

8 February, 2019

Request for Proposals # GHSC-PSM-TO1-2019-LAB-GlobalVL

Global proposal for Viral Load Testing

Dear Sir or Madam,

Chemonics International Inc. (hereinafter referred to as “Chemonics”), under the United States Agency for International Development (USAID) Global Health Supply Chain Program – Procurement and Supply Management (GHSC-PSM), Prime Contract AID-OAA-I-15-00004 / Task Order No AID-OAA-TO-15-00007, is issuing a Request for Proposal (RFP) for the provision of viral load (VL) and early infant diagnosis (EID) reagents and consumables and all-inclusive services (including equipment lease, placement, and other services). The attached RFP contains all the necessary information for interested Offerors.

The GHSC-PSM project (alternately referred to herein as “Chemonics” or the “customer”) is an official project of the USAID implemented by Chemonics and its consortium members. The purpose of GHSC-PSM is to ensure uninterrupted supplies of health commodities in support of United States Government (USG)-funded public health initiatives around the world. The project provides direct procurement and supply chain management support to the U.S. President’s Emergency Plan for AIDS Relief (PEPFAR), the U.S. President’s Malaria Initiative (PMI), Population and Reproductive Health (PRH), and Maternal and Child Health (MCH). GHSC-PSM supports health programs through the supply of a wide range of health commodities, including contraceptives and condoms, essential drugs; and select commodities for HIV/AIDS, malaria, maternal and child health, and infectious diseases.

Chemonics realizes that Offerors may have additional questions after reading this RFP. Interested Offerors can submit their questions to [Global\\_VL\\_RFP@ghsc-psm.org](mailto:Global_VL_RFP@ghsc-psm.org). If necessary, Chemonics will provide answers to all relevant questions received in an amendment that will be posted directly on the Chemonics online procurement posting and e-mailed directly to all interested Offerors.

This RFP does not obligate Chemonics to execute a subcontract nor does it commit Chemonics to pay any costs incurred in the preparation and submission of the proposals. Furthermore, Chemonics reserves the right to reject any and all offers, if such action is considered to be in the best interest of Chemonics.

Sincerely,

GHSC-PSM

Request for Proposals

RFP: # GHSC-PSM-TO1-2019-LAB-GlobalVL

For the provision of

Viral Load and EID Reagents, Consumables and All-Inclusive Services

Contracting Entity:

Chemonics International Inc.

GHSC-PSM

251 18th Street South

Arlington, VA 22202 US

Funded by:

United States Agency for International Development

Funded under:

Prime Contract Number AID-OAA-I-15-00004

Task Order No. AID-OAA-TO-15-00007

**\*\*\*\*\* ETHICAL AND BUSINESS CONDUCT REQUIREMENTS \*\*\*\*\***

Chemonics is committed to integrity in procurement, and only selects suppliers based on objective business criteria such as price and technical merit. Chemonics expects suppliers to comply with our Standards of Business Conduct, available at <https://www.chemonics.com/our-approach/standards-business-conduct/>.

Chemonics does not tolerate fraud, collusion among offerors, falsified proposals/bids, bribery, or kickbacks. Any firm or individual violating these standards will be disqualified from this procurement, barred from future procurement opportunities, and may be reported to both USAID and the Office of the Inspector General.

Employees and agents of Chemonics are strictly prohibited from asking for or accepting any money, fee, commission, credit, gift, gratuity, object of value or compensation from current or potential vendors or suppliers in exchange for or as a reward for business. Employees and agents engaging in this conduct are subject to termination and will be reported to USAID and the Office of the Inspector General. In addition, Chemonics will inform USAID and the Office of the Inspector General of any supplier offers of money, fee, commission, credit, gift, gratuity, object of value or compensation to obtain business.

Offerors responding to this RFP must include the following as part of the proposal submission:

- Disclose any close, familial, or financial relationships with Chemonics or project staff. For example, if an offeror's cousin is employed by the project, the offeror must state this.
- Disclose any family or financial relationship with other offerors submitting proposals. For example, if the offeror's father owns a company that is submitting another proposal, the offeror must state this.
  - Certify that the prices in the offer have been arrived at independently, without any consultation, communication, or agreement with any other offeror or competitor for the purpose of restricting competition.
  - Certify that all information in the proposal and all supporting documentation are authentic and accurate.
- Certify understanding and agreement to Chemonics' prohibitions against fraud, bribery and kickbacks.

Please contact [PSMRiskManagement@ghsc-psm.org](mailto:PSMRiskManagement@ghsc-psm.org) with any questions or concerns regarding the above information or to report any potential violations. Potential violations may also be reported directly to Chemonics at to [BusinessConduct@chemonics.com](mailto:BusinessConduct@chemonics.com) or by phone/Skype at 888.955.6881.

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**List of Acronyms**

ABA	American Banking Association
ACH	Automated Clearing house
AECA	Arms Export Control Act
AIDAR	USAID Acquisition Regulation
AWB	Airway Bill
BOA	Basic Ordering Agreement
BOL	Bill of Lading
BMGF	Bill and Melinda Gates Foundation
BPC	British Pharmaceutical Codex
CAGE	Commercial and Government Entity
CCR	Central Contractor Registration
CDC	Centers for Disease Control and Prevention (US)
CFR	Code of Federal Regulations
CIP	Carriage and Insurance Paid
CHAI	Clinton Health Access Initiative
CMS	Central Medical Stores
COP	Country Operating Plan
CPA	Certified Public Accountant
CRP	Collaborative Review Process
CV	Curriculum Vitae
D&B	Dun & Bradstreet
DAP	Delivered at Place
DBA	Doing Business as
DBS	Dried Blood Spot
DCAA	Defense Contract Audit Agency
DDP	Delivered Duty Paid
DFID	Department for International Development (UK)
DoD	Department of Defense (US)
DUNS	Data Universal Numbering System
EAA	Export Administration Act
EAR	Export Administration Regulations
EDI	Electronic Data Interchange
EFT	Electronic Funds Transfer
EGPAF	Elizabeth Glaser Pediatric AIDS Foundation
EID	Early Infant Diagnosis
EP	European Pharmacopoeia
EST	Eastern Standard Time
EXW	Ex Works
FAR	Federal Acquisition Regulations
FCA	Free Carrier
FCL	Full Container Load
FCPA	Foreign Corrupt Practices Act

FDA	Food and Drug Administration
FFATA	Federal Funding Accountability and Transparency Act
FMOH	Federal Ministry of Health
FSC	Federal Supply Classification
FSRS	FFATA Subaward Reporting System
G&A	General and Administrative
GAD	Goods Available Date
GFATM	Global Fund to Fight AIDS, Tuberculosis and Malaria
GHSC-PSM	Global Health Supply Chain Program – Procurement and Supply Management
GMP	Good Manufacturing Regulations
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
ICH	International Conference on Harmonization
IDC	Integrated Diagnostic Consortium
IDIQ	Indefinite Delivery Indefinite Quantity (a type of US Government contract)
IEEPA	International Emergency Economic Powers Acts
INCO	International Commercial
INN	International Nonproprietary Name
IQS	Indefinite Quantity Subcontracts
ITAR	International Traffic in Arms Regulations
IVT	Infant Virologic Testing
KEMSA	Kenya Medical Supplies Authority
KPI	Key Performance Indicator
LJ	Levey Jennings
MCH	Maternal and Child Health
MTTR	Mean Time to Repair
NAICS	North American Industry Classification System
NRA	National Regulatory Authority
OFAC	Office of Foreign Assets Control
OIG	Office of the Inspector General
PDF	Portable Document Format
PEPFAR	The United States President’s Emergency Plan for AIDS Relief
PMI	The United States President’s Malaria Initiative
POC	Point of Care
POD	Proof of Delivery
PRH	Population and Reproductive Health
PSC	Product Service Code
QA	Quality Assurance
QC	Quality Control
RFP	Request for Proposals
S/GAC	Office of the Global AIDS Coordinator
SAM	System for Award Management
SBA	Small Business Administration
SKU	Stock Keeping Unit

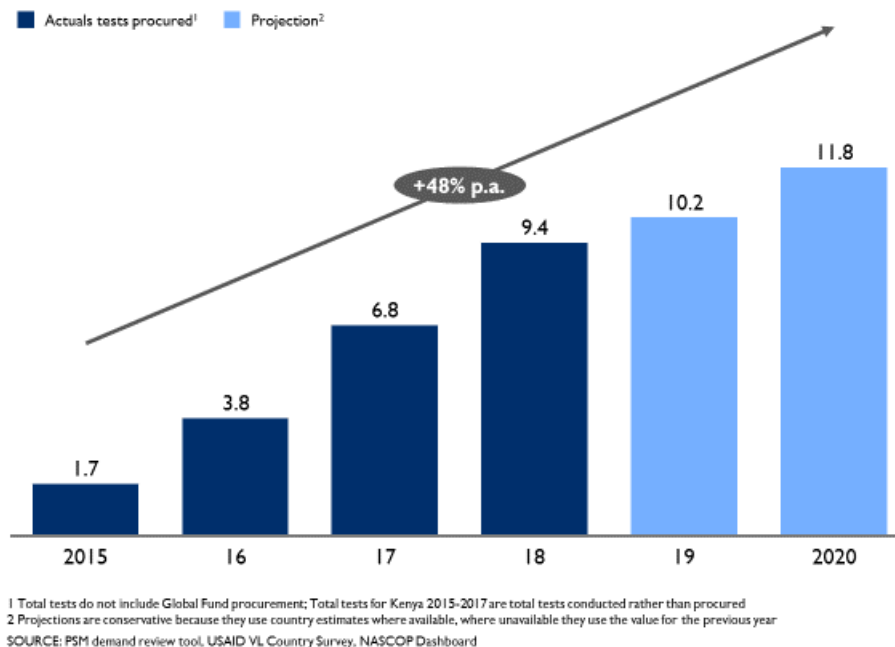
SOW	Statement of Work
SRA	Stringent Regulatory Authority
TWEA	Trading with the Enemy Act
U.S.	The United States
UNAIDS	United Nations Programme on HIV/AIDS
UNCAC	UN Convention Against Corruption
UNDP	UN Development Programme
Unitaid	Hosted partnership of the World Health Organization (WHO)
USAID	U.S. Agency for International Development
USAID/Country	USAID Mission in Specified Country
USG	U.S. Government
USP	United States Pharmacopoeia
VMI	Vendor-Managed Inventory
VAT	Value Added Tax
VL	Viral Load
WHO	World Health Organization

## Section 1 Introduction and RFP overview

### 1.1. Introduction and background

In 2013, the WHO recommended viral load (VL) and early infant detection (EID) monitoring as the preferred method for diagnosing and confirming HIV treatment failures in resource-limited settings. However, VL/EID cost and complexity has constrained scale-up in developing countries. In the coming years, testing volumes will need to increase significantly to meet global 90-90-90 objectives. Despite recent progress led by a broad stakeholder group including manufacturers, country governments, implementing partners and donors, it is estimated that only roughly 50% of people living with HIV/AIDS currently receive a viral load test on an annual basis, and roughly 50% HIV-exposed infants have a sample collected from EID. Improving access to VL/EID testing is therefore a priority for the State Department's Office of the Global AIDS Coordinator (S/GAC) in the overall program to control the AIDS epidemic.

Today, the US government's PEPFAR<sup>1</sup> program is the single largest funder and procurer of viral load testing globally – roughly the size of the next two largest procurers (South Africa and Global Fund) combined. PEPFAR supports viral load testing programs in approximately 20 countries and has increased the quantity of VL/EID testing volumes that it funds by more than a factor of five over the last three years, exceeding 9 million tests in 2018. This corresponds to an annual spend of approximately \$150 million. Looking forward, PEPFAR volumes are conservatively expected to grow further to over 10 million tests in 2019, and nearly 12 million in 2020, and to continue growing through 2022. In addition to these VL/EID volumes, PEPFAR may leverage VL/EID platforms in the future to perform other assays, including but not limited to TB, HBV, HCV and HPV.



Against the backdrop of growing investment, PEPFAR faces several challenges in supporting countries in the procurement of VL/EID instruments, commodities and services.

1. The pricing of reagents and services for PEPFAR-supported countries: a) can be highly variable between countries, b) lacks transparency across its different components, and c) significantly exceeds that of smaller procurers such as South Africa<sup>2</sup>.
2. Several PEPFAR-supported countries experience issues with a lack of visibility into instrument performance levels, poor service quality (e.g., slow maintenance response times) and sub-optimal service arrangements. Some existing contracts lacking clear service level requirements.

<sup>1</sup> PEPFAR procurement includes all procurement funded by PEPFAR and purchased by GHCSM-PSM, CDC, DoD and Medical Access Uganda Limited, KEMSA with PEPFAR funding

<sup>2</sup> E.g., South Africa's all-inclusive price (which covers reagents and consumables, distribution, equipment placement, maintenance and reporting) is lower than PEPFAR's price solely for reagents and consumables.

3. As the current fleet of VL/EID testing instruments ages, there is growing need to replace them and introduce newer technology without incurring large capital expenses.
4. Sole-supplier situations in several countries creates supply risk for PEPFAR-supported programs and limits the formation of healthy and competitive markets.
5. POC and near-POC products have entered the market for EID/VL and need to also be considered in building an optimal network.
6. New equipment is often placed in PEPFAR-supported countries by other partners, or through manufacturer donations to Ministries, without sufficient consideration of whether such placements are appropriate for the country's overall network in terms of patient volumes, instrument functionality and total lifetime cost, and without clear plans for its continued funding. Often, it falls to PEPFAR to provide the ongoing funding to support the reagents and consumables purchasing and the maintenance of these sub-optimally placed instruments.

## 1.2. RFP objectives

In support of the 90-90-90 targets, PEPFAR has requested that GHSC-PSM reset its sourcing model to procure reagents, consumables, and a comprehensive range of services through a reagent rental model for PEPFAR-supported countries. The aim of this global RFP is to address cross-cutting barriers to progress and to enable scale up of VL, EID, and other molecular testing to meet targets. With 20+ countries supported by PEPFAR, rapidly increasing volumes, and continual pressure to improve value for money, we believe that now is a critical time to set a strong foundation for future growth.

We strongly encourage all suppliers to respond to this RFP, since its results will inform the basis of all future PEPFAR orders. Through this RFP, we are asking suppliers to provide all-inclusive bids which cover not just new equipment, but also all legacy equipment that PEPFAR supports in country. Based on the bids received, PEPFAR will consult with Ministries of Health and local stakeholders to discuss a set of strategic supplier options for the next 3 years that will maximize value for money. These may result in changes to the installed base in addition to placement of new instruments.

This global RFP aims to set a single reagents and consumables price for all countries, and to set all-inclusive service pricing for six priority countries. In a second phase RFP later in 2019, all-inclusive service pricing will be defined for the remaining PEPFAR countries. Through this process, the aim is to shift all countries to a reagent rental model. This will help align incentives between PEPFAR, suppliers, and countries to ensure as close to 100% equipment uptime as possible. Several countries have begun transitioning to reagent rental models and have seen early success.

To help address the challenges identified in Section 1.1, GHSC-PSM and PEPFAR will fundamentally change the way they procure from suppliers. The new approach is embodied in this RFP and has four specific objectives:

1. **Improve pricing and increase price transparency:** Recognizing the growing set of supplier options as newer entrants scale up, we seek to establish new pricing agreements that place our current and future volumes with the suppliers offering highest value-for-money across our portfolio of countries. We also seek the transparency into the different components of pricing (e.g., reagents and consumables, distribution, equipment placement, equipment lease, training, maintenance, data reporting) to inform value-based and equitable procurement decisions across PEPFAR-supported countries. To help suppliers provide their best pricing and plan for future investment, we are considering a range of potential commitments (including single-year volume commitments and multi-year volume share commitments) to provide assurance of volumes.
2. **Improve service levels, service commitments and visibility into performance.** Current service agreements offered by suppliers differ significantly between countries and donors. Through this RFP we will standardize and improve service level requirements across countries, and suppliers will be requested to commit to specific service levels in their final agreement with PEPFAR (via GHSC-PSM). These service levels will apply to both existing equipment and new placements. Suppliers will be responsible for monitoring performance against KPIs and reporting monthly on performance achieved (with in-person meetings to review KPIs quarterly or more frequent review if there is any unresolved issue for more than 2 months). This involves a fundamental shift in the way service performance is contracted and monitored: we will hold suppliers accountable for the performance of their distributors and will require that suppliers carefully monitor distributor service performance and take remedial action as needed (including potentially replacing non-performing distributors) to ensure service levels are consistently met. Therefore, we request suppliers to work closely with their distributors when creating their unified all-inclusive bid. We will also require suppliers to implement automated reporting of performance (not patient) data through internet-enabled instruments for all labs in which network connections are available.
3. **Transition countries to reagent rental and all-inclusive pricing models.** Per 2019 Country Operating Plan (COP) guidance, PEPFAR no longer supports outright purchase of laboratory instruments and is shifting support



for VL/EID to reagent rental pricing models in which the supplier retains ownership of the instruments. At the same time, we are seeking an all-inclusive price for both existing and new machines. This all-inclusive pricing must at a minimum cover reagents and consumables, maintenance, on-going training, connectivity and data reporting, and equipment removal or relocation for all new and legacy instruments, and cover equipment placement and lease for new instruments only. It is preferred for reagent and consumable distribution and vendor-managed inventory to be included in the all-inclusive price if these can be cost-effectively provided by the supplier.

4. **Create healthy supply markets in each country.** Through this RFP, PEPFAR, in consultation with Ministries of Health, seeks to ensure that each supported country with a significant volume of testing has at least two suppliers in their testing program to reduce supply risk and improve competition. GHSC-PSM will also explore the value-for-money offered by newer market entrants compared to established suppliers and work with countries to scale up newer entrants where these suppliers represent a significant opportunity to improve program performance.
5. **Provide benefits for suppliers.** In addition to helping countries optimize their VL/EID network, this RFP is designed to provide potential supplier benefits, including:
  - Greater assurance of future volumes through multi-year market share commitments
  - The opportunity to expand equipment footprint and contribute to an accelerated scale up to the 90-90-90 targets
  - The ability to access more granular and transparent country data (e.g., demand forecasting / equipment utilization)
  - The chance to establish more expansive service level / maintenance agreements to improve equipment utilization

In parallel to the procurement changes reflected in the RFP objectives above, GHSC-PSM and USAID are working with partners to improve country network planning and performance. These initiatives include:

- Working with individual countries (esp. Ministry of Health and in-country partners) to optimize the location and placement of labs within countries. This may include rationalization of which machines in the installed base will receive ongoing funding to ensure adequate utilization across instruments.
- Establishing a new process to jointly approve new equipment placements in any PEPFAR-supported country. Moving forward, any new equipment placements must be approved by an appropriate review committee of the Integrated Diagnostic Consortium (IDC) in order to receive ongoing funding from any of the IDC partners (including USAID, CDC, DoD, BMGF, CHAI, EGPAF, GFATM, UNAID, and Unitaid).

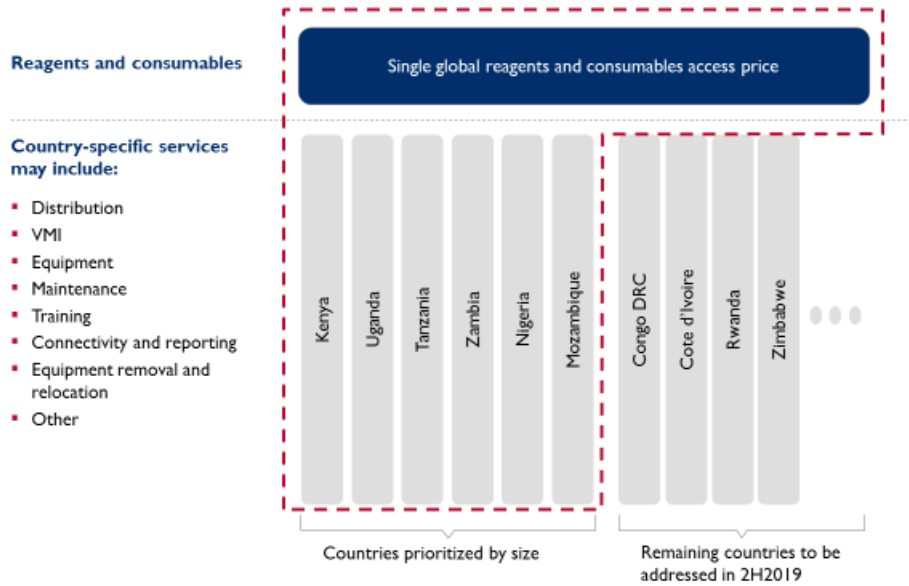
### 1.3. RFP structure and scope

In the past, agreements for PEPFAR-funded VL/EID commodities and services have typically been negotiated on a country-by-country basis. This RFP represents a new approach in which PEPFAR is shifting procurement from a country-specific to a global model. Through this RFP, GHSC-PSM, acting on behalf of PEPFAR, is soliciting cost-competitive, long-term (up to 3-year) proposals from companies and organizations to:

- Provide reagents and consumables for HIV VL and EID testing, and other molecular testing available on the same equipment as applicable, across all PEPFAR-supported countries.
- Provide all-inclusive services and equipment placement (where applicable) for VL/EID testing across an initial set of six high-volume countries. A subsequent RFP will be issued during the second half of 2019 with respect to services for the remaining PEPFAR countries.

The RFP is structured in two main sections. First, a global bid for reagents and consumables pricing, with FCA incoterm, that is valid for all PEPFAR-supported countries and volumes. Second, a country services bid for each of the six priority countries. The service bids include maintenance, on-going training, connectivity and data reporting, removal or relocation, distribution and vendor-managed inventory for all existing and new instruments, and equipment placement and lease for new instruments only.

### Pricing requested in this RFP (illustrated by dotted line)



#### 1.3a Reagents and consumables bid:

The single global reagent and consumables bid from this RFP will apply to orders for all PEPFAR countries and will be a significant factor in GHSC-PSM and PEPFAR’s discussions with countries to determine appropriate supplier mix for the next 3 years.

- Bids are requested to reflect the supplier’s most competitive fixed price for production of its reagents and consumables together with their transport to supplier port (i.e., based on an FCA incoterm).
- This is a single global price applicable to all countries. By design, there is no component of the reagents and consumables price that is country-specific.
- This global reagents and consumables price is not a ceiling price, and there will be no subsequent negotiations of this FCA pricing for individual countries.
- The new global reagents and consumables price will replace the reagents and consumables pricing from all existing PEPFAR agreements except in any case in which the existing pricing is more favorable than the new pricing.
- New global reagents and consumables prices will apply for any new orders placed after awards are finalized, and for any existing orders scheduled for delivery three or more months after awards are finalized.
- Where suppliers serve a country today and have an existing pricing schedule in place that does not break out reagents and consumables from country services, in the response to this RFP, they will be required to break out how much of their existing pricing is for reagents and consumables vs. services so that we can understand how the new total price differs from the existing total price.
- Suppliers can also provide pricing for other molecular tests beyond VL and EID where applicable. For those tests which are not yet available but are included, terms will be put in place once the products are available for purchase under USG regulations.

#### 1.3b Country services bid:

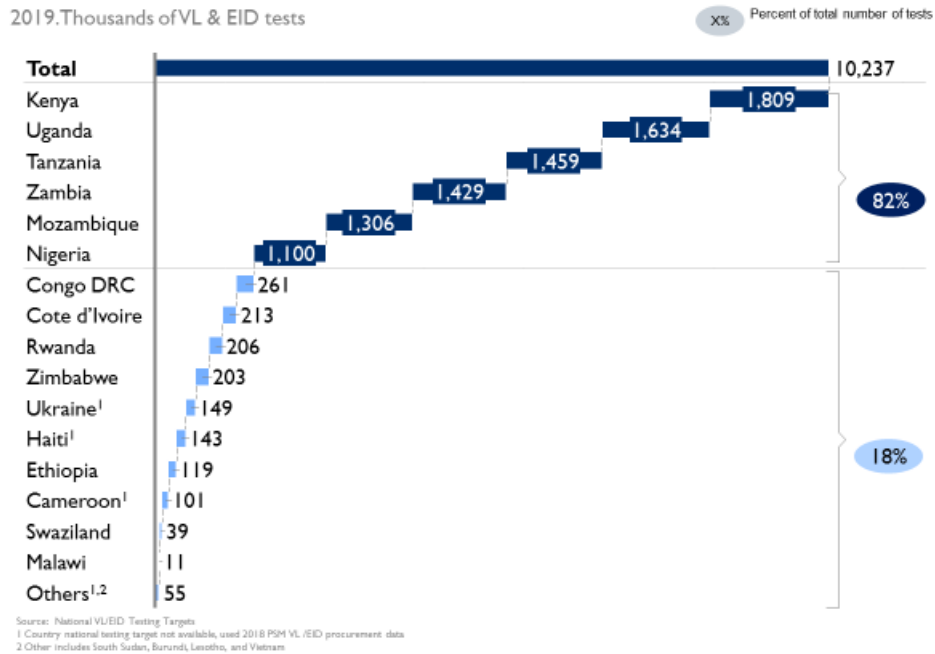
This RFP also covers country services pricing for **six** high-volume “priority” countries that represent approximately 80% of total PEPFAR VL/EID testing volume. Remaining countries will be covered in a subsequent RFP to be issued in 2H2019. (While PEPFAR would have preferred to include all of its supported countries in this RFP, we realize that would create an extremely high level of effort for suppliers to respond, especially given the potential need for suppliers to coordinate with distributor partners in each country.)

- For country services, we require suppliers to bid a price per patient test (i.e., inclusive of controls/calibrators) for each country. The price will cover equipment placement and lease, end-user training, preventative and break/fix maintenance, data reporting and connectivity, equipment removal/relocation at end of life, and other services as applicable.
- We are also requiring suppliers to provide bids for distribution of reagents and consumables from supplier port to

country (with delivery to either central medical store or individual labs), and vendor-managed inventory services, though if it is more cost-effective for GHSC-PSM to provide these services, we may continue to do so.

- Pricing will apply to both new placements as well as installed base, although for installed base it would exclude the placement, lease and equipment removal/relocation components. For the installed base, it is intended that the agreements under this RFP will replace any existing Service & Maintenance contracts currently in force.

Countries included in this RFP for services pricing are shown in dark blue above the line in the below chart, together with their 2019 projected testing volumes. Note that these volumes represent PEPFAR volumes and not total country volumes.



For the six priority countries, the global reagents and consumables price combined with the country services price defines the total price to serve each of the countries. This will inform, together with technical considerations, the discussions of supplier mix for the next 3 years across the countries.

Since manufacturer-owned equipment may require a lease cost and country-owned legacy equipment does not, the total services cost may be different for new vs. legacy equipment. However, based on the bid pricing, a single country price will be calculated for use in contract awards. This single price will be a weighted average price across installed and new machines based on capacity/expected usage. This single weighted average price would be recalculated as necessary whenever new instruments are placed in country.

We understand that not all suppliers have platforms that are currently verified in all countries, and suppliers may lack an existing service network in specific countries. However, we are taking a longer-term strategic view through this RFP process and **encourage suppliers to bid in any countries in which they could start providing services within the next 18 months from time of submission**. We will consider bids that are conditional on verifying products and/or setting up service networks, although where these are made, suppliers should submit a supporting implementation plan with activities, timelines and milestones for the product verification and/or service network establishment. Suppliers should be aware that WHO has launched a new Collaborative Review Process (CRP) that includes viral load and EID diagnostics. The CRP enables participating National Regulatory Authorities to accelerate processing of registration applications for prequalified diagnostic instruments<sup>3</sup>. The CRP for VL/EID diagnostics will be launched in March of 2019, implying regulatory confirmations will be complete by end of June 2019. All six priority countries for the RFP have indicated intent to participate as of Jan 2019.

PSM recognizes the significant effort that suppliers have made in responding to recent RFPs (Nigeria, Zambia, and Haiti) and that countries have made in optimizing their networks in response to those proposals; thus, we will not make

<sup>2</sup> Under the CRP, WHO PQP will share its qualification dossiers and data for VL/EID instruments with participating NRAs. The NRAs commit to issuing a decision on each submission within 90 days of receiving access to confidential PQP outcomes of assessments and inspections. WHO and the manufacturer are informed of this decision within 30 days from when it is taken. The MRA is free to deviate from PQP opinion. However, deviations from WHO PQP conclusions should be explained and communicated to PQP.  
 (PSM Update 2/8/2019)

adjustments to the installed base of recently placed machines under those specific agreements for the minimum of the remainder of the initial term of those sub-contracts or one year since award.

### **1.3c Treatment of conventional diagnostics and point-of-care diagnostics**

The primary focus of this RFP is on conventional lab-based diagnostics, and firm volume commitments may be made based on the results of this RFP for conventional diagnostics. Many countries' point-of-care (POC) diagnostic strategies for delivery of same-day results are still under development or lack committed funding, so it may be too early to commit firm volumes for POC based on the results of this RFP in many countries. However, POC suppliers are invited to make offers, either for global reagents and consumables pricing only or for global pricing and country services pricing. These offers will be used to help determine PEPFAR and countries' POC network strategies and will affect the volumes of VL/EID testing allocated to POC testing. Technical evaluations will take into account the clinical impact of POC. Depending on the pricing offered, some volume commitments may be made based on these offers. Where only reagents and consumables pricing is offered, any previously-negotiated pricing for maintenance will be considered to stand.

### **1.3d Potential changes resulting from this RFP:**

At the conclusion of RFP negotiations, GHSC-PSM will be conducting a strategic review of supplier mix with respective Ministries of Health, CDC, and USAID Missions in the six priority countries, to jointly make new procurement decisions and agreements for the next 3 years. In Kenya, where KEMSA is responsible for procurement, the strategic review may be facilitated by GHSC-PSM but will be led by the USAID Mission, CDC, the Ministry of Health, and KEMSA. It is expected that there will be changes to the installed base in each country to improve value for money across each country's network.

The global reagents and consumables price will also be discussed with remaining countries (which represent a combined 20% of PEPFAR volume), and there may be volume shifts within those countries as a result. However, GHSC-PSM expects more significant changes in those countries to be conducted later in 2019 when the RFP for their country services pricing is conducted.

All new equipment to be funded under PEPFAR for the next 3 years will be introduced under terms and pricing of the contracts established through this RFP. All such equipment shall be on a reagent rental basis.

## **1.4. Invitation to submit proposals and awards issuance**

Offerors are invited to submit proposals in response to this RFP in accordance with instructions on the attached technical and pricing proposal submission templates, which will not be part of the subcontract. The instructions are intended to assist interested Offerors in the preparation of their offer. Any resulting subcontract will be guided by Sections 2 and 3.

Chemonics intends to issue award(s) to one or more companies. The award will be in the form of a firm fixed price subcontract (hereinafter referred to as "the subcontract"). Any orders issued as a result of an award under this RFP will be executed through a BOA (Basic Ordering Agreement) mechanism as applicable. Successful Offerors shall be required to adhere to the statement of work and terms and conditions of either the subcontract or the BOA mechanism.

Chemonics expects successful offerors to be ones that can provide a comprehensive service package consistent with the service levels laid out in this RFP, together with pricing that reflects the scale of PEPFAR's purchase both globally (approximately 10M+ tests in 2019) and in each country (approximately 1-2M tests in each of the six countries in this RFP in 2019).

This RFP does not obligate Chemonics to execute a subcontract nor does it commit Chemonics to pay any costs incurred in the preparation and submission of the proposals. Furthermore, Chemonics reserves the right to reject any and all offers, if such action is considered to be in the best interest of Chemonics.

Unless otherwise stated, the periods named in the RFP shall be consecutive calendar days.

## **1.5. Offer Deadline**

Emailed offers must be received no later than 5:00 PM (US EST) on Mon 8 Apr 2019, at the following address:

*Global\_VL\_RFP@ghsc-psm.org*

Faxed offers will not be considered.

Offerors are responsible for ensuring that their offers are received in accordance with the instructions stated herein. Late offers may be considered at the discretion of Chemonics. Chemonics cannot guarantee that late offers will be considered.

## 1.6. Submission Details

### Instructions for the Submission of Questions and Expression of Interest During the Bid Period

Any questions regarding the RFP should be submitted in writing to *Global\_VL\_RFP@ghsc-psm.org* before 5p ET on 22 Feb 2019.

All suppliers intending to bid should complete the Expression of Interest in Annex 4 and send to *Global\_VL\_RFP@ghsc-psm.org* by 5pm ET on 22 Feb 2019.

Please reference RFP: GHSC-PSM-TO1-2019-LAB-GlobalVL in the subject line of the email.

### Instructions for the Submission of Proposals

Separate technical and price proposals must be submitted on the submission template provided by email. The proposals must be submitted to *Global\_VL\_RFP@ghsc-psm.org*.

Please reference RFP: GHSC-PSM-TO1-2019-LAB-GlobalVL in the subject line of the email. The Offeror must submit the proposal electronically compatible with MS Excel for the main submission and MS Word or Adobe Portable Document (PDF) format for the remainder of materials. Those pages requiring original manual signatures should be scanned and sent in PDF format as an email attachment.

The technical proposal and price proposal must be kept separate from each other. Technical proposals must not make reference to pricing data so that the technical evaluation may be made strictly on the basis of technical merit. Please indicate in the subject line whether a submission is the technical or price proposal.

Technical proposals and price proposals for country-specific services should cover all countries for which the Offeror can provide service. All country technical proposals can be submitted together in one spreadsheet along with the global technical proposal, and all country price proposals can be submitted together along with the global price proposal.

The Viral Load Vendor Questionnaire should also be submitted separately to the GHSC-QA SharePoint site directly.

## 1.7. Requirements

To be determined responsive, an offer must include all of documents and sections included in section 1.6 as follows.

### 1.7.A. General Requirements

Chemonics anticipates issuing a subcontract to a company or organization, provided it is legally registered and recognized under the laws of the country where it is headquartered and is in compliance with all applicable civil, fiscal, and other applicable regulations. Such a company or organization could include a private firm, non-profit, civil society organization, or university.

Companies and organizations that submit proposals in response to this RFP must meet the following requirements:

- (i) Companies or organizations, whether for-profit or non-profit, must be legally registered under the laws of the country where it is registered, upon award of the subcontract.
- (ii) Firms operated as commercial companies or other organizations or enterprises (including nonprofit organizations) in which foreign governments or their agents or agencies have a controlling interest are not eligible as suppliers of commodities and services.
- (iii) Companies or organizations must have a local presence in the countries for which they submit proposals at the time the subcontract is signed and
- (iv) Companies or organizations, whether for-profit or non-profit, shall be requested to provide a DUNS number if selected to receive a subcontract valued at USD \$30,000 or more, unless exempted in accordance with information certified in the Evidence of Responsibility form included in the required certifications in Annex 2<sup>4</sup>.

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<sup>4</sup> If Offeror does not have a DUNS number and is unable to obtain one before proposal submission deadline, Offeror shall include a statement in their Evidence of Responsibility Statement noting their intention to register for a DUNS number should it be selected as the successful offeror or explaining why registration for a DUNS number is not possible. Contact Dun & Bradstreet through this webform to obtain a number: (PSM Update 2/8/2019)

Offerors may present their proposals as a member of a partnership with other companies or organizations e.g. regional or local authorized distributors. Responsibility for adhering to service level agreements shall rest with the suppliers themselves, who must enforce them through their partner organizations. The contract will be awarded to the lead or principal company in the partnership, e.g. the HQ of the manufacturing company. The leading company shall be responsible for all parties' compliance with all contract terms and conditions and making all partnership arrangements, including but not limited to division of labor, invoicing, etc., with the other companies. A legally registered partnership is not necessary for these purposes; however, the different organizations must be committed to work together in the fulfillment of the subcontract terms.

### **1.7.B. Required Proposal Documents**

#### **1.7.B.1. Cover Letter and certifications**

The offeror's cover letter shall include the following information:

- i. Name of the company or organization
- ii. Type of company or organization
- iii. Address
- iv. Telephone
- v. Fax
- vi. E-mail
- vii. Taxpayer Identification Number
- viii. DUNS Number
- ix. Other required documents that shall be included as attachments to the technical proposal:
  - a) Copy of registration or incorporation in the public registry, or equivalent document from the government office where the offeror is registered.
  - b) Copy of company tax registration, or equivalent document.
  - c) Copy of trade license, or equivalent document.
  - d) Evidence of Responsibility Statement, whereby the offeror certifies that it has sufficient financial, technical, and managerial resources to complete the activity described in the scope of work, or the ability to obtain such resources. This statement is required by the Federal Acquisition Regulations in 9.104-1. A template is provided in Annex 2 "Required Certifications", which shall be completed by the contracting entity submitting the offer.

A sample cover letter is provided in Annex 3 of this RFP.

The certifications listed in the appendix of this document must all be completed.

#### **1.7.B.2. Technical Proposal and Price Proposal**

The technical proposal shall comprise the following five (5) parts, each of which can be found in the attached Excel Annex 6 – Technical Submission Template. Responses must consider the terms and conditions and service level requirements listed in the tables as well as in Section 2, Scope of Work and Deliverables:

- **Table T1:** Global Service Levels (T1 in Excel Technical Submission Template)

Table T1 defines PEPFAR's service level expectations for each type of service (e.g., instrument installation, maintenance, training) and asks offerors to confirm that they can meet these service levels. Offerors should indicate yes or no for each category of service level. For specific countries in which it is not possible to meet the service levels, offerors are requested to so indicate in the country-specific columns.

- **Table T2:** Global Service Details (T2 in Excel Technical Submission Template)

Table T2 requests responses to a set of technical questions on services and asks offerors to provide information on any value-added services they may be able to provide. Table T2 also defines the technical submission attachments that shall be included as part of the offeror's submission.

- **Table T3: Key Performance Indicators (T3 in Excel Technical Submission Template)**

Table T3 defines the operational key performance indicators that will be tracked monthly by successful awardees. Standard targets are set for each of the indicators; these represent the performance expected in each country. If performance targets are not met in a given month, the authorized service provider is expected to investigate and address the causes of non-performance. If performance targets are not met for two consecutive months, GHSC-PSM or a designated in-country partner, in partnership with the supplier in question, will initiate a review with the Ministry of Health and determine a remediation plan (that will include corrective and preventive actions, i.e. CAPAs). Consistent non-performance and failure to remediate issues will result in a voiding of any volume commitments made as part of contract award and potentially a shift of country volume away from the non-performing supplier.

- **Table T4: Country Service Details (T4 in Excel Technical Submission Template)**

Through Table T4, GHSC-PSM aims to better understand the feasibility and expected quality of in-country service delivery. Through these details, including references, and additional follow-up, distributors and/or authorized service providers for each country will be evaluated. GHSC-PSM may request clarifications and/or conduct independent review of proposed service providers. In-country partners play a critical role in service delivery, and offerors shall be responsible for carefully monitoring their performance through a combination of connectivity-enabled automated reporting and monthly KPI reporting. If in-country partner performance is poor and remedial actions are unsuccessful in improving performance, suppliers are expected to identify alternate partners. Where offerors are not yet established in a country, their implementation plan and timeline to be operational in-country will be evaluated to understand feasibility for capacity scale-up.

- **Table T5: Installed Base (T5 in Excel Technical Submission Template)**

Through Table T5, GHSC-PSM aims to cross-check our own data on suppliers' existing footprint in-country to firmly understand the operational implications of any shifts in volume between suppliers and the feasibility of proposals.

The pricing proposal shall consist of the following three (3) parts, each of which can be found in the Annex 7 - Excel Pricing Submission Template:

- **Table P1: Global pricing for Reagents and Consumables**

Table P1 requests price proposals for different volume tiers and term commitments. Based on offers, volume commitments may be made to suppliers. GHSC-PSM will not commit 100% of expected volumes, and there may be additional volume growth. Allocation of additional volumes will be made dependent on offeror performance among other factors.

Prices defined are effective price per patient test, comprehensive of the costs of controls and calibration (e.g. if a machine runs 96 tests per cycle, and 3 of those tests are controls or calibrators, then the price quoted per patient test is the total cost for the cycle divided by 93 tests, not 96). Prices should include all commodities required to prepare samples and run a test. Prices are FCA Inco term at supplier port.

- **Table P2: Country-Specific Services Pricing for Focus Countries**

Table P2 requests country-specific prices for each of the high-volume countries included for country services in this RFP. All PEPFAR-supported countries are shifting to a reagent rental model, with a fixed all-inclusive price per test; this table requests details on the price components of the all-inclusive price.

Offerors are requested to bid for any country in which they expect to be operational within the next 18 months.

Expectations for what is included in each service category are defined in Table T1 Global Service levels.

- **Table P3: Current Country Pricing**

Table P3 aims to understand how new global reagents and consumables prices will affect total pricing in countries not included for country services in this RFP. While country services pricing will not be negotiated for all countries as part of this RFP, total pricing in those countries will change based on the new reagents and consumables pricing established as a result of this RFP.

The pricing structure of the subcontract to be awarded will be all-inclusive fixed price. No additional profit, fees, taxes, or additional costs can be added after award. Offers must show unit prices for each of the price categories listed in Tables P1 and P2. All items, services, etc. must be clearly labeled and included in the total offered price. All price information must be expressed in US dollars.

### 1.7.B.3. Quality Assurance Documentation

As part of the technical evaluation, all offerors must also complete Annex 8, the Viral Load Vendor Quality Assurance (PSM Update 2/8/2019)

Assessment Questionnaire. (Note that this information must be uploaded to the GHSC-QA SharePoint site directly). For instructions, please refer to Annex 9 – Instructions for Creating and Submitting a GHSC-QA Technical Questionnaire Submission.

### 1.8. Source of Funding, Authorized Geographic Code, and Source and Origin

Any subcontract resulting from this RFP will be financed by USAID funding and will be subject to U.S. Government and USAID regulations.

All goods and services offered in response to this RFP or supplied under any resulting award must meet USAID Geographic Code 935 in accordance with the United States Code of Federal Regulations (CFR), 22 CFR §228, available at: <http://www.gpo.gov/fdsys/pkg/CFR-2012-title22-vol1/pdf/CFR-2012-title22-vol1-part228.pdf>.

Offerors may not offer or supply any products, commodities or related services that are manufactured or assembled in, shipped from, transported through, or otherwise involving any of the following countries: Cuba, Iran, North Korea, and Syria, or any other countries or entities which may be subject to U.S. Government sanctions as per the Office of Foreign Assets Control (OFAC) list of sanctioned entities.. Related services include incidental services pertaining to any/all aspects of this work to be performed under a resulting contract (including transportation, fuel, lodging, meals, and communications expenses).

### 1.9. Chronological List of Proposal Events

The following calendar summarizes important dates in the solicitation process. Offerors must strictly follow these deadlines.

RFP released	8 Feb 2019
RFP bidders information call	13 Feb 2019
Deadline for Expression of Interest and written questions	22 Feb 2019
Answers provided to questions/clarifications	1 Mar 2019
Proposal due date	8 Apr 2019
Subcontract award (estimated)	21 Jun 2019

The dates above may be modified at the sole discretion of Chemonics. Any changes will be published in an amendment to this RFP.

**RFP Bidders Information Call.** Offerors may join a teleconference to be scheduled for the morning (US EST) of Wednesday February 13<sup>th</sup>. Details will follow shortly after RFP launch.

**Expression of Interest.** All offerors intending to respond to the RFP should complete the Expression of Interest in Annex 4 and submit to [Global\\_VL\\_RFP@ghsc-psm.org](mailto:Global_VL_RFP@ghsc-psm.org), no later than 5:00PM (US EST) on 22 Feb 2019.

**Written Questions and Clarifications.** All questions or clarifications regarding this RFP must be in writing and submitted to [Global\\_VL\\_RFP@ghsc-psm.org](mailto:Global_VL_RFP@ghsc-psm.org), no later than 5:00PM (US EST) on 22 Feb 2019. Questions and requests for clarification, and the responses thereto, will be circulated to all RFP recipients who have indicated an interest in this RFP. Chemonics expects to provide responses to questions on 1 Mar, 2019.

Only written answers from Chemonics will be considered official and carry weight in the RFP process and subsequent evaluation. Any answers received outside the official channel, whether received verbally or in writing, from employees or representatives of Chemonics, the GHSC-PSM project, or any other party, will not be considered official responses regarding this RFP.

**Proposal Submission Date.** All proposals must be received by 5:00PM (US EST) on 8 Apr 2019. Late offers will be considered at the discretion of Chemonics.

**Subcontract Award (estimated).** Chemonics will select the proposal that offers the best value based upon the recommendations of a Technical Evaluation Committee (TEC) using the evaluation criteria stated in this RFP.



## 1.10. Validity Period

Offerors' proposals must remain valid for 150 calendar days after the proposal deadline.

## 1.11. Evaluation and Basis for Award

An award will be made to the offeror(s) whose proposal is determined to be responsive to this solicitation document, meets the eligibility criteria stated in this RFP, meets the regulatory status, corporate capability, technical specifications, maintenance capacity, and service quality requirements, and is determined to represent the best value to countries and the U.S. government.

Countries will make the final award decisions with support from GHSC-PSM, CDC and USAID. Supplier selection and lab volume allocation will be based on the global technical proposal, the country technical proposal, and global and country pricing proposals. Current lab network optimization efforts will be an important part of the decision-making process, and in-country stakeholders may choose to remove existing instruments that do not make sense in the context of an optimized network where cost is a chief consideration. Additional factors that will be considered include: supply security; ability of suppliers to reliably scale up capacity and service networks; and the cost of making any transitions from the current installed base.

### 1.11.a Evaluation of global and country pricing proposals

Global pricing (for reagents and consumables) and country pricing (for distribution, equipment placement and lease, maintenance, training, reporting and connectivity) will be considered jointly – as an all-inclusive price per test – in evaluation of pricing proposals for the six priority countries. Global pricing for reagents and consumables will also be considered as relevant to all other PEPFAR-supported countries.

Global and country pricing proposals will be evaluated on a competitive basis. If thresholds for technical performance are met, pricing will be the primary decision-making factor, together with supply security (both globally and for each country).

### 1.11.b Evaluation of global and country technical proposals

In addition to pricing proposals, offerors are requested to submit global technical proposals and country-specific technical proposals as detailed in the Excel Annex 6 – Technical Submission Template and Annex 7 – Pricing Submission Template.

To be considered for inclusion in the procurement, offerors must meet the below mandatory requirements:

- Assays and instruments are WHO prequalified and/or FDA-approved for the testing types offered (viral load, EID, or other molecular tests available on the same equipment as relevant to PEPFAR countries)
- Instruments are enabled with hardware, software, and appropriate telecommunications capability (e.g., via wired, wireless or cellular connection) to provide automated reports on testing volumes, system downtime, and errors.
- Have an existing functioning Quality Management System such as ISO 13485 that underpins all manufacturing operations

Evaluation of country technical proposals will be based on the following criteria. Each will be scored from 1 (low) to 5 (high) based on Tables T1, T2, and T3. The individual scores as well as an aggregated weighted score will be used in decision-making.

- **In-country partner quality:** Quality of in-country distributor and/or authorized service provider (determined based on proposed SLAs as well as references and track record of the service provider)
- **Instrument lease, installation and removal:** Ability of the offeror to meet service level for lease and placement; instrument use and service requirements
- **Maintenance:** Ability of the offeror to meet standard service levels in the country
- **Training:** Ability of the offeror to meet standard training service levels in the country
- **Connectivity and data reporting:** Ability of the offeror to meet standard service levels in the country; quality of the proposed automated reporting system
- **Commodity supply chain management:** Ability of the offeror to meet standard service levels in the country (if applicable)

Global technical proposals will also be scored and used in country and global decision-making. Ten (10) criteria will be used, and each will be scored from 1 (low) to 5 (high). If any of these have country-specific aspects, they would be

considered as part of the country scores.

- **Polyvalency:** Availability of additional WHO-prequalified assays or assays likely to be prequalified in the next 12 months that can be used on the same instrument (e.g., HCV viral load, HPV qualitative assay)
- **Physical requirements:** Footprint, water requirements, electricity requirements for instrument use
- **Ease of use:** Hands-on staff time requirement
- **Instrument service requirements:** Robustness of the instrument and ease of repair (e.g., frequency of service required, ability to remotely troubleshoot issues)
- **Global supply chain management:** Ability to meet global capacity needs and lead times. Track record of supply reliability and quality management
- **Value-added maintenance offering:** Quality of the offeror's proposal for value-added maintenance, e.g., for more frequent preventative maintenance visits
- **Value-added training offering:** Quality of the offeror's proposal for value-added training and/or "super user" training
- **Value-added connectivity offering:** Quality of the offeror's proposal for value-added remote monitoring and/or reporting services, e.g., provision of dashboards or automated reporting to facilities
- **Development pipeline, equipment upgrades and capacity:** Potential value-add of likely upgrades, planned enhancements, new technology and assays and/or sample types in development or undergoing regulatory approval
- **QA system:** Strengths of QA qualifications and processes.

This RFP utilizes the tradeoff process set forth in FAR 15.101-1. Chemonics will award a subcontract to the offeror whose proposal represents the best value to Chemonics and the GHSC-PSM project. Chemonics may award to a higher priced offeror if a determination is made that the higher technical evaluation of that offeror merits the additional cost/price.

Cost realism will be considered when evaluating proposals. Cost realism will be based on considerations such as the following:

- Are proposed costs realistic for the work to be performed?
- Do the costs reflect a clear understanding of solicitation requirements?
- Are the costs consistent with the various elements of the Offeror's technical proposal?

#### 1.11.c Negotiations

Best offer proposals are requested. Chemonics expects to conduct negotiations on both global reagents and consumables pricing and country services pricing prior to awarding a subcontract. Furthermore, Chemonics reserves the right to conduct a competitive range and to limit the number of offerors in the competitive range to permit an efficient evaluation environment among the most highly-rated proposals. At the sole discretion of Chemonics, offerors may be requested to conduct oral presentations. Chemonics expects to make multiple awards as a result of this Global RFP.

#### 1.11.d Application of pricing terms to other buyers

In responding to this RFP, suppliers agree that GHSC-PSM can make any bid pricing known to other IDC partners who also procure molecular testing. If, as part of negotiations for this RFP, other buyers decide to commit volume alongside GHSC-PSM as part of contract awards, then the combined volumes would be used to determine the volume tier applied for pricing agreements.

#### 1.11.e Terms of Subcontract

For successful Offerors holding a BOA (Basic Ordering Agreement) for GHSC-PSM, the award will be in the form of a fixed unit price and service level agreement annex to the BOA (i.e. the VL/EID Global Pricing and Reagent Rental Terms and Conditions Annex), also referred to herein as "the subcontract". Successful Offerors without an existing BOA shall be on-boarded to this long-term ordering subcontract with the negotiated prices and packages resulting from this RFP. Any orders issued as a result of an award under this RFP will be executed and performed in accordance with the VL/EID Global Pricing and Reagent Rental Terms and Conditions and the BOA. In the event of subcontract negotiations, any resulting subcontract will be subject to and governed by the terms and conditions of the existing BOA or general terms and conditions as referenced in Annex 1, and the technical service level requirements as indicated in Annex 6 – Technical Submission Template form. Technical Service Level requirements will be incorporated as special terms and conditions for Global Pricing and Reagent Rental. Offerors must include any requested amendments to terms and conditions in the proposal. Further negotiations on terms and clauses may not be accepted. By submitting a proposal, offerors certify that they understand and agree to all terms and clauses contained in their existing BOA, or Annex 1 for offerors without a BOA, and

to the service level requirements herein.

Awarded volumes shall be phased in over a 6-12 month period (exact duration to be mutually agreed with supplier); volume/market share commitments apply after the phase-in period.

This is a request for proposals only and in no way obligates Chemonics to award a subcontract in the form of a BOA with pricing terms, make volume commitments, or place Orders.

#### **1.11.f Privity**

By submitting a response to this request for proposals, offerors understand that USAID is NOT a party to this solicitation and USAID will not respond to questions related to this RFP or any award decision hereunder.

#### **1.12. Communications**

All questions regarding this RFP, including clarification of any country-specific requirements, should be directed to GHSC-PSM at *Global\_VL\_RFP@ghsc-psm.org*. Offerors should NOT engage other stakeholders (e.g., PEPFAR, USAID Washington or Missions, CDC Atlanta or country representatives, Ministries of Health, IDC partners, in-country technical partners, other offerors) regarding such questions, nor should offerors discuss their bids or potential award scenarios with other stakeholders. The only exception to this is for communications with existing or potential distributor partners.

#### **1.13. Confidentiality of bids**

GHSC-PSM will treat supplier bids as confidential, but may share terms, conditions and pricing details with other stakeholders as needed for evaluation and award decisions. Such parties may include USAID, CDC, PEPFAR, GHSC-QA, Ministries of Health and country lab technical working groups.

## **Section 2 Scope of Work, Deliverables, and Deliverables Schedule**

### **2.1. Scope of Work**

#### **A. Activities**

The Offeror(s) selected as a result of this RFP will be required to carry out the activities defined in Table T1. Offeror(s) should indicate on Table T1 whether any of the standard service level expectations cannot be met in any of the priority countries.

#### **B. Value-added services**

The offeror should share potential additional value-added services that they can provide for countries. These shall be indicated in Table T2.

#### **C. Requirements**

The offeror shall consider the following requirements:

- i. All devices placed globally must meet the following requirements:
  - a. Assays and instruments are WHO prequalified and/or FDA-approved for the testing types offered (viral load, EID, or other molecular tests available on the same equipment as relevant to PEPFAR countries)
  - b. Instruments are enabled with hardware, software, and appropriate telecommunications capability (e.g., via wired, wireless or cellular connection) to provide automated reports on testing volumes, system downtime, and errors.
  - c. Have an existing functioning Quality Management System such as ISO 13485 that underpins all manufacturing operations

### **2.2. Deliverables**

Successful offerors shall deliver to Chemonics the following deliverables in the course of providing products and services to GHSC-PSM and country labs:

#### **Deliverable No. 1: Certificates of Analysis for Reagents and Consumables**

The successful offeror(s) shall provide a QC release testing Certificate of Analysis (CoA) as well as any 3rd party independent testing CoA (e.g. PEI test report) for every batch of reagents and consumables procured by GHSC-PSM. This CoA should not be limited to a simple pass/fail indicator but should contain the quantitative results of each of the QA tests run including the limit of detection, linearity, precision (if possible), accuracy and error rate by the manufacturer on each batch. An example CoA template shall be shared with successful offeror(s).

#### **Deliverable No. 2: Proofs of Delivery (PODs) for Reagents and Consumables with Temperature Data for Cold Chain**

The successful offeror(s) shall provide signed and stamped proof of delivery documentation for the delivery of any reagents and consumables with DAP incoterms. The offeror(s) must also provide a packing list to ensure payment. The temperature monitoring device data that is required to be included in cold chain shipment shall be downloadable, readable and interpretable at point of delivery by GHSC-PSM staff. Access to temperature monitoring data is mandatory. Deliverables shall be provided in accordance with agreed-upon delivery dates.

#### **Deliverable No. 3: Monthly performance reports** (for the purposes of this RFP, applicable only in countries for which services pricing is offered)

The successful offeror(s) shall provide monthly performance reports for all indicators listed on Table T3 for every country for which the offeror is active.

**Annex 1 Basic Ordering Agreement General Terms and Conditions**

**BASIC ORDERING AGREEMENT TERMS AND CONDITIONS FOR NEW AWARDS**

**Section 1. Background and Purpose**

The USAID Global Health Supply Chain Program – Procurement and Supply Management (GHSC-PSM) project is an official project of the United States Agency for International Development (USAID), Contract No.: AID-OAA-I-15-00004 implemented by Chemonics International and its consortium members. The purpose of GHSC-PSM is to ensure uninterrupted supplies of health commodities in support of USG-funded public health initiatives around the world.

The project provides direct procurement and supply chain management support to the President’s Emergency Plan for AIDS Relief (PEPFAR), the President’s Malaria Initiative (PMI), and Population and Reproductive Health. GHSC-PSM supports health programs through the supply of a wide range of health commodities, including contraceptives and condoms, essential drugs; and select commodities for HIV/AIDS, malaria, maternal and child health, and infectious diseases.

The primary purpose of this Basic Ordering Agreement (BOA) is to establish the basic terms and conditions for the purchase of diagnostic testing products and services. Chemonics may issue specific purchase orders (Order)—on an as-needed basis—in accordance with the terms of this BOA. The Supplier shall furnish the supplies/services described in any Orders issued by Chemonics under this BOA. Chemonics is only obligated to pay for supplies/services ordered through Orders issued under this BOA and delivered by the Supplier in accordance with the terms and conditions of this BOA.

**Section 2. Period of Agreement**

This BOA will be effective when this agreement is signed by Chemonics, as indicated by the date under Chemonics’ signature on the cover page. Chemonics will be the last party to sign. The period of performance will be from the effective date of the BOA until TBD. The period shall automatically renew on the day after the end date, each subsequent year, for up to TBD years, unless either party gives the other written notice of termination at least thirty (30) days prior to expiration of the current period, or at any time with thirty (30) days notice. If an Order has been placed by Chemonics, and the Order is pending delivery at the time the Supplier notifies Chemonics of its intent to terminate the BOA, the outstanding Order of commodities must be delivered to and accepted by Chemonics before the Supplier’s notification of termination can take effect, unless the Order is first terminated by Chemonics.

Unless otherwise stated, all references to “days” in this BOA and any related Order means calendar days.

**Section 3. Commodities**

During the period of this BOA, Chemonics may order and the Supplier may furnish and deliver the items including, but not limited to, and, if applicable, related services identified, but not limited to, the following table:

Names of Commodities	Description/Specification of Commodities
TBD	TBD
TBD	TBD
TBD	TBD
TBD	TBD

The parties may at any time mutually modify the agreement to include additional commodities to the table above.

**Section 4. Pricing**

[TBD]

## **Section 5. Extent of Obligation**

This BOA is a written instrument of understanding only, and in no way obligates Chemonics to issue any Orders or make any payments under this BOA. Chemonics is obligated only to the extent of authorized Orders issued under this BOA.

## **Section 6. Purchase Orders**

Chemonics will issue request for quotes (RFQ) to communicate its need and request competitive quotes from the Supplier subject to this BOA.

Purchases may only be made by Chemonics via written Order acknowledged by authorized signatories of both parties. The Order will include the BOA number. Each individual Order will designate the types and quantities of commodities/services ordered, based on the per-unit pricing in Section 4, if applicable.

An Order, when properly completed and executed by both Parties, is the only ordering form which will be recognized by Chemonics and will constitute the fixed-price subcontract that incorporates and is subject to the terms and conditions of this BOA. Reference to "Subcontract", "this Subcontract" or "under this Subcontract" in the BOA means the Order awarded to the BOA holder.

The Order will be payable entirely in the currency identified on the Order following delivery and acceptance. The Supplier shall deliver the deliverables set forth in each Order in accordance with the terms/conditions of this BOA and the schedule stipulated in the individual Order.

## **Section 7. Authorized Individuals and Administration Office**

Chemonics International Inc., or any of its global offices, affiliates, and/or projects, may issue Orders and/or receive commodities in the resulting Order(s) placed under the BOA.

The office for administration of this BOA and point of contact for agreement management is:

[TBD]

## **Section 8. Independent Supplier**

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

## **Section 9. Goods and Related Services**

- A. The Supplier shall deliver the Goods and the Services, if any, described in this Subcontract of the type, in the quantity, at the delivery date and at the price as indicated, in accordance with the stated terms and Subcontract conditions. The quality of the Goods and Services shall conform in all respects to the requirements of the Subcontract (including, but not limited to, all required testing and warranties).
- B. All Goods (including, but not limited to, materials, parts, components, and sub-assemblies thereof) shall, unless otherwise expressly approved by Chemonics in writing, be new, and not used, remanufactured, refurbished or Government surplus; and shall be produced entirely from Goods meeting all of the foregoing requirements.
- C. Unless otherwise expressly approved by Chemonics in writing (based on approval by the Government's Contracting Officer) —
  - (1) The origin of any of the Goods for which a specific "Origin" is indicated herein or any associated Order form, if applicable, shall be as specified; and
  - (2) The Goods (including the components thereof), services, sub-vendors or suppliers shall not be from Cuba, Iran, North Korea, Syria or other countries or entities which may be subject to U.S. Government sanctions as per the OFAC list of sanctioned entities.

- D. For any Subcontracts under which lab supplies (including diagnostic equipment, reagents and consumables) are being procured:
- (1) All lab supplies supplied shall be manufactured in accordance with Good Manufacturing Practice. Unless otherwise specifically stated in the Subcontract, "Good Manufacturing Practice" shall be deemed to mean the standards and guidance issued by the U.S. Food and Drug Administration (FDA), including without limitation the Current Good Manufacturing Regulations for Finished Pharmaceuticals ("GMP") and the related regulations in 21 CFR Parts 210 and 211. If a waiver is approved and a different stringent drug regulatory authority's standards are eligible for use in lieu of the afore-mentioned FDA standard/guidance, the alternative authority shall be specified in the Subcontract (or as otherwise expressly agreed in writing by Chemonics). A Stringent Regulatory Authority (SRA) is a drug regulatory authority that closely resembles FDA in the standards utilized in its operations. Currently, countries that participate in the International Conference on Harmonization (ICH) are considered as stringent regulatory authorities.
  - (2) If the Supplier is the manufacturer of lab supplies supplied under this Subcontract, as part of its compliance with the current GMP (or other applicable standards and guidance), the Supplier shall collect and retain representative samples of each lot or batch of lab supplies supplied. If the Supplier is not the Manufacturer, the Supplier shall ensure that the Manufacturer, as part of its compliance with the aforesaid standards or guidance, collects and retains representative samples of each lot or batch of lab supplies supplied. The Supplier shall also ensure that Chemonics and its designees if any are provided with reasonable access to the samples upon request.
  - (3) The premises used for manufacturing the lab supplies shall hold a current manufacturing license issued by the relevant Ministry of Health or other cognizant national drug regulatory authority, and shall be open to visits from inspectors appointed by Chemonics.
  - (4) In addition, and without prejudice to the above, the lab supplies shall comply with the standards of the current edition (or the latest edition in which they are included) of the United States Pharmacopoeia (USP); or, if applicable, with another acceptable pharmacopoeia standard, e.g. the European Pharmacopoeia (EP), the British Pharmacopoeia (BP), or the British Pharmaceutical Codex (BPC). Where the USP gives no definition of the Pharmaceuticals or lab supplies and no other standards are specified, the lab supplies shall be manufactured in accordance with tested "in-house" formulations so as to be suitable for human medicine.
- E. If the Subcontract is for Plasters, Liquid Extracts or Ointments, Goods supplied shall be modified, where necessary, to render them suitable for use in the Cooperating Country(ies), but the specified proportion of the active ingredients must, in all cases, be maintained.
- F. All Goods with a shelf life (such as test kits), must be freshly manufactured, and thus have maximum possible shelf life. Unless otherwise required in the Subcontract, Goods with a maximum possible shelf life of less than twenty-four (24) months shall have at least 80% of shelf life remaining when delivered. Goods with a maximum possible shelf life of more than twenty-four (24) months shall have at least twenty-four (24) months, or 80%, of shelf life remaining whichever is longer, when delivered. No Goods will be accepted which do not comply with these requirements unless Chemonics has agreed in writing to different requirements, in which case the Goods must strictly comply with those modified requirements.
- G. Notwithstanding any other provision of the Subcontract, Chemonics may:
- (1) Prior to shipment of the Goods and the initiation of performance of any Related Services, by written notice to the Supplier, cancel in its entirety, or reduce the quantity(ies) of, any individual item(s) of the Goods without charge to Chemonics; and/or
  - (2) In the event that the USAID Contract with Chemonics is terminated by the Government in whole or in pertinent part prior to shipment to its delivery destination, return to the Supplier unused items or quantities of Delivered Goods.
- H. If the Subcontract calls for performance of Related Services overseas by the Supplier's employees or consultants (collectively, "personnel"), the Supplier shall comply with the following requirements:
- (1) The Supplier shall notify Chemonics (sufficiently in advance to permit Chemonics to notify USAID and obtain its concurrence if needed) of any planned travel overseas by personnel in connection with performance of Related Services. Such notice shall include the number and names of the personnel

participating, the proposed itinerary and logistics arrangements, and the Services to be provided, along with the information specified in AIDAR 752.7004, EMERGENCY LOCATOR INFORMATION.

- (2) The Supplier shall ensure that its personnel, while in a Cooperating Country, abide by all applicable laws of the Cooperating Country and political subdivisions thereof.
- (3) Other than work performed under the Subcontract for which personnel are assigned by the Supplier, the Supplier's personnel shall not engage, directly or indirectly, either in their own name or in the name or through the agency of another person, in any business, profession or occupation in the Cooperating Country, nor shall they make loans or investments to or in any business, profession or occupation in the Cooperating Country, without Chemonics' approval. This provision does not apply to personnel who are citizens or legal residents of the Cooperating Country.
- (4) The Supplier shall obtain (a) worker's compensation (Defense Base Act) insurance pursuant to FAR 52.228-3 and AIDAR 752.228-3, and (b) medical evacuation insurance for personnel travelling to a Cooperating Country in connection with this Subcontract.
- (5) Personnel travelling on the Supplier's behalf for performance of Related Services shall possess appropriate language skills, if any, stated in the Subcontract, and shall be physically fit in accordance with AIDAR 752.7033.
- (6) In performing Related Services, the Supplier shall comply with USAID guidance, if any, relating to branding/marketing of activities.
- (7) FAR 52.246-4 INSPECTION OF SERVICES – FIXED PRICE (AUG 1996) shall apply to Related Services.
- (8) All logistics support, visas, legal compliance matters and taxes in connection with its personnel overseas shall be the sole responsibility of the Supplier, as will all liability for the acts and omissions of the Supplier's personnel performing the Related Services.
- (9) Compensation for satisfactory performance of Related Services shall be paid upon completion thereof in compliance with the terms and conditions of the Subcontract and solely in the form of the firm, fixed, all-inclusive prices.
- (10) Notwithstanding any other provisions of this Subcontract, no additional compensation or reimbursement will be provided to the Supplier for complying with these requirements concerning provision of Related Services.

#### **Section 10. Packing, Export Marking, Preparation for Shipment and Packaging**

- A. All Goods supplied under this Subcontract shall be packed and marked for export as required by the Subcontract and by all applicable transportation regulations, carrier tariffs, US FDA/SRA regulations (if any), and sound commercial practice. Without limiting the generality of the foregoing, all Goods shall be properly prepared for export according to the best international packing standards suitable to prevent theft, loss, or damage and to withstand exposure to the elements, including extreme temperature and water, and rough handling during air, sea or land shipment.
- B. The Supplier shall be solely responsible for complying with all applicable laws and sound international practices, which includes having all relevant licenses in places at the Supplier's factory for the Goods and for shipping/loading in accordance with the applicable INCOTERM, for the packaging and labeling of the Goods (including, if applicable, hazardous materials safeguards).
- C. Packaging shall be prepared in accordance with the Subcontract and to ensure that:
  - All tertiary, secondary, and primary (when applicable) packaging for Goods are properly labelled per Section D below and clearly identifies any special handling instructions and/or temperature requirements
  - Euro pallets (100x120 is preferable size, 80x120 is acceptable in consultation with PSM), heat treated
  - Pallet height not to exceed 1.25 m (incl. pallet)
  - Partial cartons, including those with batch-end products, require an extra label clearly marking the carton as "Partial" or equivalent and the quantity of units included within.
  - Like product and batches should be kept contiguous when loaded into containers and should not be separated. Corrugated separator sheets should be used between batches when multiple batches are packed on the same pallet.
  - Packaging should clearly state whether pallets can be stacked.
- D. GHSC-PSM is implementing global standards for product identification, labeling and data exchange as detailed below. Please see attached supplement titled *GHSC-PSM Global Standards Technical Implementation Guideline* for



definitions and information on how to implement this requirement, unless an exception is approved by Chemonics in accordance with these Guidelines.

*Identification.* GHSC-PSM requires that all global health commodities are identified as followed:

Within six months of the start date of this BOA and mandatory immediately as of December 30<sup>th</sup> 2018, the Supplier must assign and provide GHSC-PSM with a Global Trade Item Number (GTIN) for each level of the packaging hierarchy (e.g. pallet, case, inner box, each).

Within six months of the start date of this BOA and mandatory immediately as of December 30<sup>th</sup> 2018, the Supplier must assign and provide GHSC-PSM with a Global Location Number (GLN) for each billing, manufacturing, and shipping entity with which GHSC-PSM may transact. GLN should also be provided by suppliers' local affiliates and distributors who are involved in the distribution activities.

*Labeling.* GHSC-PSM requires that lab supplies, pharmaceuticals, medical devices, sterile kits, and reagents are labeled as follows:

Pharmaceuticals/Lab supplies

(1) Tertiary Packaging – Logistics Unit

- (i) The minimum GS1 identification keys and application identifiers (AIs) to be included in a GS1-128 barcode, with the applicable human readable interpretation (HRI) printed adjacent:

**Application Identifier**

**Requirement Date**

(00) Serial Shipping Container Code (SSCC)

As soon as possible (ASAP) but no later than (NLT) Jun 30, 2022

If and when the GS1 DataMatrix is recommended for use on the logistic unit in the GS1 General Specification, that data carrier will be permitted to meet the GHSC-PSM logistic unit labeling requirement.

(2) Tertiary Packaging – Trade Item

- (i) The minimum GS1 identification keys and AIs to be included in a GS1-128 barcode or GS1 DataMatrix, with the applicable HRI printed adjacent:

**Homogenous Pack**

**Application Identifier**

**Requirement Date**

(01) Global Trade Item Number (GTIN)

ASAP but NLT Dec 30, 2018

(10) BATCH/LOT

ASAP but NLT Dec 30, 2018

(17) EXPIRATION DATE

ASAP but NLT Dec 30, 2018

(21) SERIAL NUMBER

ASAP but NLT Jun 30, 2022

**Mixed or Partial Pack**

**Application Identifier**

**Requirement Date**

(00) SSCC

ASAP but NLT Jun 30, 2022

- (ii) Until compliance with the December 30, 2018 global standard requirement above or in the case an exception is granted, the tertiary pack trade item must be labeled with the GHSC-PSM SKU, batch/lot number, expiration date, and quantity in human readable form at a minimum.

(3) Secondary Packaging – Trade Item

- (i) The minimum GS1 identification keys and AIs to be included in a GS1 DataMatrix, with the applicable HRI printed adjacent:

<b>Application Identifier</b>	<b>Requirement Date</b>
(01) GTIN	ASAP but NLT Dec 30, 2018
(10) BATCH/LOT	ASAP but NLT Dec 30, 2018
(17) EXPIRATION DATE	ASAP but NLT Dec 30, 2018
(21) SERIAL NUMBER	ASAP but NLT Jun 30, 2022

Medical Devices, Sterile Kits, and Laboratory Reagents

- (4) Tertiary Packaging – Logistics Unit
  - (i) The minimum GS1 identification keys and AIs to be included in a GS1-128 barcode, with the applicable HRI printed adjacent:

<b>Application Identifier</b>	<b>Requirement Date</b>
(00) SSCC	ASAP but NLT Jun 30, 2022

If and when the GS1 DataMatrix is recommended for use on the logistic unit in the GS1 General Specification, that data carrier will be permitted to meet the GHSC-PSM logistic unit labeling requirement.

- (5) Tertiary Packaging – Trade Item
  - (i) The minimum GS1 identification keys and AIs to be included in a GS1-128 barcode or GS1 DataMatrix, with the applicable HRI printed adjacent:

**Homogenous Pack**

<b>Application Identifier</b>	<b>Requirement Date</b>
(01) GTIN	ASAP but NLT Dec 30, 2018
(10) BATCH/LOT (as applicable)	ASAP but NLT Dec 30, 2018
(17) EXPIRATION DATE (as applicable)	ASAP but NLT Dec 30, 2018

**Mixed or Partial Pack**

<b>Application Identifier</b>	<b>Requirement Date</b>
(00) SSCC	ASAP but NLT Jun 30, 2022

- (ii) Until compliance with the December 30, 2018 global standard requirement above or in the case an exception is granted, the tertiary pack trade item must be labeled with the GHSC-PSM SKU, batch/lot number, expiration date, and quantity in human readable form at a minimum.

- (6) Secondary Packaging – Trade Item
  - (i) The minimum GS1 Identification Key and AI to be included in a GS1-128 barcode or GS1 DataMatrix, with the applicable HRI printed adjacent:

<b>Application Identifier</b>	<b>Requirement Date</b>
(01) GTIN	ASAP but NLT Jun 30, 2020
(10) BATCH/LOT (as applicable)	ASAP but NLT Jun 30, 2020
(17) EXPIRATION DATE (as applicable)	ASAP but NLT Jun 30, 2020

#### Product Master Data

Master data for all pharmaceuticals, medical devices, sterile kits, and reagents, including the GTIN and all relevant requested attribute data, must be provided to GHSC-PSM through the Global Data Synchronization Network (GDSN). Submission of master data through the GDSN is requested on a voluntary basis within six months of this BOA start date and will be mandatory upon BOA signing as of December 30<sup>th</sup>, 2019. To access the *GHSC-PSM Data Synchronization Implementation Guide* and *GHSC-PSM Attribute Guide*, please see [www.1worldsync.com/customer-page/ghsc-psm](http://www.1worldsync.com/customer-page/ghsc-psm).

**To comply with the identification requirement and prior to transitioning to the GTIN-based labeling requirement, the Supplier must provide the GTIN and other relevant product master data to GHSC-PSM. Until the date by which master data synchronization via the GDSN is compulsory, master data shall be provided in the GHSC-PSM Product Master Form.**

Master data for all other products procured under any resulting Subcontract issued under this BOA is voluntary via the GDSN and otherwise shall be provided in the GHSC-PSM Product Master Form.

Product master information shall be maintained routinely and updated whenever attribute details (e.g. shelf life, weights, dimensions) change or new products are introduced.

#### Transaction and Production Data

For resulting Subcontracts with INCOTERMS other than DAP or DDP, all transaction and production data must be provided to GHSC-PSM through the ARTMIS Logistics Management Information System (LMIS), including but not limited to the SSCC, GTIN, batch/lot number, and expiration date. For resulting Subcontracts with INCOTERMS DAP or DDP, all transaction and production data must be provided to GHSC-PSM via the Procurement Specialist. Data presented on transaction documents – including but not limited to the packing list, commercial invoice, and advanced ship notice – must align with the identifiers used on the shipping label (i.e. once the Supplier has transitioned to using the GTIN as the primary identifier, this must be used on packing lists as well).

Within 30 days of a request, the Supplier will make serial number data for goods procured under any resulting Subcontract in the format requested by Chemonics.

- H. A complete itemized packing list shall be carried in a secure, durable clearly-marked “packing list” envelope affixed to the outside of each pallet, shipping container or box that represents a separate unit of the shipment used to deliver the Goods. Each packing list must show the specified Chemonics Subcontract number (unless otherwise required by Chemonics in writing, a complete narrative description of the Goods, all applicable part numbers, and the corresponding line item number.
- I. Damage resulting from improper packing, export marking and preparation for shipment shall be the liability of the Supplier and deducted from amounts due.
- J. No extra charge shall be payable by Chemonics for export packaging, crating, boxing, handling, dunnage, drayage, storage, or any other action necessary to comply with the requirements of this clause or for any transfer to Chemonics nominated carrier unless specifically stated in this Subcontract or otherwise agreed to by Chemonics in writing.
- K. In addition and without the prejudice to afore-mentioned paragraphs, the following further requirements shall apply to Pharmaceuticals, test kits and other medical products: packaging, packing and marking shall be in accordance with applicable FDA regulations and the Manufacturer’s current public sector packaging for overseas distribution. Packaging and packing must ensure the safety, efficacy and quality of the product and be appropriate for distribution in harsh climates under less than ideal transport and storage conditions.
- L. In addition, the following further requirements shall apply only to Subcontracts for the supply of Pharmaceuticals: the Supplier shall supply the Pharmaceuticals in closed pharmaceutical storage containers, i.e. bottles, tins, vials,

ampoules, bubble pack, ensuring that the containers adequately protect the Pharmaceuticals while they are in transit, or stored in warehouses, or on pharmacy shelves under conditions expected to prevail in the Cooperating Country(ies). The Supplier shall mark each pharmaceutical storage container (or in the case of ampoules, the box containing them) with the following information, in English (unless otherwise specified in the Order):

- a. the International Nonproprietary Name (INN) of the product;
- b. the pharmacopeia standard, e.g. USP; EP, BP, or BPC monograph, if applicable;
- c. the strength of the preparation, if applicable;
- d. the name and location of the manufacturer;
- e. the date (YYYY-MM-DD) the Goods were manufactured, if applicable;
- f. the Expiry Date, if applicable;
- g. any other marking specified in the Order.

If labels are used, these shall be affixed with adhesive suitable for conditions in the Cooperating Country(ies).

### **Section 11. International Commercial Terms (INCOTERM 2010)**

The International Commercial Terms (INCOTERM 2010) is a universally recognized set of definitions of international trade terms. The preferred INCOTERM for all Subcontracts and shipments is FCA. However, other delivery INCOTERMS, such as CIP, DAP and DDP, may be used by Chemonics. The INCOTERM applicable to the Subcontract shall be indicated on the Subcontract.

### **Section 12. Export and Transportation Clearances**

The Supplier's responsibility in connection with export and transportation clearances depend on the applicable INCOTERM/delivery terms, and shall be as specified in the Subcontract.

### **Section 13. Delivery and Delivery Coordination**

- A. The applicable INCOTERM for delivery shall be indicated the Subcontract.
- B. The Supplier shall notify Chemonics of the intended availability of Goods at least ten (10) working days prior to the GAD (Goods Available Date). This notification should take place using Chemonics' Booking Form or via the Supplier portal in the Logistics Management Information System (when implemented), unless alternate notification method is agreed in writing by the Parties.
- C. The notice shall include the following:
  - (1) Shipment level information including but not limited to shipper/manufacturer addresses, booking contact, number/type of containers (sea), number/type trucks (Land) and kilos (air) that is to ship. Shipper shall also advise any special handling instructions. Shipment and corresponding booking requests may be split into multiple requests so that each booking does not to exceed the following: Air-3000kgs; Sea-10 containers; Truck-1 truck.
  - (2) PSM Order-line level information including but not limited to PSM Order/line references, item description, quantity, number/type of packages, package dimensions/weights and batch information (quantity by batch number and expiry date).
  - (3) Notice of availability (booking) shall also include the following as soft copy attachments:
    - (a) a Commercial Invoice referencing PSM Order/item numbers as defined previously;
    - (b) a Packing List with items, weights and dimensions per pallet as well as a Detailed Packing List listing aggregate quantities per item, weights and dimensions as well as shipping conditions applicable to the items (temperature control, i.e. frozen, 2-8C, 5-25C, ambient) and all batch numbers and quantities. A Detailed Packing List template may be provided to the Supplier;
    - (c) for temperature control category groups, i.e. frozen, frozen minus 20 Celsius, cold chain 2-8 Celsius, ambient 2-30 Celsius, the Supplier shall provide a separate set of commercial documents. The Supplier shall guarantee frozen minus 20 Celsius and cold chain shipments 2-8 Celsius for a minimum standard transit of five (5) days for each air shipment and shall provide temperature loggers for each and every order that is frozen minus 20 Celsius and cold chain 2-8 Celsius. Unless specifically requested, the Supplier shall not deliver on Thursdays through Sunday or during the destination country local holidays.
    - (d) if the Goods include pharmaceuticals, a Certificate of Analysis, or other certificate as required. The Certificate of Analysis shall be supplied in a form and content acceptable to Chemonics and signed by a qualified individual associated with the Supplier or a competent independent organization, confirming

the compliance of each and every batch supplied with the Subcontract's specifications and regulatory authority's Standards;

- (e) such other information and documents as are specified by Chemonics (such as a Legalized Certificate of Origin or a Certificate of Pharmaceutical Product), and as Chemonics may reasonably request from time to time.

The Supplier acknowledges that a delay in provision of aforementioned documents may result in delayed pick up by Chemonics' nominated freight forwarder.

D. Upon receipt of a Notice of Availability following completion of any required Quality Assurance (QA) testing or verification—

- (1) Where the Subcontract delivery term is FCA, within fifteen (15) working days after receipt of notice and unless destination requires extended processing, Chemonics shall endeavor to arrange for the Goods to be collected or give instructions to the Supplier for transfer of the Goods to the nominated carrier. Notice of Availability must include all soft copy attachments needed to obtain necessary waivers for the destination. The Supplier will be bound by country specific timelines and documentation requirements as specified in the Subcontract issued under this BOA. In some instances (e.g. lengthy sea shipments), Chemonics may secure necessary import duty and other waivers concurrently during outbound transit of Goods. The Supplier acknowledges that Chemonics will often be required to secure import duty waivers from the destination country prior to picking up Goods from the Supplier. In such instances, the supplier agrees to hold Chemonics' orders up to the number of days specified in the GHSC-PSM Destination Import Guidelines which will be provided with the Subcontract. The Supplier agrees that where pre-inspection is required by a destination country and/or QA testing is required on the product, the Supplier will reasonably make the outbound Goods available for such inspections at the Supplier's site. The Supplier must provide proper guidance and access to pick up Goods.
- (2) For all other Subcontract delivery terms, such as INCOTERM CIP, DAP or DPP, the Supplier shall not ship without final approval and instruction from Chemonics. Copies of the shipping documents must be provided in advance for Chemonics review and approval. If the Subcontract calls for pre-shipment QA testing and/or pre-shipment inspection by the destination country, the Supplier shall provide access to the products on their premises for pre-shipment inspection and load supervision where required by destination country. Chemonics shall promptly arrange for such testing, and shall issue an Authorization to Deliver promptly upon receipt of the results thereof for all Goods that pass.

Upon receipt of an Authorization to Deliver, the Supplier shall immediately proceed to complete delivery of the Goods in accordance with the Subcontract delivery term. The Supplier shall provide real-time visibility of shipment to Chemonics, to include pick up date, departure date, arrival date, customs clearance date, and delivery date. All surface shipments shall be to designated INCOTERM location, and unless shipment is by air, shall utilize one or more exclusive use 20' or 40' ocean transport containers, unless otherwise approved.

E. Where the Supplier is required to arrange shipment, shipments by sea shall be on an FCL (Full Container Load) basis, and via an American flag carrier, unless otherwise approved. Prior to such shipment, or immediately upon availability, the Supplier shall send the following original documents by express courier, and PDF copies of those documents by e-mail, to the Chemonics Contact identified in the Order:

- (1) Air Waybill, or rated ocean Bill of Lading;
- (2) Insurance Certificate (if required by the Contract delivery term);
- (3) Packing List;
- (4) Commercial Invoice;
- (5) Any other document included with the Notice of Availability; and
- (6) Other documents as Chemonics may reasonably request from time to time.

The Air Waybill (for air shipment) or the Bill of Lading (for ocean shipment) shall be clean, on-board, marked "freight paid" issued by the vessel-owning common carrier, and on a through basis (covering all intermodal and/or inland transportation, if any, to destination). All air and ocean shipments managed by the Supplier must be insured. The Certificate of Insurance shall provide all risk marine cargo insurance on terms no less favorable than the Institute Cargo Clause (All Risks), including war risks and strike clauses. The amount of coverage shall be 110% of the delivered price of the Goods, and shall be from the Supplier's facility in the country of manufacture to the final destination. Except as otherwise authorized by Chemonics, the policy shall name Chemonics as the additional insured, and any loss proceeds shall be payable in United States Dollars.

F. For a Subcontract for the supply of Pharmaceuticals where the Supplier is not the Manufacturer, the following documents may be needed in addition:

- (1) Certificate of GMP (Good Manufacturing Practice) of Manufacturer of Pharmaceuticals Supplied.
  - (2) Certificate that Manufacturing Site of Pharmaceuticals supplied is approved by SRA (if applicable).
- G. The Supplier shall advise Chemonics of all information concerning the Goods that is pertinent to the transportation and in-country handling and storage (including, but not limited to, any hazardous material indications and any other special handling and storage requirements), and shall be solely responsible for the consequences of any failure to do so.
- H. Chemonics shall secure any necessary licenses, approvals, permits, and other authorizations for the required customs clearance, needed for the importation of the Goods into the country of destination. The Supplier shall provide all reasonable assistance toward performance of Chemonics' responsibilities. The Supplier shall be solely responsible for all costs and risks relating to payment of all duties, taxes, and other official charges assessed on exportation from the country of manufacture and shipment. Any import duties or other costs assessed by the government of the country of destination, as well as container demurrage/detention and comparable charges shall be payable by Chemonics', except for:
- (1) container demurrage/detention and comparable charges levied in those instances in which the Supplier fails to comply with the shipping document delivery schedule or has otherwise caused the delays giving rise to such demurrage/detention or comparable charges; and
  - (2) the costs of duties, taxes, and similar official import charges on replacement Goods, when required due to the Goods originally supplied by the Supplier having been defective.
- I. If delivery of the Goods is not completed by the required date, or if performance of any Services pursuant to the Subcontract is not completed by the due date (if any) specified, due to any default or delay of the Supplier (including without limitation any default by the Suppliers, sub-vendors or offerors), Chemonics shall be entitled to deduct from payment(s) otherwise due to the Supplier (in addition to liquidated damages, provided for below) any additional costs of sampling, testing, and inspection caused by such default or delay. Should such default or delay cause an inspection or testing firm to undertake additional inspections or tests, Chemonics shall be entitled, in addition and without prejudice to any other remedies available under or in connection with the Subcontract to deduct the related costs, along with any additional sampling agent charges from any further payment(s) to the Supplier, or if such payment(s) remain available, to demand and receive a refund from the Supplier.
- J. Liquidated Damages: the Supplier acknowledges the urgent need for the Goods, as well as the difficulty of ascertaining at the time of contracting the precise nature and amount of actual damages that will be suffered in the event of delayed performance. In view of foregoing, if the Supplier fails to make the Goods available per the agreed upon GAD date or a Notice of Availability is not duly issued for the entire quantity Goods in a timely manner, in strict compliance with all specifications and other Subcontract requirements, by the date(s) specified in this Subcontract, Chemonics may, without prejudice and in addition to any other remedies under the Subcontract (or otherwise available at law or in equity), deduct from any payment(s) due or to become due to the Supplier, under or in connection with this or any other agreement as liquidated damages of 1% of the Subcontract value per week past the first week late, up to a maximum of 10% of the Subcontract value. The Parties agree that this sum represents a reasonable estimate of the actual damages anticipated at the time of contracting, and confirm that this amount has been specifically negotiated and mutually agreed upon. Once the maximum deduction has been reached, Chemonics may, in addition and without prejudice to any other termination right set forth in the Subcontract, unilaterally terminate this Subcontract for default. In the event of timely and compliant delivery of partial quantities, Chemonics may reduce the periodic or total deduction to the extent it deems appropriate, in its reasonable discretion. Notwithstanding the imposition of liquidated damages in accordance with this paragraph, the Supplier shall proceed with delivery and performance of its obligations pursuant to the Subcontract unless otherwise instructed or approved by Chemonics.

#### **Section 14. Quality Assurance Testing, Inspection and Acceptance**

- A. When requested, the Supplier shall coordinate with a third-party quality assurance contractor, either the USAID identified and funded GHSC-QA contractor ("GHSC-QA") or a third-party identified by Chemonics ("GHSC-PSM QA"), during implementation of this subcontract
- B. Supplier shall only deliver and tender for acceptance those Goods that strictly conform to the requirements specified in the Subcontract/Order.

- C. Without prejudice to the foregoing, FAR 52.246-2, INSPECTION OF SUPPLIES -- FIXED-PRICE (AUG 1996), and FAR 52.246-16, RESPONSIBILITY FOR SUPPLIES (APR 1984), shall apply to the subcontract Pursuant to these provisions and if and only if required by USAID or GHSC-QA.
- (1) **Pre-Delivery Goods Inspection and Testing:** Chemonics, GHSC-QA, and/or GHSC-PSM QA may, by written notice to Supplier, require pre-delivery sampling, inspection and testing of the Goods including, without limitation, physical inspections of the production, warehousing and other facilities involved, the product packaging and labeling; inspection and review of manufacturing records, Certificates of Analysis, analytical reports and documentation; and product sampling and testing by an independent testing facility. In such cases, Supplier will cooperate fully with Chemonics, GHSC-QA, and/or GHSC-PSM QA, the Sampling Agent and the testing facility and take such steps and supply such information as may be reasonably needed in order to ensure timely and effective quality assurance. If such sampling, inspection, and testing takes place, only Goods that have successfully passed testing may be deemed to be ready for delivery.
    - i. Chemonics shall notify Supplier in advance and in writing if such sampling and inspection, of the Goods is required, Goods are to be sampled and inspected at an agreed location indicated in this subcontract or Orders issued thereunder.
    - ii. If any Goods inspection or sampling is required by USAID or GHSC-QA as indicated in these terms and conditions, Supplier shall provide all reasonable facilities for such sampling and inspection at no cost to Chemonics, GHSC-QA, and/or GHSC-PSM QA or their inspectors in the performance of their duties to complete sampling.
    - iii. Chemonics in collaboration with GHSC-QA and/or GHSC-PSM QA will use its best efforts to complete any required sampling and inspection of Goods as promptly as possible after the Goods are made available for inspection and in any event within thirty (30) days thereof.
    - iv. Chemonics, GHSC-QA, and/or GHSC-PSM QA will notify the Supplier in writing of the names of any inspectors or inspection firms. It is understood that inspection or testing shall not in any way release the Supplier from any warranty or other obligations under this subcontract.
  - (2) **Post-Delivery Goods Inspection and Testing:** USAID or GHSC-QA may also require Chemonics, GHSC-QA, and/or GHSC-PSM QA to conduct post-delivery sampling, testing, and/or inspection of the Goods at any point in the chain of supply and distribution when it deems such action to be in the best interests of the Government, and shall notify Supplier in advance and in writing of such requirement. Supplier will fully cooperate with such measures as well. Copies of any international shipping documents for all commodities will be required to verify the source of the commodities. If the commodities are compliant with subcontract requirements, an inspection certificate will be issued by Chemonics. In the event that the commodities are not fully compliant, the Supplier shall be required to remedy any defects or faults prior to acceptance by Chemonics.
    - i. Prompt removal and replacement or correction (as applicable), for purposes of FAR 52.246-2 (g) and (h) shall be deemed, unless otherwise subsequently agreed by Chemonics, to mean (10) business days after receiving notification of rejection of Goods or Services.
- D. **Documentation Requests:** Supplier shall provide Chemonics, GHSC-QA, and/or GHSC-PSM QA all information and documentation reasonably requested and shall render any other assistance reasonably requested, to enable Chemonics, GHSC-QA, and/or GHSC-PSM QA to:
- (1) Obtain from any regulatory authority authorization to import or waiver.
  - (2) Comply with any of its legal, regulatory and/or contractual obligations or any request by any regulatory authority; and
  - (3) Determine whether the services have been performed in accordance with this subcontract.
- E. **Change Notification:** Supplier shall notify Chemonics, GHSC-QA via *GHSCQA@fhi360.org* , and/or GHSC-PSM QA via *PSMQA@ghsc-psm.org* of any significant changes that may affect significantly the aspects of quality, safety and effectiveness, and regulatory status of the eligible product, including changes of the manufacturing and testing facilities, software updates (when applicable) or compliance with current good manufacturing practices. Supplier shall coordinate significant changes with Chemonics, GHSC-QA via *GHSCQA@fhi360.org*, and/or GHSC-PSM QA via *PSMQA@ghsc.org* and provide information and documentation reasonably requested to document regulatory approvals when appropriate.
- F. **Audits:** Chemonics, GHSC-QA, and/or GHSC-PSM QA may conduct site audits on a routine basis to help ensure compliance with international standards when deemed necessary and will provide the Supplier with prior written notice of any such site audit; provided, however, that such routine audits shall be limited to one (1) per calendar year. For cause audits may be conducted at any time as deemed necessary and approved by USAID with written prior notice. Any such audit shall be conducted during normal business hours and will be conducted in a manner to avoid interference with the normal operation of the site that is the subject of the audit. Additionally, any systematic or

isolated non-conformance or compliance gap that may directly or indirectly affect patient safety, product quality, product effectiveness, integrity, or where there is a data integrity, validity of data and/or an ethical violation shall be considered a significant finding under this subcontract. In the event that Supplier, Chemonics, GHSC-QA, and/or GHSC-PSM QA become aware of any issue that could meet the definition of “significant” and substantially affect data integrity, patient safety and/or product quality or effectiveness for commodities supplied under this subcontract, Chemonics, GHSC-QA, and/or GHSC-PSM QA, shall be entitled to perform audits.

- G. **Product Quality Incident Management:** In the event that Supplier becomes aware of any incident that may reasonably be expected to directly or indirectly affect patient safety, product quality, or product effectiveness, integrity, or where there is a data integrity, validity of data and/or an ethical violation, related to a commodity supplied hereunder, the incident will be reported to Chemonics, GHSC-QA via [GHSCQA@fhi360.org](mailto:GHSCQA@fhi360.org) , and/or GHSC-PSM QA via [PSMQA@ghsc-psm.org](mailto:PSMQA@ghsc-psm.org) . Supplier shall complete an investigation and issue a written report, approved by the designated quality personnel of the Supplier, within twenty (20) business days after the Supplier has been informed or becomes aware of the incident. Chemonics, GHSC-QA, and/or GHSC-PSM QA may work together with Supplier to resolve concerns related to commodities supplied hereunder. Chemonics, GHSC-QA, and/or GHSC-PSM QA reserve the right to review the investigation report related to commodities supplied hereunder.
- H. **Regulatory Inspections:** Supplier shall notify Chemonics, GHSC-QA, and/or GHSC-PSM QA in the event of a Regulatory Authority inspection (e.g., US Food and Drug Administration, European Medicines Agency or any local equivalent thereof) at the manufacturing sites for the products within three (3) business days of confirmation of the inspection dates. Supplier shall keep Chemonics, GHSC-QA, and/or GHSC-PSM QA apprised of the outcome of any inspection and shall provide a copy of any written report or comments, whether written or oral, issued by the Regulatory Authority as and to the extent such report or comments concerns the Goods supplied hereunder in connection with, or as a result of, the Regulatory Authority inspection within 5 days of Supplier’s receipt. In all circumstances where a warning letter is issued by the Regulatory Authority, Supplier shall provide a copy within two (2) business days of such letter to Chemonics, GHSC-QA via [GHSCQA@fhi360.org](mailto:GHSCQA@fhi360.org), and/or GHSC-PSM QA [PSMQA@ghsc-psm.org](mailto:PSMQA@ghsc-psm.org). Chemonics, GHSC-QA, and/or GHSC-PSM QA shall have the right to request to review any responses, whether written or oral, provided by the Supplier to the Regulatory Authority in response to inspection results if such responses concern the Goods supplied hereunder. The same is expected for recalls/market withdrawal, field safety notices, WHO notices of concern, etc.

### Section 15. Title and Risk of Loss or Damage

- A. The Supplier shall ensure that the title to Goods delivered and supplied hereunder shall pass directly to USAID upon acceptance pursuant to the Section on QA, Testing, Inspection and Acceptance Section above.
- B. Notwithstanding completion of delivery, the Supplier shall bear all risk of loss or damage to the Goods prior to acceptance, except to the extent that any loss or damage is due to Chemonics’ fault, or occurs after delivery and not due to fault on the Supplier’s part.

### Section 16. Payment and Payment Terms

- A. Chemonics will pay the total Subcontract price as a lump sum, or in installments for agreed upon shipments, after the Supplier’s delivery of the corresponding Goods and/or Related Services and Chemonics’ designated agent’s acceptance thereof, or as otherwise provided in the Subcontract, according to the delivery schedule agreed by the Parties. Chemonics will pay the Supplier’s invoice within sixty (60) calendar days of receipt of a complete invoice and receipt of the corresponding evidence of delivery per the INCOTERM. The Supplier’s submission must be in compliance with the Section labeled “Invoice Requirements” below.

Payments for approved invoices will be made by check or via Electronic Funds Transfer (EFT) for US bank/financial institution accounts or Wire Transfer for non-US bank accounts. Payment will be sent to the Supplier’s designated recipient account name, account number, and bank or financial institution as identified in the Subcontract and in the payment account forms required herein to establish a payment account with Chemonics International. Incomplete or incorrect payment account forms to establish a new account or update an existing account will delay payment. All costs and risks arising out of, relating to, or resulting from EFT or Wire Transfer shall be borne by the Supplier. The following account forms are required to establish or update a payment account:

All US based Suppliers are required to complete the Chemonics Electronic Funds Transfer Form and W9 Tax form to set up a payment account with Chemonics.



The Suppliers with international banks are required to complete the Chemonics International Wire Transfer form, including the Domestic (US) Intermediary Bank section. Selecting a US intermediary bank facilitates an efficient transfer of funds and is the responsibility of the Supplier to provide.

Payments will not be issued to third parties unless specifically authorized. Payments will only be issued to the account set up through the forms referenced above. Should the Supplier desire to change the account for payment, the Supplier shall submit a request to change the payment account on official letterhead signed by an authorized representative along with updated EFT or Wire Transfer Forms. Payments will be processed to the original authorized account until Chemonics confirms that the new account information has been approved and activated.

All invoices, and documentation, will be submitted electronically to Chemonics International Inc./GHSC-PSM at [PSMinvoices@ghsc-psm.org](mailto:PSMinvoices@ghsc-psm.org).

**Section 17. Invoice Requirements**

- A. Invoices shall only be submitted to Chemonics for Goods/Services that have been delivered in accordance with the terms stipulated in this Subcontract and accepted by Chemonics or its agent. The official invoice must be submitted electronically as indicated in the section labeled “Payment and Payment Term” above.
- B. By submitting an invoice, the Supplier certifies that (i) the invoice has been prepared in accordance with the terms herein and any corresponding Subcontract, and the sum claimed is proper and due and has not been claimed or paid in advance or before for the Goods/Services delivered, (ii) the quantities and prices specified are consistent with the Subcontract, (iii) any necessary approvals as may be needed dependent on the delivery terms of the Subcontract have been obtained, and (iv) appropriate refund to Chemonics will be made promptly upon request in the event of disallowance of any portion of the invoice pursuant to the terms of the Subcontract.
- C. To constitute a proper invoice, the invoice must include the following information and/or include attached documentation:
  - (1) Authorized entity legal name, subcontract number/Order number, invoice date, and invoice number, product name/description of each type of Goods and Related Services included in the invoice, unit price, quantity, extended line item price and total price, Country of Origin (if applicable), final destination, consignee, payment terms, INCOTERMS and INCOCITY (if applicable), mode of transportation (if applicable), and packing list.
  - (2) Packing lists will include the Order/subcontract number, exporter name/Supplier name, country of origin/port, destination, consignee, quantity (gross and net weight), description of Goods (batches, pallets, shippers, cartons, packages as applicable).
  - (3) Bank account information corresponding to the approved payment account established by the Subcontract or authorized Electronic Funds Transfer Authorization Form or International Wire Transfer Form.
  - (4) Such other documentation as may be requested by Chemonics in relation to the Goods and/or Related Services.
  - (5) Documentation confirming delivery and receipt per the identified Subcontract delivery INCOTERM:

Documents	INCOTERMS		Information Attributes
	EXW/FCA	CIP/CPT/ DDP	
Air Freight Shipping/Delivery Doc: Airway Bill (AWB)	X (Prepared for Chemonics by FF)	X (Provided by Supplier)	Dimensions or Volume and Gross Weight, Airport Departure, Airport Destination, Shipper's Name, Consignee, Carrier Charges
Ocean Shipping/Delivery Doc: (BOL)			Dimensions or Volume and Gross Weight, Seaport Departure, Seaport Destination, Shipper's Name, Consignee, Carrier Charges
Delivery to Freight Forwarder: Freight Forwarders Certificate of Receipt (Note: for	X (Supplier collects from Designated Freight Forwarder and Provides)	X (Provided by Supplier)	Volume and Gross/Net Weight, Consignee, Shipper's Name, Invoice #, PO #, Description of Goods, Packaging Details, destination

Documents	INCOTERMS		Information Attributes
	EXW/FCA	CIP/CPT/ DDP	
International Trucking only the Freight Forwarders Certificate of Receipt is provided)			
End Recipient Goods Receipt Notice or Proof of Delivery receipt	N/A	X (Provided by Supplier)	Volume and Gross/Net Weight, Consignee, Shipper's Name, Invoice #, PO #, Description of Goods, Packaging Details, destination

D. Invoices determined to be proper will be paid by Chemonics in accordance with the section labeled “Payment and Payment Term” above and the terms of the Subcontract. Invoices determined not to be proper due to the existence of deficiencies will be rejected and the Supplier promptly notified, generally within ten (10) business days of submission, with deficiencies noted for correction. In the event that an invoice is submitted, which is partially proper, Chemonics may, in its sole discretion, either reject the entire invoice for correction or make payment of the proper portion and return the portion deemed not to be proper.”

**Section 18. Cooperating Country Fees, Taxes, and Duties**

This Subcontract is entered into by Chemonics on behalf of the GHSC-PSM Project, an official project of the Government of the United States in Cooperating Country(ies). As such, the Subcontract is free and exempt from any taxes, VAT, tariffs, duties, or other levies imposed by the laws in effect in the Cooperating Country(ies). The Supplier shall not pay any host country taxes, VAT, tariffs, duties, levies, etc. from which this USAID program is exempt. In the event that any exempt charges are paid by the Supplier, they will not be reimbursed to the Supplier by Chemonics unless approved in advance in writing by Chemonics. The Supplier shall immediately notify Chemonics if any such taxes are assessed against the Supplier or its subcontractors/suppliers at any tier.

The Supplier is responsible for payment of all applicable taxes, as prescribed under the applicable laws, associated with wages/salaries/compensation for services rendered by individuals employed by the Supplier and who are directed to work as required under this Subcontract. The Supplier is liable for payment of all applicable taxes associated with revenues (profit), and other such taxes, fees, or dues for which the Supplier is normally responsible as a result of operating its business.

**Section 19. Set-Off Clause**

Chemonics reserves the right of set-off against amounts payable to the Supplier under the Subcontract or any other agreement in the amount of any claim or refunds Chemonics may have against the Supplier.

**Section 20. Warranties**

- A. All Goods delivered and Services rendered hereunder shall be covered by the Manufacturer's standard international warranty in favor of Chemonics and the counterpart identified in this Subcontract. At the time that any Goods supplied under this Subcontract is (are) transferred to the counterpart identified in the Subcontract, or another entity within the Cooperating Country(ies), all rights to warranty support and service provided to Chemonics under this Subcontract shall be transferred with the commodity(ies) to that entity’s end-user. The Supplier shall continue to honor all warranty support and services for the duration of the warranty period.
- B. In addition to Paragraph A above, the Supplier warrants that the Goods and Services delivered and rendered hereunder are merchantable and fit for use for the particular purpose described in the Subcontract (or, if no such purpose is specifically described, for the purposes for which the Goods or Services, as applicable, are ordinarily used).
- C. The Supplier also hereby expressly warrants that all Goods (including without limitation their parts) and Services supplied, as applicable:
  - (1) conform to the Subcontract requirements (including without limitation the description in the Subcontract and the Specifications), as well as, if one or more specific Cooperating Countries is mentioned in the solicitation

or the Subcontract, the requirements of that Cooperating Country and any other applicable regulatory agencies' requirements, and are free of defects in design;

- (2) are free of latent defects (as used herein, defects that meet the following criteria: (a) such defects are not apparent to either Party during customary manufacturing or quality testing and/or inspection; and (b) such defects result solely from defective material, workmanship, or design and are not caused by misuse or misapplication of the Goods);
  - (3) will, to the extent found to be in breach of any warranty specified in the Subcontract, be removed, and repaired or replaced, covered by new warranties identical to those that applied to the originally supplied Goods and Services, extending for the longer of [a] the remainder of the original warranty period, or [b] a new warranty period;
  - (4) ensure that all spares and replacement parts are the same as the original spares and parts unless formally replaced by an improved and Chemonics-approved technical equivalent; and
  - (5) are covered by intellectual property licenses, patents, permissions, or rights which will not infringe the intellectual property rights of any third person, and which, being granted to Chemonics and the Government pursuant to the Subcontract, will be adequate to ensure that they may freely utilize the licenses, permissions and rights free and clear of any claim, encumbrance, lien or interest of any other person or entity, and in all other respects without disturbance or impediment.
- D. The period of all warranties set forth in this Section or in any other provision of the Subcontract shall be as stipulated on this Subcontract.
- E. If any Goods or Services supplied hereunder are defective or otherwise do not meet the warranties specified herein or otherwise applicable at any time during the warranty period, Chemonics may, at its option: (1) reject the affected item(s) and require a full refund or credit; (2) reject the affected item(s) and require prompt correction or replacement (freight prepaid) at the Supplier's sole expense; (3) retain it/them at an equitably adjusted price; or (4) require the Supplier to provide, if available, corrections in the form of field change order kits (including components, instructions and other necessary materials) from the Supplier' so that Chemonics or its designee may make necessary changes or repairs. Repaired or corrected items shall be subject to the same warranties as if they were new. While returned item(s) are in the Supplier's possession and while in transit during return to the Supplier and reshipment to or as directed by Chemonics, all risks and costs of loss, destruction or damage shall be for the Supplier's account.
- F. Chemonics shall submit warranty claims to the Supplier within a reasonable time after discovery of any breach, indicating the nature and date of the claim.
- G. The Supplier shall promptly correct any problem reported by the Government and/or Chemonics by making necessary changes in the Goods or their manufacturing processes so that further Goods to be delivered to the Government and/or Chemonics shall be as warranted herein. If the Supplier becomes aware of any non-conformance to any warranty relating to the Delivered Goods, the Supplier shall promptly notify Chemonics thereof in writing.
- H. Chemonics shall have the right, at any time and from time to time, to stop further deliveries of Goods from the Supplier that do not conform to the warranties and other requirements of the Subcontract, and in such event Chemonics shall advise the Supplier of Chemonics' best identification and assessment of the problems. Further deliveries of Goods shall not be made to Chemonics until and unless the Supplier has corrected the specified areas of nonconformance in the Goods, or Chemonics authorizes in writing the shipment of such Goods pending the Supplier's correction. Chemonics' actions pursuant to this Paragraph shall not be deemed to constitute a change order, and the Supplier shall not be entitled to any compensation due to the delays (if any) associated with or resulting from these actions.

## **Section 21. Announcements, Recalls and Counterfeiting Notices**

- A. The Supplier shall promptly provide Chemonics with any bulletins, safety notices and recall notices etc. issued by the Supplier (or, if the Supplier is not the manufacturer, by the Manufacturer) either directly or via the Manufacturer's local agent, if any.
- B. The Supplier shall promptly provide Chemonics with written notice (including all pertinent particulars) regarding instances that may come to its attention by whatever means of possible counterfeiting, piracy, or unauthorized sales by third parties of diluted, adulterated, impure, misbranded, mislabeled, unsafe, ineffective, inefficacious, or otherwise non-standard items of the same type and brand as the Goods supplied in the Cooperating Country(ies).
- C. Notwithstanding any other provision in the Subcontract or any other agreement between the Parties, Chemonics may disclose this information to appropriate authorities of the U.S. Government or the Cooperating Country governments,

as well as others, as deemed necessary in Chemonics' sole discretion to perform the USAID Contract, comply with its obligations under applicable law, or otherwise. The obligations under this Section shall continue to apply until the end of the warranty period of all Goods furnished by the Supplier pursuant to the Subcontract.

- D. The Supplier will provide Chemonics or its QA designee access, upon request, to information, and any documentation related to product quality complaints, investigations conducted by the manufacturer, or any medical adverse event reports, and/or trends that are directly related to the supplied product.

## **Section 22. Suppliers Who Are Not the Manufacturers of the Goods**

The Suppliers who are not also the Manufacturers of the Goods being supplied shall fully comply with the requirements of the Subcontract themselves. In addition, they shall also be responsible for requiring the actual Manufacturers to comply to the extent specified in the Subcontract or otherwise as necessary to ensure the Suppliers' own compliance.

## **Section 23. Governing Language**

The Subcontract is executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning and/or interpretation of this Subcontract.

## **Section 24. Authorized Geographic Code**

The authorized USAID geographic code for this Subcontract is USAID Geographic Code 935, unless otherwise specified in writing by Chemonics, in accordance with the United States Code of Federal Regulations (CFR), 22 CFR §228, available at: <https://www.gpo.gov/fdsys/pkg/CFR-2015-title22-vol1/pdf/CFR-2015-title22-vol1-part228.pdf>.

No commodities or related services may be supplied under this Subcontract that are manufactured or assembled in, shipped from, transported through, or otherwise involving any of the following countries: Cuba, Iran, North Korea, and Syria. Related services include incidental services pertaining to any/all aspects of this work to be performed under a resulting Subcontract (including transportation, fuel, lodging, meals, and communications expenses).

## **Section 25. Restrictions on Certain Foreign Purchases (FAR 52.225-13)**

- A. Except as authorized by the Department of Treasury's Office of Foreign Assets Control (OFAC), the Supplier shall not acquire for its use in the performance of this Subcontract, any supplies or services if any proclamation, U.S. Executive Order, U.S. statute, or OFAC's implementing regulations (31 CFR Chapter V), would prohibit such a transaction by a U.S. person, as defined by law.
- B. Except as authorized by OFAC, most transactions involving Cuba, Iran, Syria, and North Korea are prohibited, including importing/exporting to/from the United States, engaging in financial transactions, or facilitating any prohibited transactions by third parties. Lists of entities and individuals subject to economic sanctions – which are updated routinely - are included in OFAC's List of Specially Designated Nationals and Blocked Persons at <http://www.treas.gov/offices/enforcement/ofac/sdn>. It is the Supplier's responsibility to remain informed as to sanctioned parties and to ensure compliance with all relevant U.S. sanctions and trade restrictions. More information about these restrictions, as well as updates, is available in the OFAC's regulations at 31 CFR Chapter V and/or on OFAC's website at <http://www.treas.gov/offices/enforcement/ofac>.
- C. The Supplier shall insert this Section, including this Paragraph C, in all subcontracts and sub awards issued under the Subcontract.

## **Section 26. Compliance with U.S. Export Laws**

The Supplier warrants and agrees to comply with all U.S. export laws and regulations and other applicable U.S. law and regulations, including but not limited to: (i) the Arms Export Control Act (AECA), 22 U.S.C. 2778 and 2779; (ii) Trading with the Enemy Act (TWEA), 50 U.S.C. App. §§ 1-44; (iii) International Traffic in Arms Regulations (ITAR), 22 C.F.R. Parts 120-130.; (iv) Export Administration Act (EAA) of 1979 and the Export Administration Regulations (EAR) 15 C.F.R. Parts 730-774, (including the EAR anti-boycott provision); (v) the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1701-1706 and Executive Orders of the President under IEEPA, 50 U.S.C. app. §§ 2401-2420; (vi) Office of Foreign Asset Controls (OFAC) Regulations, 31 C.F.R. Parts 500-598; and (vii) other applicable U.S. laws and regulations.

As required, subject to Chemonics' prior approval for all exports or imports under the Subcontract, the Supplier shall determine any export license, reporting, filing or other requirements, obtain any export license or other official authorization, and carry out any customs formalities for the export of Goods or Services. The Supplier agrees to cooperate in providing any reports, authorizations, or other documentation related to export compliance requested by Chemonics. The Supplier agrees to indemnify, hold harmless and defend Chemonics for any losses, liabilities and claims, including as penalties or fines as a result of any regulatory action taken against Chemonics as a result of the Supplier's non-compliance with this provision.

### **Section 27. Compliance with U.S. Anti-Corruption Regulations**

The Supplier represents and warrants that it shall comply fully with the anti-bribery provisions of the U.S. Foreign Corrupt Practices Act, as amended ("FCPA"), as well as the a) UN Convention against Corruption (UNCAC), b) OECD Convention on the Bribery of Foreign Public Officials (OECD Convention); and c) any other applicable local anti-corruption laws, rules, and regulations if any part of this Subcontract will be performed outside of the United States of America. Specifically, the Supplier understands and agrees that it shall be unlawful for the Supplier and/or any officer, director, employee or agent of the Supplier to make any kind of offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to:

- (1) *any foreign official* (or foreign political party) for purposes of either influencing any act or decision of such foreign official in his official capacity, or inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or securing any improper advantage, or inducing such foreign official to use his influence with a foreign government, or instrumentality thereof, to affect or influence any act or decision of such government or instrumentality in order to assist such person in obtaining or retaining business for or with, or directing business to any person; or
- (2) *any person*, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official (or foreign political party), or to any candidate for foreign political office, for any of the prohibited purposes described above.

For purposes of the Subcontract "foreign official" means any appointed, elected, or honorary official or employee of a) a foreign government (or if this Subcontract is to be performed outside the United States that of the Host Country) or political party, or b) of a public international organization, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality, or for or on behalf of any such public international organization (e.g., the UN, DFID, or WHO, or the World Bank).

For purposes of this Section, the "government" includes any agency, department, embassy, or other governmental entity, and any company or other entity owned or controlled by the government.

### **Section 28. Privity of Contract, Publicity, and Communication with Other Third Parties**

- A. The Supplier shall not communicate with Chemonics' client in connection with the Subcontract, except as expressly permitted, in writing, by Chemonics. Any Supplier news release, public announcement, advertisement or publicity concerning the Subcontract or the USAID Contract will be subject to prior written approval of Chemonics. The Supplier shall not disclose any information relating to the Subcontract to any person not authorized by Chemonics or the Government to receive it.

All approvals required from USAID shall be obtained through Chemonics.

This provision does not prohibit the Supplier from communicating with the client with respect to:

- (1) matters the Supplier is required by law to communicate to the U.S. Government;
  - (2) any ethics or anti-corruption matter;
  - (3) any matter for which the Subcontract, including a FAR or AIDAR clause that is included in the Subcontract, provides for direct communication by the Supplier to the U.S. Government; or
  - (4) if the Supplier is a U.S. small business concern, any material matter pertaining to payment or utilization.
- B. The Supplier (or any entity it subcontracts with) shall not use the USAID, PEPFAR, or President's Malaria Initiative logo or the GHSC-PSM Project name in any public communications, including but not limited to press releases or corporate marketing materials, without express written consent from the GHSC-PSM Knowledge Management and Communications Manager, or his/her designee. Any authorized use of the USAID logo or GHSC-PSM project name must be in accordance with the approved GHSC-PSM Branding and Marking Plan.

### **Section 29. Supplier Employee Whistleblower Rights**

The Supplier and the Supplier employees working on the Subcontract will be subject to the whistleblower rights and remedies in the pilot program on Contractor employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L.112-239) and FAR 3.908.

As required by the regulations, the Supplier shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of the Federal Acquisition Regulation.

If lower-tier contracting is authorized in the Subcontract, the Supplier shall insert the substance of this clause in all contracts over the simplified acquisition threshold.

### **Section 30. Gratuities and Anti-Kickback**

- A. The Supplier shall not offer or give a kickback or gratuity (in the form of entertainment, gifts, or otherwise) for the purpose of obtaining or rewarding favorable treatment as a Chemonics supplier.
- B. By accepting the Subcontract, the Supplier certifies and represents that it has not made or solicited and will not make or solicit kickbacks in violation of FAR 52.203-7 or the Anti-Kickback Act of 1986 (41 USC 51-58), both of which are incorporated herein by this specific reference, except that paragraph (c)(1) of FAR 52.203-7 shall not apply.
- C. When the Supplier has reasonable grounds to believe that a violation described in Paragraph B of this provision may have occurred, the Supplier shall promptly report in writing the possible violation. Such reports shall be made to Chemonics, who shall forward the report to the USAID Inspector General for investigation, as required.
- D. The Supplier agrees to cooperate fully with any United States Government agency investigating a possible violation described in Paragraph B of this Section
- E. Chemonics may offset the amount of the kickback against any monies owed by Chemonics under the Subcontract or order the monies withheld from future payments due the Supplier.
- F. The Supplier agrees to include the substance of this Section in any contract it may issue under the Subcontract.

### **Section 31. Terrorist Financing Prohibition**

The Supplier (including its employees, consultants and agents) by entering into the Subcontract certifies that it does not engage, support or finance individuals and/or organizations associated with terrorism. The Supplier is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. A list of entities and individuals subject to restrictions, prohibitions and sanctions can be found at the web site of the Department of Treasury's Office of Foreign Assets Control (OFAC), at <http://treasury.gov/ofac>. It is the legal responsibility of the Supplier to ensure compliance with the Executive Order 13224 and other U.S. laws prohibiting terrorist financing. This provision must be included in all subcontracts or sub awards issued under the Subcontract.

### **Section 32. Protecting Chemonics' Interests When the Supplier is Named on Suspected Terrorists or Blocked Individuals Lists, Ineligible to Receive USAID Funding, or Suspended, Debarred or Excluded from Receiving Federal Funds**

In addition to any other rights provided under the Subcontract, it is further understood and agreed that Chemonics shall be at liberty to terminate the Subcontract immediately at any time following any of the following conditions:

- (1) the Supplier is named on any list of suspected terrorists or blocked individuals maintained by the U.S. Government, including but not limited to (a) the Annex to Executive Order No. 13224 (2001) (Executive Order Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism), or (b) the List of Specially Designated Nationals and Blocked persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury;
  - (2) USAID determines that the Supplier is ineligible to receive USAID funding pursuant to U.S. laws and regulations;
- or

- (3) the Supplier is identified on the U.S. Government's Excluded Party List System, or successor listing, as being suspended, debarred, or excluded from receiving federal awards or assistance.

Notwithstanding any other provision of the Subcontract, upon such termination the Supplier shall have no right to receive any further payments. This applies to the Supplier and the Supplier's suppliers as well.

### **Section 33. Business Ethics and Compliance with Applicable Laws and Standards**

- A. The Supplier shall undertake to perform the services hereunder in accordance with the highest standards of professional and ethical competence and integrity in the Supplier's industry and to ensure that the Supplier's employees assigned to perform any services under the Subcontract will conduct themselves in a manner consistent therewith.
  - (1) The Supplier shall exercise due diligence to prevent and detect criminal conduct and otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with law.
  - (2) The Supplier shall timely disclose, in writing, to Chemonics and the USAID Office of the Inspector General (OIG), whenever, in connection with the Subcontract, if applicable, the Supplier has credible evidence that a principal, employee, agent, or subcontractor of the Supplier has committed a violation of the provisions against fraud, conflict of interest, bribery or gratuity, or false claims found in this Subcontract.
  - (3) The Supplier shall refer to FAR 52.203-13 Contractor Code of Business Ethics and Conduct incorporated by reference herein for applicability of additional requirements.
- B. The Supplier shall perform all work, and comply in all respects, with applicable laws, ordinances, codes, regulations, and other authoritative rules of the United States and its political subdivisions and with the standards of relevant licensing boards and professional associations. The Supplier shall also comply with the applicable USAID regulations governing the Subcontract, which are incorporated by reference into this Subcontract.
- C. This Subcontract shall be governed and construed under the laws of the District of Columbia, except that Subcontract provisions and requirements that are based on government contract laws, regulations, or Federal Acquisition Regulation clauses shall be construed in accordance with the federal common law of Government Contracts as represented by decisions of the Federal Courts, and the Armed Services and Civilian Boards of Contract Appeals.

### **Section 34. Indemnity**

- A. The Supplier shall fully indemnify, hold harmless and defend Chemonics and its directors, officers, employees, agents (as well as the Government), stockholders and Affiliates (collectively, Indemnified Parties) from and against all claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, judgments, costs and expenses (including without limitation reasonable attorney's fees and costs), whether or not involving a third party claim, which arise out of, relate to or result from acts, errors or omissions of the Supplier in performance of this Subcontract.
- B. The Supplier shall defend and settle at its sole expense all suits or proceedings arising out of the foregoing, provided that the Supplier has notice or is given prompt written notice of such claim or suit and, further, that the Supplier shall be given necessary information, reasonable assistance and the authority to defend such claim or suit. The Supplier shall not settle, compromise or discharge any pending or threatened suit, claim or litigation, arising out of, based upon, or in any way related to the subject matter of the Subcontract and to which Chemonics is or may reasonably be expected to be a party, unless and until The Supplier has obtained a written agreement, approved by Chemonics (which shall not be unreasonably withheld) and executed by each party to such proposed settlement, compromise or discharge, releasing Chemonics from any and all liability.
- C. If any of the Goods or Services provided by the Supplier hereunder, including without limitation software and all forms of written materials, become the subject of a claim of infringement or violation of a third party's intellectual property, privacy and/or proprietary rights, the Supplier shall, at its own expense, use its best efforts—
  - (1) to procure for Chemonics the right to continue use and, if authorized under this Subcontract, distribution of the infringing Goods or Services or,
  - (2) to modify the Goods or Services to make them non-infringing, or to replace them with equivalent, non-infringing counterparts.

If none of the above-mentioned can be successfully implemented, then the Supplier shall refund to Chemonics all monies paid to the Supplier for the infringing Goods and Services.

### **Section 35. Intellectual Property Rights**



- A. The Supplier warrants that the work performed or delivered under this Subcontract will not infringe or otherwise violate the intellectual property rights of any third party in the United States or any foreign country. Except to the extent that the U.S. Government assumes liability therefore, The Supplier shall defend, indemnify, and hold harmless Chemonics and its clients from and against any claims, damages, losses, costs, and expenses, including reasonable attorneys' fees, arising out of any action by a third party that is based upon a claim that the Work performed or delivered under this Subcontract infringes or otherwise violates the intellectual property rights of any person or entity. This indemnity and hold harmless shall not be considered an allowable cost under any provisions of this Subcontract except with regard to allowable insurance costs.
- B. The Supplier's obligation to defend, indemnify, and hold harmless Chemonics and its customers under Paragraph A above shall not apply to the extent FAR 52.227-1 "Authorization and Consent" applies to Chemonics' Prime Contract for infringement of a U.S. patent and Chemonics and its clients are not subject to any actions for claims, damages, losses, costs, and expenses, including reasonable attorneys' fees by a third party.
- C. In addition to any other allocation of rights in data and inventions set forth in this Subcontract, the Supplier agrees that Chemonics, in the performance of its prime or higher tier contract obligations (including obligations of follow-on contracts or contracts for subsequent phases of the same program), shall have under this Subcontract an unlimited, irrevocable, paid-up, royalty-free right to make, have made, sell, offer for sale, use, execute, reproduce, display, perform, distribute (internally or externally) copies of, and prepare derivative works, and authorize others to do any, some or all of the foregoing, any and all, inventions, discoveries, improvements, mask works and patents as well as any and all data, copyrights, reports, and works of authorship, conceived, developed, generated or delivered in performance of this Subcontract.
- D. The tangible medium storing all reports, memoranda or other materials in written form including machine readable form, prepared by the Supplier and furnished to Chemonics pursuant to this Subcontract shall become the sole property of Chemonics.

**Section 36. Modifications**

Modifications to the terms and conditions of this Subcontract, including any modification to the scope of work, may only be made by written agreement between authorized personnel of both Parties to the Subcontract. Each Party shall give due notice and consideration to any proposals for modification made by the other Party.

**Section 37. Option for Increased Quantity**

Unless this is an Indefinite Delivery/Indefinite Quantity type of subcontract, Chemonics may increase the Goods and/or Related Services called for by the quantity and at the unit price(s) specified. Chemonics may exercise this additional option by providing written notice to the Supplier within the period of performance stipulated in the Subcontract. Delivery of the additional Goods or performance of the additional Related Services, as applicable, shall be subject to the terms and conditions of the Subcontract, except as the Parties may otherwise agree in writing.

**Section 38. Assignment and Delegation**

This Subcontract may not be assigned or delegated, in whole or in part, by the Supplier without the written consent of Chemonics. Absent such written consent, any assignment is void. Chemonics reserves the unilateral right to assign the Subcontract and any or all rights, obligations and claims there under or relating thereto, to USAID or to an alternate procurement services contractor if so designated by the USAID, at any time or from time to time during the Period of Performance, without the Supplier's consent but with written notice to the Supplier.

**Section 39. Disputes**

A. *Disputes Based on Client Actions.*

- (1) Any decision of the Government under the Prime Contract, if binding on Chemonics, shall also bind the Supplier to the extent that it relates to this Subcontract, provided that Chemonics shall have promptly notified the Supplier of such decision and, if requested by the Supplier, shall have brought suit or filed claim, as appropriate against the Government, or, in alternative, agreed to sponsor the Supplier's suit or claim. A final judgment in any such suit or final disposition of such claim shall be conclusive upon the Supplier.



- (2) For any action brought, or sponsored, by Chemonics on behalf of the Supplier pursuant to this clause, the Supplier agrees to indemnify and hold Chemonics harmless from all costs and expenses incurred by Chemonics in prosecuting or sponsoring any such appeal.

- B. *Other Disputes.* The Parties agree to make every reasonable effort to resolve amicably through mutual agreement any dispute that may arise between them pursuant to this Subcontract. If such efforts are unsuccessful in resolving the disputes, all disputes not covered under Paragraph A above shall be resolved by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules. Arbitration shall be conducted in Washington, DC. Arbitrators shall be empowered to award only direct damages consistent with the terms of this Subcontract. No demand for arbitration may be made after the date when the institution of legal or equitable proceedings based on such claim or dispute would be barred by the applicable District of Columbia statute of limitation for such claim. Each Party shall bear its own costs of arbitration, including attorneys' and experts' fees. An arbitration decision shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.
- C. *Duty to Continue to Perform.* Notwithstanding any such dispute, the Supplier shall proceed diligently with performance under this Subcontract in accordance with Chemonics' directions.
- D. *Limitations.* Neither Party shall be liable to the other for any indirect, consequential, special, incidental, or punitive damages including, without limitation, loss of revenue or profits, loss of production, loss or denial of opportunity or use, loss of market, loss of goodwill, loss of reputation, or damage to credit rating.

The Supplier acknowledges and agrees that it has no direct action against the U.S. Government or USAID for any claims arising under this Subcontract.

#### **Section 40. Force Majeure**

"Force Majeure" as used herein means: acts of God, natural disasters, invasion or war (whether declared or not) and other hostilities, revolution, rebellion, labor disputes, insurrection or riot, confrontation or other disorder, ionizing radiation or confrontation by regular activity from any unclear or waste, radio-active, biological, chemical or toxic explosives or other hazardous properties of any explosives, biological or chemical agents, nuclear assembly or nuclear components thereof, or other act, event or circumstance of a similar nature or force, arising from circumstances beyond the control of the Supplier or which the Supplier could not reasonably be expected to have taken into account and which or the consequences of which the Supplier could not reasonably be expected to have avoided or overcome.

The Supplier shall not be liable for any excess costs if the failure to perform the Subcontract arises out of a Force Majeure cause and if the Supplier, within 20 (twenty) days from the beginning of any such Force Majeure, notifies Chemonics of such prevention of performance and the cause thereof. If the failure to perform is caused by the fault of a Supplier's supplier and if such default arises out of causes beyond the control of both the Supplier and the Supplier's supplier and without the fault or negligence of either of them (Force Majeure), and the Supplier, within 20 (twenty) days from the beginning of any such Force Majeure, notifies Chemonics in writing of such prevention of performance and the cause thereof, the Supplier shall not be liable for any excess costs due to the failure to perform, unless the supplies or services to be furnished by the Supplier were obtainable from other sources in sufficient time to permit the Supplier to meet the required delivery schedule.

#### **Section 41. Subcontract Termination**

- A. Chemonics reserves the right to terminate the Subcontract in whole at any time, or in part from time to time, for its sole convenience. In the event of such termination, The Supplier shall immediately stop all work hereunder and shall immediately cause any and all of its contractors and lower-tier suppliers (including the Manufacturer, if different from the Supplier) to cease work. Subject to the terms of this Subcontract and to reimbursement of Chemonics by the Government, the Supplier shall be paid a percentage of the total Subcontract Price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Supplier can demonstrate to Chemonics' satisfaction using its standard record keeping system, have resulted from the termination. The Supplier shall not be paid for any work performed or costs incurred which reasonably could have been avoided.
- B. Chemonics may also terminate the Subcontract at any time in whole, or from time to time in part, for cause in the event of default by the Supplier (including, but not limited to, any default by the Supplier's sub-contracts, suppliers, or by the manufacturer), or if the Supplier fails to comply with any Subcontract term or condition, or fails to provide Chemonics, upon request, with adequate assurances of future performance. In the event of termination for cause, Chemonics shall not be liable to the Supplier for any Goods or Related Services not already delivered, and shall have

any and all of the other rights and remedies against the Supplier provided by the Subcontract or by applicable law and regulation.

- C. If it is determined that Chemonics improperly terminated the Subcontract for default, such termination shall be deemed a termination for convenience. If the termination for default is not improper, in addition to the other rights and remedies provided by the Subcontract or by applicable law and regulation, Chemonics may purchase elsewhere Goods similar to those not yet delivered, and the Supplier shall pay Chemonics any costs that it incurs over the Subcontract Price (or relevant part thereof). For purposes of this Subcontract, “default by the Supplier” shall include defaults by the Manufacturer (if different from the Supplier) as well.
- D. If performance of the USAID GHSC-PSM prime contract is suspended for any reason, Chemonics may, by written notice, instruct the Supplier to immediately suspend all or any part of its performance. The period of suspension shall extend for up to ninety (90) days from the date of the Supplier's receipt of the notice, and may be extended if, and to the extent that, the suspension of the USAID contract is extended. Before the end of the period, Chemonics will either cancel the suspension or terminate the Subcontract pursuant to Paragraph A or B above. If the suspension is cancelled before it expires, or the suspension period expires without renewal, the Supplier shall resume its performance. No additional compensation will be due to the Supplier due to the suspension; however, if necessary, the Supplier may propose an appropriate adjustment in the performance schedule. In the event of termination, the procedures in Paragraph A or B, as applicable, will be followed.
- E. Termination of the Subcontract shall not affect the existing rights and licenses granted to Chemonics or the Government, which shall survive such termination.
- F. In the event that the Supplier (or the Manufacturer, if the Supplier is not also the manufacturer) shall cease conducting that portion of its business which produces, distributes or supports the Goods described herein, Chemonics shall have, in order to fulfill its obligations to the Government, such rights to technical data, computer software and any other Supplier-provided information, documentation and materials used in connection with the Goods as are necessary for the continued performance of the USAID Contract. The Supplier shall assist Chemonics and the Government in every reasonable manner in arranging for the orderly transfer, under such provisions stated herein, of all activities to Chemonics or to the designees of either of the foregoing.
- G. Notwithstanding termination or suspension in accordance with this Section, the Supplier shall, unless otherwise specifically instructed in writing by Chemonics, continue performance of any not terminated or not suspended portion of the Subcontract.

#### **Section 42. Reporting on Supplier Data Pursuant to the Requirements of the Federal Funding Accountability And Transparency Act**

- A. Public Availability of Information. Pursuant to the requirements of FAR 52.204-10, Chemonics is required to report information regarding its award of Subcontracts to the Federal Funding Accountability and Transparency Act Sub award Reporting System (FSRS). This information will be made publicly available at <http://www.USASpending.gov>.
- B. The Supplier’s Responsibility to Report Identifying Data. **Within seven (7) days of an award with a value of \$30,000 or greater unless exempted, the Supplier shall report its identifying data required by FAR 52.204-10 (including executive compensation, if applicable) in the required questionnaire and certification found in herein.** If the Supplier maintains a record in the System for Award Management ([www.SAM.gov](http://www.SAM.gov)), the Supplier shall keep current such registration, including reporting of executive compensation data, as applicable, and the data is not required to be submitted in the above referenced certification. If reporting of executive compensation is applicable and the Supplier does not maintain a record in the System for Award Management, the Supplier shall complete the “FSRS Reporting Questionnaire and Certification” included herein within seven (7) days of each anniversary of the Subcontract award date.
- C. Remedy. Failure to comply with the reporting requirements in a timely manner as required under this section may constitute a material breach of the Subcontract and cause for withholding payment to the Supplier until the required information has been supplied to Chemonics or the Supplier demonstrates to Chemonics that its System for Award Management record has been updated. In addition to contractual remedies, Chemonics may make the Supplier’s failure to comply with the reporting requirements a part of the Supplier’s performance information record.

#### **Section 43. Survival**

In addition to the rights and obligations which survive as expressly provided for elsewhere in the Subcontract, the other provisions which by their nature should survive shall survive and continue after any termination or expiration of this Subcontract until fulfilled.

#### **Section 44. Non-Waiver**

Chemonics' failure to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Subcontract or to exercise any right hereunder, shall not be construed as a waiver of the future performance of any such term, covenant or condition or the future exercise of such right.

#### **Section 45. Severability**

If any provision of this Subcontract is determined by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall continue in full force and effect as if this Subcontract had been executed with the affected provision eliminated.

#### **Section 46. Limitation of Damages**

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

#### **Section 47. Federal Acquisition Regulation (FAR) and Agency for International Development Acquisition Regulation (AIDAR) Flowdown Provisions for Subcontracts under USAID Prime Contracts**

This Subcontract incorporates the following clauses of the Federal Acquisition Regulation (48 Code of Federal Regulations, Chapter 1) and USAID Acquisition Regulation (48 Code of Federal Regulations, Chapter 7) by reference, with the same force and effect as if they were given in full text. The full text is available at <http://www.arnet.gov/far/> and <http://www.info.usaid.gov/pubs/ads/aidar9-1.pdf>. Modifications which apply to the Subcontract appear after each clause. It is understood and agreed that the Supplier may be obligated by and to Chemonics for any specifications or documentation required of Chemonics under these clauses. The Supplier hereby agrees to abide by the terms and conditions imposed by these clauses. With respect to documentation and approvals required under these clauses, all such documentation and approvals shall be submitted to or requested from Chemonics.

To the maximum extent practicable, the Supplier shall incorporate, and require its suppliers at all tiers to incorporate, commercial items or non-developmental items as components of items to be supplied under this contract. The Supplier shall insert the following clauses in subcontracts for commercial items under this Subcontract:

##### **A. Provisions of the Federal Acquisition Regulation (FAR) Incorporated by Reference**

The FAR clauses referenced below and cited elsewhere in this Subcontract are incorporated herein by reference, with the same force and effect as if they were given in full text, and may be applicable, including any notes following the clause citation, to this Subcontract.

This Subcontract is entered into by the parties in support of a U.S. Government contract.

As used in the clauses referenced below and otherwise in this Subcontract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Subcontract.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for Chemonics' government prime contract under which this Subcontract is entered.
4. "Contractor" and "Offeror" means the Supplier, with whom Chemonics is contracting, acting as the immediate Supplier to Chemonics.
5. "Prime Contract" means the contract between Chemonics and the U.S. Government.
6. "Subcontract" means any contract placed by the Supplier or lower-tier suppliers under this Subcontract.
7. Where the clause refers expressly to the first-tier subcontract, definitions 2, 3, 4, and 6 do not apply.

The following notes apply to the clauses incorporated by reference below only when specified in the parenthetical phrase following the clause title and date.

1. Substitute "Chemonics" for "Government" or "United States" throughout this clause.

2. Substitute “Chemonics Procurement Representative” for “Contracting Officer”, “Administrative Contracting Officer”, and “ACO” throughout this clause.
3. Insert “and Chemonics” after “Government” throughout this clause.
4. Insert “or Chemonics” after “Government” throughout this clause.
5. Communication/notification required under this clause from/to the Supplier to/from the USAID Contracting Officer shall be through Chemonics.
6. Insert “and Chemonics” after “Contracting Officer”, throughout the clause.
7. Insert “or Chemonics Procurement Representative” after “Contracting Officer”, throughout the clause.
8. If the Supplier is a non-U.S. firm or organization, this clause applies to the Subcontract only if Work under the Subcontract will be performed in the United States or the Supplier is recruiting employees in the United States to Work on the Contract.

The Supplier agrees that upon the request of Chemonics it will negotiate in good faith with Chemonics relative to modifications to this Subcontract to incorporate additional provisions herein or to change provisions hereof, as Chemonics may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contractor with the provisions of modifications to such Prime Contract. If any such modifications to this Subcontract causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Subcontract, an equitable adjustment shall be negotiated.

Clause Number	Title	Date	Notes and Applicability
<u>52.202-1</u>	DEFINITIONS	NOV 2013	All subcontracts regardless of value
<u>52.203-2</u>	CERTIFICATION OF INDEPENDENT PRICE DETERMINATION	APR 1985	Fixed price subcontracts over \$150,000.
<u>52.203-3</u>	GRATUITIES	APR 1984	All subcontracts regardless of value (Note 4 applies)
<u>52.203-6</u>	RESTRICTIONS ON SUBCONTRACTORS SALES TO THE GOVERNMENT (ALT I)	SEP 2006	Fixed price subcontracts over \$150,000.
<u>52.203-7</u>	ANTI-KICKBACK PROCEDURES	MAY 2014	Applies to all Subcontracts greater than \$150,000, except paragraph (c)(1).
<u>52.203-11</u>	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	SEP 2007	All subcontracts equal to or greater than \$150,000 (Note 2 applies)
<u>52.203-12</u>	LIMITATIONS ON PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS	OCT 2010	All subcontracts equal to or greater than \$150,000 (Note 2 applies)
<u>52.203-13</u>	CONTRACTOR CODE OF ETHICS AND CONDUCT	OCT 2015	All subcontracts that have a value in excess of \$5.5 million and a performance period of more than 120 days. Disclosures made under this clause shall be directed to the agency Office of the Inspector General, with a copy to the Contracting officer.
<u>52.203-17</u>	CONTRACTOR EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENTS TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS	APR 2014	All Subcontracts equal to or greater than \$150,000
<u>52.204-6</u>	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER	JUL 2013	All Subcontracts equal to or greater than \$30,000
<u>52.204-10</u>	REPORTING EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT AWARDS	JUL 2013	Applies to first-tier subcontract only.
<u>52.209-2</u>	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS –REPRESENTATION	DEC 2014	All subcontracts regardless of value (Note 1 applies)

Clause Number	Title	Date	Notes and Applicability
<u>52.209-5</u>	CERTIFICATE REGARDING RESPONSIBILITY MATTERS	OCT 2015	All Subcontracts > \$150,000. (Notes 2, 3 apply)
<u>52.209-6</u>	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT	AUG 2013	All Subcontracts > \$35,000. (Note 2 applies)
<u>52.209-10</u>	PROHIBITION ON CONTRACTING WITH INVERTED DOMESTIC CORPORATIONS	DEC 2014	All subcontracts regardless of value (Note 1 applies)
<u>52.203-13</u>	CONTRACTOR CODE OF ETHICS AND CONDUCT	OCT 2015	All subcontracts that have a value in excess of \$5.5 million and a performance period of more than 120 days. Disclosures made under this clause shall be directed to the agency Office of the Inspector General, with a copy to the Contracting officer.
<u>52.216-22</u>	INDEFINITE QUANTITY	OCT 1995	Applies to Indefinite Quantity Subcontracts (IQS) Or Indefinite Delivery Indefinite Quantity (IDIQ) Subcontracts only. (Note 1 applies)
<u>52.219-8</u>	UTILIZATION OF SMALL BUSINESS CONCERNS	JUL 2013	Applies to all Subcontracts >\$150,000 except when the Subcontract will be performed entirely outside of the U.S. (Note 8 applies.)
<u>52.222-21</u>	PROHIBITION OF SEGREGATED FACILITIES	FEB 1999	(Note 8 applies.) Does not apply to work performed outside the United States by the Supplier employees who were not recruited within the United States.
<u>52.222-26</u>	EQUAL OPPORTUNITY	MAR 2007	(Notes 2 and 8 apply Note 1 applies in paragraph (8).) Does not apply to work performed outside the United States by the Supplier employees who were not recruited within the United States.
<u>52.222-35</u>	EQUAL OPPORTUNITY FOR VETERANS	JUL 2014	Applies if this Subcontract is for \$100,000 or more. Does not apply to Subcontracts issued to non-U.S. firms where the work is performed entirely outside the U.S. (Notes 5 and 8 apply.)
<u>52.222-36</u>	EQUAL OPPORTUNITY FOR WORKERS WITH DISABILITIES	JUL 2014	Applies if this Subcontract exceeds \$15,000. Does not apply to Subcontracts issued to non-U.S. firms where the work is performed entirely outside the U.S. (Note 8 applies.)
<u>52.222-37</u>	EMPLOYMENT REPORTS ON VETERANS	JUL 2014	Applies if this Subcontract is for \$100,000 or more. Does not apply to Subcontracts issued to non-U.S. firms where the work is performed entirely outside the U.S. (Note 8 applies.)
<u>52.222-50</u>	COMBATING TRAFFICKING IN	MAR 2015	Applies to all Subcontracts,

Clause Number	Title	Date	Notes and Applicability
	PERSONS (Alternate I applies when work is performed outside the U.S. and it is included in the Prime Contract)		regardless of type, value. (Note 2 applies starting in paragraph c. Note 3 applies in paragraph (e). Note 1 applies in paragraph (h).)
<u>52.225-13</u>	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES	JUN 2008	Applies to all Subcontracts regardless of value or type
<u>52.228-3</u>	WORKERS' COMPENSATION INSURANCE (DEFENSE BASE ACT)	JUL 2014	Applies to all Subcontracts to which the Defense Base Act applies.
<u>52.242-13</u>	BANKRUPTCY	JUL 1995	Notes 1 and 2 apply.
<u>52.242-15</u>	STOP-WORK ORDER Alternate I (APR 1984) applies if this is a cost-reimbursement Subcontract.	AUG 1989	Notes 1 and 2 apply.
<u>52.243-1</u>	CHANGES-FIXED PRICE (Alt III)	AUG 1987	Applies to Fixed Price Subcontracts of any value. (Note 2 applies)

### B. Agency for International Development Acquisitions Regulation (AIDAR) Clauses

The AIDAR clauses referenced below and cited elsewhere in this Subcontract are incorporated herein by reference, with the same force and effect as if they were given in full text, and may be applicable, including any notes following the clause citation, to this Subcontract.

(a) The Subcontract is entered into by the parties in support of a U.S. Government contract. As used in the clauses referenced below and otherwise in this Subcontract:

1. "Commercial Item" means a commercial item as defined in FAR 2.101.
2. "Contract" means this Subcontract.
3. "Contracting Officer" shall mean the U.S. Government Contracting Officer for Chemonics' government prime contract under which this Subcontract is entered.
4. "Contractor" and "Offeror" means the Subcontractor, with whom Chemonics is contracting, acting as the immediate subcontractor to Chemonics.
5. "Prime Contract" means the contract between Chemonics and the U.S. Government.
6. "Subcontract" means any contract placed by Subcontractor or lower-tier subcontractors under this Subcontract.
7. Where the clause refers expressly to the first-tier subcontract, definitions 2, 3, 4, and 6 do not apply.

(b) The following notes apply to the clauses incorporated by reference below only when specified in the parenthetical phrase following the clause title and date.

1. Substitute "Chemonics" for "USAID," "Government," or "United States" throughout this clause.
2. Substitute "Chemonics Procurement Representative" for "Contracting Officer", "Administrative Contracting Officer", and "ACO" throughout this clause.
3. Communication/notification required under this clause from/to the Supplier to/from the USAID Contracting Officer shall be through Chemonics.

The Supplier agrees that upon the request of Chemonics it will negotiate in good faith with Chemonics relative to modifications to this Subcontract to incorporate additional provisions herein or to change provisions hereof, as Chemonics may reasonably deem necessary in order to comply with the provisions of the applicable Prime Contractor with the provisions of modifications to such Prime Contract. If any such modifications to this Subcontract causes an increase or decrease in the cost of, or the time required for, performance of any part of the Work under this Subcontract, an equitable adjustment shall be negotiated.

<b>Clause Number</b>	<b>Title</b>	<b>Date</b>	<b>Notes and Applicability</b>
752.202 Alt.70 and Alt.72	DEFINITIONS ALT. 70/ALT.72	JAN 1990	All subcontracts regardless of value
752.211-70	LANGUAGE AND MEASUREMENT	JUN 1992	Applies to all subcontracts. (Note 1 applies to paragraph (b).)
752.225-70	SOURCE AND NATIONALITY REQUIREMENTS	FEB 2012	Applies to all Subcontracts, unless source and nationality requirements do not apply as set forth at 22 CFR 228.02 (Notes 1, 2 apply.)
752.228-3	WORKER'S COMPENSATION INSURANCE (DEFENSE BASE ACT)	DEC 1991	Applies to all subcontracts.
752.228-9	CARGO INSURANCE	DEC 1998	Applies to all subcontracts.
752.228-70	MEDICAL EVACUATION (MEDEVAC) SERVICES	JUL 2007	Applies to all subcontracts. (Notes 1, 2 apply.)
752.247-70	PREFERENCE FOR PRIVATELY OWNED US-FLAG COMMERCIAL VESSELS	OCT 1996	Applies to all subcontracts. (Note 3 applies.)

<p>ADS 302.3.5.16(a) (4)</p>	<p>PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING</p>	<p>SEP 2014</p>	<p>Applies to all subcontracts obligating funds for HIV/AIDS activities. Exempt organizations:                  (i) The Global Fund to Fight AIDS, Tuberculosis and Malaria; the World Health Organization; the International AIDS Vaccine Initiative; and any United Nations agency.                  (ii) U.S. non-governmental organization recipients/subrecipients and contractors/subcontractors.                  (iii) Non-U.S. contractors and subcontractors are exempt if the contract or subcontract is for commercial items and services as defined in FAR 2.101, such as pharmaceuticals, medical supplies, logistics support, data management, and freight forwarding.</p> <p>Notwithstanding the above, not exempt from this provision are non-U.S. contractors and subcontractors that implement HIV/AIDS programs under this contract or subcontract by:                  (i) Providing supplies or services directly to the final populations receiving such supplies or services in host countries; (ii) Providing technical assistance and training directly to host country individuals or entities on the provision of supplies or services to the final populations receiving such supplies and services; or (iii) Providing the types of services listed in FAR 37.203(b)(1)-(6) that involve giving advice about substantive policies of a recipient, giving advice regarding the activities referenced in (i) and (ii), or making decisions or functioning in a recipient's chain of command (e.g., providing managerial or supervisory services approving financial transactions, personnel actions).</p>
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**Section 48. Representations and Certifications**

Any representations and certifications submitted resulting in award of this Subcontract are hereby incorporated either in full text or by reference, and any updated representations and certifications submitted thereafter are incorporated by reference and made a part of this Subcontract with the same force and effect as if they were incorporated by full text. By signing this Subcontract, the Supplier hereby certifies that as of the time of award of this Subcontract: (1) the Supplier, including its principals, is not debarred, suspended or proposed for debarment or declared ineligible for award by any Federal agency; (2) no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a member of the U.S. Congress on its behalf in connection with awarding the contract or this Subcontract; and (3) no changes have occurred to any other representations and certifications made by the Supplier resulting in award of this Subcontract. The Supplier agrees to promptly notify Chemonics in writing of any changes occurring at any time during performance of this Subcontract to any representations and certifications submitted by the



Supplier.

**Section 49. Federal Funding Accountability and Transparency (FFATA) Sub Award Reporting Questionnaire And Certification for Subcontracts And Sub-Task Orders Under Indefinite Delivery/Indefinite Quantity Subcontracts**

**Supplier Name:**

The information in this section is required under FAR 52.204-10 "Reporting Executive Compensation and First-Tier Subcontract Awards" to be reported by prime contractors receiving federal contracts through the Federal Funding Accountability and Transparency Act (FFATA) Subaward Reporting System (FSRS). **As required by the referenced FAR, complete this questionnaire and certification as part of the Subcontract or Sub-Task Order with a value of \$30,000 or more, unless exempted from reporting by a positive response to Section A.**

A. In the previous tax year, was your company's gross income from all sources under \$300,000?

Yes  No

B. If "No", please provide the below information and answer the remaining questions.

(i) **Supplier DUNS Number:**

(ii) In your business or organization's preceding completed fiscal year, did your business or organization (the legal entity to which the DUNS number belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, sub grants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, sub grants, and/or cooperative agreements?:

Yes  No

(iii) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number it provided belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986?:

Yes  No

(iv) Does your business or organization maintain a record in the System for Award Management ([www.SAM.gov](http://www.SAM.gov))?

Yes  No

(v) If you have indicated "Yes" for paragraph (ii) **and** "No" for paragraph (iii) and (iv) above, provide the names and total compensation\* of your five most highly compensated executives\*\*for the preceding completed fiscal year.

1. Name: \_\_\_\_\_

Amount: \_\_\_\_\_

2. Name: \_\_\_\_\_

Amount: \_\_\_\_\_

3. Name: \_\_\_\_\_

Amount: \_\_\_\_\_

4. Name: \_\_\_\_\_

Amount: \_\_\_\_\_

5. Name: \_\_\_\_\_

Amount: \_\_\_\_\_

The information provided above is true and accurate as of the date of execution of the referenced Subcontract or Sub-Task Order. Annual certification is required for information provided in paragraph (v) above.

\*“Total compensation” means the cash and noncash dollar value earned by the executive during the Supplier’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- (1) *Salary and bonus.*
- (2) *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.
- (3) *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- (4) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- (5) *Above-market earnings on deferred compensation which is not tax-qualified.*
- (6) Other compensation, if the aggregate value of all such other compensation (*e.g.*, severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

\*\*“Executive” means officers, managing partners, or any other employees in management positions

-END OF BOA-

**Annex 2 Representations and Certifications**

*The following Representations and Certifications must be completed and submitted with the proposal. Non-adherence to these requirements may result in disqualification. The forms can be found on the following pages.*

- 2-1. Certificate Of Independent Price Determination
- 2-2. Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions
- 2-3. Information Regarding Responsibility Matters (April 2010)
- 2-4. Offeror's Key Individual Certification On Narcotics Offenses And Drug Trafficking
- 2-5. Contractor Code Of Business Ethics (April 2010)
- 2-6. Offeror's Evidence Of Responsibility Statement
- 2-7. Subcontractor Size Self-Certification Form
- 2-8. Prohibition on Contracting with Inverted Domestic Corporations- Representation (Oct 2015)
- 2-9. Representation By Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction Under Any Federal Law
- 2-10. Certification Regarding Trafficking in Persons Compliance Plan

**Annex 2-1: Certificate of Independent Price Determination**

**CERTIFICATE OF INDEPENDENT PRICE DETERMINATION**

\_\_\_\_\_ (hereinafter called the "Offeror")

(a) The Offeror certifies that—

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to—

- (i) Those prices;
- (ii) The intention to submit an offer; or
- (iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the Offeror, directly or indirectly, to any other Offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the Offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory—

(1) Is the person in the Offeror’s organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(2)(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision \_\_\_\_\_ *[insert full name of person(s) in the Offeror’s organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the Offeror’s organization]*;

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(2)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the Offeror deletes or modifies paragraph (a)(2) of this provision, the Offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

Company Name: \_\_\_\_\_

By (Signature): \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Annex 2-2: Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions**

**Certification and Disclosure Regarding Payments to Influence Certain Federal Transaction (Sept 2007)**

\_\_\_\_\_ (hereinafter called the "Offeror")

- (a) *Definitions.* As used in this provision—"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).
- (b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.
- (c) *Certification.* The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.
- (d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this contract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.
- (e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.
- (f) Should the Offeror's circumstances change during the life of any resulting subcontract with respect to the above, the Offeror will notify Buyer immediately.

By (Signature): \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Annex 2-3: Certification Regarding Responsibility Matters**

**CERTIFICATION REGARDING RESPONSIBILITY MATTERS**

- (a) (1) The Offeror certifies, to the best of its knowledge and belief, that –
  - (i) The Offeror and/or any of its Principals -
    - (A) Are, are not, presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
    - (B) Have, have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
    - (C) Are, are not, presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;
    - (D) Have, have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.
  - (ii) The Offeror has has not, within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.
- (2) “Principal,” for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment; and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, US Code.
- (b) The Offeror shall provide immediate written notice to Chemonics if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror’s responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by Chemonics may render the Offeror non-responsible.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available Chemonics, Chemonics may terminate the contract resulting from this solicitation for default.

Company Name: \_\_\_\_\_

By (Signature): \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Annex 2-4: Offeror's Key Individual Certification on Narcotics Offenses and Drug Trafficking**

**KEY INDIVIDUAL CERTIFICATION NARCOTICS OFFENSES AND DRUG TRAFFICKING**

I hereby certify that within the last ten years:

1. I have not been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States or any country concerning narcotic or psychotropic drugs or other controlled substances.
2. I am not and have not been an illicit trafficker in any such drug or controlled substance.
3. I am not and have not been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such drug or substance.

Signature: \_\_\_\_\_

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

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

Title/Position: \_\_\_\_\_

Organization: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Birth: \_\_\_\_\_

**NOTICE:**

1. You are required to sign this Certification under the provisions of 22 CFR Part 140, Prohibition on Assistance to Drug Traffickers. These regulations were issued by the Department of State and require that certain key individuals of organizations must sign this Certification.
2. If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.



**Annex 2-5: Contractor Code of Business Ethics**

**CONTRACTOR CODE OF BUSINESS ETHICS (APR 2010)**

In accordance with FAR 52.203-13, CONTRACTOR CODE OF BUSINESS ETHICS (APR 2010) the subcontractor has does not have current active Federal contracts and grants with total value greater than \$5,000,000. The subcontractor is is not a small business. The duration of the subcontract is is not less than 120 days. The subcontractor has does not have a Code of Business Ethics which has been provided to employees. The subcontractor is is not exempt from the Code of Business Ethics. In accordance with the subcontractor's Code of Business Ethics, the contractor has does not have a Business Ethics Awareness and Compliance Program that encourages and otherwise promotes a culture of ethical conduct and commitment to comply with the law and an internal control system that prevents and detects criminal conduct. In accordance with the Business Ethics Awareness and Compliance Program the subcontractor does does not provide effective training to employees in this area.

The subcontractor shall disclose, in writing, to the prime contractor and the agency office of the Inspector General (OIG), with a copy to the Contracting Officer, whenever, in connection with the award, performance, or closeout of this contract or any subcontract thereunder, the subcontractor has credible evidence that a principal, employee, agent, or subcontractor of the subcontractor has committed a violation of Federal Criminal law involving fraud, conflict of interest, bribery, or gratuity violations in Title 18 of the US Code or a violation of the civil False Claims Act.

Company Name: \_\_\_\_\_

By (Signature): \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

**Annex 2-6: Evidence of Responsibility Form**

**EVIDENCE OF RESPONSIBILITY**

**1. Offeror Business Information**

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

DUNS Number: \_\_\_\_\_

(Instructions: The offeror shall enter the DUNS number or "DUNS+4" that identifies the offeror's name and address. The DUNS number is a nine-digit number assigned by Dun and Bradstreet, Inc. If the offeror does not have a DUNS number, it should contact Dun and Bradstreet directly to obtain one. An offeror may obtain a DUNS number-- (i) Via the Internet at <http://fedgov.dnb.com/webform> or if the offeror does not have internet access, it may call Dun and Bradstreet at 1-866-705-5711 if located within the United States; or (ii) If located outside the United States, by contacting the local Dun and Bradstreet office. The offeror should indicate that it is an offeror for a U.S. Government contract when contacting the local Dun and Bradstreet office.)

**2. Authorized Negotiators**

Company Name's Basic Ordering Agreement and associated proposals may be discussed with any of the following individuals. These individuals are authorized to represent Company Name in negotiation of this Basic Ordering Agreement and subsequent proposals in response to Request for Quotes (RFQs) issued by GHSC-PSM under the Basic Ordering Agreement.

List Names of Authorized signatories

These individuals can be reached at the following office:

Address \_\_\_\_\_

Telephone/Fax \_\_\_\_\_

Email address \_\_\_\_\_

**3. Adequate Financial Resources**

Company Name has the financial capability to manage this Basic Ordering Agreement and any prospective orders that may be awarded under this agreement.

If the offeror is selected for a purchase order award under the Basic Order Agreement valued at \$30,000 or above, or cumulative awards issue under this instrument at or above this threshold, and is not exempted based on a negative response to Section 3(a) below, any first-tier subaward to the organization may be reported and made public through FSRS.gov in accordance with The Transparency Acts of 2006 and 2008. Therefore, in accordance with FAR 52.240-10 and 2CFR Part170, if the offeror positively certifies below in Sections 3.a and 3.b and negatively certifies in Sections 3.c and 3.d, the offeror will be required to disclose to Chemonics for reporting in accordance with the regulations, the names and total compensation of the organization's five most highly compensated executives. By submitting this form, the offeror agrees to comply with this requirement as applicable if selected for an award.

In accordance with those Acts and to determine applicable reporting requirements, **Company name** certifies as follows:

a) In the previous tax year, was your company's gross income from all sources above \$300,000?  
Yes No

b) In your business or organization's preceding completed fiscal year, did your business or organization (the legal entity to which the DUNS number belongs) receive (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; **and** (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements?:  
Yes No

c) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number it provided belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? (FFATA § 2(b)(1)):  
Yes No

d) Does your business or organization maintain an active registration in the System for Award Management ([www.SAM.gov](http://www.SAM.gov))?  
Yes No

#### 4. Ability to Comply

**Company Name** is able to comply with the proposed delivery of performance schedule having taken into consideration all existing business commitments, commercial as well as governmental.

#### 5. Record of Performance, Integrity, and Business Ethics

**Company Name**'s record of integrity is (Instructions: Offeror should describe their record. Text could include example such as the following to describe their record: "outstanding, as shown in the Representations and Certifications. We have no allegations of lack of integrity or of questionable business ethics. Our integrity can be confirmed by our references in our Past Performance References, contained in the Technical Proposal.")

#### 6. Organization, Experience, Accounting and Operational Controls, and Technical Skills

(Instructions: Offeror should explain their organizational system for managing the agreement, as well as the type of accounting and control procedure they have to accommodate the type of contractual instrument being considered.)

#### 7. Equipment and Facilities

(Instructions: Offeror should state that they have necessary facilities and equipment to carry out the prospective subcontracts with specific details as appropriate per the agreement scope.)

#### 8. Eligibility to Receive Award

(Instructions: Offeror should state if they are qualified and eligible to receive an award under applicable laws and regulation and affirm that they are not included in any list maintained by the US Government of entities debarred, suspended or excluded for US Government awards and funding. The Offeror should state whether they have performed work of similar nature under similar mechanisms for USAID. )

**9. Commodity Procurement**

(Instructions: Offeror should state their qualifications necessary to support the contract requirements.)

**10. Cognizant Auditor**

(Instructions: Offeror should provide Name, address, phone of their auditors – whether it is a government audit agency, such as DCAA, or an independent CPA.)

**11. Acceptability of Contract Terms**

(Instructions: Offeror should state its acceptance of the proposed contract terms.)

**12. Organization of Firm**

(Instructions: Offeror should explain how their firm is organized on a corporate level and on practical implementation level, for example regionally or by technical practice.)

Company Name: \_\_\_\_\_

By (Signature): \_\_\_\_\_ Title: \_\_\_\_\_

Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

*One of the authorized negotiators listed in Section 2 above should sign*



**Annex 2-8: 52.209-2 Prohibition on Contracting with Inverted Domestic Corporations- Representation (Oct 2015)**

- (1) Relation to Internal Revenue Code. An inverted domestic corporation as herein defined does not meet the definition of an inverted domestic corporation as defined by the Internal Revenue Code 25 U.S.C. 7874.
- (2) Representation. By submission of its offer, the offeror represents that— (i) It is not an inverted domestic corporation; and (ii) It is not a subsidiary of an inverted domestic corporation.

**Annex 2-9: Representation By Corporations Regarding an Unpaid Delinquent Tax Liability or a Felony Conviction Under Any Federal Law**

The Consolidated Appropriations Act, 2012 Pub. L 112-74 and the Consolidated and Further Continuing Appropriations Act, Pub. L 112-55 prohibit covered agencies from using funds to enter into contracts with corporations with have unpaid federal tax delinquencies or certain felony convictions unless certain conditions are met. (a) The Offeror represents that — FAR 52.212-3 – August, 2014 edition

- (1) It is  is not  a corporation that was convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.
- (2) It is  is not  a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

**Annex 2-10: 52.222-50 SUBCONTRACTOR CERTIFICATION REGARDING TRAFFICKING IN PERSONS COMPLIANCE PLAN (March 2, 2015)**

The Offeror/Subcontractor Certifies that:

- (1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of the clause at 52.222–50, Combating Trafficking in Persons, and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at 52.222–50, Combating Trafficking in Persons;
- (2) The compliance plan applicable to the qualifying subcontract meets the minimum requirements set forth in subsection (h)(3) of clause 52.222-50, including the following:
  - a. An awareness program to inform subcontractor employees about the Government’s policy prohibiting trafficking-related activities, the activities prohibited, and the actions that will be taken against the employee for violations.
  - b. A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at [help@befree.org](mailto:help@befree.org).
  - c. A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.
  - d. A housing plan, if the subcontractor intends to provide or arrange housing that ensures that the housing meets host-country housing and safety standards.
  - e. Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.
- (3) The Offeror/Subcontractor will post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Offeror’s/Subcontractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Offeror/Subcontractor shall provide the relevant contents of the compliance plan to each worker in writing. The Offeror/Subcontractor agrees to inform Chemonics immediately of any credible information it receives from any source (including host country law enforcement) that alleges a contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy.
- (4) After having conducted due diligence, either—
  - (i) To the best of the Offeror’s/Subcontractor’s knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or,
  - (ii) If abuses relating to any of the prohibited activities identified in 52.222– 50(b) have been found, the Offeror or proposed Subcontractor has taken the appropriate remedial and referral actions.

PLEASE SIGN AND RETURN THIS CERTIFICATION TO CHEMONICS

Company Name \_\_\_\_\_

Company Address \_\_\_\_\_

Signature \_\_\_\_\_ Printed Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

**NOTE: The Subcontractor is required to recertify annually by signing this document one year from the date signed above and resending it to the Contractor.**

**[END OF CERTIFICATIONS]**



**Annex 3 Cover Letter Form**

The following is an example cover letter, each offeror can include their own.

[Offeror: Insert date]

Stephanie Brininstool Procurement Specialist  
Global Health Supply Chain – Procurement and Supply Management  
Chemonics International  
251 18th Street South  
Arlington, VA 22202 US

Reference: Request for Proposals XXX

Subject: [Offeror: Insert name of your organization]’s technical and price proposals

Dear Ms. Stephanie Brininstool:

[Offeror: Insert name of your organization] is pleased to submit its proposal in regard to the above- referenced request for proposals. For this purpose, we are pleased to provide the information furnished below:

Name of Organization’s Representative	_____
Name of Offeror	_____
	_____
Taxpayer Identification Number	_____
DUNS Number	_____
Address	_____
Address	_____
Telephone	_____
Fax	_____
E-mail	_____

As required by section 1.10 of the RFP, we confirm that our proposal, including the price proposal will remain valid for 150 calendar days after the proposal deadline.

We are further pleased to provide our proposal and all tables as required by the RFP as well as the following information requested in the RFP.:

[Offerors: It is incumbent on each offeror to clearly review the RFP and its requirements. It is each offeror's responsibility to identify all required annexes and include them]

- I. Copy of registration or incorporation in the public registry, or equivalent document from the government office where the offeror is registered.
- II. Copy of company tax registration, or equivalent document.
- III. Copy of trade license, or equivalent document.
- IV. Certifications and Representations

**Annex 4 Expression of Interest**

Each offeror that wishes to participate in the Global RFP must fill in this EOI and **submit via email to *Global\_VL\_RFP@ghsc-psm.org* by Friday February 22<sup>nd</sup> at 5:00pm (US EST).**

Offeror Name \_\_\_\_\_

Offeror Representative - Contact Details \_\_\_\_\_

- Name \_\_\_\_\_
- Position \_\_\_\_\_
- Telephone \_\_\_\_\_
- E-mail \_\_\_\_\_

Please mark each box that applies:

- My organization intends to submit a response to PEPFAR’s RFP for the provision of Viral Load and EID Reagents, Consumables and All-Inclusive Services (RFP #GHSC-PSM-TO1-2019-LAB-GlobalVL)
- We will provide a global reagent and consumables bid
- We intend to provide country services bids for the following countries, together with distributors/partners as indicated
  - Kenya
  - Mozambique
  - Nigeria
  - Tanzania
  - Uganda
  - Zambia
- We will send our offer by email to *Global\_VL\_RFP@ghsc-psm.org* before 5:00 PM (US EST) on Monday April 8<sup>th</sup>, 2019**

## **Annex 5 DUNS and SAM Registration Guidance**

### **What is DUNS?**

The Data Universal Numbering System (DUNS) is a system developed and regulated by Dun & Bradstreet (D&B) - a company that provides information on corporations for use in credit decisions - that assigns a unique numeric identifier, referred to as a DUNS number, to a single business entity. The DUNS database contains over 100 million entries for businesses throughout the world, and is used by the United States Government, the United Nations, and the European Commission to identify companies. The DUNS number is widely used by both commercial and federal entities and was adopted as the standard business identifier for federal electronic commerce in October 1994. The DUNS number was also incorporated into the Federal Acquisition Regulation (FAR) in April 1998 as the Federal Government's contractor identification code for all procurement-related activities.

### **Why am I being requested to obtain a DUNS number?**

U.S. law – in particular the Federal Funding Accountability and Transparency Act of 2006 (Pub.L. 109- 282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub.L. 110-- make it a requirement for all entities doing business with the U.S. Government to be registered, currently through the System for Award Management, a single, free, publicly- searchable website that includes information on each federal award. As part of this reporting requirement, prime contractors such as Chemonics must report information on qualifying subawards as outlined in FAR 52.204-10 and 2CFR Part 170. Chemonics is required to report subcontracts with an award valued at greater than or equal to \$30,000 under a prime contract and subawards under prime grants or prime cooperative agreements obligating funds of \$25,000 or more, whether U.S. or locally-based. Because the U.S. Government uses DUNS numbers to uniquely identify businesses and organizations, Chemonics is required to enter subaward data with a corresponding DUNS number.

### **Is there a charge for obtaining a DUNS number?**

No. Obtaining a DUNS number is absolutely free for all entities doing business with the Federal government. This includes current and prospective contractors, grantees, and loan recipients.

### **How do I obtain a DUNS number?**

DUNS numbers can be obtained online at <http://fedgov.dnb.com/webform/pages/CCRSearch.jsp> or by phone at 1-800-234-3867 (for US, Puerto Rico and Virgin Island requests only).

### **What information will I need to obtain a DUNS number?**

To request a DUNS number, you will need to provide the following information:

- Legal name and structure
- Tradestyle, Doing Business As (DBA), or other name by which your organization is commonly recognized
- Physical address, city, state and Zip Code
- Mailing address (if separate)
- Telephone number
- Contact name
- Number of employees at your location
- Description of operations and associated code (SIC code found at <https://www.osha.gov/pls/imis/sicsearch.html>)
- Annual sales and revenue information
- Headquarters name and address (if there is a reporting relationship to a parent corporate entity)

### **How long does it take to obtain a DUNS number?**

Under normal circumstances the DUNS is issued within 1-2 business days when using the D&B web form process. If requested by phone, a DUNS can usually be provided immediately.

### **Are there exemptions to the DUNS number requirement?**

There may be exemptions under specific prime contracts, based on an organization's previous fiscal year income when selected for a subcontract award, or Chemonics may agree that registration using the D&B web form process is impractical in certain situations. Organizations may discuss these options with the Chemonics representative.

### **What is CCR/SAM?**

Central Contractor Registration (CCR)—which collected, validated, stored and disseminated data in support of agency acquisition and award missions—was consolidated with other federal systems into the System for Award Management (SAM). SAM is an official, free, U.S. government-operated website.

There is NO charge to register or maintain your entity registration record in SAM.

### **When should I register in SAM?**

While registration in SAM is not required for organizations receiving a grant under contract, subcontract or cooperative agreement from Chemonics, Chemonics requests that partners register in SAM if the organization meets the following criteria requiring executive compensation reporting in accordance with the FFATA regulations referenced above. SAM.gov registration allows an organization to directly report information and manage their organizational data instead of providing it to Chemonics. Reporting on executive compensation for the five highest paid executives is required for a qualifying subaward if in your business or organization's preceding completed fiscal year, your business or organization (the legal entity to which the DUNS number belongs):

- 1) Received 80% or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; **and**
- 2) Received \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; **and**,
- 3) The public have **does not** have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number it provided belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the US Internal Revenue Code of 1986.

If your organization meets the criteria to report executive compensation, the following sections of this document outline the benefits of and process for registration in SAM.gov. Registration may be initiated at <https://www.sam.gov>. There is NO fee to register for this site.

### **Why should I register in SAM?**

Chemonics recommends that partners register in SAM to facilitate their management of organizational data and certifications related to any U.S. federal funding, including required executive compensation reporting. Executive compensation reporting for the five highest paid executives is required in connection with the reporting of a qualifying subaward if:

- a. In your business or organization's preceding completed fiscal year, your business or organization (the legal entity to which the DUNS number belongs) received (1) 80 percent or more of its annual gross revenues in U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and (2) \$25,000,000 or more in annual gross revenues from U.S. federal contracts, subcontracts, loans, grants, subgrants, and/or cooperative agreements; and,
- b. The public have does not have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number it provided belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

### **What benefits do I receive from registering in SAM?**

By registering in SAM, you gain the ability to bid on federal government contracts. Your registration does not guarantee your winning a government contract or increasing your level of business. Registration is simply a prerequisite before bidding on a contract. SAM also provides a central storage location for the registrant to supply its information, rather than with each federal agency or prime contractor separately. When information about your business changes, you only need to document the change in one place for every federal government agency to have the most up-to-date information.

### **How do I register in SAM?**

Follow the step-by-step guidance for registering in SAM for assistance awards (under grants/cooperative agreements) at: [https://www.sam.gov/sam/transcript/Quick\\_Guide\\_for\\_Grants\\_Registrations.pdf](https://www.sam.gov/sam/transcript/Quick_Guide_for_Grants_Registrations.pdf)

Follow the step-by-step guidance for contracts registrations at: [https://www.sam.gov/sam/transcript/Quick\\_Guide\\_for\\_Contract\\_Registrations.pdf](https://www.sam.gov/sam/transcript/Quick_Guide_for_Contract_Registrations.pdf)

*You must have a Data Universal Numbering System (DUNS) number in order to begin either registration process.*

If you already have the necessary information on hand (see below), the online registration takes approximately one hour to complete, depending upon the size and complexity of your business or organization.

### **What data is needed to register in SAM?**

SAM registrants are required to submit detailed information on their company in various categories. Additional, non-mandatory information is also requested. Categories of required and requested information include:

- \* General Information - Includes, but is not limited to, DUNS number, CAGE Code, company name, Federal Tax Identification Number (TIN), location, receipts, employee numbers, and web site address.
- \* Corporate Information - Includes, but is not limited to, organization or business type and SBA-defined socioeconomic characteristics.
- \* Goods and Services Information - Includes, but is not limited to, NAICS code, SIC code, Product Service (PSC) code, and Federal Supply Classification (FSC) code.
- \* Financial Information - Includes, but is not limited to, financial institution, American Banking Association (ABA) routing number, account number, remittance address, lock box number, automated clearing house (ACH) information, and credit card information.
- \* Point of Contact (POC) Information - Includes, but is not limited to, the primary and alternate points of contact and the electronic business, past performance, and government points of contact.
- \* Electronic Data Interchange (EDI) Information - Includes, but is not limited to, the EDI point of contact and his or her telephone, e-mail, and physical address. (Note: EDI Information is optional and may be provided only for businesses interested in conducting transactions through EDI.)

**Annex 6 Technical submission template (separate Excel Annex)**

**Annex 7 Pricing submission template (separate Excel Annex)**

**Annex 8 Viral Load Vendor Quality Assurance Assessment Questionnaire (separate Word Annex)**

**Annex 9 Instructions for Creating and Submitting a GHSC-QA Technical Questionnaire Submission (separate PDF Annex)**