with the requirements of this provision.

**(f) The Consultant must include the substance of this provision, including this paragraph (f), in subawards and contracts under such awards.**

(END OF PROVISION)

**M25. CHILD SAFEGUARDING (June 2015)**

(a) Because the activities to be funded under this award may involve children, or personnel engaged in the implementation of the award may come into contact with children, these activities could raise the risk of child abuse, exploitation, or neglect within USAID-funded programs. The organization agrees to abide by the following child safeguarding core principles:

(1) Ensure compliance with host country and local child welfare and protection legislation or international standards, whichever gives greater protection, and with U.S. law where applicable;

(2) Prohibit all personnel from engaging in child abuse, exploitation, or neglect;

(3) Consider child safeguarding in project planning and implementation to determine potential risks to children that are associated with project activities and operations;

(4) Apply measures to reduce the risk of child abuse, exploitation, or neglect, including, but not limited to, limiting unsupervised interactions with children; prohibiting exposure to pornography; and complying with applicable laws, regulations, or customs regarding the photographing, filming, or other image- generating activities of children;

(5) Promote child-safe screening procedures for personnel, particularly personnel whose work brings them in direct contact with children; and

(6) Have a procedure for ensuring that personnel and others recognize child abuse, exploitation, or neglect; mandating that personnel and others report allegations; investigating and managing allegations; and taking appropriate action in response to such allegations, including, but not limited to, dismissal of personnel.

(b) The organization must also include in their code of conduct for all personnel implementing USAID-funded activities the child safeguarding principles in (a) (1) through (6).

(c) The following definitions apply for purposes of this provision:

(1) Child: A child or children are defined as persons who have not attained 18 years of age.

(2) Child abuse, exploitation, or neglect: Constitutes any form of physical abuse; emotional ill-treatment; sexual abuse; neglect or insufficient supervision; trafficking; or commercial, transactional, labor, or other exploitation resulting in actual or potential harm to the child’s health, well-being, survival, development, or dignity. It includes, but is not limited to: any act or failure to act which results in death, serious physical or emotional harm to a child, or an act or failure to act which presents an imminent risk of serious harm to a child.

(3) Physical abuse: Constitutes acts or failures to act resulting in injury (not necessarily visible), unnecessary or unjustified pain or suffering without causing injury, harm or risk of harm to a child’s health or welfare, or death. Such acts may include, but are not limited to: punching, beating, kicking, biting, shaking, throwing, stabbing, choking, or hitting (regardless of object used), or burning. These acts are considered abuse regardless of whether they were intended to hurt the child.

(4) Sexual Abuse: Constitutes fondling a child's genitals, penetration, incest, rape, sodomy, indecent exposure, and exploitation through prostitution or the production of pornographic materials.

(5) Emotional abuse or ill treatment: Constitutes injury to the psychological capacity or emotional stability of the child caused by acts, threats of acts, or coercive tactics. Emotional abuse may include, but is not limited to: humiliation, control, isolation, withholding of information, or any other deliberate activity that makes the child feel diminished or embarrassed.

(6) Exploitation: Constitutes the abuse of a child where some form of remuneration is involved or whereby the perpetrators benefit in some manner. Exploitation represents a form of coercion and violence that is detrimental to the child’s physical or mental health, development, education, or well-being.

(7) Neglect: Constitutes failure to provide for a child's basic needs within USAID- funded activities that are responsible for the care of a child in the absence of the child's parent or guardian.

**(d) The Consultant must insert the provisions in (a) and (b) in all subawards/sub-grants under this award.**

[END OF PROVISION]

**M26. MANDATORY DISCLOSURES (NOVEMBER 2020)**

Consistent with 2 CFR §200.113, applicants and Consultant must disclose, in a timely manner, in writing to IUCN to forward to the BOS who in turn shall forward to USAID Office of the Inspector General, with a copy to the cognizant Agreement Officer, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the USAID Office of the Inspector General and to the BOS as the prime recipient of award all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Disclosures must be sent to:

U.S. Agency for International Development Office of the Inspector General

P.O. Box 657

Washington, DC 20044-0657

 Phone: 1-800-230-6539 or 202-712-1023

Email: ig.hotline@usaid.gov

URL: https://oig.usaid.gov/content/usaid-contractor-reporting-form.

Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.339 Remedies for noncompliance, including suspension or debarment (See 2 CFR 180, 2 CFR 780 and 31 U.S.C. 3321).

**The Consultant must include this mandatory disclosure requirement in all subawards/sub-grants and contracts under this award.**

[END OF PROVISION]

**M27. NONDISCRIMINATION AGAINST BENEFICIARIES (November 2016)**

(a) USAID policy requires that the Consultant not discriminate against any beneficiaries in implementation of this award, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the benefits provided through this award on the basis of any factor not expressly stated in the award. This includes, for example, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, disability, age, genetic information, marital status, parental status, political affiliation, or veteran's status. Nothing in this provision is intended to limit the ability of the Consultant to target activities toward the assistance needs of certain populations as defined in the award.

**(b) The Consultant must insert this provision, including this paragraph, in all subawards/sub-grants and contracts under this award.**

[END OF PROVISION]

**M28. CONFLICT OF INTEREST (August 2018)**

a. A conflict of interest in the award, administration, or monitoring of subawards/sub-grants arises when an employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a non-federal entity considered for a subaward. The officers, employees, and agents of the non-federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or parties to subawards. However, pass-through entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the pass-through entity.

b. The Consultant must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of subawards/sub-grants. The standards must prohibit employees from using their positions for a purpose that constitutes or presents the appearance of a conflict of interest.

c. The non-federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a subaward action involving a related organization.

d. The Consultant must have a system or systems in place to identify, address, resolve, and disclose to IUCN and IUCN shall in turn inform BOS to disclose to USAID any conflicts of interest as described in this provision that affect any subaward/sub-grant, regardless of the amount funded under this award.

e. The Consultant must disclose any conflict of interest and the Consultant’s approach for resolving the conflict of interest to BOS to notify the cognizant Agreement Officer for the award within 10 calendar days of the discovery of the conflict of interest.

f. Upon notice from the Consultant of a potential conflict of interest and the approach for resolving it, IUCN through BOS will notify the Agreement Officer who will make a determination regarding the effectiveness of the Consultant’s actions to resolve the conflict of interest within 30 days of receipt of the Consultant’s notice, unless the Agreement Officer advises the Consultant that a longer period is necessary.

g. The Consultant cannot request payment from IUCN or BOS or USAID for costs for transactions subject to the conflict of interest pending notification of USAID’s determination. Failure to disclose a conflict of interest may result in cost disallowances.

h. For conflicts of interest, including organizational conflicts of interest, involving contracts, the Consultant must follow 2 CFR 200.318, general procurement standards.

**i. The Consultant must insert the substance of this provision, including paragraph (i), in all subawards/sub-granst under this award, at any subaward tier.**

[END OF PROVISION]

**M29. PROHIBITION ON CERTAIN TELECOMMUNICATION AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (JULY 2022)**

a. In accordance with the cost principles in 2 CFR § 200.471, **obligating or expending costs for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR § 200.216 are unallowable**. Consultant and subrecipients are prohibited from using award funds, including direct and indirect costs, cost share and program income, for such covered telecommunications and video surveillance services or equipment. This provision implements temporary waivers granted to USAID under Section 889(d)(2) that allow the Consultant to use award funds for:

(1) All costs for covered telecommunications and video surveillance services or equipment incurred through September 30, 2022; and

(2) Costs for covered telecommunications and video surveillance services or equipment incurred on or after October 1, 2022, through September 30, 2028, only if the Consultant has determined that there is no available alternate eligible source for the covered telecommunications and video surveillance services or equipment.

b. After September 30, 2028, in accordance with 2 CFR § 200.471 costs of all covered telecommunications and video surveillance services or equipment as specified in 2 CFR § 200.216 will be unallowable.

**c. The Consultant must include this provision in all subawards and contracts issued under this award.**

 [END OF PROVISION]

**PART 2. REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS**

**RAA8. SUBAWARDS (DECEMBER 2014)**

a. Sub-grant means an award provided by the Sub-Awardee to a subrecipient/sub-grantee in a capacity of pass-through entity for the subrecipient to carry out part of the award received by the Sub-Awardee. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A sub-grant may be provided through any form of legal agreement, including an agreement that the Sub-Awardee considers a contract. Pass-through entity means a non-Federal entity that provides a sub-grant to a subrecipient to carry out part of a Federal program.

b. The Consultant remains responsible for the work that is sub-granted or subcontracted, and therefore, the Consultant must comply with the following:

(1) Subrecipient’s responsibility: The consultant must determine that the subrecipient possesses the ability to perform successfully under the terms and conditions of a proposed award, taking into consideration the subrecipient’s integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources. The Consultants must ensure subawards are made in compliance with the Standard Provision “Suspension and Debarment,” and the Standard Provision “Preventing Transactions with, or the Provision of Resources or Support to, Sanctioned Groups and Individuals.”

The Consultant remains responsible for the work that is sub-granted or subcontracted, and therefore, the Consultant must comply with the following:

(1) Subrecipient’s responsibility: The Consultant must determine that the subrecipient possesses the ability to perform successfully under the terms and conditions of a proposed sub-grant, taking into consideration the subrecipient’s integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources. The Consultant must ensure subgrants are made in compliance with the Standard Provision “Suspension and Debarment,” and the Standard Provision “Preventing Transactions with, or the Provision of Resources or Support to, Sanctioned Groups and Individuals.”

(2) Enter into a written sub-grant or subcontractor agreement: All sub-grant or subcontractor agreements must contain the following:

1. Program description, budget, and period of performance,
2. Terms and conditions to define a sound and complete sub-grant or subcontractor agreement,
3. All provisions from this subaward that contain a requirement to incorporate that provision into the sub-grants or subcontracts. The Consultant must insert a statement in the sub-grant or subcontract that, where appropriate, in instances where USAID is mentioned in such flow down provisions, the Consultant’s name will be substituted and where “Consultant” appears, the subrecipient’s name will be substituted.
4. Other terms that the Consultant determines are required to ensure compliance with the terms of this subaward

 c. Unless otherwise approved by the USAID Agreement Officer, the Consultant must not provide funds to the governments of or entities controlled by the governments of countries ineligible for assistance under the Foreign Assistance Act of 1961, as amended, or under acts appropriating funds for foreign assistance.

[END OF PROVISION]

**RAA9. TRAVEL AND INTERNATIONAL AIR TRANSPORTATION (DECEMBER 2014)**

A) TRAVEL COSTS

All travel costs must comply with the applicable cost principles and must be consistent with those normally allowed in like circumstances in the Consultant’s non-USAID-funded activities. Costs incurred by employees and officers for travel, including air fare, costs of lodging, other subsistence, and incidental expenses, may be considered reasonable and allowable only to the extent such costs do not exceed reasonable charges normally allowed by the Sub-Awardee in its regular operations as the result of the Sub-Awardee organization's written travel policy and are within the limits established by the applicable cost principles.

In the absence of a reasonable written policy regarding international travel costs, the standard for determining the reasonableness of reimbursement for international travel costs will be the Standardized Regulations (Government Civilians, Foreign Areas), published by the U.S. Department of State, as from time to time amended. The most current Standardized Regulations on international travel costs may be requested from IUCN and BOS to be obtained from the AO. In the event that the cost for air fare exceeds the customary standard commercial airfare (coach or equivalent) or the lowest commercial discount airfare, the Consultant must document one of the allowable exceptions from the applicable cost principles.

B) FLY AMERICA ACT RESTRICTIONS

**(1) The Consultant must use U.S. Flag Air Carriers for all international air transportation (including personal effects) funded by this award pursuant to the Fly America Act and its implementing regulations to the extent service by such carriers is available**.

 (2) In the event that the Consultant selects a carrier other than a U.S. Flag Air Carrier for international air transportation, in order for the costs of such international air transportation to be allowable, the Consultant must document such transportation in accordance with this provision and maintain such documentation pursuant to the Standard

Provision, “Accounting, Audit and Records.” The documentation must use one of the following reasons or other exception under the Fly America Act:

 (i) The Consultant uses a European Union (EU) flag air carrier, which is an airline operating from an EU country that has signed the US-EU “Open Skies” agreement (http://www.state.gov/e/eb/rls/othr/ata/i/ic/170684.htm).

 (ii) Travel to or from one of the following countries on an airline of that country when no city pair fare is in effect for that leg (see http://apps.fas.gsa.gov/citypairs/search/):

 a. Australia on an Australian airline, b. Switzerland on a Swiss airline, or c. Japan on a Japanese airline;

(iii) Only for a particular leg of a route on which no US Flag Air Carrier provides service on that route;

 (iv) For a trip of 3 hours or less, the use of a US Flag Air Carrier at least doubles the travel time;

 (v) If the US Flag Air Carrier offers direct service, use of the US Flag Air Carrier would increase the travel time by more than 24 hours; or

 (vi) If the US Flag Air Carrier does not offer direct service,

a. Use of the US Flag Air Carrier increases the number of aircraft changes by 2 or more,

b. Use of the US Flag Air Carrier extends travel time by 6 hours or more, or

c. Use of the US Flag Air Carrier requires a layover at an overseas interchange of 4 hours or more.

C) DEFINITIONS

The terms used in this provision have the following meanings:

 (1) “Travel costs’’ means expenses for transportation, lodging, subsistence (meals and incidentals), and related expenses incurred by employees who are on travel status on official business of the Consultant for any travel outside the country in which the organization is located. “Travel costs” do not include expenses incurred by employees who are not on official business of the Consultant, such as rest and recuperation (R&R) travel offered as part of an employee’s benefits package that are consistent with the Sub-Awardee’s personnel and travel policies and procedures.

 (2) “International air transportation" means international air travel by individuals (and their personal effects) or transportation of cargo by air between a place in the United States and a place outside thereof, or between two places both of which are outside the United States.

 (3) "U.S. Flag Air Carrier" means an air carrier on the list issued by the U.S. Department of Transportation at http://ostpxweb.dot.gov/aviation/certific/certlist.htm. U.S. Flag Air Carrier service also includes service provided under a code share agreement with another air carrier when the ticket, or documentation for an electronic ticket, identifies the U.S. flag air carrier's designator code and flight number.

(4) For this provision, the term “United States” includes the fifty states, Commonwealth of Puerto Rico, possessions of the United States, and the District of Columbia.

D) SUBAWARDS/SUB-GRANTS AND CONTRACTS

**This provision must be included in all subawards/sub-grants and contracts under which this subaward will finance international air transportation.**

[END OF PROVISION]

**RAA11. REPORTING HOST GOVERNMENT TAXES (JUNE 2012)**

a. By April 5 of each year, the Consultant must submit to IUCN to submit to BOS and USAID a report containing:

(i) Contractor/Sub-grantee 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 Consultant did not pay any taxes or receive any reimbursements during the reporting period.

(vii) Cumulative reports may be provided if the Consultant is implementing more than one program in a foreign country.

 b. Submit the reports to:

IUCN and BOS Chief of Party, in order to submit reports to Agreement Officer Representative (AOR), with the copy to the cognizant A&A Specialist.

c. Host government taxes are not allowable where the Agreement Officer provides the necessary means to the BOS and Consultant to obtain an exemption or refund of such taxes, and the Consultant 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 Consultant must include this reporting requirement in all applicable sub-agreements, including subawards/sub-grants and contracts.**

[END OF PROVISION]

**RAA13. EXCHANGE VISITORS AND PARTICIPANT TRAINING (JUNE 2012)**

In case exchange visits and trainings in the U.S. are included in this subaward, for any Exchange Visitor, Participant Training or Invitational Travel activities, the Consultant must comply with this provision.

a. Definitions:

(1) An Exchange Visitor is any host-country or third-country national traveling to the U.S., for any purpose, including Participant Training and Invitational Travel, funded by USAID in whole or in part, directly or indirectly.

(2) A Participant is a host-country or third-country national sponsored by USAID for a Participant Training activity taking place in the U.S., a third country, or in the host country.

(3) Participant Training is a learning activity conducted within the U.S., a third country, or in the host country for the purpose of furthering USAID development objectives. A learning activity takes place in a setting in which an individual (the Participant) interacts with a knowledgeable professional, predominantly for the purpose of acquiring knowledge or skills for the professional or technical enhancement of the individual. Learning activities may be formally structured, such as an academic program or a technical course, or they may be more informal, such as an observational study tour.

(4) Invitational Travel is a type of travel that USAID funds for non-U.S. Government employees. This type of travel may be approved for both U.S. and foreign citizens who are not employed by the U.S. Government (USG), not receiving any type of compensation from the USG for such travel, and only when it is determined that the functions to be performed are essential to the interests of USAID.

b. Program Monitoring and Data Reporting: The Consultant must monitor Exchange Visitors’ and Participants’ progress during their program and ensure that problems are identified and resolved quickly.

(1) For U.S.-based activities, the Consultant must use USAID’s official Exchange Visitor and Participant Training information system, currently called “Training Results and Information Network – TraiNet” (see http://trainethelp.usaid.gov/), to report and manage Exchange Visitor and Participant Training data. The Consultant must also use the USAID Visa Compliance System – VCS (see http://trainethelp.usaid.gov/) to transfer required data for USAID Exchange Visitors to the Department of Homeland Security’s Student and Exchange Visitor Information System (SEVIS).

(2) For all third-country activities, and for host-country activities of two consecutive days or 16 contact hours or more in duration, the Consultant must use USAID’s official Exchange Visitor and Participant Training information system, currently called “Training Results and Information Network – TraiNet” (see http://trainethelp.usaid.gov/), to report and manage Participant Training data.

c. Health and Accident Insurance:

(1) For Exchange Visitors traveling to the United States, the Consultant must enroll Exchange Visitors in health and accident insurance coverage that meets or exceeds Department of State and USAID minimum coverage requirements as set forth in 22 CFR 62.14 and ADS 253.3.6.2. The requirements may be requested from BOS to be obtained from the Agreement Officer’s Representative.

(2) For Participants traveling to a third country, the Consultant must obtain health and accident insurance coverage for all Participants.

(3) For Participants traveling within the host country, the Consultant must determine whether specific in-country participant training activities subject them to any risk of health and accident liability for medical costs. Participants may incur, and if so, take appropriate step for the Environments according to the local situation, including obtaining health and accident insurance coverage for Participants.

d. Immigration Requirements:

(1) For Exchange Visitors traveling to the United States, the Consultant must ensure that all USAID-sponsored Exchange Visitors obtain, use, and comply with the terms of the J-1 visa, issued in conjunction with a USAID-issued Certificate of Eligibility for J-1 Visa Status (DS-2019).

(2) For Participants traveling to a third country or within the host country, the Consultant must ensure that all Participants obtain, use, and comply with the terms of all applicable immigration, visa and other similar requirements.

e. Language Proficiency: The Consultant must verify language proficiency. Exchange Visitors must possess sufficient English language proficiency to participate in a U.S.-based activity. Participants of third-country or host-country training must be proficient in the language of training at a sufficient level for participation, unless an interpreter has been arranged. Language competency can be verified through a variety of means including proficiency assessments of interviews, publications, presentations, education conducted in English, and formal testing.

f. Pre-departure Orientation: The Consultant must conduct pre-departure orientation for U.S-bound Exchange Visitors and Participants of third-country training programs. Pre-departure orientation covers: program objectives; administrative and policy review; cultural aspects; and training/learning methods.

g. Conditions of Sponsorship: The Consultant must ensure that all Exchange Visitors read and sign the Conditions of Sponsorship for U.S.-Based Activities form (AID 1381-6). The Consultant must also ensure that all Participants of long-term (six months or longer) third- country training read and sign the form Conditions of Sponsorship for Third-Country Training form (AID 1381-7). The Consultant must report to BOS to report to the Agreement Officer any known violations by Exchange Visitors of visa or other immigration requirements or conditions.

h. Exchange Visitor Security Risk and Fraud Inquiry: Each USAID Mission has an established process for conducting a Security Risk and Fraud Inquiry (SRFI) for Exchange Visitors. The Consultant must be prepared to assist IUCN and BOS to assist Missions in conducting the SRFI, if requested. However, the Consultant’s role is contributive, and the Mission is ultimately responsible for conducting the SRFI.

i. Fly America: To the extent that participants travel by international air travel, the Consultant must comply with the Standard Provision, “International Air Travel and Air Transportation of Property.”

j. Use of Minority Serving Institutions: For U.S.-based Participant Training, the Consultant must, to the maximum extent possible, maintain their use of Historically Black Colleges and Universities (HBCUs) and other Minority Serving Institutions (MSIs), including Hispanic Serving Institutions and Tribal Colleges and Universities, as training or education providers.

[END OF PROVISION]

**RAA31. NEVER CONTRACT WITH THE ENEMY (NOVEMBER 2020)**

1. Prohibition on Providing Funds to the Enemy

(a) The Consultant must:

(1) Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR 180.300 prior to issuing a subaward or contract and;

(2) Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.

**(b) The Consultant may include the substance of this clause, including paragraph (a) of this clause, in subawards under this grant or cooperative agreement that have an estimated value over $50,000 and will be performed outside the United States, including its outlying areas.**

(c) The Federal awarding agency has the authority to terminate or void this subaward, grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the Consultant failed to exercise due diligence as required by paragraph (a) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

2. Additional Access to Consultant’ Records

(a) In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the Consultant and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations.

**(b) The substance of this clause, including this paragraph (b), is required to be included in subawards or contracts under this subaward that have an estimated value over $50,000 and will be performed outside the United States, including its outlying areas.**

[END OF PROVISION]

[END OF ATTACHMENT A]