



Montenegro

Date: 16th February 2009

Request for Proposal (RFP 003/ 09)

Audit of NIM (National implemented) projects in UNDP Montenegro

INTRODUCTION

You are invited to submit a proposal to conduct an audit of the UNDP projects executed by two Government Agencies: Institute for Public Health and Agency for Public Works. Your proposal could form the basis for a contract between your firm and the United Nations Development Programme (UNDP). The contract will cover the audit of financial reports for the year ended 2008 but may be extended, at the sole discretion of UNDP, for a further two years.

The objective of the audit is to assess whether the financial report for the project (referred to as the Combined Delivery Report) presents fairly the expenditures for the project and that the funds were utilized for the purposes described in the project document and work plans.

STATEMENT OF WORK

A detailed statement of work is provided in Annex I of this document.

PROPOSAL CONTENTS

The contents and format of the requested proposal should include, but not be limited to, the following information:

Technical Component

The technical component of your proposal should be concisely presented and structured in the following order to include, but not necessarily be limited to, the following information:

Description of the Firm and the Firm's Qualifications and the Composition of the Proposed Team

A brief description of your firm including the total number of personnel, experience with similar projects, and client referrals.

Provide the composition of the team that you propose and the curriculum vitae of the members of the team.

For the minimum qualifications, please refer to the section *Qualifications of the Auditor* in the Statement of Work.

Proposed Approach, Methodology, Timing and Outputs

Any comments or suggestions on the Statement of Work as well as your description of the manner in which your firm/institution would respond to the Statement Of Work. You should include the number of person-days in each specialization that you consider necessary to carry out all work required.

Price Component

The fees proposal must be a total "fixed price" quotation indicating the overall total amount in US dollars proposed to UNDP. The total fees submitted by your firm to UNDP for the purpose of the present request shall be firm and final.

The calculation of the fees should also indicate the all-inclusive cost in US dollars and an estimate of the time-effort to be allocated for the services, expressed in number of working days by employee performing the Audit, i.e., as applicable, audit partner, audit manager, audit senior and audit assistant.

Any incidental out of pocket expenses (OPE) such as travel and accommodation must be included in the overall "fixed price" fees submitted to UNDP.

No amount other than the proposed total "fixed price" fees shall be paid by UNDP for the provision of the audit services subject of the present request for proposal.

UNDP's general policy is to effect payment upon the achievement of specific milestones described in the contract. As described in the draft contract we have identified two milestones.

You should also indicate any comments or reservations to the draft form contract.

SUBMISSION AND SELECTION ARRANGEMENTS

Introduction

To enable you to submit a proposal, please find enclosed:

Annex II: Proposal Submission Form, to be completed and returned with your proposal;

Annex III: A draft of the form of contract under which the services would be performed, including the "General Conditions for UNDP Contracts for Professional Services".

UNDP reserves the right to reject any and all proposals received in response to this RFP and to negotiate with any of the proposers or other firms in any manner deemed to be in the best interest of UNDP. Although it is UNDP preference to award one contract for the services described in this RFP, UNDP reserves the right to award separate contracts for the elements covered by this RFP in any combinations as it deems appropriate, at its sole discretion.

This RFP contains no contractual offer of any kind. Any proposal submitted will be regarded as an offer by the proposer and not an acceptance by the proposer of any offer by UNDP. No contractual relationship will exist except pursuant to a written contract document signed by UNDP and the proposer.

UNDP reserves the right to modify or exclude any consideration, information or requirement contained in this RFP and to add new considerations, information or requirements at any stage of the procurement process, including negotiations with proposers, at any time before any contract is awarded for the audit services outlined in this RFP.

Submission of the Proposal

Your proposal shall comprise the following documents:

- (a) Proposal Submission Form;
- (b) Technical Component; and
- (c) Price Component.

Proposals in response to the present request must be marked "Proposal to Conduct Project Audit" before **10th March 2009 at 17.00 pm** at the following address:

UNDP Office

Beogradska 24b

81000 Podgorica, Montenegro

Ref.No 003/09

"NOT TO BE OPENED BY REGISTRY"

Fax: +382 20 231 644

E-mail: procurement.me@undp.org

Proposals received after this date will be rejected. UNDP may, at its discretion, extend the deadline for the submission of proposals, by notifying all prospective proposers in writing. The extension of the deadline may accompany a modification of the solicitation documents prepared by UNDP at its own initiative or in response to a clarification requested by a prospective proposer.

Proposers must provide all requisite information under this RFP and clearly and concisely respond to all points set out in this RFP. Any proposal which does not fully and comprehensively address this RFP may be rejected.

You are requested to hold your proposal valid for 90 days from the deadline for submission. UNDP will make its best effort to select a firm within this period.

Assuming that a contract can be satisfactorily concluded by **30th April 2009**, the assignment is expected to commence on **1st of April 2009**.

The costs of preparing a proposal and of negotiating a contract are not reimbursable by UNDP.

UNDP will not return proposals received. These proposals shall be kept confidential for the sole and internal consideration of UNDP.

Any requests for clarification should be referred to **procurement.me@undp.org**. Any written reply to a particular question may be copied to all other invited firms/institutions, at the discretion of UNDP.

Evaluation of the Technical part of the Proposal (70 points)

A two-stage procedure will be utilized in evaluating the proposals, with evaluation of the technical component being completed prior to any price component being reviewed and compared. The Price Component will be reviewed only for those firms/institutions whose Technical Component meets the requirements for the assignment. The total number of points which a firm may obtain for both components is 100

The technical component, which has a total possible value of **70** points, will be evaluated using the following criteria:

- a) the profile of your firm (**10** points);
- b) the qualifications and competence of the personnel proposed for the assignment for a total of (**25** points); and
- c) the approach in implementing the tasks described in the Statement of Work (**15** points).
- d) the schedule of the audit engagement, assessed in terms of its responsiveness to the schedule requirements of UNDP (**20** points)

Evaluation of the Financial part of the Proposal (30 points)

If the substantive presentation of a proposal achieves the minimum of 49 points, the competitiveness of the fees will be taken into account in the following manner:

The total amount of points for the fees component is **30**. The maximum number of points shall be allotted to the lowest fees proposed that is compared among those invited firms which obtain the threshold points in the evaluation of the substantive presentation. All other fees proposals shall receive points in inverse proportion to the lowest fees; e.g;

$$[30 \text{ Points}] \times [\text{US\$ lowest}]/[\text{US\$other}] = \text{points for other proposer's fees}$$

Please note that the UNDP is not bound to select any of the firms/institutions submitting proposals. Furthermore, since a contract will be awarded in respect of the proposal which is considered most responsive to the needs of the project concerned, due consideration being given to UNDP's general principles, including economy and efficiency, UNDP does not bind itself in any way to select the firm offering the lowest price.

ANNEX I

Terms of Reference for Audit of NIM (National implemented) projects in UNDP Montenegro

Background

This audit activity will include audit of two UNDP projects implemented by Government Institutions: Institute for Public Health and Agency for Public Works.

Institute for Public Health

The overall project titled “**Support to Montenegro in implementation of HIV/AIDS Strategy**” funded by the Global Fund to fight AIDS, Tuberculosis and Malaria is based on the strategy to fight against HIV/AIDS in Montenegro for the period 2005-2009. The total Project budget for four year period is 2,424,124.00 €. The goal of the Project is to keep low prevalence of HIV in Montenegro through prevention of further spread of the infection, improving care, treatment and support of those infected and affected by HIV and creating a supportive environment for the implementation of preventive activities. The project consists of three main parts/objectives: a) Prevention of further spread of HIV, b) Improvement of treatment, care and support services for those infected and affected by HIV and c) creating a supportive environment for the implementation of HIV related interventions in Montenegro. UNDP Country Office in Montenegro has the role of the Principal Recipient for the Grant implementation, while the Institute for Public Health is one of the implementing partners selected to implement project activities in several areas:

- ✓ Voluntary counselling and testing on HIV
- ✓ Coordination of the national response to HIV
- ✓ Monitoring and Evaluation of the Response to HIV
- ✓ Universal precautions measures regarding HIV and other blood-borne infections

The list of projects identified for audit in 2008 is as follows:

1. “Voluntary counselling and testing”
2. “Universal precautions measures in health care settings”
3. “Coordination and partnership capacity building”
4. “Surveys on risk behaviours among vulnerable groups (Injecting drug users, IDUs and sex workers, SW) and General population and Men who have sex with men, MSM.

a. The **Institute for Public Health of Montenegro (IPH)** is the main public health institution in Montenegro which carries out organization and educational activities in HIV/AIDS prevention on behalf of the Ministry of Health. It has a broad experience in HIV prevention field and maintains contacts with organizations which are actors in the coordinated national response to HIV/AIDS, such as Ministry of Education and science, Ministry of internal affairs, Ministry of foreign affairs, Ministry of tourism, CSOs and also with international organizations and donors (UNDP;UNAIDS; UNICEF; WHO and others).

IPH has a good basis for fulfillment of the project activities on a country scale, such as a well-equipped diagnostic laboratory, adequately trained staff, and respectable experience in the area of HIV/AIDS.

IPH is implementing activities under SDA 1.8 (VCT), SDA 2.3 (Blood safety and universal precautions measures), SDA 3.2 (Coordination and partnership capacity building), and SDA 3.3. (Monitoring and evaluation).

In the course of implementation of SDA 1.8. VCT the IPH was expected to provide voluntary, confidential HIV testing system of high quality that includes pre- and post-test counseling. Namely, they were expected to train 48 health professionals in VCT (24 for basic training course and 24 for advanced training course), to establish three new VCT centers in Niksic, Pljevlja and Bijelo Polje, to promote VCT among general population and members of the vulnerable groups and to distribute condoms and brochures to VCT clients.

In the course of implementation of SDA 2.3 Blood safety and universal precautions measures IPH was expected to create basis of trainers for applying universal precaution measures as well as to raise knowledge of health professionals in proper applying of universal precautions measures. Namely, they were expected to train 6 trainers for training of health professionals in implementation of the universal precautions measures and to train, at least, 340 health professionals through on the job training.

In the course of implementation of SDA 3.2 Coordination and partnership capacity building IPH was expected to improve coordinated multi-sectoral HIV/AIDS response through raising capacity of the CCM members in coordinated HIV/AIDS response and Second Generation Surveillance and holding regular meetings of CCM and Annual Review Meeting and to raise public awareness on importance of the coordinated HIV/AIDS response as well as on VCT through developing and broadcasting of spot for VCT promotion as well as publishing certain number of public advertisements referring to HIV/AIDS response in daily newspapers.

In the course of implementation of SDA 3.3. Monitoring and evaluation IPH was expected to conduct bio-behavioural survey of Commercial Sex Workers using snowball sampling method in Podgorica and in the coastal region, bio-behavioural survey of Injecting Drug Users through respondent driven sampling survey in Podgorica. Information obtained through these surveys should serve as baseline values for measuring effects of the preventive activities which should be implemented throughout the GFATM project cycle, as the basis for establishment of national surveillance system of second generation as well as directions for further tailoring of interventions.

All project and budget details will be available upon request.

Agency for Public Works

The UNDP Country Offices in Albania, Bosnia and Herzegovina, Macedonia FYR, Montenegro, Serbia and UN Administered Province of Kosovo developed a regional demonstration programme around demand driven projects in nine locations in the Western Balkans suffering from the legacy of polluting industries and requiring industrial renewal, environmental cleanup and new economic initiative. The goal is to achieve improvement of environmental situation and quality of life for citizens living in and around polluted areas through least cost measures, improved local and national policy dialogue and supply of domestic professional services in the environmental management sector. While the main focus will be the physical works needed to mitigate the ecological problems, institutional strengthening and capacity building will be an important subject running throughout the programme.

Within the regional context, a national Montenegrin component of the Programme “Strengthening capacities in the Western Balkan countries to address environmental problems through remediation of high priority hot spots”: “Remediation and recultivation of the Mojkovac lead and zinc tailings mine” will deal with the Mojkovac municipality where the Lead and Zinc Mine ‘Brskovo’ has been operating from 1976 to 1991. The UNDP intervention in the municipality, as was in principle agreed on the regional level, will include the technical, remediation works in the area of the Tailing Mine Impoundment (TMI) of the ‘Brskovo’ mine and capacity building for the local and national stakeholders in the area of the effective environmental management. Project will be implemented in a period of time of 30 months and will cover three areas:

- a) Clean up activities
- b) Demonstration activities, information sharing, capacity building and implementation of pilot projects
- c) Strengthen supply of professional consultancy services

Clean up activities are organized and supervised by **Agency for Public Works** on behalf of Government of Montenegro and UNDP, while UNDP as a principle donor will participate in the support, evaluation, decision-making and monitoring of this process.

In year 2008, based on request received from Agency for Public Works funds were transferred to contracted company for performing planned civil works. These funds will be the object of this audit. The objective of the audit is to enable the auditor to express a professional opinion on the financial position of the Project of the funds received and expenditures for the accounting period starting from the commencement of January 1st, 2008 and ending on December 31st 2008.

A. Project Management

INSTITUTE FOR PUBLIC HEALTH

Details of project management and contract obligations between UNDP and IPH have been defined in a standardized Letter of Agreement (all contracts and annexes available upon request).

IPH website: www.ijz.cg.yu

1. Dr Boban Mugosa, MD, PhD, Epidemiologist, Director of IPH,

Phone +382 20 412 888; +382 67 670 192

Email: ijzcg@ijz.mn.yu ; boban.mugosa@ijz.mn.yu

2. Dragan Čabarkapa, LLM, - Associate Director

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3. Vera Boskovic, economist

Head of Finance, Accounting and Procurement Department

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CENTRE FOR DISEASE CONTROL AND PREVENTION

Doc dr Dragan Laušević, MD PhD, epidemiologist, - director of the Centre

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email: dragan.lausevic@ijz.mn.yu

CENTRE FOR MEDICAL MICROBIOLOGY

Zoran Vratnica, MD, MSc, microbiologist - director of the Centre
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AGENCY FOR PUBLIC WORKS

In accordance with the Regulation on the Organization and Method of Operation of the State Administration Art. 41 ("Off. Gazette of RoM" No. 54/04), the Directorate for Public Works shall perform the tasks relating to: expert tasks on construction and reconstruction of primary technical infrastructure facilities, facilities of state authorities, health care, education, culture and sport, complexes and facilities at the attractive tourist locations and other facilities of public interest which construction is financed by the Republic and are related to the preliminary and preparatory works, studies, research activities and investment programs, giving expert appraisal on documentation related to decision making on investments, obtaining decisions on location and urban and technical conditions for particular facilities; drafting and technical control of technical documentation, obtaining the agreements and licenses for construction; public announcement and implementation of works assignment procedure, conclusion of construction contracts; expert supervision and quality control of implemented works, installed materials and equipment; technical inspection, acceptance of implemented works, obtaining licenses for facility utilization, record keeping, payments and financial expenditure control as well as other activities included in the Directorate's competency.

Senior officers:

Žarko Živković – Director

Đuranović Igor – Deputy Director

[Čelebić Zoran](#) - Deputy Director

An organization chart:

1. Director
2. Advisor to the Director

A. SECTOR FOR INVESTMENT PROJECTS REALIZATION

3. Assistant Director
- A. 1. Department for Pre-Investment Affairs
4. Independent Advisor I
5. Senior Advisor I
6. Senior Advisor I
7. State Employee IV
- A. 2. Department for Primary Infrastructure
8. Independent Advisor I
9. Independent Advisor II
10. Independent Advisor II
11. Independent Advisor II
- A. 3. Department for Building Construction
12. Independent Advisor I
13. Independent Advisor II
14. Independent Advisor II
15. Independent Advisor III

B. SECTOR FOR INVESTMENTS

16. Assistant Director
- B. 1. Department for Economic Efficiency of Investments
17. Independent Advisor I
18. State Employee IV
- B. 2. Department for Monitoring of Legislation Implementation
19. Independent Advisor I
20. Independent Advisor II
21. State Employee – civil servant authorized for public procurement
- B. 3. General Service Department
22. Senior State Employee I
23. State Employee IV
24. State Employee IV – Secretary
25. State Employee V, Typist
26. State Employee VI, Driver/ Courier

Contact person responsible for accounting, financial management and internal audit:

Vuković Slobodan, ecc.

(+381) 81/230-207)

Agency for public works,
81 000 Podgorica,
ul. Novaka Miloševa br.18.
tel. (+381) 81 / 230-207,
(+381) 81 / 230- 227.
E-MAIL:djr@mn .yu
WEB SITE : www.djr.vlada.cg.yu

Consultations with concerned parties

Prior to the start of audit work the auditor will be required to consult with the UNDP country office, the government counterpart, and the implementing partner for each project. Further, upon completion of the draft audit report and management letter, the auditor will be required to meet with the UNDP country office and the government entity coordinating authority to debrief them on its major findings from the audit and its recommendations for future improvements as well as to seek their feedback thereon.

Description of Financial Reports to be audited

The following reports are to be audited:

Description of the Combined Delivery Report and Supporting Schedules

The report to be audited is referred to as the Combined Delivery Report (CDR). This report is prepared by UNDP, using an in-house accounting software package called ATLAS. As described in more detail below, the CDR combines expenditures from three disbursement sources for a calendar year. The three disbursement sources include:

1. *Implementing partner (Government)*

UNDP procedures require that where funds are advanced to the executing agency the agency must submit to the UNDP country office, on a quarterly basis, a financial report including (1) the status of the advance (2) a list of the disbursements made since the previous financial report, and (3) a request for a new advance. The UNDP country office enters the disbursements in ATLAS through the year as the financial reports are received. These implementing partner disbursements are recorded in the *Government* expenditure column in the CDR (*applicable in case of implementing partner Institute for Public Health*)

2. *UNDP (country office)*

Disbursements made by UNDP from its own bank accounts are entered in ATLAS by the UNDP country office. These UNDP disbursements are recorded in the *UNDP* expenditure columns in the CDR. These disbursements may be classified as either *direct payments* or *UNDP support services*. This distinction, while very important for audit purposes, is not apparent from the CDR and can only be provided by the UNDP country office as a supporting schedule. A brief description of each category is provided below.

- a) *Direct Payments* - This is where the implementing partner is responsible for the expenditure but requested UNDP to effect payment to the vendor/consultant on its behalf. The implementing partner is accountable for the disbursement and maintains all supporting documentation. UNDP simply effects payments on the basis of properly authorised requests and gives the implementing partner a copy of the related disbursement voucher as evidence that payment was made (*applicable in case of implementing partner-Agency for Public Works*)
- b) *UNDP Support Services* - This is where the government and UNDP have agreed that UNDP will provide support services to the project and signed a Letter of Agreement. These support services must be described in the Letter of Agreement. UNDP is fully responsible and accountable for these expenditures and, accordingly, maintains all supporting documentation for the disbursement. **(This expenditure is outside the scope of audit and, therefore, will not be reviewed by the auditors. This scope limitation should not be used as a reason for issuing a qualified audit opinion on the CDR).**

3. *UN agencies*

The UN agency reports its expenditures to UNDP and to the government. The UNDP country office enters the expenditures in ATLAS. These UN agency expenditures are recorded in the *UN Agencies* expenditure column in the CDR (*not applicable for the purpose of this audit exercise*)

At the end of the year, after receiving the fourth quarter financial report from the implementing partner and the year-end expenditure report from the UN agency, UNDP prepares the CDR and submits it to the implementing partner for signature. UNDP will provide the auditor with the signed CDR together with the following supporting documentation.

1. The quarterly financial reports submitted by the implementing partner.
2. A list of the direct payments processed by UNDP at the request of the implementing partner (applicable

The signed CDR and supporting documentation for the year 2008 will be ready by 31 March 2008.

Audit Services Required

The scope of audit services should cover the following:

- Two UNDP's Government implementing partners are subject of this audit: Institute for Public Health (IPH) and Agency for Public Works (AFPW)
- The audit will be carried out in accordance with either ISA¹ or INTOSAI² auditing standards.
- That the audit period is 1 January to 31 December of the year 2008.
- The scope of the audit is limited to the implementing partner expenditures, which are defined as including (1) all disbursements listed in the quarterly financial reports submitted by the implementing partner (in case of IPH) and (2) the direct payments processed by UNDP at the request of the implementing partner (in case of AFPW)

The amount of expenditures of IP Institute for Public Health to be audited is 187,355.70 USD³.

The amount of expenditures of IP Agency for Public Works to be audited is 504,952.6 USD.

- The auditor will verify the mathematical accuracy of the CDR by ensuring that the expenditures described in the supporting documentation (the quarterly financial reports, the list of direct payments processed by UNDP at the request of the government, the list of disbursements made by UNDP as part of support services, and the UN agency expenditure statement) are reconciled to the expenditures, by disbursing source, in the CDR.
- The auditor will state in the audit report if the audit was not in conformity with any of the above and indicate the alternative standards or procedures followed.
- That the auditor will provide an opinion as to the overall financial situation of the project for the period 1 January to 31 December 2008 and will certify:

1. The Statement of Expenditure (CDR) for the period from 1 January to 31 December 2008;
2. The Statement of cash position reported by the projects as at 31 December 2008;and
3. The Statement of assets and equipment held by the project as at 31 December 2008.

¹ International Standards of Auditing (ISA) published by the International Auditing Practices Committee of the International Federation of Accountants

² International Organization of Supreme Audit Institutions

³ Final expenditures figure to be confirmed once the financial books are closed-March 2009

- **The auditor will provide in monetary value, the net financial impact of any audit qualification (negative opinion: qualified, adverse, disclaimer) on the Statement of Expenditure (CDR) where applicable.**
- The auditor/audit firm will submit a draft audit report by 1st of May 2008 and a final signed audit report with certified statements by 20th of May 2008.

The scope of audit services shall cover the overall management of the project's implementation, monitoring and supervision. The audit work should include the review of work plans, progress reports, project resources, project budgets, project expenditure, project delivery, recruitment, operational and financial closing of projects (if applicable) and disposal or transfer of assets. To this effect, the scope of the audit shall cover the following areas as they are performed at the level of the project:

Human resources

The audit work shall cover the competitiveness, transparency and effectiveness of the recruitment and hiring of personnel and include performance appraisal, attendance control, calculation of salaries and entitlements, payroll preparation and payment, and management of personnel records.

Finance

The audit work shall cover the adequacy of the accounting and financial operations and reporting systems. These include budget control, cash management, certification and approving authority, receipt of funds, and disbursement of funds, recording of all financial transactions in expenditure reports, records maintenance and control.

Procurement

The audit work shall cover the competitiveness, transparency and effectiveness of the procurement activities of the project in order to ensure that the equipment and services purchased meet the requirement of either the government (or NGO) or UNDP and include the following:

- As applicable, delegations of authorities, procurement thresholds, call for bids and proposals, evaluation of bids and proposals and approval/signature of contracts and purchase orders;
- Receiving and inspection procedures to determine the conformity of equipment with the agreed specifications and, when applicable, the use of independent experts to inspect the delivery of highly technical and expensive equipment
- Evaluation of the procedures established to mitigate the risk of purchasing equipment that do not meet specifications or is later proven to be defective;
- Management and control over the variation orders.

The audit work in the area of procurement shall also cover the use of consulting firms and the adequacy of procedures to obtain fully qualified and experienced personnel and assessment of their work before final payment is made.

Asset Management

The audit work shall cover equipment (typically vehicles and office equipment) purchased for use of the project. The procedures for receipt, storage, and disposal shall also be reviewed.

Cash Management

The audit work shall cover all cash funds held by the project and review procedures for safeguarding of cash.

General Administration

The audit work shall cover travel activities, vehicle management, shipping services, office premises and lease management, office communications, and records maintenance.

Information System

The audit work shall cover the information and communication systems and the control and security of equipment and data.

Note

The above scope shall cover those transactions performed at the level of the project to include direct payments made by the UNDP country office.

Note: Audit opinions must be one of the following: (a) qualified (negative), (b), unqualified (favourable), (c) adverse (negative), or (d) disclaimer (negative). If the audit opinion is other than “unqualified” (favourable) the audit report **must** describe both the nature and amount of the possible effects on the financial statements. The report should also make a reference to the section of the management letter with regard to the action taken or planned to be taken to address the issues underlying the qualification. A definition of audit opinions is provided in Annex 4.

The Audit Report and Management Letter

Content of the Audit report and Management Letter should be as follows:

A. a. Audit Report

The audit report should clearly indicate the auditor’s opinion (Refer to Section G for a sample Audit Report). This would include at least the following:

- That it is a special purpose report and its intended use.
- The audit standards that were applied (INTOSAI standards, ISAs, or national standards that comply with one of these in all material respects).
- The period covered by the opinion.
- The net financial impact of the qualification on the CDR where applicable.
- ~~WHETHER THE STATEMENT OF EXPENDITURE (CDR) FOR THE PERIOD FROM 1 JANUARY TO 31 DECEMBER 2008 IS ADEQUATELY AND FAIRLY PRESENTED. THE DISBURSEMENT IS MADE IN ACCORDANCE WITH THE PURPOSE FOR WHICH FUNDS HAVE BEEN ALLOCATED TO THE PROJECT;~~
- Whether the Statement of Assets and Equipment is fairly and adequately presented as at 31 December 2008; and
- Whether the Statement of Cash Position reported by the project is fairly and adequately presented as at 31 December 2008.

B. b. Management Letter

The management letter should cover the following topics/issues:

- A general **review of project progress** and timeliness in relation to progress milestones and the planned completion date, both of which should be stated in the project document or AWP. This is not intended to address whether there has been compliance with specific covenants relating to specific performance criteria or outputs. However general compliance with broad covenants such as implementing the project with economy and efficiency might be commented upon but not with the legal force of an audit opinion.
- An **assessment of the project's internal control system** with equal emphasis on (i) the effectiveness of the system in providing the project management with useful and timely information for the proper management of the project and (ii) the general effectiveness of the internal control system in protecting the assets and resources of the project.
- A description of any **specific internal control weaknesses** noted in the financial management of the project and the audit procedures followed to address or compensate for the weaknesses. Recommendations to resolve/eliminate the internal control weaknesses noted should be included.

The management letter should also include the following:

- The **categorization of audit findings by risk severity**: High, Medium, or Low. Definitions of these categories are given in Section I.
- The **classification of possible causes of the audit findings**. Definitions of these causes are given in Section J.
- **Management comments/response** to audit findings and recommendations (project management and/or UNDP, as applicable).

More detailed guidance for the above general categories is provided below.

Review of project progress

As part of the general review of project progress, specific steps could include the following:

- Review annual and quarterly work plans, quarterly and annual financial reports, and requests for direct payments and assess in terms of their timeliness and their compliance with the project document or the AWP, and the UNDP User Guide on Results Management.
- Review the Annual Project Reports prepared by the implementing partner and assess in terms of compliance with UNDP guidelines and whether the implementing partner met its responsibilities for monitoring described in the project document or AWP.
- Review whether the decisions and/or recommendations of the above activities have been followed through by the implementing partner.
- Review the pace of project progress and comment on the causes for delays.
- Comment on whether implementation services of the UN Agency(s) were provided in line with project document or AWP.

Assessment of internal control

The auditor is expected to conduct a general assessment of internal controls according to established internal control standards. An example of established internal control standards is available from the Organization of Supreme Audit Institutions (INTOSAI). The INTOSAI standards are intended for use by government managers to use as a framework to establish effective internal control structures. For further information, the INTOSAI *Guidelines for Internal Control Standards* can be found on the INTOSAI Web site www.intosai.org. An overview of the standards can be found in the UNDP Contact tool (Chapter 6).

In addition to the above general assessment, additional specific steps could include the following:

- Review expenditures made by the implementing partner and assess whether they are in accordance with project document, AWP and budgets; and are in compliance with the UNDP User Guide on Results Management.
- Review the process for procurement/contracting activities and assess whether it was transparent and competitive.
- Review the use, control and disposal of non-expendable equipment and assess whether it is in compliance with UNDP User Guide on Results Management; and also whether the equipment procured met the identified needs and whether its use was in line with intended purposes.
- Review the process for recruiting project personnel and consultants and assess whether it was transparent and competitive.
- Review the implementing partner accounting records and assess their adequacy for maintaining accurate and complete records of receipts and disbursements of cash; and for supporting the preparation of the quarterly financial report.
- Review the records of requests for direct payments and ensure that they were signed by authorised government officials.

Recommendations for improvement

Recommendations should be directed to a specific entity so there is no confusion regarding who is responsible for implementation. The response of the entity should be included in the management letter, immediately following the recommendation.

Also, the auditor may wish to comment on “good practices” (if any) that were developed by the implementing partner that should be shared with other project personnel.

Available Facilities and Right of Access

The auditor would have full and complete access at any time to all records and documents (including books of account, legal agreements, minutes of committee meetings, bank records, invoices and contracts etc.) and all employees of the entity. The auditor should be advised that he/she has a right of access to banks, consultants, contractors and other persons or firms engaged by the project management. If an auditor may not have unrestricted access to any records, person or location during the course of the audit, this restriction should be clearly defined, with reasons, in the TOR.

F: Qualifications of an Auditor

The auditor must be completely impartial and independent from all aspects of management or financial interests in the entity being audited. The auditor should not, during the period covered by the audit nor during the undertaking of the audit, be employed by, serve as director for, or have any financial or close business relationships with any senior participant in the management of the entity. It may be appropriate to remind an auditor of any existing statutory requirements relating to independence and to require an auditor to disclose any relationship that might possibly compromise his/her independence.

The auditor should be experienced in applying either ISA or INTOSAI audit standards, whichever is applicable for the audit. The auditor must employ adequate staff with appropriate professional qualifications and suitable experience with ISA or INTOSAI standards, including experience in auditing the accounts of entities comparable in size and complexity to the entity being audited.

Curriculum vitae (CVs) should be provided to the client by the principal of the firm of auditors who would be responsible for signing the opinion, together with the CVs of managers, supervisors and key personnel proposed as part of the audit team. CVs should include details on audits carried out by the applicable staff, including ongoing assignments indicating capability and capacity to undertake the audit.

G: Sample Audit Report (FOR AN UNQUALIFIED OPINION)

Auditor's report to:

***The National Project Director and
The Resident Representative***

a) Certification of Statement of Expenditure

We have audited the accompanying Statement of Expenditure (“the statement”) of the UNDP project number _____ [*Atlas award and project number*] for the period 1 January 200__ to 31 December 200__. The statement is the responsibility of the management of the project. Our responsibility is to express an opinion on the statement based on our audit.

We conducted our audit in accordance with International Standards of Auditing. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statement. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the statement of expenditure **presents fairly (unqualified (positive audit opinion))**, in all material respects the expenditure of _____ [*insert amount in US\$*] incurred by the project for the period 1 January 200__ to 31 December 200__ in accordance with UNDP accounting requirements.

Or (qualified (negative audit opinion))

In our opinion, the statement of expenditure, **except for** (a), (b), (c), etc., presents fairly in all material respects the expenditure of _____ [*insert amount in US\$*] incurred by the project for the period 1 January 200__ to 31 December 200__ in accordance with UNDP accounting requirements. The total **net financial impact** of this qualification is _____ [*insert amount in US\$*].

Or (disclaimer (negative audit opinion))

We were **unable to obtain sufficient appropriate audit evidence** and accordingly are unable to express an opinion on the statement of expenditure of _____ [*insert amount in US\$*] incurred by the project for the period 1 January 200__ to 31 December 200__. The total **net financial impact** of this opinion is _____ [*insert amount in US\$*].

Or (adverse (negative) audit opinion)

We noted material differences between _____ and the statement of expenditure. As such, we **do not express an opinion** on the statement of expenditure, of _____ [*insert amount in US\$*] incurred by the project for the period 1 January 200__ to 31 December 200__. The total **net financial impact** of this opinion is _____ [*insert amount in US\$*].

b) Certification of Statement of Assets and Equipment

We have audited the accompanying Statement of Assets and Equipment (“the statement”) of the UNDP project number _____ [*Atlas award and project #*] as at 31 December 200__. The statement is the responsibility of the management of the project. Our responsibility is to express an opinion on the statement based on our audit.

We conducted our audit in accordance with International Standards of Auditing. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement is free of material

misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statement. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the statement of assets and equipment presents fairly **(unqualified/favourable)**, in all material respects the inventory balance of the project amounting to _____ [insert amount in US\$] as at 31 December 200__ in accordance with UNDP requirements.

c) Certification of Statement of Cash Position

We have audited the accompanying Statement of Cash Position (“the statement”) of the UNDP project number _____ [Atlas award and project #] as at 31 December 200__. The statement is the responsibility of the management of the project. Our responsibility is to express an opinion on the statement based on our audit.

We conducted our audit in accordance with International Standards of Auditing. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the statement. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the statement of cash position presents fairly (unqualified (positive audit opinion), in all material respects the cash balance of the project amounting to _____ [insert amount in US\$] as at 31 December 200__ in accordance with UNDP requirements.

This report is intended solely for the information and use of UNDP and the Government of XYZ Country (or NGO).

Date of issuance: _____

AUDITOR'S NAME (Please print) _____

AUDITOR'S SIGNATURE _____

AUDITOR'S/FIRM ADDRESS _____

Note: Audit opinions must be one of the following: (a) qualified, (b), unqualified, (c) adverse, or (d) disclaimer. If the audit opinion is other than “unqualified” the audit report must describe both the nature and amount of the possible effects on the financial statements (**NET FINANCIAL IMPACT**). A definition of audit opinions is provided in Annex 4.

H: Definition of Audit Opinions

Unqualified (Clean or positive) Opinion

An unqualified opinion should be expressed when the auditor concludes that the financial statements give a true and fair view or are presented fairly, in all material respects, in accordance with the applicable financial reporting framework.

Qualified Opinion

A qualified opinion should be expressed when the auditor concludes that an unqualified opinion cannot be expressed but that the effect of any disagreement with management, or limitation on scope is not so material and pervasive as to require an adverse opinion or a disclaimer of opinion. A qualified opinion should be expressed as being 'except for' the effects of the matter to which the qualification relates.

Disclaimer of opinion

A *disclaimer of opinion* should be expressed when the possible effect of a limitation on scope is so material and pervasive that the auditor has not been able to obtain sufficient appropriate audit evidence and accordingly is unable to express an opinion on the financial statements.

Adverse

An adverse opinion should be expressed when the effect of a disagreement is so material and pervasive to the financial statements that the auditor concludes that a qualification of the report is not adequate to disclose the misleading or incomplete nature of the financial statements

I: Categorization of Audit Findings by Risk Severity

High	Action that is considered imperative to ensure that UNDP is not exposed to high risks (i.e. failure to take action could result in major consequences and issues).
Medium	Action that is considered necessary to avoid exposure to significant risks (i.e. failure to take action could result in significant consequences).
Low	Action that is considered desirable and should result in enhanced control or better value for money.

J: Classification of possible causes of Audit Findings

Compliance	Compliance Failure to comply with the prescribed UNDP policies, rules and procedures
Guidelines	Guidelines Absence of written policies or guidelines that guide staff in their performance of their functions
Guidance	Guidance Lack of adequate supervision by supervisors
Human error	Mistake Mistake committed by staff assigned functions
Resources	Resources Inadequate resources (staff, skills, staff, activity or function)

K - Specimen submission form for audit reports and audit opinions - to be completed and signed by NGO/NIM auditors (template)

Montenegro (to be submitted to OAI 31 May 2009)

1	2	3	4	5	6	7	8	9	10	11	12	13	14	13	14
S/N	Atlas Award No.	Atlas Project No.	Implem. Partner type (GOV or NGO or UND for GFATM sub-recipients)	Impl partner code	Fund code ID	Y2008 Total Expenditure (Atlas CDR amount)	Y2008 NGO/NIM Govt expenditure audited and certified (amount from CDR) (e.g. advances, direct paymts.) excludes CO direct support to NIM expenditure)	Y2008 Total GFATM Sub-recipient expenditure audited	Y Y2008 Total expenditure excluded from audit: (e.g. CO direct support to NIM exp., DEX exp., Agency exp.)	Audit opinion rendered (unqualified, qualified, disclaimer, adverse)	Net financial impact of modified audit (qualified, adverse or disclaimer opinion)	Root cause of the issue that contributed to the modified opinion	Reason for rendering modified audit opinion and provide breakdown of amounts	(a) Corrective action planned or taken by the project and/or the country office to address the cause and the issue(s) that contributed /resulted in a qualified audit opinion	General comment
1															

(1) Name of auditor and firm _____

(please print)

Signature of auditor and stamp of audit firm _____

Note 1: Completion of this form is mandatory.

Note 2: Amounts to be entered in columns 8 to 10 are components of the total CDR amount and must add up to the total CDR expenditure amount indicated in column 7: Y2008 total expenditure, as per Atlas generated CDR

(2) Project management: _____
(Name and title) (Signature and date)

(3) Country Director or Resident Representative: _____
Name (Signature and date)

(Please refer to the OAI website for the template in excel)

Annex II: Proposal Submission Form

TO: UNDP Office

Beogradska 24b

81000 Podgorica, Montenegro

Ref.No 02/09

“NOT TO BE OPENED BY REGISTRY”

Having examined the Solicitation Documents, the receipt of which is hereby duly acknowledged, we the undersigned, offer to supply the required services for the sum as may be ascertained in accordance with the Price Component attached herewith and made part of this proposal.

We undertake, if our proposal is accepted, to commence and complete delivery of all items in the contract within the time frame stipulated.

We understand that you are not bound to accept any proposal you may receive and that a binding contract would result only after final negotiations are concluded on the basis of the Technical and Price Components proposed.

Dated this ____ day of _____ 2009__.

Signature

(in the Capacity of)

Duly authorized to sign proposal for and on behalf of:

ANNEX III: Draft Form of Contract

The following is the draft of the form of contract under which the services would be performed, including the "General Conditions for UNDP Contracts for Professional Services".

Date _____

Dear Sir/Madam,

Ref.: Audit of Project XXXX

The United Nations Development Programme (hereinafter referred to as "UNDP"), wishes to engage your [**company/organization/institution**], duly incorporated under the Laws of _____ [**name of the country**] (hereinafter referred to as the "Contractor") in order to conduct a procurement audit in accordance with the following Contract:

1. Contract Documents
 - 1.1 This Contract is subject to the UNDP General Conditions for Professional Services attached hereto as Part A. The provisions of Part A shall control the interpretation of this Contract and in no way shall be deemed to have been derogated by the contents of this letter and any Annexes, unless otherwise expressly stated under section 4 of this letter, entitled "Special Conditions".
 - 1.2 The Contractor and UNDP also agree to be bound by the provisions contained in the following documents, which shall take precedence over one another in case of conflict in the following order:
 - a) this letter;
 - b) the Statement of Work [ref.dated.....], attached hereto as Part B;
 - c) the Contractor's technical proposal [ref....., dated], as clarified by the agreed minutes of the negotiation meeting⁴[dated.....], both documents not attached hereto but known to and in the possession of both parties.
 - 1.3 All the above shall form the Contract between the Contractor and UNDP, superseding the contents of any other negotiations and/or agreements, whether oral or in writing, pertaining to the subject of this Contract.

NAME: _____

TITLE: _____

FIRM: _____

ADDRESS: _____

⁴ If there are updates to the technical proposal or correspondence exchanged in clarification of certain aspects, reference them too, provided that they are fully acceptable to UNDP. Otherwise, aspects which resolution is pending should be dealt with in this letter itself or in the Statement of Work, as appropriate.

2. Obligations of the Contractor

2.1 The Contractor shall perform and complete the Services described in Part B with due diligence and efficiency and in accordance with the Contract.

2.2 The Contractor shall provide the services of the following key personnel:

Name	Specialization	Nationality	Period of Service
-------------	-----------------------	--------------------	--------------------------

2.3 Any changes in the above key personnel shall require prior written approval of XXXX, UNDP.

2.4 The Contractor shall also provide all technical and administrative support needed in order to ensure the timely and satisfactory performance of the Services.

2.5 The Contractor shall submit to UNDP and to (the executing agency) the deliverables specified hereunder according to the following schedule:

Deliverable

- ◆ Draft Management Letter and Audit Report by XXXX

- ◆ Final Management Letter and Audit Report by XXXX

2.6 All reports shall be written in the English language (or specify other).

2.7 The Contractor represents and warrants the accuracy of any information or data provided to UNDP for the Purpose of entering into this Contract, as well as the quality of the deliverables and reports foreseen under this Contract in accordance with the highest industry and professional standards.

3. Price and Payment

3.1 In full consideration for the complete and satisfactory performance of the Services under this Contract, UNDP shall pay the Contractor a fixed contract price of US\$XXX.

3.2 The price of this Contract is not subject to any adjustment or revision because of price or currency fluctuations or the actual costs incurred by the Contractor in the performance of the Contract.

3.3 UNDP shall effect payment for the audit services upon acceptance of invoices as follows:

a) 80% of the all-inclusive fixed price upon submission of the Draft Management Letter and Audit Report.

b) The remaining 20% upon submission of the Final Management Letter and Audit Report.

3.4 Payments effected by UNDP to the Contractor shall be deemed neither to relieve the Contractor of its obligations under this Contract nor as acceptance by UNDP of the Contractor's performance of the Services.

4. Submission of invoices

4.1 An original invoice shall be submitted by the Contractor for each payment under the Contract to the address specified in 8.1.

4.2 Invoices submitted by fax shall not be accepted by UNDP.

5. Time and manner of payment

5.1 Invoices shall be paid within thirty (30) days of the date of their acceptance by UNDP. UNDP shall make every effort to accept an invoice or so advise the Contractor of its non-acceptance within a reasonable time from receipt.

5.2 All payments shall be made by UNDP to the following Bank account of the Contractor:

_____ [NAME OF THE BANK]

_____ [ACCOUNT NUMBER]

_____ [ADDRESS OF THE BANK]

6. Entry into force. Time limits.

6.1 The Contract shall enter into force upon its signature by both parties.

6.2 All time limits contained in this Contract shall be deemed to be of the essence in respect of the performance of the Services.

7. Modifications

7.1 Any modification to this Contract shall require an amendment in writing between both parties duly signed by the authorized representative of the Contractor and XXXX.

8. Notifications

8.1 For the purpose of notifications under the Contract, the fax numbers of UNDP and the Contractor are as follows:

For UNDP:

XXXXXX

For the Contractor:

_____ [INSERT NAME]

_____ [INSERT ADDRESS]

Fax: _____

If the above terms and conditions meet with your agreement as they are typed in this letter and in the Contract Documents, please initial every page of this letter and its attachments and return to this office one original of this Contract, duly signed and dated.

Yours sincerely,

For [INSERT NAME OF THE COMPANY/ORGANIZATION]

Agreed and Accepted:

Signature _____

Name _____

Title _____

Date _____

Part A: UNDP GENERAL CONDITIONS OF CONTRACT FOR SERVICES

1.0 LEGAL STATUS:

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis the United Nations Development Programme (UNDP). The Contractor's personnel and sub-contractors shall not be considered in any respect as being the employees or agents of UNDP or the United Nations.

2.0 SOURCE OF INSTRUCTIONS:

The Contractor shall neither seek nor accept instructions from any authority external to UNDP in connection with the performance of its services under this Contract. The Contractor shall refrain from any action that may adversely affect UNDP or the United Nations and shall fulfill its commitments with the fullest regard to the interests of UNDP.

3.0 CONTRACTOR'S RESPONSIBILITY FOR EMPLOYEES:

The Contractor shall be responsible for the professional and technical competence of its employees and will select, for work under this Contract, reliable individuals who will perform effectively in the implementation of this Contract, respect the local customs, and conform to a high standard of moral and ethical conduct.

4.0 ASSIGNMENT:

The Contractor shall not assign, transfer, pledge or make other disposition of this Contract or any part thereof, or any of the Contractor's rights, claims or obligations under this Contract except with the prior written consent of UNDP.

5.0 SUB-CONTRACTING:

In the event the Contractor requires the services of sub-contractors, the Contractor shall obtain the prior written approval and clearance of UNDP for all sub-contractors. The approval of UNDP of a sub-contractor shall not relieve the Contractor of any of its obligations under this Contract. The terms of any sub-contract shall be subject to and conform to the provisions of this Contract.

6.0 OFFICIALS NOT TO BENEFIT:

The Contractor warrants that no official of UNDP or the United Nations has received or will be offered by the Contractor any direct or indirect benefit arising from this Contract or the award thereof. The Contractor agrees that breach of this provision is a breach of an essential term of this Contract.

7.0 INDEMNIFICATION:

The Contractor shall indemnify, hold and save harmless, and defend, at its own expense, UNDP, its officials, agents, servants and employees from and against all suits, claims, demands, and liability of any nature or kind, including their costs and expenses, arising out of acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. This provision shall extend, inter alia, to claims and liability in the nature of workmen's compensation, products liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants or sub-contractors. The obligations under this Article do not lapse upon termination of this Contract.

8.0 INSURANCE AND LIABILITIES TO THIRD PARTIES:

8.1 The Contractor shall provide and thereafter maintain insurance against all risks in respect of its property and any equipment used for the execution of this Contract.

8.2 The Contractor shall provide and thereafter maintain all appropriate workmen's compensation insurance, or the equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.

8.3 The Contractor shall also provide and thereafter maintain liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the provision of services under this Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees or sub-contractors performing work or services in connection with this Contract.

8.4 Except for the workmen's compensation insurance, the insurance policies under this Article shall:

8.4.1 Name UNDP as additional insured;

8.4.2 Include a waiver of subrogation of the Contractor's rights to the insurance carrier against the UNDP;

8.4.3 Provide that the UNDP shall receive thirty (30) days written notice from the insurers prior to any cancellation or change of coverage.

8.5 The Contractor shall, upon request, provide the UNDP with satisfactory evidence of the insurance required under this Article.

9.0 ENCUMBRANCES/LIENS:

The Contractor shall not cause or permit any lien, attachment or other encumbrance by any person to be placed on file or to remain on file in any public office or on file with the UNDP against any monies due or to become due for any work done or materials furnished under this Contract, or by reason of any other claim or demand against the Contractor.

10.0 TITLE TO EQUIPMENT: Title to any equipment and supplies that may be furnished by UNDP shall rest with UNDP and any such equipment shall be returned to UNDP at the conclusion of this Contract or when no longer needed by the Contractor. Such equipment, when returned to UNDP, shall be in the same condition as when delivered to the Contractor, subject to normal wear and tear. The Contractor shall be liable to compensate UNDP for equipment determined to be damaged or degraded beyond normal wear and tear.

11.0 COPYRIGHT, PATENTS AND OTHER PROPRIETARY RIGHTS:

11.1 Except as is otherwise expressly provided in writing in the Contract, the UNDP shall be entitled to all intellectual property and other proprietary rights including, but not limited to, patents, copyrights, and trademarks, with regard to products, processes, inventions, ideas, know-how, or documents and other materials which the Contractor has developed for the UNDP under the Contract and which bear a direct relation to or are produced or prepared or collected in consequence of, or during the course of, the performance of the Contract, and the Contractor acknowledges and agrees that such products, documents and other materials constitute works made for hire for the UNDP.

11.2 To the extent that any such intellectual property or other proprietary rights consist of any intellectual property or other proprietary rights of the Contractor: (i) that pre-

existed the performance by the Contractor of its obligations under the Contract, or (ii) that the Contractor may develop or acquire, or may have developed or acquired, independently of the performance of its obligations under the Contract, the UNDP does not and shall not claim any ownership interest thereto, and the Contractor grants to the UNDP a perpetual license to use such intellectual property or other proprietary right solely for the purposes of and in accordance with the requirements of the Contract.

11.3 At the request of the UNDP; the Contractor shall take all necessary steps, execute all necessary documents and generally assist in securing such proprietary rights and transferring or licensing them to the UNDP in compliance with the requirements of the applicable law and of the Contract.

11.4 Subject to the foregoing provisions, all maps, drawings, photographs, mosaics, plans, reports, estimates, recommendations, documents, and all other data compiled by or received by the Contractor under the Contract shall be the property of the UNDP, shall be made available for use or inspection by the UNDP at reasonable times and in reasonable places, shall be treated as confidential, and shall be delivered only to UNDP authorized officials on completion of work under the Contract.

12.0 USE OF NAME, EMBLEM OR OFFICIAL SEAL OF UNDP OR THE UNITED NATIONS:

The Contractor shall not advertise or otherwise make public the fact that it is a Contractor with UNDP, nor shall the Contractor, in any manner whatsoever use the name, emblem or official seal of UNDP or THE United Nations, or any abbreviation of the name of UNDP or United Nations in connection with its business or otherwise.

13.0 CONFIDENTIAL NATURE OF DOCUMENTS AND INFORMATION:

Information and data that is considered proprietary by either Party and that is delivered or disclosed by one Party (“Discloser”) to the other Party (“Recipient”) during the course of performance of the Contract, and that is designated as confidential (“Information”), shall be held in confidence by that Party and shall be handled as follows:

13.1 The recipient (“Recipient”) of such information shall:

13.1.1 use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser’s Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and,

13.1.2 use the Discloser's Information solely for the purpose for which it was disclosed.

13.2 Provided that the Recipient has a written agreement with the following persons or entities requiring them to treat the Information confidential in accordance with the Contract and this Article 13, the Recipient may disclose Information to:

13.2.1 any other party with the Discloser's prior written consent; and,

13.2.2 the Recipient's employees, officials, representatives and agents who have a need to know such Information for purposes of performing obligations under the Contract, and employees officials, representatives and agents of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know such Information for purposes of performing obligations under the Contract, provided that, for these purposes a controlled legal entity means:

13.2.2.1 a corporate entity in which the Party owns or otherwise controls, whether directly or indirectly, over fifty percent (50%) of voting shares thereof; or,

13.2.2.2 any entity over which the Party exercises effective managerial control;
or,

13.2.2.3 for the UNDP, an affiliated Fund such as UNCDF, UNIFEM and UNV.

13.3 The Contractor may disclose Information to the extent required by law, provided that, subject to and without any waiver of the privileges and immunities of the United Nations, the Contractor will give the UNDP sufficient prior notice of a request for the disclosure of Information in order to allow the UNDP to have a reasonable opportunity to take protective measures or such other action as may be appropriate before any such disclosure is made.

13.4 The UNDP may disclose Information to the extent as required pursuant to the Charter of the UN, resolutions or regulations of the General Assembly, or rules promulgated by the Secretary-General.

13.5 The Recipient shall not be precluded from disclosing Information that is obtained by the Recipient from a third party without restriction, is disclosed by the Discloser to a

third party without any obligation of confidentiality, is previously known by the Recipient, or at any time is developed by the Recipient completely independently of any disclosures hereunder.

13.6 These obligations and restrictions of confidentiality shall be effective during the term of the Contract, including any extension thereof, and, unless otherwise provided in the Contract, shall remain effective following any termination of the Contract.

14.0 FORCE MAJEURE; OTHER CHANGES IN CONDITIONS

14.1 In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to the UNDP, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify the UNDP of any other changes in conditions or the occurrence of any event that interferes or threatens to interfere with its performance of this Contract. On receipt of the notice required under this Article, the UNDP shall take such action as, in its sole discretion; it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

14.2 If the Contractor is rendered permanently unable, wholly, or in part, by reason of force majeure to perform its obligations and meet its responsibilities under this Contract, the UNDP shall have the right to suspend or terminate this Contract on the same terms and conditions as are provided for in Article 15, "Termination", except that the period of notice shall be seven (7) days instead of thirty (30) days.

14.3 Force majeure as used in this Article means acts of God, war (whether declared or not), invasion, revolution, insurrection, or other acts of a similar nature or force.

14.4 The Contractor acknowledges and agrees that, with respect to any obligations under the Contract that the Contractor must perform in or for any areas in which the UNDP is engaged in, preparing to engage in, or disengaging from any peacekeeping, humanitarian or similar operations, any delays or failure to perform such obligations arising from or relating to harsh conditions within such areas or to any incidents of civil unrest occurring in such areas shall not, in and of itself, constitute force majeure under the Contract..

15.0 TERMINATION

15.1 Either party may terminate this Contract for cause, in whole or in part, upon thirty (30) days notice, in writing, to the other party. The initiation of arbitral proceedings in accordance with Article 16.2 (“Arbitration”), below, shall not be deemed a termination of this Contract.

15.2 UNDP reserves the right to terminate without cause this Contract at any time upon 15 days prior written notice to the Contractor, in which case UNDP shall reimburse the Contractor for all reasonable costs incurred by the Contractor prior to receipt of the notice of termination.

15.3 In the event of any termination by UNDP under this Article, no payment shall be due from UNDP to the Contractor except for work and services satisfactorily performed in conformity with the express terms of this Contract.

15.4 Should the Contractor be adjudged bankrupt, or be liquidated or become insolvent, or should the Contractor make an assignment for the benefit of its creditors, or should a Receiver be appointed on account of the insolvency of the Contractor, the UNDP may, without prejudice to any other right or remedy it may have under the terms of these conditions, terminate this Contract forthwith. The Contractor shall immediately inform the UNDP of the occurrence of any of the above events.

16.0 SETTLEMENT OF DISPUTES

16.1 Amicable Settlement: The Parties shall use their best efforts to settle amicably any dispute, controversy or claim arising out of this Contract or the breach, termination or invalidity thereof. Where the parties wish to seek such an amicable settlement through conciliation, the conciliation shall take place in accordance with the UNCITRAL Conciliation Rules then obtaining, or according to such other procedure as may be agreed between the parties.

16.2 Arbitration: Any dispute, controversy, or claim between the Parties arising out of the Contract or the breach, termination, or invalidity thereof, unless settled amicably under Article 16.1, above, within sixty (60) days after receipt by one Party of the other Party’s written request for such amicable settlement, shall be referred by either Party to arbitration in accordance with the UNCITRAL Arbitration Rules then obtaining. The decisions of the arbitral tribunal shall be based on general principles of international commercial law. For all evidentiary questions, the arbitral tribunal shall be guided by the Supplementary Rules Governing the Presentation and Reception of Evidence in International Commercial Arbitration of the International Bar Association, 28 May 1983

edition. The arbitral tribunal shall be empowered to order the return or destruction of goods or any property, whether tangible or intangible, or of any confidential information provided under the Contract, order the termination of the Contract, or order that any other protective measures be taken with respect to the goods, services or any other property, whether tangible or intangible, or of any confidential information provided under the Contract, as appropriate, all in accordance with the authority of the arbitral tribunal pursuant to Article 26 (“Interim Measures of Protection”) and Article 32 (“Form and Effect of the Award”) of the UNCITRAL Arbitration Rules. The arbitral tribunal shall have no authority to award punitive damages. In addition, unless otherwise expressly provided in the Contract, the arbitral tribunal shall have no authority to award interest in excess of the London Inter-Bank Offered Rate (“LIBOR”) then prevailing, and any such interest shall be simple interest only. The Parties shall be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim.

17.0 PRIVILEGES AND IMMUNITIES:

Nothing in or relating to this Contract shall be deemed a waiver, express or implied, of any of the privileges and immunities of the United Nations, including its subsidiary organs.

18.0 TAX EXEMPTION

18.1 Section 7 of the Convention on the Privileges and Immunities of the United Nations provides, inter-alia that the United Nations, including its subsidiary organs, is exempt from all direct taxes, except charges for public utility services, and is exempt from customs duties and charges of a similar nature in respect of articles imported or exported for its official use. In the event any governmental authority refuses to recognize the United Nations exemption from such taxes, duties or charges, the Contractor shall immediately consult with the UNDP to determine a mutually acceptable procedure.

18.2 Accordingly, the Contractor authorizes UNDP to deduct from the Contractor's invoice any amount representing such taxes, duties or charges, unless the Contractor has consulted with the UNDP before the payment thereof and the UNDP has, in each instance, specifically authorized the Contractor to pay such taxes, duties or charges under protest. In that event, the Contractor shall provide the UNDP with written evidence that payment of such taxes, duties or charges has been made and appropriately authorized.

19.0 CHILD LABOUR

19.1 The Contractor represents and warrants that neither it, nor any of its suppliers is engaged in any practice inconsistent with the rights set forth in the Convention on the Rights of the Child, including Article 32 thereof, which, inter alia, requires that a child shall be protected from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical mental, spiritual, moral or social development.

19.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, at no cost to UNDP.

20.0 MINES:

20.1 The Contractor represents and warrants that neither it nor any of its suppliers is actively and directly engaged in patent activities, development, assembly, production, trade or manufacture of mines or in such activities in respect of components primarily utilized in the manufacture of Mines. The term "Mines" means those devices defined in Article 2, Paragraphs 1, 4 and 5 of Protocol II annexed to the Convention on Prohibitions and Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

20.2 Any breach of this representation and warranty shall entitle UNDP to terminate this Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind of UNDP.

21.0 OBSERVANCE OF THE LAW:

The Contractor shall comply with all laws, ordinances, rules, and regulations bearing upon the performance of its obligations under the terms of this Contract.

22.0 SEXUAL EXPLOITATION:

22.1 The Contractor shall take all appropriate measures to prevent sexual exploitation or abuse of anyone by it or by any of its employees or any other persons who may be engaged by the Contractor to perform any services under the Contract. For these purposes, sexual activity with any person less than eighteen years of age, regardless of any laws relating to consent, shall constitute the sexual exploitation and abuse of such person. In addition, the Contractor shall refrain from, and shall take all appropriate measures to prohibit its employees or other persons engaged by it from, exchanging any money, goods, services, offers of employment or other things of value, for sexual favors

or activities, or from engaging in any sexual activities that are exploitive or degrading to any person. The Contractor acknowledges and agrees that the provisions hereof constitute an essential term of the Contract and that any breach of this representation and warranty shall entitle UNDP to terminate the Contract immediately upon notice to the Contractor, without any liability for termination charges or any other liability of any kind.

22.2 The UNDP shall not apply the foregoing standard relating to age in any case in which the Contractor's personnel or any other person who may be engaged by the Contractor to perform any services under the Contract is married to the person less than the age of eighteen years with whom sexual activity has occurred and in which such marriage is recognized as valid under the laws of the country of citizenship of such Contractor's personnel or such other person who may be engaged by the Contractor to perform any services under the Contract.

23.0 AUTHORITY TO MODIFY:

Pursuant to the Financial Regulations and Rules of UNDP, only the UNDP Authorized Official possesses the authority to agree on behalf of UNDP to any modification of or change in this Agreement, to a waiver of any of its provisions or to any additional contractual relationship of any kind with the Contractor. Accordingly, no modification or change in this Contract shall be valid and enforceable against UNDP unless provided by an amendment to this Agreement signed by the Contractor and jointly by the UNDP Authorized Official.