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FROM THE AMERICAN PEOPLE

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Subject: USAID-RDMA-486-12-000026-RFA  
New China Rule of Law Program

The United States Agency for International Development (USAID), is seeking applications (proposals for funding) from U.S. institutions of higher education and U.S. non-governmental organizations (NGOs) and/or a consortia to provide technical support to a new U.S.-China initiative that focuses on the rule of law (ROL) with special emphasis on decreasing select barriers to accessing justice. Please refer to the Program Description (RFA Section I) for a complete statement of goals and expected results.

Subject to the availability of funds, USAID plans to award one or more cooperative agreement(s) with a total estimated amount of approximately \$12,450,000 for a program not to exceed four years (from on or about October 01, 2012 - September 30, 2016). USAID reserves the right to fund any, a portion of, or none of the applications submitted.

For the purposes of this Program, this RFA is being issued and consists of this cover letter and the following:

1. Section I Funding Opportunity Description;
2. Section II Award Information;
3. Section III Eligibility Information;
4. Section IV Application and Submission Information;
5. Section V Application Review Information;
6. Section VI Award and Administration Information;
7. Section VII Agency Contacts; and
8. Attachments Representations and Certifications

For the purposes of this RFA, the term "Grant" is synonymous with "Cooperative Agreement"; "Grantee" is synonymous with "Recipient"; and "Grant Officer" is synonymous with "Agreement Officer".

The federal grant process is now web-enabled. As of December 19, 2005, grant and cooperative agreement Request for Application (RFA) and Annual Program Statement (APS) announcements, modifications to the announcements, and the corresponding application packages must be posted via Grants.gov. This RFA and any future amendments can be downloaded from the website [www.grants.gov](http://www.grants.gov). It is the responsibility of the Recipient of the application document to ensure that it has been received the RFA from [www.grants.gov](http://www.grants.gov) in its entirety.

Applicants may submit their applications electronically on [www.grants.gov](http://www.grants.gov) or by e-mail attachment formatted in Microsoft Word (up to 20 MB limit per email) and must also submit hard copies by the due date. Please see Section IV of the RFA for detailed instructions regarding submission of applications via email. Applications and modifications thereof shall be submitted with the name and address of the Applicant and the RFA number (referenced above) inscribed thereon, via email, to [pvirasingh@usaid.gov](mailto:pvirasingh@usaid.gov) and copied to [criegler@usaid.gov](mailto:criegler@usaid.gov).

Applicants must confirm with Ms. Praveena ViraSingh that their electronic submissions (either via grants.gov and via email) were successfully received by the required due date. USAID bears no responsibility for data errors resulting from transmission or conversion processes associated with electronic submissions. An original and four (4) hard copies of the technical application, and an original and one hard copy of the cost proposal, must be sent to:

Praveena ViraSingh  
Regional Office of Procurement  
US Embassy Thailand  
Box 47 (USAID)  
APO, AP 96546

or

Praveena ViraSingh  
USAID/Regional Development Mission Asia  
Regional Office of Procurement  
Athenee Tower, 25th Floor, Room 2465  
63 Wireless Road, Lumpini, Pathumwan  
Bangkok 10330, Thailand

Hard copies of submissions must arrive by the due date. It is recommended that Applicants use courier service instead of international mail for the hard copies. Applications will be accepted for consideration as long as they arrive at USAID/RDMA by the time stipulated. See RFA Section II regarding late applications.

Applicants are requested to submit the technical and cost portions of their applications in separate volumes so that they may be reviewed separately. Award will be made to that responsible Applicant(s) whose application(s) best meets the requirements of the RFA and the selection criteria contained herein.

Faxed proposals are not acceptable.

Issuance of the RFA does not constitute an award commitment on the part of USAID, nor does it commit USAID to pay for costs incurred in the preparation and submission of an application. Further, USAID reserves the right to reject any or all applications received. In addition, final award of any resultant cooperative agreement(s) cannot be made until funds have been fully appropriated, allocated, and committed through internal USAID procedures. While it is anticipated that these procedures will be successfully completed, potential Applicants are hereby notified of these requirements and conditions for award. Applications are submitted at the risk of the Applicant, and all preparation and submission costs are at the Applicant's expense.

In the event of any inconsistency between the sections comprising this RFA, it must be resolved by the following order of precedence:

- (a) Section V Application Review Information
- (b) Section IV Application and Submission Information
- (c) Section I Funding Opportunity Description
- (d) This Cover Letter

Applicants should take into account the expected delivery time required by the proposal transmission method they choose, and are responsible to ensure that the electronic copies are sent to the correct email address and the hard copies of the proposals are received at USAID/RDMA (and not at another location) by the due date and time specified above.

Applicants should retain for their records one copy of all enclosures which accompany their application.

Thank you for your interest in USAID/RDMA programs and activities.

Sincerely,

/s/

Craig Riegler  
Regional Agreement Officer  
USAID/RDMA, Bangkok

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## SECTION I: FUNDING OPPORTUNITY DESCRIPTION

### 1. PROGRAM DESCRIPTION

#### I. Summary

USAID/RDMA's engagement on China began in 2005 with activities narrowly focused on the autonomous region of Tibet. Since then, USAID/RDMA's assistance has evolved and expanded to address issues spanning several sectors. In FY 2012, USAID/RDMA manages activities located in Beijing and more than 12 of China's 22 provinces. USAID support is underpinned by urgent development issues of regional and transnational importance to China and the United States in particular. These issues have worldwide impact in terms of China's policies for congruency with international standards and best practices, and coherence with other major foreign donors.

Presently, USAID/RDMA's contribution to achieving U.S. foreign policy priorities for China focuses on: 1) China's legal infrastructure to improve its responsiveness to an ever increasing caseload as it continues to shift from a command to more of a market-led economy; 2) supporting effective responses to infectious diseases of trans-boundary, regional, and global importance such as HIV/AIDS, Tuberculosis, Malaria, and Avian Influenza; 3) mitigating greenhouse gas emissions and China's carbon footprint through greater adoption of energy efficiency policies, technologies, tools and practices in industries, buildings and cities; 4) combating illegal trade in both wildlife parts and products, and timber; 5) improving environmental governance by promoting local advocacy, fostering institutional relationships, and establishing legal centers to reduce pollution and build capacity to solve pollution and environmental management problems; 6) supporting U.S. educational institutions to deepen and widen their engagement with the Chinese legal system (courts, lawyers and legal professionals) on ROL issues including basic rights, legal representation, and protection; and 7) continued assistance to Tibetan communities to preserve their cultural traditions, promote sustainable agricultural production practices, and diversify household livelihoods.

China's robust and explosive economic growth, and accompanying massive social change have translated into new opportunities for mutual assistance strategically focused on, inter alia, further reducing select barriers to access to justice. Towards this end, USAID engages China not as an aid recipient, but as a development partner with the resources to invest in its own future, while at the same time recognizing the traditional development challenges facing China. By means of this RFA, therefore, USAID/RDMA seeks innovative, pragmatic, and insightful proposals suited to the Chinese context – and not merely theoretical – for a new ROL program which takes into account the rapidly evolving and fluid operating environment in China, and ensures sufficient flexibility to allow for timely and effective evidence-based decisions for making programmatic adjustments as appropriate. This solicitation describes opportunities for proposed activities that will contribute to achieving the program purpose: to decrease select barriers to accessing justice in selected locations in China while also contributing to achieving the higher order program goal: to enhance access to justice to strengthen rule of law in selected locations in China.

Submissions under this RFA will be evaluated against a set of selection criteria identified in Section V. In keeping with USAID Forward, the Recipient is expected to work cooperatively and professionally, with other recipients of USAID and USG funding for other programs in China, and to collaborate with other donors whose activities complement and add value to USAID/RDMA's.

#### II. Background

USAID/RDMA's ROL efforts are funded by a series of Congressional earmarks that began in FY 2006. Activities support reform in the areas of access to justice, enhancing transparency and accountability,

criminal, and administrative law. USAID/RDMA is proactively mounting a four-year rule of law (ROL) program. This program will build on select successes of past and ongoing efforts aimed at reforms in protecting citizen rights and strengthening the application of rule of law in China.

China's commercial legal sector has developed rapidly in the past twenty years, while civil and criminal law lags behind. After protracted negotiations and putting in place a system to comply with international protocols of commerce, China acceded to the World Trade Organization (WTO) in 2001. As China becomes more adept at applying the rules of international trade and investment, its understanding of the nuances of contract, administrative, and criminal laws, and of other global commercial issues has also improved. In furtherance of timely implementation of international commercial agreements, China is making efforts to develop more robust administrative and implementation procedures and policies. Opportunities for mainstreaming judicial review, improving observance for public notice and comment periods in law making, employing transparent administrative procedures, and gaining redress are all seen as potential outcomes. However, lack of uniform enforcement, implementation, evenness and transparency in court decisions are issues that continue to affect and deter the efficiency of China's justice system. Also, given China's vastness, population, diversity, and weak legal institutions, justice is still unaffordable and inaccessible to an overwhelming majority of Chinese.

In recent years, there has been improvement in citizens' overall knowledge of and access to information about their basic rights. Likewise, the government has made an effort to promote the "rule of law," and is taking the initiative to encourage public participation in the policy-making process. Numerous laws and regulations were enacted that provide a sound legal foundation for the ROL. Recently passed laws include the Law on Lawyers (October 2007), Government Open Regulations Law (May 2008), Labor Contract Law (January 2008), Mediation and Arbitration of Labor Disputes (May 2008), and the new Criminal Procedure Law (2012). The Chinese government is also making it a priority to more actively include its citizenry in the rule-making process. For example, China has begun to gather public input through community hearings to comment on draft legislation.

The above circumstances notwithstanding, China's unprecedented economic growth and influence is changing the geopolitical landscape in the Asia-Pacific region and beyond. China's new economic dynamism and more active engagement in countries in the region and beyond give it increasing influence over the actions and behaviors of neighboring countries with economic and soft power extending beyond the region, and indeed to all areas of the world. At the same time, China is searching for new ideas, innovations and approaches that it can adapt in order to address a number of issues that are ultimately important to both the U.S. and China.

### **III. Program Overview**

#### **a. Building on Experience and Successes**

China's dynamic economic growth and massive social change have created new opportunities for assistance focused on reducing select barriers to accessing justice, albeit in select provinces and localities led by reform-minded political leadership and strong advocates within the legal system for fair and equitable justice. While there has been movement in legal reforms in China, citizens still lack awareness of their rights, are unable to exercise their rights, and are seeking justice in an environment fraught with an inadequate capability of stakeholders to protect legal rights, opacity of court rulings, and inadequate access to legal assistance. Thus, the program will focus on reducing select barriers to access to justice. Illustrative program activities will include public education campaigns to increase citizens' utilization of available legal services, support for law clinics, revisions in teaching methodologies, establishment of hot lines and call centers, and training and skills acquisition in international best practices, agreements and their enforcement.

The proposed program will build off of the experience and lessons learned in implementing USAID/RDMA's ongoing five-year ROL assistance efforts that are scheduled to end in mid-2012. Specifically, this ongoing assistance (now coming to an end) consists of four components: 1) criminal justice and procedure; 2) administrative law and procedure; 3) enhancing the rule of law by building professional legal skills; and 4) improving the quality of justice in China through enhanced judicial education. Current implementing partners are:

1. The American Bar Association - for Criminal Justice - in partnership with New York University School of Law, the Supreme People's Court and eleven other Chinese partners.
2. The Asia Foundation (TAF) - for implementing the Administrative Law and Procedure Program. TAF works in partnership with Georgetown University Law Center, the State University of New York, and the Supreme People's Court and a number of additional Chinese partners.
3. University of the Pacific/McGeorge School of Law – for Enhancing the Rule of Law component - by Building Professional Legal Skills Program in partnership between University of the Pacific, American University Washington College of Law, eight Chinese university law schools and the Committee of Chinese Clinical Legal Educators.
4. University of Massachusetts/Boston – for activities aimed at improving the quality of justice in China - through activities aimed at improved judicial education in partnership with the Massachusetts Judges Conference and in conjunction with twelve Chinese partners.

The four ROL program components were evaluated for their performance in the fourth year of program implementation. According to the findings, program activities are influencing fair legal governance and are creating what might be termed an “oxygenation effect, particularly at provincial levels as citizens are starting to talk about legal reform. Administrative actions are being filed in court, and mediated outcomes are regularly agreed to by the government. Defense lawyers now have increased space in court in which to present evidence and make legal arguments. Although the short-term impact of these developments may be difficult to measure, their importance cannot be overestimated as they relate to long-term changes in ways of thinking”. Thus, progress has been made toward the program objective of contributing to the development of an influential group of Chinese legal and judicial professionals familiar with the expectations of the international community with respect to the Rule of Law.

More specifically, program outputs and outcomes have furthered the U.S. foreign policy objective of helping to improve the Rule of Law in China in a number of concrete ways that are influencing achievement of longer-term outcomes. They include:

- Capacity of defense lawyers has been elevated in death penalty cases.
- A national exclusionary rule to deter abuse of police power and improve the reliability of evidence in both capital and other criminal cases was codified in 2012.
- Bifurcated sentencing procedures have been introduced and are expected to lead to increased transparency and fairness in criminal sentences.
- Recommendations for addressing mental competency issues in criminal cases have been incorporated into pending legislation.
- Victims of domestic violence are increasingly aware of the legal options available to them, and the use of protective orders in domestic violence cases has increased.

- In addition to contributing to the enactment of new regulations, Chinese citizens and legal professionals have been exposed to international best practices in the areas of administrative, environmental and intellectual property laws.
- Government transparency is increasing, and citizens are demonstrating their willingness to use administrative regulations to challenge governmental action.

Additionally, the program has generated a number of significant long-term impacts including:

- Domestic study tours have allowed Chinese counterparts to share knowledge and lessons learned among them. As a direct result of these study tours:
  - three new administrative regulations have been adopted in Gansu province;
  - a Regulation on Administrative Review was adopted in September 2010;
  - a Regulation on Archive Management was adopted in December 2010;
  - a Procedure on Administrative Decision-Making Processes was adopted in Dingxi city April 2011; and
  - similar regulations were drafted in Jiangsu and Xi'an and submitted for consideration and adoption in May 2011.
- The program has used an especially successful comparative experience-sharing methodology in which a variety of options are presented and partners are encouraged to select approaches best suited to Chinese contexts. Conferences and training programs have included experts from advanced Eastern and Western countries including the U.S.
- A national Administrative Procedure Law was drafted following input and commentary by U.S. experts.
- Train the Trainers programs for trainers have trained more than 800 trainers in three provinces. Guidelines relating to transparency and public participation in environmental decision-making have been drafted.
- The program has generated student outreach and public education campaigns on citizens' rights in villages and rural areas. And, by the end of the third year of implementation:
  - 1,951 citizens had sought legal consultation in administrative law clinics.
  - 381 consultations were conducted by telephone, 93 were conducted by email, and 1,477 were conducted in person.
  - 86% of clients who received legal counseling expressed satisfaction with the outcomes of their cases.
  - Twelve administrative law clinical courses have been developed.
  - Twenty newspaper articles have been published commenting on new administrative regulations and proceedings.
- Training Chinese law professors in faculty exchanges in experiential teaching methodologies, including clinical programs and involving eight Chinese universities have resulted in the establishment of at least 13 clinical programs and publication of a number of books and articles.
- Overall, participatory and clinical law programs are considered to elevate the awareness of Chinese law students and their commitment to social change through the use of the law.
- Chinese universities law faculty were trained in experiential teaching methodologies and recipients used their newly acquired skills to advocate for more participatory and interactive teaching models by partnering with the Committee of Chinese Clinical Legal Educators, a nonprofit academic body composed of 112 member schools.

Additional milestone achievements of the program included:

- University strengthening activities are transforming traditional Chinese teaching methodologies from exclusive reliance on traditional lecture formats to include experiential, participatory methodologies that encourage student interaction in all teaching activities, including clinical programs. The long-term impact of this shift will be that Chinese law school graduates will be better equipped to pass the national Bar exam and better able to effectively represent their clients immediately upon graduation. This strategy is part of an overall effort to mitigate strict top-down frameworks that exist throughout the entire Chinese legal system.

In terms of lessons learned the evaluation team reported that:

- USAID/RDMA supported legal experts have earned the respect of other international and Chinese counterparts. They have achieved the ability to work effectively in a highly complex and fluid environment.
- Continuous on-the-ground presence has ensured good working relationships with the Ministry of Justice, the Supreme People's Court, the All China Lawyers Association, among other bodies.
- Sustained on-the-ground presence has also assisted in delivering program impacts that hold promise for sustainability and allowed the program to bide its time during periods when political will was uncertain.

#### **b. New Program Goal and Purposes - Identifying New Opportunities**

This program will implement unique, technically sound, innovative, and operationally programmatic approaches for continuing USAID/RDMA's strengthening ROL assistance in selected localities in China. The assistance will focus on basic rights and protection, and citizens' awareness of their legal rights and procedures. The program goal is to enhance access to justice to strengthen rule of law in selected locations in China. The program purpose is to decrease selected barriers to accessing justice. Achievement of the program purpose will be sought through the timely provision of input for implementing discrete activities underlying the achievement of outputs and outcomes linked to three sub-purposes:

1. Improved capability of stakeholders to protect rights
2. Increased access to legal assistance for citizens.
3. Improved citizens' awareness of their legal rights.

The program will work with legal professionals, law schools and universities, stakeholders, and reform-minded leaders from selected provinces to reduce barriers to access to justice and to further strengthen and institutionalize the application of ROL in China. USAID/RDMA's ROL activities over the last five years progressed relatively smoothly in partnering with various change agents such as defense lawyers, U.S. and Chinese universities, and key policy brokers, etc. to help improve transparency and adhere to international agreements and international best practices.

China's improved application of policies, regulations and legal regimes governing international trade and investment, and its influence as a responsible and responsive foreign donor is predicated on the commitment of leaders of program-focused provinces and pilot localities to taking similar measures for lowering select barriers to access to justice, and on their demonstrated capacity to effectively replicate the experience throughout their provinces. It is worth noting that China's political leadership has shown resolve and adaptability to respond to conditions that favor rapid and wide replication of successful experimentation and models for promoting improved access to justice across China.

In accordance with USAID's Implementation Procurement Reform policies, the program will be composed of multiple activities to be implemented through U.S NGOs and educational institutions in partnership with Chinese universities, leading law faculties, and influential private sector entities having as a primary objective, to decrease select barriers to accessing justice. Efforts to forge partnerships with other donors in order to replicate successful experiences as well as close collaboration with other concerned USG entities will be a key to achieving the goal of decreasing select barriers to accessing justice in the selected program localities.

#### **c. Problem Statement**

Positive changes within China's legal system are occurring at an encouraging pace. As a result, there is incremental improvement in the justice system's capacity to manage an ever-increasing case load across a wide range of justice issues. However, access to justice is severely constrained by: 1) citizens lack of awareness of their legal rights; 2) citizens inability to exercise their rights; and 3) inadequate capability of stakeholders to protect legal rights; exacerbated as Chinese society becomes more affluent and educated, and more differentiated and unequal. Although these weaknesses converge with stated Chinese central government policies, progress has been uneven and will require the sustained engagement and cooperation of USAID and other USG entities, as well as other donors, and commitment of the Chinese leadership to become reality.

#### **d. Future USAID/RDMA Support**

USAID RDMA seeks to further enhance mutual and fully collaborative relationships between Chinese and U.S. organizations, educational institutions and public and private sector entities in both countries concerned with improving the effectiveness and efficiency of the Chinese legal system. This program will enhance the capacity of educational institutions, NGOs and community-based organizations (CBOs), to work in strategic alliances to develop solutions, and create the basis for improved access to the Chinese justice system. Applicants have wide discretion in identifying the specific localities and/or procedure(s) and methodology in the proposed program, as well as identifying specific program activities to be implemented. For illustrative purposes only, a list of possible activities that would be appropriate under this RFA for achieving the program outcomes and program purpose has been identified.

### **IV. TECHNICAL APPROACH**

The program will follow an integrated supply and demand approach in order to decrease select barriers to justice and improve rule of law in selected localities in China. This technical approach will be tailored to meet the needs and respond to opportunities within selected locations, and cooperating entities, and as well, where USAID/RDMA has experience and demonstrated comparative advantage to respond effectively to the binding constraints to improving access to justice in China.

As presented below (Figure 1: Logical Framework for New Rule of Law Program FY 2012 – FY 2016), the demand-supply construct is premised on the causal logic that if the lower level sub-purposes are accomplished through the timely provision of strategically planned and targeted inputs the program purpose or level above the sub-purpose(s) level will also be achieved. Similarly, the logical framework extends the causal relationships to the level of inputs, outputs, outcomes, and program goal.

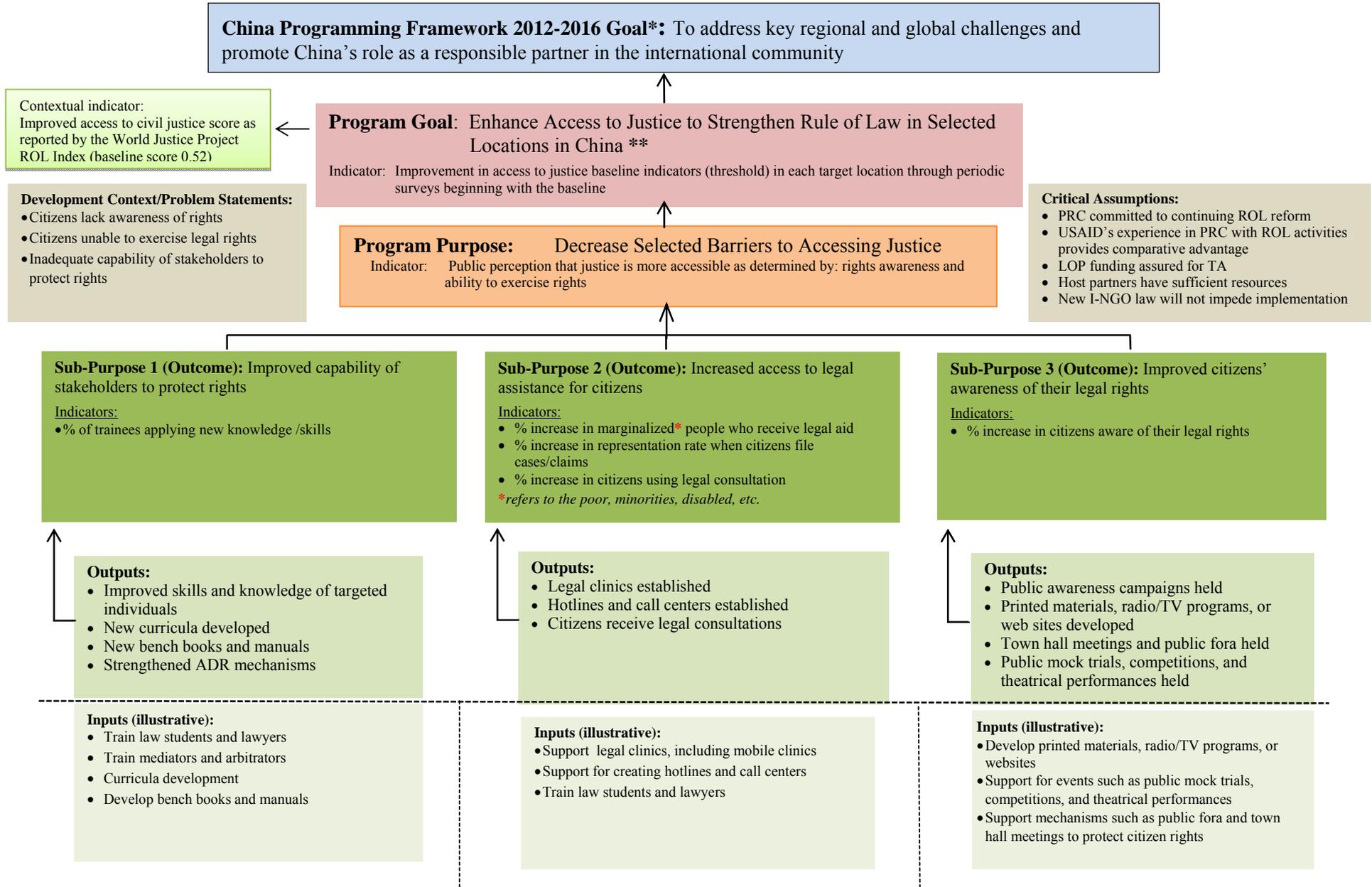
USAID understands the operating complexity of working in China, and as well, takes cognizance of China's impending change at the senior-most political leadership level, scheduled in late 2012. Concomitant with, and in conjunction with this leadership change, prudent strategic planning requires the Recipient to set aside

ten percent per year of the estimated program funding to take advantage of “windows of opportunity”. This will position the Recipient to mount a rapid response to new opportunities if, and when they should arise, for specialized technical assistance that could include for instance, more robustly address intellectual property rights to provide more protections for U.S. property, training of defense lawyers and citizen awareness on the new Criminal Procedure Law, or with developing administrative rules, regulations, and procedures that will increase citizens’ participation in government decision-making.

In these instances, the Recipient will proactively seek Chinese buy-in and USAID/RDMA’s concurrence with the new activities, and rapidly deploy the required technical assistance.

Achievement of the higher order goal and more specific purpose of the program are premised on USAID/RDMA’s recently conducted environment assessment findings that “the use of demonstration and pilot projects is an extremely popular and effective approach for implementing program activities in China.” According to Chinese government representatives, this approach is popular because a “demonstration” does not require the same level of approval by the political leadership as do policy reforms so that it is relatively easy to initiate. In addition, pilot projects don’t carry the same risk of failure since it is inherent in the title that a level of uncertainty exists and therefore results will not be held up to the same standards as an established program. In fact, there are many pilot projects that have been implemented for years and replicated in other cities throughout China that still retain the “pilot” status.”

**Figure 1: Logical Framework for New China Rule of Law Program (FY2012-2016)**



\*Relationship of ROL Program to RDMA's goal for China – China's adherence to ROL domestically influences China's commitment to its international obligations as a prominent global trading partner, and a responsible and responsive foreign donor.

\*\*Access to Justice refers to adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, participation in decision-making, legal certainty, avoidance of arbitrariness, transparency, and availability of legal services.

### a) Program Outcomes

The program will follow an integrated supply and demand approach in order to decrease select barriers to justice and improve ROL in selected localities in China. This technical approach will be tailored to meet the needs and respond to opportunities within selected locations, cooperating entities, and as well, where USAID/RDMA has experience and demonstrated comparative advantage to respond effectively to the binding constraints to improving access to justice in China. The demand-supply construct is premised on the causal logic embodied in the logical framework that if the lower level sub-purposes are accomplished through the timely provision of strategically planned and targeted inputs, the program purpose or level above it will also be achieved. The logical framework extends the causal relationships to the level of inputs and outputs.

The following program outcomes are expected to emerge from planned activities to be carried out at the three **sub-purpose** levels:

1. Improved capability of stakeholders to protect rights.
2. Increased access to legal assistance for citizens.
3. Improved citizens' awareness of their legal rights

The Recipient will be expected to objectively verify the attainment of program outcomes through rigorous monitoring and reporting of activity performance and tracking changes in selected program level indicators. To determine whether planned targets have been, or are being met, targets will be assessed through rigorous data collection throughout implementation, and evaluations to be conducted at the mid-term juncture and at the end of the program. Baseline data will be collected through comprehensive surveys to be carried out by qualified and experienced Chinese cooperators at the beginning of the program. A survey questionnaire will provide the basis for establishing the various levels of barriers to accessing justice as well as the baseline data against which targets will be set. Surveys will be carried out at each of the program locations.

Illustrative Indicators to assess outcomes at the three **sub-purpose** levels are:

- **Sub-purpose 1:** 1) the percentage of trainees applying their newly acquired knowledge or skills.
- **Sub-purpose 2:** 1) percentage increase in marginalized people (poor, minorities, disabled, etc.) who received legal aid under the program; 2) percentage increase in representation rate when citizens file cases or claims; and 3) percentage increase in citizens using legal consultation.
- **Sub-purpose 3:** 1) percentage increase in citizens aware of their legal rights.

### b) Program Inputs and Outputs

There is a causal relationship between discrete activities or resources to be supported by the program and outputs that ensue from the smooth implementation and orderly completion of the planned activities. In other words, outputs are tangible, immediate, and intended products or consequences of activities that are supported by and fall within the program management's control—for example, lawyers who are able to exercise a specific skill, citizens who are exercising their legal rights by means of alternative dispute resolutions, or who file grievances in the courts.

Illustrative activities planned to achieve the outputs under **sub-purpose 1** include:

- training of law students and lawyers;
- cooperation on training for legal aid lawyers;
- training of mediators and arbitrators;
- cooperation on study visits both domestic and international for best practices;
- cooperation on research exchanges (both domestic and international);

- development of policies for creating legal aid lawyers;
- cooperation with legal aid centers to implement new policies, laws, or reforms;
- provision of technical support to bar associations;
- provision of support for improving the curricula of law schools; and
- development of bench books and manuals to reduce opacity in court rulings.

As a consequence of having provided the resources above, the following outputs for program sub-purpose 1 are expected:

- Targeted individuals will have acquired and applied improved skills.
- New and improved law school curricula will have been developed.
- New bench books and manuals will have been produced and utilized.
- Alternative dispute resolutions mechanisms will have been strengthened.

Expected **sub-purpose 2** outputs include: 1) the establishment of functional legal clinics; 2) establishment of hotlines and call centers for receiving complaints and grievances and providing guidance on possible actions; and 3) citizens receive legal consultations.

Illustrative activities aimed at achieving sub-purpose 2 outputs may include:

- Support legal clinics, including mobile clinics.
- Support for training law students and lawyers.
- Support for creating hotlines and call centers.

Expected **Sub-Purpose 3** outputs include: 1) public awareness campaigns will have been held; 2) printed materials, radio and/or TV programs, or web sites will have been developed; and 3) town hall meetings, public mock trials competition, and theatrical performances and public fora will have been held.

Illustrative activities aimed at achieving sub-purpose 3 outputs may include:

- The development of printed materials, radio, TV programming or websites.
- Support for publicly-held events including mock trial competitions, and theatrical performances.
- Development of support mechanisms such as public and town hall meetings to protect citizens' legal rights.

#### **c) Key Personnel**

USAID has identified a Chief of Party and Deputy Chief of Party as key personnel. USAID/RDMA approval is required for all key personnel the Recipient proposes.

#### **d) Other Sources of Information**

USAID/RDMA encourages activities that achieve the three program purposes outlined above but also build upon and/or coordinate with, directly or indirectly, ongoing RDMA-funded activities in China in the areas of rule of law, human health, and the environment. More information about ongoing health programs is available at [www.usaid.gov/rdma/programs/hn.html](http://www.usaid.gov/rdma/programs/hn.html). Information about the RDMA China Rule of Law University Partnership Program is available at [www.usaid.gov/rdma/programs/activity\\_99.html](http://www.usaid.gov/rdma/programs/activity_99.html). Similarly, more information about environment programs involving environmental governance, clean energy, water resource management, and air quality management is available at <http://usaaid.eco-asia.org> and [www.usaid.gov/rdma/programs/en.html](http://www.usaid.gov/rdma/programs/en.html).

#### **e) Other Essential Information**

Significant Sub-Award Activity: USAID/RDMA anticipates a need to support the strengthening of the rule of law effort through the Chinese NGO or CBO community, or through other U.S. organizations. The Recipient is encouraged therefore to involve NGOs through sub-awards, with a focus on local organizations where applicable and appropriate. With USAID/RDMA consent Applicants may issue sub-awards to NGOs or CBOs it feels most appropriately supports the overall program objective. The Recipient is wholly responsible for the financial and programmatic oversight of their sub-awardees and sub-awards shall be approved by the AOR.

Other Donors and Donor Coordination: There is donor involvement in China in the justice sector, not only with the NGO community, but also with public sector entities. Major donors in this field are the Canadian International Development Agency (CIDA), UNDP, Australia Agency for International Development (AusAID), and Ford Foundation though other donor countries are also providing assistance in these areas as well. Some of these donors have been working in China for several years and their work must be thoroughly taken into account in the execution of the Recipient's work.

Partnerships: Under this program, it is anticipated that the Recipient will work with USAID/RDMA to identify potential local and/or international corporations and private partners who can play a supporting role. Other partnerships that also contribute to the overall goal and objectives of the activity should be pursued by the selected Recipient as appropriate.

Related USAID Activities: There are other similar USG programs that relate to this program. The Recipient should be aware of the efforts already made by USAID/RDMA to strengthen Chinese educational institutions as well as the donor community and implementing partners. The Recipient must be well informed on these programs and take all steps necessary to assure proper coordination to avoid overlap and to identify those activities whose outcomes can be enhanced through collective action. Among the most significant USAID/RDMA partners are those shown in the Program Overview above.

#### **f) Collaboration as a Core Principle**

In addition to a strong relationship between the U.S. and Chinese partners, successful program implementation will rely on effective coordination of activities with other stakeholders and partners including:

- USAID/RDMA is responsible for management and oversight of this program. It will also be important for the Recipient to coordinate with the U.S. Embassy in Beijing. The Recipient may also find it advantageous to coordinate with other U.S. government entities depending on the topic/area of law pursued.
- USAID Implementing Partners – Where feasible, activities should be implemented in coordination with ongoing USAID partnerships and programs in China.
- Other Partners – Activities may also involve collaboration with multilateral institutions, donors, the private-sector, non-governmental organizations, and civil society organizations to identify complementarities and/or areas for collaboration. USAID/RDMA strongly recommends direct engagement of other partners, particularly in the development of public-private partnership arrangements as part of program implementation.

#### **g) Substantial Involvement Understanding**

USAID considers collaboration with the Recipient crucial for the successful implementation of the Program. Substantial involvement under the proposed award shall include the following:

1. Approval of Key Personnel;
2. Approval of the initial and annual work plans and monitoring and evaluation plans, including the Performance Management Plan; any significant changes to the approved work plan or the Performance Management Plan will require additional USAID approval;
3. Approval of all sub-awards and those identified in 22 CFR 225.25(c.8);

4. Collaboration or joint participation of USAID/RDMA and the Recipient including in baseline surveys conducted by the Recipient and the potential redirection because of interrelationships with other programs, USAID/RDMA programs and offices, USG agencies and Embassies;
5. Approval of Recipient's use of "window of opportunities" funds.

#### **h) TraiNet Requirements – Training in the U.S.**

USAID requires that all Chinese participants traveling to the U.S. for training and related activities enter on J-1 exchange visitor visas. The U.S. institution must use the Training, Results and Information Network (TraiNet) to document and track all USAID participants. U.S. institutions should allow at least 2-3 months for the processing of visas when planning activities in the United States for Chinese. Information regarding USAID's J-1 visa requirements may be found on-line at the Participant Training Website ([www.usaidtraining.net/index2.htm](http://www.usaidtraining.net/index2.htm)). Administrators must adhere to the regulations detailed under TraiNet, Visa Compliance System (VCS), the Student Exchange Visitor Information System (SEVIS), and USAID's Automated Directives System (ADS) 253.

### **V. PROGRAM REPORTING REQUIREMENTS**

The Recipient must provide the following deliverables during program implementation:

- A detailed annual work plan within 45 days of the award and annually thereafter;
- A Monitoring & Evaluation (M&E) Plan within 45 days of award and annually thereafter;
  - Baseline survey
  - Performance Management Plan (PMP)
- Quarterly reports for program reporting and financial reporting
  - In lieu of the fourth quarter report, an annual performance report including activities through August 30 of each year and submitted to USAID/RDMA by September 30 of each year

#### **a. Annual Work Plan**

At the beginning of each Agreement Year, the Recipient will submit an annual work plan outlining all ongoing activities, benchmark, and results to be achieved over the course of the year within each of those activities. The initial work plan for the first year of the activity will be due 45 days after award issuance. For subsequent years, the Recipient shall submit its work plan no later than 30 days prior to the start of each program year. The Recipient is responsible for designing and implementing the activity. This will involve working with appropriate local Chinese partners including universities, business institutions, and other appropriate agencies and entities to: identify key technical assistance tasks to be accomplished during the life of the activity; prioritize these tasks in annual work plans; and support actual implementation. USAID will be involved in monitoring progress toward the achievement of program objectives during the life of the program.

The work plan shall include, for USAID/RDMA AOR approval:

- a monitoring and evaluation plan;
- a description of the activities which will be undertaken, and their respective timeline; and
- an associated detailed budget and budget narrative

#### **b. Monitoring & Evaluation Plan**

The Recipient must provide a Monitoring & Evaluation (M&E) Plan for the program within 45 days after award and no later than 30 days prior to the start of each program year for USAID/RDMA AOR approval. This plan should include projected short and mid-term results, which are clearly articulated and align with the stated goal, objective, purpose and sub-purposes of the program as outlined in the technical application. The Monitoring & Evaluation Plan will propose sound methodologies for setting baselines and proposed indicators, and methods for collecting and analyzing data, with an emphasis on outputs, outcomes, and results to be

achieved. The evaluation plan should highlight the analytical approaches, policy orientation, and methodologies for achieving sustainable solutions, and improving performance and effectiveness. It should clearly demonstrate an understanding of international best practices and lessons learned to date in this sector and how to effectively apply these to the Chinese context.

The information should be outlined in an annual M&E plan submitted in conjunction with the annual work plan. The first such plan is critical in that it must define the modalities through which baseline data will be collected for the entire activity and define the plan for the execution of the surveys and data collection that will be required to complete the baseline. The M&E plan will also highlight how data collected will show the impact and effectiveness of program approaches and methodologies employed and how the data will contribute toward enhancing understanding of best practices in the ROL sector. Annual performance data should be calculated up to August 30 of each year of the program, and be submitted to USAID/RDMA by September 30 of each year to be included in USAID's Performance Reporting Cycle in November of each year.

**Performance Management Plan.** The Recipient's Monitoring and Evaluation (M&E) Plan should be inclusive of an illustrative Performance Management Plan (PMP). The Recipient should adopt indicators in its PMP that quantify the extent to which its component Program elements are contributing to the main objectives of the Program, and allow for the tracking of progress made towards achieving those objectives. Within 45 days following the award, and no later than 30 days prior to the start of each program year, the Recipient will deliver a draft PMP that establishes concrete measures for achieving, recording and assessing Program results for USAID/RDMA AOR approval. The PMP may be adjusted based upon results of the baseline survey. The PMP should include introductory sections providing: a summary of indicators and targets (table format); an overall performance management framework; a description and table showing linkages between the PMP and annual Work Plans; an overview of the Recipient's data collection and reporting process and systems; and detailed performance indicator tables. As part of the M&E program, the Recipient should disaggregate information by gender and age and should provide an analysis of the differing impacts on under-represented groups, including women, youth and indigenous people. The AOR will approve the final PMP.

**Baseline Survey.** USAID regards the establishment of an effective baseline against which progress can be measured as a central activity to be undertaken during the startup phase of the program. The Recipient should budget approximately \$250,000 to conduct a baseline survey. Measurement will focus on both output and outcome data as well as higher levels of impact as appropriate, showing the specific impacts and results of program activities. The Recipient shall conduct a baseline survey within 90 days following the award. The data collected shall serve as the baseline for any future monitoring and evaluations including the mid-term and final evaluations. The survey must be developed in collaboration with USAID/RDMA and AOR approval of the components/content of the baseline survey is required prior to its launch.

**Mid-term Performance Evaluation.** A substantive mid-term evaluation after two full years of "on the ground" implementation will be organized and performed by USAID. The purpose of this evaluation will be to thoroughly review the Program's progress and Recipient's performance in accordance with the identified objectives and annual Work Plans. The outcome of such an evaluation will likely result in refinements to the Recipient's current and future annual Work Plans to ensure attainment of joint objectives and, possibly, an amendment to the cooperative agreement by the USAID Agreement Officer to make changes deemed necessary by both parties.

**Final Performance Evaluation.** A final evaluation will be financed and undertaken by USAID but with the full participation of all principal partners involved in the Program's implementation, i.e., the Recipient as well as other major contractors or grantees. Commencing no less than 6 months before the end of the Program, this evaluation will examine all Program components and assess their respective levels of performance and attainment of objectives.

### **c. Financial Reporting**

The Recipient shall submit 3 copies (one original and two copies) to USAID/RDMA quarterly. Financial Reports shall be in keeping with 22 CFR 226. In accordance with 22 CFR 226.52, the SF 269 and SF 272 will be required on a quarterly basis.

#### **d. Program Reporting**

The Recipient shall provide USAID/RDMA with brief reports (in hard copy and electronic versions formatted in Word) highlighting the progress achieved in meeting annual work plan objectives, benchmarks, success stories, issues/problems/concerns/opportunities, suggested significant adjustments in the work plan for the balance of the year, and key financial data.

In accordance with 22 CFR 226.51, the Recipient shall submit one original of a performance report to the Agreement Officer's Representative, USAID/RDM/A, and one copy to the Regional Agreement Officer, USAID, RDMA/ROP. The performance reports are required to be submitted quarterly.

#### **e. Final Report**

The Recipient shall submit the original copy to the Agreement Officer's Representative, and one copy to the Regional Agreement Officer, and one copy to USAID Development Experience Clearinghouse in accordance with 22 CFR 226.51. The final report shall be submitted no later than 90 calendar days after the expiration of the award. The final performance report shall contain the following information:

- a) An executive summary of the accomplishments and results achieved;
- b) An overall description of the activities, accomplishments and results achieved, including results for all of the activities under the cooperative agreement;
- c) Final data, compared to baseline data, for all indicators included in the monitoring and evaluation plan;
- d) A summary of problems/obstacles encountered during the implementation, and how those obstacles were addressed and overcome if appropriate;
- e) An assessment of performance in accomplishing the program's overall objectives;
- f) Significance of these activities for overall rule of law and human rights development in the country and world-wide, if applicable;
- g) Lessons learned, best practices, success stories, comments and other findings, along with recommendations for future programming under each of the program objectives;
- h) A comparison of actual expenditures with budget estimates, including analysis and explanation of cost overruns or high unit costs, and any other pertinent information.

## **2. AUTHORIZING LEGISLATION**

The authority for this RFA is found in the Foreign Assistance Act of 1961.

## **3. AWARD ADMINISTRATION**

For U.S. organizations, the award will be administered in accordance with 22 CFR 226, OMB circulars and the USAID Standard Provisions for U.S. Non-governmental Organizations. For non-US organizations, the USAID Standard Provisions for non-U.S. Non-governmental Organizations will apply. Web sites containing these regulations are provided in Section VI of this RFA.

## **SECTION II: BASIC AWARD INFORMATION**

### **1. ESTIMATED FUNDING**

Subject to the availability of funds, USAID intends to provide approximately \$12,450,000 total for this planned 4 year activity under this RFA. The distribution of this total funding will depend upon the application(s) selected for award. USAID reserves the right to fund any or none of the applications submitted.

The Government plans to award one or more cooperative agreements resulting from this RFA to the responsible Applicant whose application conforming to this RFA offers the greatest value in terms of the selection criteria (see Section V of this RFA). The Government may (a) reject any or all applications, (b) accept other than the lowest cost application, (c) accept more than one application, (d) accept alternate applications, and (e) waive informalities and minor irregularities in applications received.

Neither financial data submitted with an application nor representations concerning facilities or financing, will form a part of the resulting cooperative agreement unless explicitly stated otherwise in the agreement.

### **2. PERFORMANCE PERIOD**

The estimated period of performance is October 1, 2012 through September 30, 2016.

### **3. AWARD TYPE**

USAID anticipates award of a Cooperative Agreement. The USAID/RDMA AOR's Substantial Involvement under the award is described in Section I.IV of this RFA.

### **4. AUTHORITY TO OBLIGATE THE GOVERNMENT**

The Agreement Officer is the only individual who may legally commit the Government to the expenditure of public funds. No costs chargeable to the proposed Cooperative Agreement may be incurred before receipt of either a fully executed Cooperative Agreement or a specific, written authorization from the Agreement Officer.

### SECTION III: ELIGIBILITY INFORMATION

1) USAID policy encourages competition in the award of grants and cooperative agreements. U.S. institutions of higher education and U.S. non-governmental organizations (NGOs) and/or a consortia are eligible to submit applications. For the purposes of this solicitation, NGOs include any incorporated entity, either non-profit or for-profit, other than a governmental organization. Applicants may form partnerships with other academic institutions, private sector entities, or NGOs in submitting applications.

2) All applicants are required to demonstrate the ability to perform and implement the activities under this RFA in China.

3) All applicants should have a DUNS number and applicants that do not have a DUNS number are required to obtain one within 30 days after award (if successful). To obtain a DUNS number, applicants may contact Dun and Bradstreet or by calling 1-866-705-5711, or request a number via the internet at <http://fedgov.dnb.com/webform>

4) USAID encourages applications from organizations that have not received funding from USAID in the past.

5) Cost share is defined by USAID as “contributions, both cash and in-kind, which are necessary and reasonable to achieve program objectives and which are verifiable from the recipient’s records.” Cost sharing or match refers to that portion of a project or program costs not borne by the Federal Government. Cost share or match is normally associated with contributions from the same prime and sub-recipients sources that also receive USAID funds. Examples of cost share for this program may include the provision of technical assistance, commodities, distribution networks and other sources of support relevant to achieve program objectives. Cost share must be verifiable from the recipient’s records, is subject to the requirements of 22 CFR 226.23, and is subject to audit. A recipient’s failure to meet its cost share requirement can result in questioned costs.

According to USAID policy, cost sharing is an important element of the USAID-recipient relationship. While there is no stated minimum required cost share amount, applicants are encouraged to give serious consideration to proposing cost share as a signal of the applicant's commitment to the activity and increase overall program impact. Applicants must be aware that all cash contributions and non-Federal third party in-kind contributions must meet all the criteria set forth in 22 CFR 226.23 and the applicable OMB cost principles.

6) To be eligible for award of a cooperative agreement, in addition to other conditions of this RFA, organizations must have a politically neutral humanitarian mandate, a commitment to non-discrimination with respect to beneficiaries and adherence to equal opportunity employment practices. Non-discrimination includes equal treatment without regard to race, religion, ethnicity, gender, and political affiliation.

7) Pursuant to 22 CFR 226.81, USAID policy is not to award profit under assistance instruments. However, all reasonable, allocable, and allowable expenses, both direct and indirect, which are related to the grant program and are in accordance with applicable cost standards (22 CFR 226, OMB Circular A-122 for non-profit organization) may be paid under the Agreement.

8) To be eligible for award, the Applicant must provide all required information in its application, including the requirements found in any attachments to this [www.Grants.gov](http://www.Grants.gov) opportunity.

## SECTION IV: APPLICATION SUBMISSION INFORMATION

### I. PREPARATION GUIDELINES

- a. Any prospective Applicant desiring an explanation or interpretation of this RFA must request it in writing to Ms. Praveena ViraSingh, Acquisition Specialist, via email to [pvirasingh@usaid.gov](mailto:pvirasingh@usaid.gov) and copied to Mr. Craig Riegler at [criegler@usaid.gov](mailto:criegler@usaid.gov) by July 9, 2012, 4:00 pm Bangkok time. The questions and answers (Q&A) will be posted as an amendment to the RFA on [www.grants.gov](http://www.grants.gov). Oral explanations or instructions given before award of a Cooperative Agreement will not be binding. Any information given to a prospective grantee concerning this RFA will also be furnished to all other prospective grantees as an amendment to this RFA, if that information is necessary in submitting applications or if the lack of it would be prejudicial to any other prospective grantees.
- b. Applications must be submitted in two separate parts: (a) technical and (b) cost or business application. An original and four (4) hard copies of the technical application and an original and one (1) hard copy of the cost application must be submitted in addition to the electronic submission, as described in the cover letter of this RFA.
- c. Applications must be received no later than the date and time indicated on the cover page of this RFA, to the location stated in the cover letter accompanying this RFA. Applications which are received late or are incomplete run the risk of not being considered in the review process. USAID may review and consider late or incomplete applications if: (i) USAID's treatment of the material is consistent with the terms of the RFA, (ii) all late applications are treated the same, (iii) they are evaluated before any agreements are awarded under the RFA and (iv) the Agreement Officer consents in writing to the review of late or incomplete applications.
- d. Technical applications must be specific, complete, and presented concisely. A lengthy application does not in and of itself constitute a well thought out proposal. Unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective application in response to this RFA are not desired and may be construed as an indication of the Applicant's lack of cost consciousness. Elaborate art work, expensive paper and bindings, and expensive visual and other presentation aids are neither necessary nor wanted. Applications must demonstrate the Applicant's capabilities and expertise with respect to achieving the goals of this program. Applications must take into account the technical evaluation criteria found in Section V of this RFA.
- e. Submission of Applications Electronically (Important):
1. Preferred software for electronic submissions: Microsoft Word (for narrative text) and Excel (for tables). PDF files are acceptable. Please be advised that the selected Applicant will be required to submit their budget breakdown in Excel. The excel sheets should not be password protected. Applicants may post their applications electronically on [www.grants.gov](http://www.grants.gov) but must also submit via email to Praveena ViraSingh at [pvirasingh@usaid.gov](mailto:pvirasingh@usaid.gov).
  2. Before sending your application via email, please immediately check your own email to confirm that the attachments you intended to send are attached. However, if you discover an error in your transmission, please send the material again and note in the subject line of the email or make note in the filename if submitted via [grants.gov](http://www.grants.gov) that it is a "corrected" submission. Each Applicant is responsible for their submissions.
  3. Please do not send the same email to us more than one time unless there has been a change, and if so, please note that it is a corrected email. Your organization must appoint one person to send in the email submissions who will serve as the contact person for future communications regarding this RFA.
  4. If you send your application by multiple emails, please indicate in the subject line of the email whether the email relates to the technical or cost proposal, and the desired sequence of multiple emails (if more than one is sent) and of attachments (e.g. "no. 1 of 4", etc.). For example, if your cost proposal is being sent in two emails, the first email should have a subject line which says: "[organization name], Cost Proposal, Part 1 of 2".
  5. USAID's preference is that the technical proposal and the cost proposal be submitted as single respective email attachments, e.g., that you consolidate the various parts of a technical proposal into a single document before sending it. If this is not possible, please provide instructions on how to collate the attachments. USAID will not be

responsible for errors in compiling submitted electronic proposals if no instructions are provided or if instructions are unclear.

f. The hard copies of applications and modifications thereof must be submitted in sealed envelopes or packages addressed to the office specified in the cover letter of this RFA, with the RFA number, the name and address of the Applicant, and whether the contents contain technical and/or cost proposals noted on the outside of the envelopes/packages.

g. Telegraphic applications will not be considered; however, applications may be modified by written or telegraphic notice, if that notice is received by the time specified for receipt of applications.

h. Preparation of Applications:

1. Applicants must review, understand, and comply with all aspects of this RFA. Failure to do so may be considered as being non-responsive and may be evaluated accordingly.
2. Each Applicant must furnish the information required by this RFA. On the hard copies of applications, the Applicant must sign the application and certifications and print or type its name on the Cover Page of the technical and cost applications. Erasures or other changes must be initialed by the person signing the application. Applications signed by an agent must be accompanied by evidence of that agent's authority, unless that evidence has been previously furnished to the issuing office
3. Applicants which include data that they do not want disclosed to the public for any purpose or used by the U.S. Government except for evaluation purposes must:

(a) Mark the title page with the following legend:

"This application includes data that must not be disclosed outside the U.S. Government and must not be duplicated, used, or disclosed - in whole or in part - for any purpose other than to evaluate this application. If, however, a grant is awarded to this Applicant as a result of - or in connection with - the submission of this data, the U.S. Government must have the right to duplicate, use, or disclose the data to the extent provided in the resulting grant. This restriction does not limit the U.S. Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in pages \_\_\_\_."; and,

(b) Mark each sheet of data it wishes to restrict with the following legend:

"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this application."

## **II. TECHNICAL APPLICATION FORMAT**

To facilitate the competitive review of the applications, USAID will consider only applications conforming to the format prescribed below:

Technical Applications are limited to thirty (30) pages only; information contained on any page over the 30 page limit will not be evaluated. Applications must be written in English, text should be left justified; 12 point font on standard 8 ½" X 11" paper, single spaced, with each page numbered consecutively, and no less than 1" margins on all sides. Supplementary materials such as the performance monitoring and evaluation plan, past performance reference information, key personnel resumes and relevant letters of support are excluded from this page limitation. However, unnecessarily elaborate brochures or other presentations beyond those sufficient to present a complete and effective application in response to this RFA are not desired and may be construed as an indication of the prospective recipient's lack of cost consciousness. The suggested outline for the technical application is:

- I. Title Page
- II. Table of Contents, listing all page numbers and attachments;

Narrative: (not to exceed 30 typed, double-spaced pages, Times New Roman 12-point font) describing:

- III. Executive Summary;
- IV. Goal and Objectives;
- V. Technical Approach;
- VI. Proposed Outcomes/Results;
- VII. Implementation Work Plan and Schedule;
- VIII. Management Plan and Key Personnel (include partnership and sub-award arrangements where applicable).

Annexes (Annexes beyond those stated will not be read or taken into consideration):

- a. Draft Annual Work Plan;
- b. Relevant Past Performance Information (Recipient and Key Partner Organizations, if applicable);
- c. Resumes for Key Personnel and letter of commitment;
- d. Organization chart;
- e. Performance Management Plan.

Technical Approach: The Technical Approach will become the new China Rule of Law 2012 Program Description of any resulting Cooperative Agreement.

A. Applicants must demonstrate a firm theoretical understanding of China’s legal framework and legal challenges, donor programming opportunities, and on-the-ground awareness and grasp of the operating environment throughout China in order to forge strong partnerships with legal professionals, universities, local groups and community based organizations, professional legal associations, and practicing lawyers.

B. The Technical Approach must include a clear description of the conceptual approach and the general strategy (i.e. methodology and techniques) being proposed. It should outline specific, focused activities; identify how and where (e.g. local, provincial, or national) those activities will be implemented; explain how the approach is expected to achieve the program goal and purposes; describe a plan that will enable the activities to continue after the program is completed; and explain how the Applicant will identify “windows of opportunity” and take effective advantage of them. Applicants are highly encouraged to propose innovative activities designed to reach the desired outcomes/results. Creativity and innovation will be a key factor to the Applicant’s success.

C. The Technical Approach should present a clear description of how Applicants will follow an integrated supply and demand approach in order to decrease select barriers to justice and improve rule of law in selected localities in China. The technical approach should be tailored to meet the needs and respond to opportunities within selected locations, and cooperating entities, and, as well, implemented where USAID/RDMA has experience and demonstrated comparative advantage to respond effectively to the binding constraints to improving access to justice in China.

D. The Applicant should explain its approach to building the relationships with private, public and other donor partners needed to successfully carry out the defined tasks, deploying qualified and experienced human and technical resources required for execution, identifying and developing the tools and methodology for gathering baseline data and periodically assessing the state of progress in achieving benchmarks and indicators, and defining and gaining buy-in from partners, stakeholders and USAID/RDMA of program enhancements and changes required to achieve expected program outcomes.

E. The Applicant should articulate how it plans to provide oversight for training, research, or monitoring activities, and the way in which the Applicant aims to develop sustainable capacity for decreasing barriers to access to justice.

F. Applicants should demonstrate a collaborative approach where appropriate with programs both within USAID/RDMA's portfolio and those in other sectors as appropriate, as well as with other relevant regional and donor initiatives. The applicants should already have Chinese partners identified (e.g. civil society organizations, educational institutions, business entrepreneurs, etc.) and should ideally be building upon an already successfully established relationships.

G. The proposed outcomes/results should, as far as possible, be measurable, without undergoing an intensive and expensive evaluation. If it is not possible to measure desired results within the program period because of funding constraints, such results may be documented through qualitative approaches.

H. The Applicant must provide a draft annual workplan for the first year, including a detailed Implementation Schedule for achieving expected program results. The Applicant is encouraged to propose innovative implementation mechanisms to reach the desired results and an aggressive but realistic schedule of performance milestones as steps toward achieving proposed results. The implementation plan should clearly outline links between the proposed results, conceptual approach, and performance milestones, and should include a realistic timeline for achieving the quarterly, annual, and end-of-program results.

Management Plan, Team Composition and Key Personnel: The Key Personnel and Management Plan must specify the composition and organizational context of the entire implementation team (including home office support). The Applicant should include proposed position descriptions for the entire Program implementation team (with special emphasis on Key Personnel) in the context of a submitted organization chart. The Applicant should describe each staff member's role, technical expertise and estimated amount of time each will devote to the program. Indicate the names and provide resumes of all essential long term professional personnel to be assigned to this program activity. Proposed personnel not yet identified may be shown as "TBD" (to be determined).

#### Key Personnel

Applicants must propose Key Personnel positions (the Chief-of-Party and Deputy Chief of Party), and provide resumes and a minimum of three references for the candidates proposed for such positions in an annex. Resumes shall be no more than three (3) pages in length for each proposed individual and shall be presented in chronological order starting with most recent experience. Key Personnel will be assessed on the appropriateness of their academic background, expertise and years of experience working on project or program activities similar to their designated duties and responsibilities for this program. Applicants must clearly specify the qualifications and abilities of proposed Key Personnel relevant to successful implementation of the proposed technical approach. Each resume shall be accompanied by a SIGNED letter of commitment from each candidate indicating his/her: (a) availability to serve in the stated position, in terms of days after the CA award; (b) intention to serve for a stated term of service; and (c) agreement to the compensation levels which correspond to the levels set forth in the cost application. References may be checked for all proposed long-term personnel, and Applicants shall provide current phone, fax, and email addresses for each reference contact.

The Applicant shall propose key technical personnel and other personnel as part of the technical proposal as deemed appropriate to implement the major tasks described in the Program Description in Section I. For those personnel based in the field, USAID/RDMA leaves it to the Applicant to determine the appropriateness of employing overseas and/or local hires. USAID/RDMA requires that the Key Personnel be based in China excluding Hong Kong and Macau in order to facilitate management and coordination with USAID/RDMA, and that sufficient personnel be based in China excluding Hong Kong and Macau to address the complexity of implementing the Program.

**Chief of Party and Deputy Chief of Party:** The Applicant is required to appoint a full-time Chief of Party (COP) and a full-time Deputy Chief of Party. The COP and Deputy COP will be responsible for technical leadership and administrative oversight of the Program and serve as the principal institutional liaison to USAID/RDMA and the General Development Office. The COP and Deputy COP will have the following minimum set of qualifications:

- A minimum of ten years of professional experience for the COP and a minimum of five years of professional experience for Deputy COP in fields required for the successful implementation of this program, such as rule of law, governance, public participation and capacity building, institutional strengthening, partnership building as well as an understanding of policy, and policy development in these sectors. Technical working experience in China is strongly desired.

- A graduate degree (Master's Degree or higher preferred) in a similarly related field of study such as law, international or social development, public administration, or governance.
- Proven exceptional leadership in the design, management, implementation, monitoring, and evaluation of similar-size and complex international donor support programs with skills in strategic planning, management, supervision, and budgeting.
- Proven ability to develop and communicate a common vision among diverse public partners and the ability to lead multi-disciplinary teams.
- Strong communication skills, both interpersonal and written, to fulfill the diverse technical and managerial requirements of the Program and to effectively coordinate with a wide range of regional stakeholders.
  - Excellent written and oral communication skills in English
  - Chinese Mandarin is strongly desired.
- Knowledge of USAID policies and procedures as related to program management preferred.
- Knowledge of the political, social, cultural, environmental, and development context of China strongly preferred.

### Management Plan

The Management Plan shall describe the technical resources and expertise that the Applicant and its proposed partners will utilize in implementing the Program and how these resources will be organized to deliver the desired outcomes and meet USAID/RDMA's expectations for reporting, coordination, and communications. The Management Plan must specify the composition and organizational structure of the Program team (including home office support and field office(s), as appropriate) and briefly describe each proposed staff member's role, technical expertise, and estimated amount of time s/he will be devoted to the Program. For short-term technical assistance, the Applicant should first look to utilizing qualified talent available within China.

The Applicant must also briefly describe the experience, role, and location of any partner organizations or consortium members (including US-based, private sector, or other partner organizations), the comparative advantage of the team in implementing the proposed activities, and the approach for managing any proposed sub-recipients/sub-contractors. The Applicant should consider including within the application the role of specific local organizations (local NGO, university or other appropriate entity) that will implement activities in partnership with the Applicant.

### Monitoring and Evaluation Plan

Given the Program's complexity and the desire for innovative and responsive initiatives by the Applicant, the Mission anticipates a total of two external evaluations and a baseline survey over the life of the Program, in addition to a responsive Performance Management Plan. The Applicant should describe the method it will use to monitor, collect data, and identify best practices and share information from the Program, including the collection and monitoring of baseline data to allow for evaluation. The system should facilitate flexibility in Program implementation to allow corrections and ensure identification of successful approaches having significant impact that could be scaled-up. All evaluations will conform to and address all relevant components of the Agency's January 2011 Evaluation Policy (Available: <http://www.usaid.gov/evaluation/USAIDEvaluationPolicy.pdf>).

### Institutional Capability

Applicants must provide evidence of their technical resources and expertise in addressing relevant problems and issues. Care shall be taken to establish the relevance of past experience to this program and the basis for reliance upon that experience as an indicator of success on this program. Information in this section should include (but is not limited to) the following:

- Brief description of organizational history/expertise;
- Describe strategy to leverage existing partners with a successful track record of implementing Rule of Law programs in China;
- Evidence of a successful record of implementing similar projects overseas, and in the region, if applicable;
- Describe experience in collaborating with a range of implementing partners, NGOs, the public sector, and community representatives;
- Evidence of a successful record of implementing projects in the region, if applicable;
- Relevant experience with proposed approaches;

- Institutional strength as represented by breadth and depth of experienced personnel in project relevant disciplines/areas;
- Sub-recipient capabilities and expertise;
- Proposed field management structure and financial controls; and
- Home-office backstopping and its purposes.

Past Performance: Applications must include the three (3) most relevant U.S. Governmental and/or privately funded contracts, grants, cooperative agreements, etc. received by your organization in the last three years involving programs similar to the program proposed in your application. Past performance references of your organization should include the following for each award listed:

- Name of awarding organization or agency;
- Address of awarding organization or agency;
- Place of performance of services or program;
- Award number;
- Amount of award;
- Term of award (start and end dates of services/program);
- Name, current telephone number, current fax number and e-mail address (if one is available) of a responsible technical representative of that organization or agency; and
- Brief description of the program.

Applicants must also include the two (2) most relevant U.S. Governmental and/or privately funded contracts, grants, cooperative agreements, etc. received by each major subgrantee proposed. A major subgrantee is one whose proposed cost exceeds 20% of the applicant's total proposed cost. Past performance references of your proposed subgrantees should include the same information as listed above.

USAID may contact references and use the past performance data, along with other information to determine the applicant's responsibility. The Government reserves the right to obtain information for use in the evaluation of past performance from any and all sources inside or outside the Government.

Subgrantees: Organizations may not possess all the skills required to achieve all the results identified in this RFA. Organizations are urged to enter into partnerships with other non-profit and/or for-profit organizations as sub-grantees to supplement skills. However, one organization shall be designated to serve as the prime organization and will be responsible for the achievement of results and the implementation of the program. If the Applicant plans to collaborate with other organizations or local organizations for the implementation of the core component of this award, the services to be provided by each organization shall be described. Applicants that intend to utilize subgrantees shall indicate the extent intended, the method of identifying them and the tasks/functions they will be performing. Applicants shall state whether or not they have existing relationships with these other organizations and the nature of the relationship (e.g., subgrantee, subcontractor, partnership etc). The Applicant must specify the technical resources and expertise of proposed organizations. Technical plan information for proposed subgrantees should follow the same format as that submitted by the Applicant.

### **III. COST APPLICATION FORMAT**

The Cost Application must be submitted separately from the technical application. The Applicant is required to set aside 10% of the program budget for "windows of opportunity" and should budget approximately \$250,000 for conducting a baseline survey. Certain documents are required to be submitted by an Applicant in order for the Agreement Officer to make a determination of responsibility. The following sections describe the documentation that Applicants for Assistance awards must submit to USAID prior to award. While there is no page limit for this portion, Applicants are encouraged to be as concise as possible, but still provide the necessary detail to address the following:

- a. The Applicant must submit a budget and budget narrative that allows the Agreement Officer to reach the determination that all proposed costs appear reasonable and the proposed budget is realistic to carry out the program the Applicant proposed in its technical application. The proposed budget should clearly identify the costs

involved to perform the activities identified in the technical approach and the budget narrative should provide evidence that the proposed budget is both reasonable and will achieve the program objectives. A summary of the budget must be submitted using Standard Form 424 and 424A which can be downloaded from the grants.gov website at [www.grants.gov](http://www.grants.gov)

1. The breakdown of all costs associated with the program according to costs of, if applicable, headquarters, regional and/or country offices.
  2. The breakdown of all costs according to each partner organization (or sub-Recipient) involved in the program.
  3. The costs associated with external, expatriate technical assistance and those associated with local in-country technical assistance.
  4. The breakdown of the financial and in-kind contributions of all organizations involved in implementing the expected Cooperative Agreement.
  5. Potential contributions of non-USAID or private commercial donors to this Cooperative Agreement.
  6. The procurement plan for commodities.
  7. Indicate the name, annual salary, and expected level of effort of each person charged to the program. Provide key personnel resumes showing work experience and annual salary history for at least the three most recent years for key personnel.
  8. If not included in an indirect cost rate agreement negotiated with the U.S. Government, specify the applicable fringe benefit rates for each category of employees, and explain the benefits included in the rate.
  9. The same individual information for consultants must be provided as for regular personnel.
  10. Allowances must be broken down by specific type and by person, and must be in accordance with the Applicant's policies.
  11. Travel, per diem and other transportation expenses must be detailed in your proposal to include number of international trips, expected itineraries, number of per diem days and per diem rates.
  12. Specify all equipment to be purchased and the expected geographic source.
  13. Financial Plans for all proposed sub-grants and subcontracts must have the same format and level of detail as those of the Applicant. Following the Applicant's detailed budget breakdown, detailed budget breakdowns for each sub-Recipients/(sub) contractor must be presented. Sub-Recipient/(sub) contractor budgets must not be intermingled. The first page must be a summary budget, following the same budget format and line items as are set forth above for the full term of the sub-agreement/subcontract. Detailed budget notes which explain how the subs' proposed budget was reviewed and how a determination was made that it is fair and reasonable must be provided.
  14. Other direct costs such as supplies, communication costs, photocopying, visas, passports and other general costs must be separate cost line items.
- b. A copy of the latest Negotiated Indirect Cost Rate Agreement if your organization has such an agreement with the US Government;
- c. Required certifications and representations (see Attachment I of this RFA); NOTE: Past Performance References requested in the certifications and representations should be attached to the technical application;
- d. USAID endorses cost-sharing as an important principle in USAID-Recipient relationships. Applicants are encouraged to contribute cost share to increase overall program impact. Applicants must be aware that all cash contributions and non- Federal third party in-kind contributions must meet all the criteria set forth in 22 CFR 226.23 and the applicable OMB cost principles. Applicant cost share may be in any combination of in-kind support, staff salaries, waiver of overhead, etc. Awards will be made to responsible applicants whose applications offer the greatest value, cost and other factors (i.e. technical evaluation criteria) considered.
- e. Applicants which do not currently have a Negotiated Indirect Cost Rate Agreement (NICRA) from their cognizant agency must also submit the following information:
1. Copies of the Applicant's financial reports for the previous three-year period, which have been audited by a certified public accountant or other auditor satisfactory to USAID;
  2. Projected budget, cash flow and organizational chart; and,
  3. A copy of the organization's accounting manual.

- f. Applicants should submit additional evidence of responsibility they deem necessary for the Agreement Officer to make a determination of responsibility. The information submitted must substantiate that the Applicant:
  - 1. Has adequate financial resources or the ability to obtain such resources as required during the performance of the award.
  - 2. Has the ability to comply with the award conditions, taking into account all existing and currently prospective commitments of the Applicant, nongovernmental and governmental.
  - 3. Has a satisfactory record of performance. Past relevant unsatisfactory performance is ordinarily sufficient to justify a finding of non-responsibility, unless there is clear evidence of subsequent satisfactory performance.
  - 4. Has a satisfactory record of integrity and business ethics; and,
  - 5. Is otherwise qualified and eligible to receive a cooperative agreement under applicable laws and regulations (e.g., EEO).
  
- g. Applicants that have never received a cooperative agreement, grant or contract from the U.S. Government will be required to submit a copy of their accounting manual if their application is chosen for a potential award. If a copy has already been submitted to the U.S. Government, the Applicant must advise which Federal Office has a copy.
  
- h. Certificate of Compliance: Please submit a copy of your Certificate of Compliance if your organization's systems have been certified by the USAID/Washington's Office of Procurement.

**NOTE:** This RFA does not provide for reimbursement of any pre-award costs.

## SECTION V: APPLICATION REVIEW INFORMATION

A technical evaluation committee will review the applications based upon the criteria set forth below. Approximate weighted points indicate the relative importance of each technical criterion against which technical applications will be evaluated. Thereafter, the cost application of all applicants submitting a technically acceptable application will be reviewed and costs will be evaluated for general reasonableness, allowability, and allocability. Award(s) will be made to responsible applicant(s) whose application(s) offer the greatest value, cost and other factors considered.

USAID may award a cooperative agreement on the basis of initial applications received, without discussions or negotiations. Therefore, each initial application must contain the Applicant's best terms from a cost and technical standpoint. As part of its evaluation process, however, USAID may elect to discuss technical, cost or other pre-award issues with one or more Applicants. Alternatively, USAID may proceed with award selection based on its evaluation of initial applications received and/or commence negotiations solely with one Applicant.

To facilitate the review of applications, Applicants are requested to organize the narrative sections of technical proposals according to the evaluation criteria set forth below. Award(s) will be made based on the ranking of proposals according to the technical selection criteria identified below:

The criteria presented below have been tailored to the requirements of this RFA. Weighted points indicate the relative importance of each technical criterion and sub-criteria, of which 100 points are possible. Applicants should note that these criteria serve to (a) identify the significant issues that applicants should address in their applications, and (b) to set standards against which all applications will be evaluated.

### **I. Technical Understanding and Approach [45 points]**

Specific criteria that will be used to evaluate the management plan include:

- a. The technical approach and draft work plan will be evaluated on the overall merit of the activities and methodology proposed to achieve the program goals and purposes addressing the requirements in the Program Description. Overall merits include the responsiveness, technical knowledge and clarity, strategic vision, demonstrated flexibility for “widows of opportunity” use, and overall practicality and feasibility of approaches and strategies to achieve accomplish the outcomes, purposes and goal. **(15 points)**
- b. Demonstrated understanding of the overall rule of law environment in China and the key rule of law issues confronting Chinese society and the government of China as it pertains to the technical areas to be addressed. **(10 points)**
- c. Demonstrated capacity to coordinate closely and collaborate with the U.S. government, relevant members of the Chinese government and legal system, Chinese civil society, NGO partners, Chinese universities, and the donor and business community in the achievement of results and objectives associated with the proposed program. **(10 points)**
- d. Soundness of approach in selecting locations for program implementation including justification, feasibility, and cost effectiveness, i.e., geographic clustering of selected locations. **(10 points)**

### **II. Management Plan, Team Composition, and Key Personnel [35 points]**

- a. The Management Plan demonstrates the technical resources and expertise required to realistically and efficiently accomplish the program’s technical, coordination, and communications needs. Special focus will be on the Applicant’s ability to effectively implement and monitor the program based on its proposed overall staffing and management plan, the rationale for key roles and responsibilities of technical

personnel in support of each activity, field office location(s), and the overall management structure, including region-specific responsibilities, as applicable. **(10 points)**

- b. The Applicant's proposed organizational chart, including professional staff (both long- and short-term) and home office support, should demonstrate that it is the appropriate mix of skills and duration of assignment to accomplish the different aspects of the program in an effective and efficient manner. Roles and relationships among the Applicant and any sub-grantees and the Chief of Party and his/her staff must indicate clear lines of communication and authorities. **(10 points)**
- c. For proposed key personnel, USAID will evaluate the applicability of key personnel's technical qualifications, professional experience, academic background, language capability, and experience managing activities and personnel in a developing country context similar to those outlined in the Applicants' proposal. **(15 Points)**

### **III. Institutional Capacity [10 points]**

Demonstrated capacity of the Applicant and any proposed sub-partners to undertake complex programs and activities in similar fields and the demonstrated ability to work collaboratively with a range of implementing partners including host country governments, NGOs, the private sector, and community representatives to respond to emerging opportunities and achieve sustainable results.

### **IV. Past Performance [10 points]**

Past performance will be evaluated based on evidence of past achievement of successful results in the technical subject areas described in this RFA, as well as experience in program monitoring and evaluation, timeliness, budgeting, and financial reporting.

Each applicant is required to provide past performance references for itself and each proposed sub-applicant. The past performance evaluation will focus on the applicant's record of conforming to contract /agreement requirements and to standards of good workmanship, record of forecasting and controlling costs, adherence to contract /agreement schedules, including administrative aspects of performance, history of reasonable and cooperative behavior and commitment to customer satisfaction, the business-like concern for the interest of the customer, and the competency of personnel who worked on the contract/agreement.

The past performance evaluation will focus on the Applicant's record of conforming to contract /agreement requirements and to standards of good workmanship, record of forecasting and controlling costs, adherence to contract /agreement schedules, including administrative aspects of performance, history of reasonable and cooperative behavior and commitment to customer satisfaction, the business-like concern for the interest of the customer, and the competency of personnel who worked on the contract/agreement.

[Note: The Technical Evaluation Committee may give more weight to past performance information that is considered more relevant and/or more current. In cases where an applicant lacks relevant past performance history or in which information on past performance is not available, the applicant will not be evaluated favorably or unfavorably on past performance. The neutral rating provided to these applicants is at the Agreement Officer's discretion based on the past performance ratings for all other applicants. Prior to assigning a "neutral" past performance rating, the Agreement Officer may take into account a broad range of information related to an applicant's past performance.]

USAID reserves the right to obtain past performance information from other sources including those not named in this application.

**TOTAL: 100 points**

**Cost Evaluation:** Evaluation points will not be awarded for cost. Cost will primarily be evaluated for realism, allowability and reasonableness. This will consist of a review of the cost portion of the Applicant's proposal to determine

if the overall costs proposed are realistic for the work to be performed, if the cost reflects the Applicant's understanding of the requirements, and if the costs are consistent with the technical proposal. As technical scores converge, applications that maximize direct activity costs, including cost sharing, and that minimize administrative costs will be more favorably considered. In addition, the Applicant must demonstrate adequate financial management capability, to be measured by a responsibility determination.

Evaluation of the cost proposal will consider but not be limited to the following:

- Cost reasonableness;
- Cost effectiveness and realism;
  - Are the budget estimates realistic for the proposed activities?
  - Do the budget allocations result in optimal use of program funds and ensure that there are sufficient resources to implement the proposed program activities?
- Consistency with the technical proposal;
- Completeness and adequacy of proposed budget information;
- Overall cost control/cost savings evidenced in the proposal (avoidance of excessive salaries, excessive home office visits, and other costs in excess of reasonable requirements); and
- Cost sharing, although not required, will be looked upon favorably. Notes on cost sharing:
  - Cost share is defined by USAID as “contributions, both cash and in-kind, which are necessary and reasonable to achieve program objectives and which are verifiable from the recipient's records.” Please take note of the provision on cost sharing in 22 CFR 226.23.
  - USAID policy is that cost sharing is an important element of the USAID-recipient relationship. USAID requires Applicants to demonstrate their commitment to program success by addressing the issue of cost-sharing, although USAID does not require a specific cost share amount. The Applicant's cost share is in addition to any leveraged resources through proposed public-private partnership(s).

## **SECTION VI: AWARD and ADMINISTRATION INFORMATION**

### **A. AGREEMENT AWARD**

1. The Government may award one or more cooperative agreements resulting from this RFA to the responsible applicant(s) whose application(s) conforming to this RFA offers the greatest value in terms of the selection criteria (see Section V of this RFA). The Government may (a) reject any or all applications, (b) accept other than the lowest cost application, (c) accept more than one application, (d) accept alternate applications, and (e) waive informalities and minor irregularities in applications received.
2. Neither financial data submitted with an application nor representations concerning facilities or financing, will form a part of the resulting cooperative agreement unless explicitly stated otherwise in the agreement.
3. To be eligible for award of a cooperative agreement, in addition to other conditions of this RFA, organizations must have a politically neutral humanitarian mandate, a commitment to non-discrimination with respect to beneficiaries and adherence to equal opportunity employment practices. Non-discrimination includes equal treatment without regard to race, religion, ethnicity, gender, and political affiliation.
4. Following selection for award and successful negotiations, a successful applicant will receive an electronic copy of the notice of the award signed by the Agreement Officer which serves as the authorizing document. The Agreement Officer will only do so after making a positive responsibility determination that the applicant possesses, or has the ability to obtain, the necessary management competence in planning and carrying out assistance programs and that it will practice mutually agreed upon methods of accountability for funds and other assets provided by USAID.
5. The award will be issued to the contact as specified in the application as the Authorized Individual in accordance with the requirements in the Representations and Certifications.
6. Pre-award Surveys: For organizations that are new to working with USAID or for organizations with outstanding audit findings, USAID may perform a pre-award survey to assess the applicant's management and financial capabilities. If notified by USAID that a pre-award survey is necessary, applicants must prepare, in advance, the required information and documents. Please note that a pre-award survey does not commit USAID to make any award.
7. The reporting requirements indicated in Section I will be incorporated as part of the award made under this RFA.

### **B. AUTHORITY TO OBLIGATE THE GOVERNMENT**

The Agreement Officer is the only individual who may legally commit the Government to the expenditure of public funds. No costs chargeable to the proposed cooperative agreement may be incurred before receipt of either a fully executed cooperative agreement or a specific, written authorization from the Agreement Officer.

### **C. RELEVANT POLICY AND REGULATORY REFERENCES**

Resulting awards to U.S. non-governmental organizations will be administered in accordance with Chapter 303 of USAID's Automated Directives System (ADS-303), 22 CFR 230 for non-profit organizations (formerly OMB Circular A-122), and OMB Circular A-133 for both universities and non-profit organizations, and Standard Provisions for U.S. Nongovernmental Organizations. These policies and federal regulations are available at the following web sites:

ADS-303: <http://www.usaid.gov/policy/ads/300/303.pdf>

22 CFR 226: [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/22cfr226\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/22cfr226_03.html)

[http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/2005/083105\\_a21.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/2005/083105_a21.pdf)

22 CFR 230 (formerly OMB Circular A-122)

[http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/2005/083105\\_a122.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/omb/fedreg/2005/083105_a122.pdf)

OMB Circular A-133 - Audits of States, Local Governments and Non-Profit Organizations

<http://www.whitehouse.gov/omb/circulars/index.html>

48 CFR 31.2: <http://www.arnet.gov/far/>

Mandatory Standard Provisions for U.S. Nongovernmental Recipients can be accessed through USAID's website

<http://www.usaid.gov/policy/ads/300/refindx3.htm>

Mandatory Standard Provisions for Non-U.S., Nongovernmental Recipients can be accessed through USAID's website <http://www.usaid.gov/policy/ads/300/refindx3.htm>

Resulting awards to non-U.S. non-governmental organizations will be administered in accordance with Chapter 303 of USAID's Automated Directives System (ADS-303), 22 CFR 220 for universities (formerly OMB Circular A-21), 2 CFR 230 for non-profit organizations (formerly OMB Circular A-122), or 48 CFR 31.2 (for for-profit organizations), and Standard Provisions for non-U.S. Nongovernmental Organizations. Standard Provisions for Non-U.S. Nongovernmental organizations are available at: <http://www.usaid.gov/policy/ads/300/303mab.pdf>

Resulting awards to PIOs will be administered in accordance with Chapter 308 of USAID's Automated Directives System (ADS-308), 22 CFR 220 for universities (formerly OMB Circular A-21), 2 CFR 230 for non-profit organizations (formerly OMB Circular A-122), or 48 CFR 31.2 (for for-profit organizations), and Standard Provisions for Public International Organizations. Standard Provisions for Non-U.S. Nongovernmental organizations are available at: <http://www.usaid.gov/policy/ads/300/303mab.pdf>

#### **D. GEOGRAPHIC CODE**

Goods and services provided by the Recipients under this USAID-financed award will be subject to the 937 Geographic Code which is defined as the United States, the cooperating country, and developing countries other than advanced developing countries, and excluding prohibited sources. Please refer to ADS 310 and 22CFR228 for more information on this subject.

#### **E. U.S. EXECUTIVE ORDERS AND LAW REGARDING TERRORISM**

The Recipient 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. It is the legal responsibility of the Recipient to ensure compliance with these Executive Orders and laws. This provision must be included in all sub-awards issued under this agreement.

#### **F. FOREIGN GOVERNMENT DELEGATION TO INTERNATIONAL CONFERENCES**

Funds in the agreement may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization, except as provided in ADS Mandatory Reference "Guidance on Funding Foreign Government Delegations to International Conferences" at <http://www.info.usaid.gov/pubs/ads/300/refindx3.htm> or as approved by the Agreement Officer.

#### **G. SALARY SUPPLEMENTS**

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

#### **H. UNSUCCESSFUL APPLICATIONS**

Unsuccessful applications will not be returned to the Applicant.

#### **I. NON-FEDERAL AUDITS**

In accordance with 22 C.F.R. Part 226.26 Recipients and sub-Recipients are subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507) and revised OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations.” Recipients and sub-Recipients must use an independent, non-Federal auditor or audit organization which meets the general standards specified in generally accepted government auditing standards (GAGAS) to fulfill these requirements.

#### **J. BRANDING STRATEGY AND MARKING PLAN**

The apparently successful applicant(s) will be required to submit a Branding Strategy and Marking Plan to be evaluated and approved by the Agreement Officer. A Branding Implementation Strategy and Marking Plan must be in accordance with USAID Branding and Marking Plan as required per ADS 320 at the following link:

<http://www.usaid.gov/policy/ads/300/> . The Recipient must comply with the requirements of the USAID “Graphic Standards Manual” available at [www.usaid.gov/branding](http://www.usaid.gov/branding) , or any successor branding policy.

#### **K. USAID DISABILITY POLICY – Assistance (December 2004)**

The objectives of the USAID Disability Policy are (1) to enhance the attainment of United States foreign assistance program goals by promoting the participation and equalization of opportunities of individuals with disabilities in USAID policy, country and sector strategies, activity designs and implementation; (2) to increase awareness of issues of people with disabilities both within USAID programs and in host countries; (3) to engage other USG agencies, host country counterparts, governments, implementing organizations, and other donors in fostering a climate of nondiscrimination against people with disabilities; and (4) to support international advocacy for people with disabilities. The full text of the policy paper can be found at the following website: <http://www.usaid.gov/about/disability/DISABPOL.FIN.html>.

USAID therefore requires that the Recipient not discriminate against people with disabilities in the implementation of USAID funded programs and that it make every effort to comply with the objectives of the USAID Disability Policy in performing the program under any Grant or Cooperative Agreement awarded pursuant to this RFA. To that end and to the extent it can accomplish this goal within the scope of the program objectives, the Recipient should demonstrate a comprehensive and consistent approach for including men, women and children with disabilities

#### **L. EQUAL PROTECTION OF THE LAWS FOR FAITH-BASED AND COMMUNITY ORGANIZATIONS (December 2009)**

a. All the requirements of 22 CFR Part 205, Participation By Religious Organizations In USAID Programs, are applicable to the recipient and to subrecipients which meet the definition of "Recipient" in 22 CFR Part 226. The requirements of 22 CFR Part 205 apply to both religious and secular organizations.

b. If the recipient makes subawards under this agreement, faith-based organizations must be eligible to participate on the same basis as other organizations, and must not be discriminated for or against on the basis of their religious character or affiliation.

c. The recipient must not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services directly funded with financial assistance from USAID. If the recipient engages in inherently religious activities, such as worship, religious instruction, and proselytization, it must offer those services at a different time or location from any programs or services directly funded by this award, and participation by

beneficiaries in any such inherently religious activities must be voluntary. These restrictions do not apply to programs where USAID funds are provided to chaplains to work with inmates in prisons, detention facilities, or community correction centers, or where USAID funds are provided to religious or other organizations for programs in prisons, detention facilities, or community correction centers, in which such organizations assist chaplains in carrying out their duties.

d. The recipient must not use USAID funds for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. Where a structure is used for both eligible and inherently religious activities, USAID funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with applicable cost accounting principles. Sanctuaries, chapels, or other rooms that the recipient uses as its principal place of worship are ineligible for acquisition, construction, rehabilitation, or improvements using USAID funds.

e. The recipient may not discriminate against any beneficiary or potential beneficiary under this award on the basis of religion or religious belief. Accordingly, in providing services supported in whole or in part by this agreement or in its outreach activities related to such services, the recipient may not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

f. When the recipient is a religious organization, the recipient

(1) Retains its independence and may continue to carry out its mission, including the definition, practice, and expression of its religious beliefs, provided that it does not use direct financial assistance from USAID to support any inherently religious activities, such as worship, religious instruction, or proselytization.

(2) Retains its authority over its internal governance and may retain religious terms in its organization's name, select its board members on a religious basis, and include religious references in its organization's mission statements and other governing documents.

(3) Retains its exemption from the Federal prohibition on employment discrimination on the basis of religion, set forth in Sec. 702(a) of the Civil Rights Act of 1964, 42

U.S.C. 2000e-1.

(4) May use space in its facilities, without removing religious art, icons, scriptures, or other religious symbols.

g. The Secretary of State may waive the requirements of this provision in whole or in part, on a case-by-case basis, where the Secretary determines that such waiver is necessary to further the national security or foreign policy interests of the United States.

#### **M. CENTRAL CONTRACTOR REGISTRATION AND UNIVERSAL IDENTIFIER (OCTOBER 2010)**

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

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

(1) Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.

(2) May not make a subaward to an entity unless the entity has provided its DUNS number to you.

c. Definitions. For purposes of this award term:

(1) Central Contractor Registration (CCR) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

(2) Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

(3) Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

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

(ii) A foreign public entity;

(iii) A domestic or foreign nonprofit organization;

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

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

(4) Subaward:

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

(ii) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, —Audits of States, Local Governments, and Non-Profit Organizations||).

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

(5) Subrecipient means an entity that:

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

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

#### **ADDENDUM #1 (FEBRUARY 2012)**

Effective February 13, 2012, and pursuant to a USAID impracticality determination under 2 CFR 25.110(d)(2)(ii), this provision does not apply to grants and cooperative agreements with a total value of less than \$25,000 awarded to foreign entities performing work outside the United States. In addition, subparagraph b. of this provision, requiring DUNS numbers for subawards, does not apply to subawards of less than \$25,000 made to foreign subrecipients performing work outside the United States.

#### **N. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (OCTOBER 2010)**

a. Reporting of first-tier subawards.

(1) Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).

(2) Where and when to report.

- (i) You must report each obligating action described in paragraph a.1. of this award term to [www.fsrs.gov](http://www.fsrs.gov).
  - (ii) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
- (3) What to report. You must report the information about each obligating action that the submission instructions posted at [www.fsrs.gov](http://www.fsrs.gov) specify.

**b. Reporting Total Compensation of Recipient Executives.**

(1) Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –

- (i) the total Federal funding authorized to date under this award is \$25,000 or more;
- (ii) in the preceding fiscal year, you received—

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

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

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

- (i) As part of your registration profile at [www.ccr.gov](http://www.ccr.gov).
- (ii) By the end of the month following the month in which this award is made, and annually thereafter.

**c. Reporting of Total Compensation of Subrecipient Executives.**

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

- (i) in the subrecipient's preceding fiscal year, the subrecipient received—

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

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

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

(i) To the recipient.

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

d. Exemptions

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

(1) subawards, and

(2) the total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

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

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

(ii) A foreign public entity;

(iii) A domestic or foreign nonprofit organization;

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

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

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

(3) Subaward:

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

(ii) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A- 133, —Audits of States, Local Governments, and Non- Profit Organizations||).

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

(4) Subrecipient means an entity that:

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

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

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

(i) Salary and bonus.

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

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

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

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

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

#### **O. TRAFFICKING IN PERSONS (OCTOBER 2010)**

a. Provisions applicable to a recipient that is a private entity.

(1) You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

(i) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

(ii) Procure a commercial sex act during the period of time that the award is in effect; or

(iii) Use forced labor in the performance of the award or subawards under the award.

(2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —

(i) Is determined to have violated a prohibition in paragraph a. (1) of this award term; or

(ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a. (1) of this award term through conduct that is either—

(A) Associated with performance under this award; or

(B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, \_\_OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),“ as implemented by our agency at 22 CFR 208 or its superseding Part in 2 CFR.

b. Provisions applicable to a recipient other than a private entity.

(1) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity

(i) Is determined to have violated an applicable prohibition in paragraph a. (1) of this award term; or

(ii) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a. (1) of this award term through conduct that is either—

(A) Associated with performance under this award; or

(B) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, \_\_OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),“ as implemented by our agency at 22 CFR 208 or its superseding Part in 2 CFR.

c. Provisions applicable to any recipient.

(1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a. (1) of this award term.

(2) Our right to terminate unilaterally that is described in paragraph a. (2) or b of this section:

(i) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

(ii) Is in addition to all other remedies for noncompliance that are available to us under this award.

(3) You must include the requirements of paragraph a. (1) of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this provision:

(1) Employee means either:

(i) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

(ii) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

(2) Forced labor means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(3) Private entity:

(i) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25(b).

(ii) Includes:

(A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

(B) A for-profit organization.

(4) Severe forms of trafficking in persons, commercial sex act, and coercion have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

## SECTION VII: AGENCY CONTACTS

The USAID/RDMA contacts for this RFA are:

1. Craig Riegler, Contracting Officer, email: [criegler@usaid.gov](mailto:criegler@usaid.gov)
2. Praveena ViraSingh, Acquisition & Assistance Specialist, email [pvirasingh@usaid.gov](mailto:pvirasingh@usaid.gov)

## **ATTACHMENT 1: CERTIFICATIONS, ASSURANCES, AND OTHER STATEMENTS OF RECIPIENT**

### **PART I - CERTIFICATIONS AND ASSURANCES**

#### **1. ASSURANCE OF COMPLIANCE WITH LAWS AND REGULATIONS GOVERNING NON-DISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS**

- (a) The Recipient hereby assures that no person in the United States shall, on the bases set forth below, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under, any program or activity receiving financial assistance from USAID, and that with respect to the grant for which application is being made, it will comply with the requirements of:
- (1) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352, 42 U.S.C. 2000-d), which prohibits discrimination on the basis of race, color or national origin, in programs and activities receiving Federal financial assistance;
  - (2) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in programs and activities receiving Federal financial assistance;
  - (3) The Age Discrimination Act of 1975, as amended (Pub. L. 95-478), which prohibits discrimination based on age in the delivery of services and benefits supported with Federal funds;
  - (4) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.), which prohibits discrimination on the basis of sex in education programs and activities receiving Federal financial assistance (whether or not the programs or activities are offered or sponsored by an educational institution); and
  - (5) USAID regulations implementing the above nondiscrimination laws, set forth in Chapter II of Title 22 of the Code of Federal Regulations.
- (b) If the Recipient is an institution of higher education, the Assurances given herein extend to admission practices and to all other practices relating to the treatment of students or clients of the institution, or relating to the opportunity to participate in the provision of services or other benefits to such individuals, and shall be applicable to the entire institution unless the Recipient establishes to the satisfaction of the USAID Administrator that the institution's practices in designated parts or programs of the institution will in no way affect its practices in the program of the institution for which financial assistance is sought, or the beneficiaries of, or participants in, such programs.
- (c) This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the Recipient by the Agency, including installment payments after such date on account of applications for Federal financial assistance which were approved before such date. The Recipient recognizes and agrees that such Federal financial assistance will be extended in reliance on the representations and agreements made in this Assurance, and that the United States shall have the right to seek judicial enforcement of this Assurance. This Assurance is binding on the Recipient, its successors, transferees, and assignees, and the person or persons whose signatures appear below are authorized to sign this Assurance on behalf of the Recipient.

#### **2. CERTIFICATION REGARDING DRUG-FREE WORKPLACE REQUIREMENTS**

##### **(a) Instructions for Certification**

- (1) By signing and/or submitting this application or grant, the Recipient is providing the certification set out below.
- (2) The certification set out below is a material representation of fact upon which reliance was placed when the agency determined to award the grant. If it is later determined that the Recipient knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to

any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

(3) For Recipients other than individuals, Alternate I applies.

(4) For Recipients who are individuals, Alternate II applies.

(b) Certification Regarding Drug-Free Workplace Requirements

**Alternate I**

(1) The Recipient certifies that it will provide a drug-free workplace by:

(A) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Applicant's/grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(B) Establishing a drug-free awareness program to inform employees about:

1. The dangers of drug abuse in the workplace;
2. The Recipient's policy of maintaining a drug-free workplace;
3. Any available drug counseling, rehabilitation, and employee assistance programs; and
4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(C) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (b)(1)(A);

(D) Notifying the employee in the statement required by paragraph (b)(1)(A) that, as a condition of employment under the grant, the employee will--

1. Abide by the terms of the statement; and
2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(E) Notifying the agency within ten days after receiving notice under subparagraph (b)(1)(D)1, from an employee or otherwise receiving actual notice of such conviction;

(F) Taking one of the following actions, within 30 days of receiving notice under subparagraph (b)(1)(D)2., with respect to any employee who is so convicted--

1. Taking appropriate personnel action against such an employee, up to and including termination; or
2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(G) Making a good faith effort to continue to maintain a drug- free workplace through implementation of paragraphs (b)(1)(A), (b)(1)(B), (b)(1)(C), (b)(1)(D), (b)(1)(E) and (b)(1)(F).

(2) The Recipient shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

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**Alternate II**

The Recipient certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

**3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS -- PRIMARY COVERED TRANSACTIONS**

(a) Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meaning set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. [4] You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," [5] provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the methods and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. 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 this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealing.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

(b) Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(A) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(B) Have not within a three-year period preceding this proposal 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) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(C) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(B) of this certification;

(D) Have not within a three-year period proceeding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

4. CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 in connection with the awarding of any Federal

contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than 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 in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that: If any 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 in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

5. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS FOR COVERED COUNTRIES AND INDIVIDUALS (ADS 206)

USAID reserves the right to terminate this [Agreement/Contract], to demand a refund or take other appropriate measures if the [Grantee/ Contractor] is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140. The undersigned shall review USAID ADS 206 to determine if any certification are required for Key Individuals or Covered Participants.

If there are COVERED PARTICIPANTS: USAID reserves the right to terminate assistance to, or take or take other appropriate measures with respect to, any participant approved by USAID who is found to have been convicted of a narcotics offense or to have been engaged in drug trafficking as defined in 22 CFR Part 140.

The Recipient has reviewed and is familiar with the proposed grant format and the applicable regulations, and takes exception to the following (use a continuation page as necessary):

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Solicitation No. \_\_\_\_\_

Application/Proposal No. \_\_\_\_\_

Date of Application/Proposal \_\_\_\_\_

Name of Recipient \_\_\_\_\_

Typed Name and Title \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

[1] FORMATS\GRNTCERT: Rev. 06/16/97 (ADS 303.6, E303.5.6a) [2] When these Certifications, Assurances, and Other Statements of Recipient are used for cooperative agreements, the term "Grant" means "Cooperative Agreement". [3] The Recipient must obtain from each identified subgrantee and (sub)contractor, and submit with its application/proposal, the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Transactions, set forth in Attachment 1 hereto. The Recipient should reproduce additional copies as necessary. [4] See ADS Chapter E303.5.6a, 22 CFR 208, Annex1, App A. [5] For USAID, this clause is entitled "Debarment, Suspension, Ineligibility, and Voluntary Exclusion (March 1989)" and is set forth in the grant standard provision entitled "Debarment, Suspension, and Related Matters" if the Recipient is a U.S. nongovernmental organization, or in the grant standard provision entitled "Debarment, Suspension, and Other Responsibility Matters" if the Recipient is a non-U.S. nongovernmental organization.

## **PART II - OTHER STATEMENTS OF RECIPIENT**

### **1. AUTHORIZED INDIVIDUALS**

The Recipient represents that the following persons are authorized to negotiate on its behalf with the Government and to bind the Recipient in connection with this application or grant:

Name	Title	Telephone No.	Facsimile No.
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

### **2. TAXPAYER IDENTIFICATION NUMBER (TIN)**

If the Recipient is a U.S. organization, or a foreign organization which has income effectively connected with the conduct of activities in the U.S. or has an office or a place of business or a fiscal paying agent in the U.S., please indicate the Recipient's TIN:

TIN: \_\_\_\_\_

### **3. CONTRACTOR IDENTIFICATION NUMBER - DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER**

(a) In the space provided at the end of this provision, the Recipient should supply the Data Universal Numbering System (DUNS) number applicable to that name and address. Recipients should take care to report the number that identifies the Recipient's name and address exactly as stated in the proposal.

(b) The DUNS is a 9-digit number assigned by Dun and Bradstreet Information Services. If the Recipient does not have a DUNS number, the Recipient should call Dun and Bradstreet directly at 1-800-333-0505. A DUNS number will be provided immediately by telephone at no charge to the Recipient. The Recipient should be prepared to provide the following information:

- (1) Recipient's name.
- (2) Recipient's address.
- (3) Recipient's telephone number.
- (4) Line of business.
- (5) Chief executive officer/key manager.
- (6) Date the organization was started.
- (7) Number of people employed by the Recipient.
- (8) Company affiliation.

(c) Recipients located outside the United States may obtain the location and phone number of the local Dun and Bradstreet Information Services office from the Internet Home Page at <http://www.dbisna.com/dbis/customer/custlist.htm>. If an Applicant is unable to locate a local service center, it may send an e-mail to Dun and Bradstreet at [globalinfo@dbisma.com](mailto:globalinfo@dbisma.com).

The DUNS system is distinct from the Federal Taxpayer Identification Number (TIN) system.

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

#### 4. LETTER OF CREDIT (LOC) NUMBER

If the Applicant has an existing Letter of Credit (LOC) with USAID or another US federal agency, please indicate the LOC number:

LOC: \_\_\_\_\_

#### 5. PROCUREMENT INFORMATION

(a) Applicability. This applies to the procurement of goods and services planned by the Recipient (i.e., contracts, purchase orders, etc.) from a supplier of goods or services for the direct use or benefit of the Recipient in conducting the program supported by the grant, and not to assistance provided by the Recipient (i.e., a subgrant or subagreement) to a subgrantee or sub-recipient in support of the subgrantee's or sub-recipient's program. Provision by the Recipient of the requested information does not, in and of itself, constitute USAID approval.

(b) Amount of Procurement. Please indicate the total estimated dollar amount of goods and services which the Recipient plans to purchase under the grant:

\$ \_\_\_\_\_

(c) Nonexpendable Property. If the Recipient plans to purchase nonexpendable equipment which would require the approval of the Agreement Officer, please indicate below (using a continuation page, as necessary) the types, quantities of each, and estimated unit costs. Nonexpendable equipment for which the Agreement Officer's approval to purchase is required is any article of nonexpendable tangible personal property charged directly to the grant, having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

TYPE/DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST
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(d) Source, Origin, and Componentry of Goods. If the Recipient plans to purchase any goods/commodities which are not of U.S. source and/or U.S. origin, please indicate below (using a continuation page, as necessary) the types and quantities of each, estimated unit costs of each, and probable source and/or origin. "Source" means the country from which a commodity is shipped to the cooperating country or the cooperating country itself if the commodity is located therein at the time of purchase. However, where a commodity is shipped from a free port or bonded warehouse in the form in which received therein, "source" means the country from which the commodity was shipped to the free port or bonded warehouse. Any commodity whose source is a non-Free World country is ineligible for USAID financing. The "origin" of a commodity is the country or area in which a commodity is mined, grown, or produced. A commodity is produced when, through manufacturing, processing, or substantial and major assembling of components, a commercially recognized new commodity results, which is substantially different in basic characteristics or in purpose or utility from its components. Merely packaging various items together for a particular procurement or relabeling items does not constitute production of a commodity. Any commodity whose origin is a non-Free World country is ineligible for USAID financing. "Components" are the goods which go directly into the production of a produced commodity. Any component from a non-Free World country makes the commodity ineligible for USAID financing.

TYPE/ DESCRIPTION (Generic)	QUANTITY	EST. UNIT COST	GOODS COMPONENTS	PROBABLE SOURCE	GOODS COMPONENTS	PROBABLE ORIGIN
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(e) Restricted Goods. If the Recipient plans to purchase any restricted goods, please indicate below (using a continuation page, as necessary) the types and quantities of each, estimated unit costs of each, intended use, and probable source and/or origin. Restricted goods are Agricultural Commodities, Motor Vehicles, Pharmaceuticals, Pesticides, Rubber Compounding Chemicals and Plasticizers, Used Equipment, U.S. Government-Owned Excess Property, and Fertilizer.

TYPE/ DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST	PROBABLE SOURCE	PROBABLE ORIGIN	INTENDED USE
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(f) Supplier Nationality. If the Recipient plans to purchase any goods or services from suppliers of goods and services whose nationality is not in the U.S., please indicate below (using a continuation page, as necessary) the types and quantities of each good or service, estimated costs of each, probable nationality of each non-U.S. supplier of each good or service, and the rationale for purchasing from a non-U.S. supplier. Any supplier whose nationality is a non-Free World country is ineligible for USAID financing.

TYPE/ DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST	PROBABLE SUPPLIER (Non-US Only)	NATIONALITY	RATIONALE for NON-US
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(g) Proposed Disposition. If the Recipient plans to purchase any nonexpendable equipment with a unit acquisition cost of \$5,000 or more, please indicate below (using a continuation page, as necessary) the proposed disposition of each such item. Generally, the Recipient may either retain the property for other uses and make compensation to

USAID (computed by applying the percentage of federal participation in the cost of the original program to the current fair market value of the property), or sell the property and reimburse USAID an amount computed by applying to the sales proceeds the percentage of federal participation in the cost of the original program (except that the Recipient may deduct from the federal share \$500 or 10% of the proceeds, whichever is greater, for selling and handling expenses), or donate the property to a host country institution, or otherwise dispose of the property as instructed by USAID.

TYPE/DESCRIPTION (Generic)	QUANTITY	ESTIMATED UNIT COST	PROPOSED	DISPOSITION
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(h) The source and origin of procurements under this agreement will be subject to the Standard Provisions titled “USAID ELIGIBILITY RULES FOR GOODS AND SERVICES (APRIL 1998)” and “Local Procurement”.

6. PAST PERFORMANCE REFERENCES

On a continuation page or as part of your cost proposal, please provide a list of the U.S. Government and/or privately-funded contracts, grants, cooperative agreements, etc., received during the last three years, and the name, address, and telephone number of the Contract/Agreement Officer or other contact person.

7. TYPE OF ORGANIZATION

The Recipient, by checking the applicable box, represents that -

(a) If the Recipient is a U.S. entity, it operates as  a corporation incorporated under the laws of the State of,  an individual,  a partnership,  a nongovernmental nonprofit organization,  a state or local governmental organization,  a private college or university,  a public college or university,  an international organization, or  a joint venture; or

(b) If the Recipient is a non-U.S. entity, it operates as  a corporation organized under the laws of \_\_\_\_\_ (country),  an individual,  a partnership,  a nongovernmental nonprofit organization,  a nongovernmental educational institution,  a governmental organization,  an international organization, or  a joint venture.

8. ESTIMATED COSTS OF COMMUNICATIONS PRODUCTS

The following are the estimate(s) of the cost of each separate communications product (i.e., any printed material [other than non-color photocopy material], photographic services, or video production services) which is anticipated under the grant. Each estimate must include all the costs associated with preparation and execution of the product. Use a continuation page as necessary.

## **PART III - OTHER CERTIFICATIONS**

### **1. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTIONS**

#### **(a) Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," ineligible, "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, has the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. 1/ You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier covered Transaction," 2/ without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non procurement List.
8. 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 this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

(b) Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Solicitation No. \_\_\_\_\_

Application/Proposal No. \_\_\_\_\_

Date of Application/Proposal \_\_\_\_\_

Name of Applicant/Subgrantee \_\_\_\_\_

Typed Name and Title \_\_\_\_\_

\_\_\_\_\_

Signature \_\_\_\_\_

1/ See ADS Chapter 303, 22 CFR 208.

2/ For USAID, this clause is entitled "Debarment, Suspension, Ineligibility, and Voluntary Exclusion (March 1989)" and is set forth in the USAID grant standard provision for U.S. nongovernmental organizations entitled "Debarment, Suspension, and Related Matters" (see ADS Chapter 303), or in the USAID grant standard provision for non-U.S. nongovernmental organizations entitled "Debarment, Suspension, and Other Responsibility Matters" (see ADS Chapter 303).

**2. 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 other 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.

3. PARTICIPANT CERTIFICATION NARCOTICS OFFENSES AND DRUG TRAFFICKING  
[not required to be completed pre-award].

1. I hereby certify that within the last ten years:

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

2. I understand that USAID may terminate my training if it is determined that I engaged in the above conduct during the last ten years or during my USAID training.

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

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

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

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 participants 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.

FORMATS\GRNTCERT: Rev. 06/16/97 (ADS 303.6, E303.5.6a) When these Certifications, Assurances, and Other Statements of Recipient are used for cooperative agreements, the term "Grant" means "Cooperative Agreement". The Recipient must obtain from each identified subgrantee and (sub)contractor, and submit with its application/proposal, the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Transactions, set forth in Attachment 1 hereto. The Recipient should reproduce additional copies as necessary. See ADS Chapter E303.5.6a, 22 CFR 208, Annex 1, App A. For USAID, this clause is entitled "Debarment, Suspension, Ineligibility, and Voluntary Exclusion (March 1989)" and is set forth in the grant standard provision entitled "Debarment, Suspension, and Related Matters" if the Recipient is a U.S. nongovernmental organization, or in the grant standard provision entitled "Debarment, Suspension, and Other Responsibility Matters" if the Recipient is a non-U.S. nongovernmental organization.

4. CERTIFICATION REGARDING MATERIAL SUPPORT AND RESOURCES

As a condition of entering into the referenced agreement, \_\_\_\_\_ hereby certifies that it has not provided and will not provide material support or resources to any individual or entity that it knows, or has reason to know, is an individual or entity that advocates, plans, sponsors, engages in, or has engaged in terrorist activity, including but not limited to the individuals and entities listed in the Annex to Executive Order 13224 and other such individuals and entities that may be later designated by the United States under any of the following authorities: § 219 of the Immigration and Nationality Act, as amended (8 U.S.C. § 1189), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et seq.), the National Emergencies Act (50 U.S.C. § 1601 et seq.), or § 212(a)(3)(B) of the Immigration and Nationality Act, as amended by the USA Patriot Act of 2001, Pub. L. 107-56 (October 26, 2001)(8 U.S.C. §1182). \_\_\_\_\_ further certifies that it will not provide material support or resources to any individual or entity that it knows, or has reason to know, is acting as an agent for any individual or entity that advocates, plans, sponsors, engages in, or has engaged in, terrorist activity, or that has been so designated, or will immediately cease such support if an entity is so designated after the date of the referenced agreement.

For purposes of this certification, "material support and resources" includes currency or other financial securities, financial services, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

For purposes of this certification, "engage in terrorist activity" shall have the same meaning as in section 212(a)(3)(B)(iv) of the Immigration and Nationality Act, as amended (8 U.S.C. § 1182(a)(3)(B) (iv)).

For purposes of this certification, "entity" means a partnership, association, corporation, or other organization, group, or subgroup.

This certification is an express term and condition of the agreement and any violation of it shall be grounds for unilateral termination of the agreement by USAID prior to the end of its term.

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

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

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

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

NOTICE:

If you make a false Certification you are subject to U.S. criminal prosecution under 18 U.S.C. 1001.

5. CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, 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 in connection with the awarding of any Federal contract, the making of any Federal Cooperative Agreement, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than 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 in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Statement for Loan Guarantees and Loan Insurance**

“The undersigned states, to the best of his or her knowledge and belief, that: If any 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 in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.”

Date of Application/Proposal \_\_\_\_\_

Name of Recipient \_\_\_\_\_

Typed Name and Title \_\_\_\_\_

\_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

## 6. SURVEY on ENSURING EQUAL OPPORTUNITY for APPLICANTS

OMB No. 1890-0014 Exp. 1/31/2006

**Purpose:** The Federal government is committed to ensuring that all qualified Applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for Federal funding. In order for us to better understand the population of Applicants for Federal funds, we are asking nonprofit private organizations (not including private universities) to fill out this survey.

Upon receipt, the survey will be separated from the application. Information on the survey will not be considered in any way in making funding decisions and will not be included in the Federal grants database. While your help in this data collection process is greatly appreciated, completion of this survey is voluntary.

**Instructions for Submitting the Survey:** If you are applying using a hard copy application, please place the completed survey in an envelope labeled "Applicant Survey." Seal the envelope and include it along with your application package. If you are applying electronically, please submit this survey along with your application.

**Applicant's (Organization) Name:** \_\_\_\_\_

**Applicant's DUNS Number:** \_\_\_\_\_

**Grant Name:** \_\_\_\_\_ **CFDA Number:** \_\_\_\_\_

1. Does the Applicant have 501(c)(3) status?

Yes  No

2. How many full-time equivalent employees does the Applicant have? (Check only one box.)

3 or Fewer  15-50  
 4-5  51-100  
 6-12  over 100

3. What is the size of the Applicant's annual budget? (Check only one box.)

Less than \$150,000  
 \$150,000 - \$299,999  
 \$300,000 - \$499,999  
 \$500,000 - \$999,999  
 \$1,000,000 - \$4,999,999  
 \$5,000,000 or more

4. Is the Applicant a faith-based/religious organization?

Yes  No

5. Is the Applicant a non-religious community based organization?

Yes  No

6. Is the Applicant an intermediary that will manage the grant on behalf of other organizations?

Yes  No

7. Has the Applicant ever received a government grant or contract (Federal, State, or local)?

Yes  No

8. Is the Applicant a local affiliate of a national organization?

Yes  No

## Survey Instructions on Ensuring Equal Opportunity for Applicants

**Provide the Applicant's (organization) name and DUNS number and the grant name and CFDA number.**

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit Applicants to have 501(c)(3) status. Other grant programs do not.
2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the Applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.
3. Annual budget means the amount of money our organization spends each year on all of its activities.
4. Self-identify.
5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.
6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.
7. Self-explanatory.
8. Self-explanatory.

### **Paperwork Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is 1890-0014. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** U.S. Department of Education, Washington, D.C. 20202-4651.

**If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Education, 7th and D Streets, SW, ROB-3, Room 3671, Washington, D.C. 20202-4725.