



Issue Date: **September 5, 2023**

Deadline for Questions: **September 15, 2023 at 5:00 PM Nepal Time**

Registration Deadline for Pre-Application Conference:

**September 15, 2023 at 5:00 PM Nepal Time**

Pre-Application Conference:

**September 26, 2023 in Janakpur and September 28, 2023 in Bhairahawa**

Closing Date and Time for Phase I Application:

**November 3, 2023 at 5:00 PM Nepal Time**

Subject: **Notice of Funding Opportunity (NOFO) Number 72036723RFA00009**

Program Title: **USAID Community Justice**

Federal Assistance Listing Number: **98.001**

Ladies/Gentlemen:

The United States Agency for International Development (USAID) is seeking applications for a cooperative agreement from qualified entities to implement USAID Community Justice. Eligibility for this award is restricted to local Nepali entities in accordance with ADS 303.3.6.5.c (1).

USAID intends to make an award to the applicant that best meets the objectives of this funding opportunity based on the merit review criteria described in this NOFO, subject to a risk assessment. Eligible parties interested in submitting an application are encouraged to read this NOFO thoroughly to understand the type of program sought (Section A), application submission requirements (Section D), and selection process (Section E).

This funding opportunity is posted on [www.grants.gov](http://www.grants.gov), and may be amended. It is the responsibility of the applicant to regularly check the website to ensure they have the latest information pertaining to this NOFO and to ensure that the NOFO has been received from the internet in its entirety. USAID bears no responsibility for data errors resulting from transmission or conversion process. If you have difficulty registering on [www.grants.gov](http://www.grants.gov) or accessing the NOFO, please contact the Grants.gov Helpdesk at 1-800-518-4726 or via email at [support@grants.gov](mailto:support@grants.gov) for technical assistance.

USAID may not award to an applicant unless the applicant has complied with all applicable Unique Entity Identifier (UEI) and System for Award Management (SAM) requirements detailed in Section D. The registration process may take many weeks to complete. Therefore, applicants are encouraged to begin registration early in the process using the [Registering to Work with USAID: Main Step-by-Step Guide](https://www.usaid.gov/work-usaid/get-grant-or-contract/trainings-how-work-) available on <https://www.usaid.gov/work-usaid/get-grant-or-contract/trainings-how-work->

[usaid/how-work-usaid-registering-to-work-usaid](https://www.usaid.gov/how-work-usaid-registering-to-work-usaid).

Please send any questions to the points of contact identified in Section G by the deadline for questions shown above. Responses to questions received prior to the deadline will be furnished to all potential applicants through an amendment to this NOFO posted to [www.grants.gov](https://www.grants.gov).

Pre-Application Conference: Pre-application conferences will be held in Janakpur and Bhairahawa, as noted in Section D of the NOFO. The purpose of the Pre-Application Conference is to ensure an understanding of the NOFO's technical objectives and to review the application process. The Conference agenda will include a short presentation of the NOFO and a question/answer session based on participants' review of the NOFO. All interested potential Applicants are welcome to attend, but it will be limited to three (3) representatives per Applicant and all attendees must register. If you are interested in attending the Pre-Application Conference, please send an email to Ajaya Parajuli via e-mail at [aparajuli@usaid.gov](mailto:aparajuli@usaid.gov) with a copy to Bijay Nepali at [bnepali@usaid.gov](mailto:bnepali@usaid.gov) by close of business September 15, 2023. Include the name of your organization and the name(s) of the person(s) who will attend. USAID will respond with an email confirming registration, details of the location of the conference, and a confirmation of the date and time. You must have a registration confirmation in order to be guaranteed entrance.

Issuance of this NOFO does not constitute an award commitment on the part of the Government nor does it commit the Government to pay for any costs incurred in preparation or submission of comments/suggestions or an application. Applications are submitted at the risk of the applicant. All preparation and submission costs are at the applicant's expense.

Thank you for your interest in USAID programs.

Sincerely,

/rb/

Robyn Bertholon  
Agreement Officer

**Table of Contents**

SECTION A – PROGRAM DESCRIPTION..... 4  
SECTION B – FEDERAL AWARD INFORMATION..... 13  
SECTION C - ELIGIBILITY INFORMATION..... 16  
SECTION D – APPLICATION AND SUBMISSION INFORMATION..... 18  
SECTION E – APPLICATION REVIEW INFORMATION..... 33  
SECTION F – FEDERAL AWARD ADMINISTRATION INFORMATION.....36  
SECTION G – FEDERAL AWARDED AGENCY CONTACT(S)..... 43  
SECTION H – OTHER INFORMATION..... 44  
ANNEXES..... 45

## **SECTION A – PROGRAM DESCRIPTION**

This funding opportunity is authorized under the Foreign Assistance Act (FAA) of 1961, as amended. The resulting award will be subject to 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and USAID’s supplement, 2 CFR 700, as well as the additional requirements found in Section F.

### **Program Title: USAID Community Justice**

#### **1. OVERVIEW**

USAID Community Justice will improve equitable justice sector service delivery for women, youth, and marginalized groups in targeted communities. The activity is intended to contribute to USAID/Nepal’s Country Development Cooperation Strategy<sup>1</sup> (CDCS) goal of “a more self-reliant, prosperous and inclusive Nepal that delivers improved democratic governance, health, and education outcomes”. In order to achieve this goal, USAID/Nepal’s CDCS emphasizes the need to address federalism, inclusion, and resilience.

USAID Community Justice objectives are as follows:

- Strengthen local judicial institutional capacity and justice sector coordination and oversight to improve access to justice and justice delivery for women, youth, and marginalized groups.
- Strengthen civil society capacity to improve community legal literacy, local justice sector accountability, and access to legal aid for women, youth, and marginalized groups.

#### **2. BACKGROUND**

Nepal’s Constitution guarantees thirty-one fundamental human rights, including: the right to equality; right against untouchability and discrimination; rights for women, children, Dalits, and senior citizens; labor rights; and the right for social justice, etc. Among those rights are also protections against serious gender-based violence and sex crimes. Despite positive legal reforms under the 2015 Constitution, a functional justice system and protection under the law remains an issue for marginalized communities.

Justice pathways often vary to a great extent based on location, resources, socio-economic status, and knowledge of such mechanisms. Historical exclusion and discrimination linked to linguistic, caste, ethnic, religious, regional and gender dynamics creates further inequalities in how individuals experience justice, and whether and how they access justice pathways. Low levels of public awareness of rights, services, and entry points to the justice system also

---

<sup>1</sup> Please see [https://www.usaid.gov/sites/default/files/documents/1861/CDCS%20summary\\_Final.pdf](https://www.usaid.gov/sites/default/files/documents/1861/CDCS%20summary_Final.pdf).

prevents access to justice for women, and this is especially prevalent among marginalized groups in the Terai region.

When women, youth, or marginalized groups do have access, justice may not be delivered due to inadequacies in the system. As a part of Nepal's federal structure, justice pathways begin at the local level through Judicial Committees (JCs) chaired by Deputy Mayors. While elected officials at the national and sub-national levels are empowered to formulate laws related to human rights, they are not fully equipped with the knowledge and resources for enforcement, in the case of JCs, Deputy Mayors lack the capacity to fulfill their judicial mandates. The transition to federalism has created a void of coordination between Nepal's numerous formal and informal justice systems at the national and sub-national levels to ensure that resources are not duplicated, local justice needs are met, and that individuals are properly informed of and referred to services.

The bolstered role of the JC has failed to meet its potential due to a number of factors including: limited understanding of the Local Governance Operation Act, low capacity and insufficient training among JC members, and poor procedural compliance. JC's have a mandate to establish mediation centers and refer cases to "enlisted mediators," who may then arbitrate cases, refer them to District Courts, or even refer them back to the JC for civil decisions. However, in practice many JCs have difficulty adhering to established procedures, and often combine mediation and adjudication roles in a way that diminishes the integrity of the process and worsens outcomes for justice-seekers at the local level. Since both powers can be exercised simultaneously by JC members, there is an elevated need to improve messaging and training for JC executives and members who may, or already do, find themselves in this conflicted position. These issues are further complicated by the fact that JC executives are elected officials who may face political or economic pressures in the communities they serve. Additionally, ambiguous and/or contradictory laws do not preclude JC members or coordinators from serving both on the JC and as enlisted mediators. This highlights the risk that JCs, already heavily burdened by both decision-making and mediation roles, are in a position to refer cases back to themselves for mediation.

### **3. ACTIVITY APPROACH**

To address these challenging dynamics, the proposed activity will focus on key target locations to take an integrated approach to improving access to justice and service delivery at a local level, making justice pathways more user-friendly, people-centered<sup>2</sup>, and efficient.

The Development Hypothesis of the USAID Community Justice design is:

**IF** justice sector service institutions have greater capacity, coordination, and awareness of discrimination facing women, youth, and marginalized groups;

---

<sup>2</sup> A people-centered approach to justice that acknowledges the public's justice priorities, legal needs, and barriers to access produces a justice ecosystem that is sensitive to the needs of the individual.

**AND IF** the public is better informed to increase access to justice about fundamental legal rights and justice sector resources and accountability;

**THEN** the rule of law will be strengthened in a way that results in more equal justice sector service delivery for women, youth, and marginalized groups.

USAID Community Justice has two focus areas to achieve the development hypothesis:

**Objective 1:** Strengthen local institutional capacity and justice sector coordination and oversight to improve access to justice and justice delivery for women, youth, and marginalized groups

This focus area aims to build the capacity and coordination of local institutions and justice sector actors to improve access, delivery, and oversight mechanisms of the justice sector to address issues of discrimination and exclusion of historically marginalized groups. This area will focus on the supply side of the justice system.

Capacity. Justice delivery is crucial to gain public confidence while Nepal is devolving power but new responsibilities under the federal structure have created justice gaps<sup>3</sup>. One key focus area to bridge these gaps is capacity support to subnational justice institutions and actors. Serving in a judicial capacity requires legal knowledge and requires capacity to understand the core functions of the JCs, something the vast majority of elected officials do not have. Deputy Mayors as JC Chairs (who are mostly women) wield little power despite their positions, especially in Madhesh Province, and, as elected officials, may lack the technical skills to effectively administer justice. The activity will equip JCs with the skills and tools to better fulfill their mandate and utilize information to advocate for more equitable laws, politics and services.

Access. Despite some positive legal reforms, access to justice remains a constraint. Decentralized information and legal support are important to enhance access and provide better understanding for individuals and communities on justice entry points and resources. USAID Community Justice interventions will focus on changing biases and incentives in such a way that institutional and social barriers of accessing justice overcome gradually and Rule of Law institutions evolve to be less politically influenced and more accountable, participatory, inclusive, devolved, and democratic. The approach considers the capacity and resilience of local systems, and systemic constraints to functions that affect justice sector service delivery and access to justice in Nepal. Access to justice will be expanded through legal empowerment and improved resources and representation providing crime victims protection, as well as criminal defense and representation. By expanding the scope and quality of the legal aid system in Nepal, this activity will help to ensure individuals receive effective representation and support during the legal process as envisioned by the 2015 Constitution and new Legal Aid Policy.

---

<sup>3</sup> Supreme Court Annual Report

**Accountability and Oversight.** Accountability and oversight measures of justice sector institutions are critical to ensure the law is implemented in accordance with the Constitution. While sound/equitable/aspirational laws are in place, they are not enforced due to a significant coordination gap among justice sector institutions caused by the federal transition of power. While focused on the local level, the activity will serve to enhance coordination, legal strategies, and policies between federal, provincial, and local justice systems, to improve accountability and oversight. The activity will foster partnerships and coalitions between established justice sector coordination committees, legal aid committees, Civil Society Organizations (CSOs), and other non-traditional local grassroots initiatives to identify gaps in service provision/access, and create opportunities for local justice stakeholders to practically and strategically tackle justice issues. The activity will focus on strengthening capacity, linkages, coordination, collaboration, and monitoring and reporting mechanisms among justice providers such as Judicial Committees, Justice Sector Coordination Committees and legal aid committees.

**Objective 2:** Strengthen civil society capacity to improve community legal literacy, local justice sector accountability, and access to legal aid for women, youth, and marginalized groups.

A primary focus of this activity is to empower traditionally marginalized and vulnerable individuals in Nepal to understand their rights and more effectively navigate and use justice mechanisms at the local level, especially JCs and mediation centers. To do so, this focus area will ensure the demand side CSOs are capacitated to coordinate with the justice institutions and better represent women, youth, Dalit, and other marginalized groups in Nepal.

**Capacity.** Demanding improved access to justice and better service delivery is a key role of CSOs that requires coordinated, evidence-based advocacy efforts. It is crucial to build the capacity of CSOs to protect and advance fundamental freedoms and demand stronger Rule of Law at the subnational levels. The activity will build the capacity of CSOs to effectively advocate for human rights; publicly document rights violations based on discrimination; support the dissemination of an evidence based advocacy including public policy analysis, study, and research; and engage with the private sector and government institutions to collectively work on public policy formulation and implementation.

**Access.** Lack of access to justice in the community is driven by a lack of awareness, confidence in the system, exclusionary social norms and barriers as well as slow execution of judicial decisions. The justice delivery institutions are not effective in removing those constraints or dealing with existing problems accessing justice. Legal Aid organizations are critical for Nepal's judicial system, especially at the local level to help improve legal representation and resources for women, youth, Dalit, and other marginalized groups (WYM groups). USAID Community Justice will support more effective referral linkages, institutionalized legal aid mechanisms, pro bono, and community mediation systems. This will help improve legal representation, and support public defense and increase overall access to justice at the provincial and local level among WYM groups.

**Accountability and Oversight.** Currently, there is no effective CSO engagement to monitor and oversee the service delivery of justice at the local level in Nepal. The activity will foster engagement between civil society, the justice sector actors, and justice sector coordination committees under a federal government structure to address public interest issues, improve judicial service effectiveness and fight corruption, and Rule of Law related accountability. It will also engage the private sector, like lawyer groups, as a part of social responsibility and public accountability. USAID Community Justice will establish CSO accountability networks that will coordinate with established oversight committees and improve their capacity to monitor issues concerning women, youth, and marginalized groups. It will support enhancing provincial level National Human Rights Institution's oversight and monitoring of the implementation of the fundamental rights enshrined in the constitution, particularly rights to equality and social justice for women, Dalits, and other marginalized groups.

#### **4. GEOGRAPHIC FOCUS AND TARGET STAKEHOLDERS**

This activity proposes a geographic focus of primarily Madhesh Province and a district in Lumbini Province. These areas contain high concentrations of marginalized populations; are grappling with the transition to federalism and transparency, and accountability in decision making; and, have deeply entrenched social barriers for women and marginalized groups to access judicial services.

The primary target stakeholders of this assistance will be, but not limited to: targeted JC members including Deputy Mayors; community mediators from selected local governments; members of justice sector coordination committees (judges, public prosecutors, etc.); Chief Attorneys; legal advocacy groups; community leaders (Dalit, Muslim, Madheshi, Women, and youth) CSOs; and district level legal aid committee members.

#### **5. PRINCIPLES OF ENGAGEMENT**

In addition to strategic priorities outlined in USAID/Nepal's CDCS, there are several principles of engagement that influence USAID Community Justice.

**Localization.** USAID/Nepal is committed to advancing *localization* where the leadership, ownership, decision-making, and implementation is shifted to local actors and institutions. Throughout the activity's design and implementation, the most marginalized<sup>4</sup> voices in

---

<sup>4</sup> USAID's approaches for inclusive development defines marginalized groups as those people who are typically denied access to legal protection or social and economic participation and programs (i.e., police protection, political participation, access to healthcare, education, employment), whether in practice or in principle, for historical, cultural, political, and/or other contextual reasons. Such groups may include, but are not limited to, women and girls, persons with disabilities, LGBTQI people, displaced persons, migrants, Adivasi/Janajati, youth and the elderly, religious and linguistic minorities, Dalit castes, and people of diverse economic class and political opinions. The groups most likely to be most marginalized are those facing "intersecting inequalities" - those whose economic disadvantages intersect with socially and culturally defined identities, locational disadvantage and lack of voice and representation. They are also described as "excluded", "underrepresented," "at-risk," or "vulnerable".

Nepal, including but not limited to women, youth, Dalit, Muslim, and other marginalized communities, should be the primary focus of this activity's interventions. These activities will require a local analysis of justice pathways at the target locations and particularly how users and justice providers identify services, access or are referred to them, and work together across different subject areas, institutions/mechanisms, and geographic locations. Reforms and development approaches should use a people-centered approach to address persistent issues of discrimination that worsen access to justice and justice sector outcomes for marginalized groups. USAID intends to provide the maximum flexibility to the Recipient to propose innovative approaches and adapt to the needs identified through the people-centered approach.

**Do No Harm.** The Recipient will utilize a "do no harm" conflict sensitive approach that advances the capacity of CSOs and voice of women, youth, Dalit, and other marginalized groups and promotes their ownership and sustainability of the interventions. While addressing the social and cultural barriers to inclusion, it is advised to design all project training, educational materials, engagement, oversight, and advocacy to acknowledge and address entrenched issues of discrimination, paternalism, and demographic power dynamics that hamper equal justice sector service delivery for women, youth, and marginalized groups.

## **6. SCOPE**

USAID anticipates that the targeted populations, justice sector actors, and civil society will likely seek the Recipient's engagement through USAID Community Justice applying the people-centered approach from among the priority services under access to justice, justice delivery, and oversight. The activities will be co-designed with the Recipient and key stakeholders to ensure the perspectives and justice needs of the marginalized groups are better designed and will be implemented at the federal and sub-national level, with a focus on the sub-national level in selected provinces.

Throughout the design and implementation, this activity will engage and empower women, youth, Dalit, and other marginalized groups to make informed decisions and ask for accountability from their government, elected leaders, as well as the Recipient and USAID. USAID Community Justice will support improving overall professionalism and encourage partnerships with respected institutions in order to uphold the Rule of Law situation in Nepal.

## **7. CROSS-CUTTING THEMES**

The Recipient shall consider USAID/Nepal's CDCS and its key themes of advancing federalism, inclusion, and resilience in their application.

### **FEDERALISM**

In 2015, Nepal promulgated a new constitution and changed its democratic course from a unitary to a federal republic, which has fundamentally changed the structure of governance. The Constitution has progressively ingrained fundamental rights, including the right to equality, rights against discrimination, and right to social justice. Transitioning into a federal structure of governance has numerous governance challenges, some of which include: citizen's inadequate opportunity to contribute to public policy formulation and implementation; weak public institutions and conventional business processes; inadequate knowledge and skills to implement federalism; insufficient transparency and accountability mechanisms; weak delivery of public services including justice sector services; and poor allocation of resources. USAID's CDCS supports the implementation of federalism and strengthens the local institutions to act on their constitutional mandate to engage citizens in local decision-making and oversight to improve government effectiveness, transparency, and accountability. Implementing the activity in Madhesh Province is important given that *constituencies in Madhesh Province were the most vocal advocates for federalization*, and the provincial government today remains Nepal's foremost supporter of federalism and provincial powers.

## **INCLUSION AND RESILIENCE**

Madhesh and Lumbini provinces have high concentrations of marginalized communities including various castes and ethnicities (SOSIN survey 2018). Local cultural norms heavily exclude women from the decision making process within their households, across their local communities, and at the institutional government level. Nepal has a significant proportion of women leaders in newly established local governments at the sub-national level and marginalized communities are becoming more included in decision processes. However, the newly elected leaders from marginalized communities need to build their capacity to participate meaningfully in decisions in favor of their citizens. USAID's CDCS supports the inclusion of women, youth and marginalized communities in the decision and oversight process leading to a more accountable and equitable public services. USAID envisions civil society playing a catalytic role in advocacy for, and oversight of inclusive policies, especially human rights and equal access to public services including justice sector service delivery.

*Issues related to marginalization are comparatively high in Madhesh Province.* Relative to other provinces, Madhesh Province has: a low score on the Human Development Index; a pervasive culture of *afno manche* (patronage) that weakens accountability; high numbers of GBV cases; and a pervasive social exclusion of the Madhesh community. USAID Community Justice focus is on inclusion through a Rule of Law lens, focusing on equal protection under the law for women, youth, and marginalized groups. In addition, high numbers of GBV cases are not reported in the public domain. Building the capacity of justice entities to represent the needs of vulnerable and marginalized people in the face of shocks and stress is crucial. It also mitigates discrimination-based drivers of conflict that increase fragility. The root causes of the decade of armed conflict (1996-2006) in Nepal is one key example. This activity establishes/ reinforces linkages that promote resilient local justice systems as well as

Madhesh Province and Lumbini Province offer an opportunity to improve the resilience of local institutions.

## **GENDER EQUALITY AND SOCIAL INCLUSION<sup>5</sup> (GESI) AND SUSTAINABILITY APPROACH**

USAID has increased efforts to reduce gender inequality and enable women, girls, and other marginalized and vulnerable populations to realize their rights, determine their life outcomes, influence decision-making, and become agents of change in households, communities, and societies. USAID requires that gender integration is incorporated into new activity designs. Specifically, gender integration entails the identification and subsequent treatment of gender differences and inequalities during program or project design, implementation, monitoring, and evaluation. The Recipient will assess and identify gender issues that impact the equal participation of men and women in the activity and their equal access to benefits accrued. Since the roles and relations of power between men and women affect how a project or activity is implemented, it is essential that these issues are addressed on an ongoing basis ([ADS 205](#)).

USAID/Nepal's CDCS and GESI Mission Order also specify women, Dalits, Janajatis, lesbian, gay, bisexual, transgender, and persons with disabilities as marginalized groups. In addition to these, Madhesi, other castes, and Muslims also face particular challenges in relation to inclusion and equality. These identified groups are also the groups least likely to have the skills and social capital necessary to effectively advocate for the improved delivery and quality of government services. They are the least represented among the ranks of elected Members of Parliament, civil servants, justice sectors, CSO leaders, and media owners or editors.

Preventing discrimination, promoting, and protecting the fundamental human rights of women, girls, and marginalized groups and ensuring their inclusion in decision making and justice service delivery is critical to achieving improved governance. The Recipient will apply transformative strategies and a human rights based approach in strengthening systems and institutions to achieve GESI results. To best deliver these results, the Recipient will examine cultural, social, political and economic barriers, public policies, accountability mechanisms and other factors, which impact GESI outcomes. The Recipient will identify the key priority GESI gaps and issues, how the GESI gaps will be reduced, indicators that will measure progress towards reducing those issues/gaps and the level of financial and human capital resources, level of effort, and other resources required to carry out the interventions to achieve the GESI results described above.

---

<sup>5</sup> Gender Equality and Social Inclusion is a process that ensures that those at risk of poverty, discrimination and social exclusion gain the recognition, opportunities and resources they need to participate fully in political, economic, social and cultural life and to enjoy a standard of living and well-being that is considered normal in the society in which they live. USAID/Nepal further approaches to Social Inclusion as explicit efforts to integrate and actively target women, historically marginalized caste (such as Dalits), ethnic groups (such as Adivasi/Janajatis), regions (Madhesh), religions (Muslims), lesbian/gay/bisexual/transgender/queer/intersex (LGBTQI) individuals, and persons with disabilities, to better reflect the diversity of Nepali society in program activities and improve development results.

Thus, in addition to the objectives listed above, these initial GESI Results will be refined during the co-creation process:

- (a) Local justice institutions remove key barriers of accessing justice by the women, youth, dalit, and other marginalized groups and key fundamental rights established ;
- (b) Improved CSO understanding of GESI and its implications in the federal system of governance, and embed GESI as a priority public interest agenda in CSO's actions;
- (c) Reduced GESI barriers for marginalized groups (for example, removing barriers for women, youth and marginalized groups, which may include Dalits, Madhesi Other Caste, Tarai Janajatis, Muslims, and other ethnic and religious minorities) on both the supply and demand sides;
- (d) Elevated and/or increased leadership role of women and girls, youth, Dalit, and other marginalized groups in CSO advocacy and oversight activities;
- (e) Demonstration of addressing the GESI intersections in other key cross-cutting themes.

## **8. COLLABORATION**

USAID/Nepal's CDCS elevates the importance of integrated development assistance. USAID Community Justice serves a critical function to support justice sector institutions for effective justice service delivery and also help oversee justice sector service delivery, advocate for appropriate reforms to improve government effectiveness and accountability and empower citizens to engage and negotiate with the government. As appropriate partnerships arise related to targeted justice sectoral issues that may benefit from broader target groups, USAID Community Justice will coordinate with other development partner activities like UNDP to help elevate shared objectives. This activity will also largely coordinate with USAID/Nepal's Civil Society and Media (CSM) activity and other relevant activities being implemented in the target provinces.

**[END OF PROGRAM DESCRIPTION]**

**[END SECTION A]**

## SECTION B – FEDERAL AWARD INFORMATION

### 1. Estimated of Funds Available and Number of Awards Contemplated

USAID intends to award one Cooperative Agreement pursuant to this notice of funding opportunity. Subject to funding availability and at the discretion of the Agency, USAID intends to provide up to \$5 million in funding over a five-year period.

### 2. Start Date and Period of Performance

The estimated start date will be on or about April 3, 2024. The anticipated period of performance is five (5) years.

### 3. Type of Award

The award under this NOFO is anticipated to be a Cooperative Agreement. In accordance with ADS 303.3.11, Cooperative Agreements permit the “substantial involvement” of USAID in certain aspects of the supported project.

### 4. Substantial Involvement

USAID considers collaboration with the awardee crucial for the successful implementation of this program. As per ADS 303.3.11, USAID shall remain substantially involved during the implementation of this cooperative agreement in the following ways:

- a. **Approval of Implementation Plan:** The annual implementation plan will be developed using a co-creation approach in which USAID shall be substantially involved. The Recipient will plan annual co-creation workshops to develop the implementation plan, and key stakeholders including Federal and Subnational governments, judicial and legal aid actors, CSOs, and other relevant USAID activities. The Agreement Officer’s Representative (AOR) shall provide approval on the annual implementation plans. Any significant changes to the plan will also require approval from the AOR.
- b. **Approval of specified key personnel assigned to the positions listed below:** The positions identified as key personnel positions are subject to approval by the Agreement Officer (AO). USAID will be consulted early in the process of any proposed changes related to key personnel, and the AO will provide prior approval for any changes in key personnel.
- c. **Agency and Recipient Joint Collaboration or Participation:**
  - i. *Approval of Performance Monitoring and Evaluation Plan:* The AOR will review and approve the Recipient’s monitoring and evaluation and learning (MEL) plan, inclusive of realistic and appropriate performance indicators and

plans for periodic evaluation of activities.

ii. *Approval of Sub-Awards:* 2 CFR 200.308 requires the recipient to obtain the AO's prior approval for the subaward, transfer, or contracting out of any work under an award. USAID shall have substantial involvement in the criteria and selection of sub-award recipients (to include sub grants and contracts) through means of collaboration and joint participation. Subawards (to include sub grants and contracts) less than \$50,000 shall be approved by AOR. Subawards (to include sub grants and contracts) of \$50,000 or more shall be approved by AO. No subawards to government entities are authorized without prior approval of the AO.

The Recipient shall immediately notify USAID of developments that have a significant impact on the award-supported activities. The Recipient shall also notify USAID in the case of problems, delays, or adverse conditions which impair the ability to meet the objectives of the award, including information about the action taken or contemplated, and any assistance needed to resolve the situation.

#### **5. Authorized Geographic Code**

The geographic code for the procurement of commodities and services under this project is 937. Code 937 is defined as the United States, the cooperating/recipient country, and developing countries other than advanced developing countries, and excluding prohibited sources. Procurement of agricultural commodities and related products, motor vehicles and pharmaceuticals is subject to the limitations in 22 CFR 228.19 and may require a waiver.

#### **6. Nature of the Relationship between USAID and the Recipient**

The principal purpose of the relationship with the Recipient and under the subject program is to transfer funds to accomplish a public purpose of support or stimulation of USAID Community Justice, which is authorized by Federal statute. The successful Recipient will be responsible for ensuring the achievement of the program objectives and the efficient and effective administration of the award through the application of sound management practices. The Recipient will assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

#### **7. Selection of Instrument**

USAID/Nepal supported the rule of law space almost 15 years ago by providing institutional support to the judiciary in Nepal, and USAID/Nepal has significant experience implementing activities in the justice sector. In designing USAID Community Justice, USAID/Nepal consulted with judges, parliamentarians, government attorneys, legal aid lawyers, Mayors, Deputy Mayors, local right based organizations, CSOs, and UNDP to discuss possible

modalities of assistance.

USAID/Nepal conducted market research by collecting information from judges, legal aid lawyers, community mediators, and UN agencies. A number of local organizations were identified that USAID could support through the proposed activity including organizations focused on community level justice, women's rights, human rights, and legal aid.

Based on this market research, DGO developed sufficient information to conclude that the programmatic needs would be best met by providing funds to support an organization that is already working in this space. USAID does not intend on procuring services for its own benefit and use. Consequently, it is appropriate to use an assistance instrument for this activity because the purpose of the relationship created is to transfer USAID resources to a recipient in order to advance the rule of law space through increasing access to justice and improving the justice service delivery for women, youth, dalit, and other marginalized groups in Nepal. This is not a follow-on activity.

**[END SECTION B]**

## SECTION C - ELIGIBILITY INFORMATION

### 1. Eligible Applicants

Eligibility for this NOFO is restricted based on ADS 303.3.6.5.c(1). Eligibility is restricted to Local organizations/Entities of Nepal.

Local Entity Definition: Local Entity as defined in Section 7077 of Public Law 112-74, the Consolidated Appropriations Act, 2012 (P.L. 112-74), as amended by Section 7028 of the Consolidated Appropriations Act, 2014 (P.L. 113-76), and included by reference in subsequent appropriations acts, local entity means an individual, a corporation, a nonprofit organization, or another body of persons that—

- (1) is legally organized under the laws of;
- (2) has as its principal place of business or operations in; *and*
- (3) is
  - (A) majority owned by individuals who are citizens or lawful permanent residents of; *and*
  - (B) managed by a governing body the majority of who are citizens or lawful permanent residents of a country receiving assistance.

For purposes of this definition, “majority-owned’ and “-managed by” include, without limitation, beneficiary interests and the power, either directly or indirectly, whether exercised or exercisable, to control the election, appointment, or tenure of the organization's managers or a majority of the organization's governing body by any means.”

While for-profit firms may participate, pursuant to 2 CFR 200.400(g), profit may not be awarded to prime recipients and subrecipients under assistance instruments. Note that the prohibition on profit does not apply when the recipient acquires goods and services in accordance with 2 CFR 200.317 -326, “Procurement Standards.” Forgone profit does not qualify as cost-share.

Each applicant must be found to be a responsible entity before receiving an award. The AO may determine that a pre-award survey is required in accordance with ADS 303.3.9.1 to determine whether the applicant has the necessary organization, experience, accounting and operational controls, and technical skills – or ability to obtain them – in order to achieve the objectives of the program and comply with established U.S. Government standards, laws, and regulations. Applicants who do not currently meet all USAID requirements for systems and controls may still be eligible under special award considerations and should not be discouraged from applying.

### 2. Cost Sharing or Matching

USAID has not established a suggested cost-share for the recipient of the award. "Cost sharing or matching" 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." If considered, such funds may be mobilized from the recipient; other multilateral, bilateral, and foundation donors; host governments; and local organizations, communities and private businesses that contribute financially and in-kind to implementation of activities at the country level. This may include contribution of staff level of effort, office space or other facilities or equipment which may be used for the program, provided by the recipient. For guidance on cost sharing in grants and cooperative agreements see 2 CFR 200.306.

Although cost share is not required for this NOFO, USAID/Nepal encourages the potential applicants to propose cost sharing since "it is critical that the activity continues after USAID assistance ends. Cost sharing can ensure that the project establishes adequate alternate sources of funding, as well as give the applicant a financial stake in the success of the program. The applicants' proposed cost share may enable additional worthwhile activities to be undertaken which USAID funds could not support. Cost share may secure the programmatic and financial sustainability of the initiatives. Cost-sharing shall be subject to 2 CFR 200.306 and the standard provision entitled "Cost Sharing or Matching" for non-U.S. NGOs.

### **3. Limitations on Submissions**

Each applicant is limited to one application submission under this NOFO as the prime Applicant.

There is no limitation on being included as a potential sub-awardee across multiple applications. The use of exclusive teaming arrangements is strongly discouraged.

**[END SECTION C]**

## SECTION D – APPLICATION AND SUBMISSION INFORMATION

### 1. Agency Point of Contact

Name: Maria Televantos  
Title: Agreement Officer  
Email: [mtelevantos@usaid.gov](mailto:mtelevantos@usaid.gov)

Name: Ajaya Parajuli  
Title: Acquisition and Assistance Specialist  
Email: [aparajuli@usaid.gov](mailto:aparajuli@usaid.gov)

### 2. Questions and Answers

Questions regarding this NOFO should be submitted via email to the points of contact mentioned above no later than the date and time indicated on the cover letter, as amended. Any information given to a prospective applicant concerning this NOFO will be furnished promptly to all other prospective applicants as an amendment to this NOFO, if that information is necessary in submitting applications or if the lack of it would be prejudicial to any other prospective applicant.

### 3. Pre-Application Conference

USAID will host pre-application conferences in Janakpur on September 26, 2023 in Bhairahawa on September 28, 2023 to ensure an understanding of the NOFO, the USAID Community Justice technical objectives and the application process. The Conference agenda will include a short presentation of the NOFO and a question/answer session based on participants' review of the NOFO. All interested potential Applicants are welcome to attend, but it will be limited to three (3) representatives per Applicant and all attendees must register. If you are interested in attending the Pre-Application Conference, please send an email to Ajaya Parajuli via e-mail at [aparajuli@usaid.gov](mailto:aparajuli@usaid.gov) with a copy to Bijay Nepali at [bnepali@usaid.gov](mailto:bnepali@usaid.gov) by close of business September 15, 2023. Include the name of your organization and the name(s) of the person(s) who will attend. USAID will respond with an email confirming registration, details of the location of the conference, and a confirmation of the date and time. You must have a registration confirmation in order to be guaranteed entrance.

### 4. General Content and Format of Application

Each applicant must furnish the information required by this NOFO.

The award process for USAID Community Justice contains three phases:

- Phase 1 - Concept Paper;
- Phase 2 - Oral Presentations; *and*

- Phase 3 - Full Application Co-Design.

**Only eligible applicants from Phase 1 will be invited to participate in Phase 2. Only one eligible and successful applicant from Phase 2 will be invited to participate in Phase 3.**

Applicants are expected to review, understand, and comply with all aspects of the NOFO. Applicants are required to submit applications according to the instructions below.

- Please ensure that applications comply with the page limitations. USAID will not review any pages in excess of the page limits noted in the subsequent sections.
- Applications must be written in English.
- Use standard Letter or A4 size, single-spaced, Calibri or readable font (12 point preferred), 1" margins, left justification and headers and/or footers on each page including consecutive page numbers, date of submission, and applicant's name.
- Fonts smaller than 12 points may be used in text boxes, graphics and tables, as appropriate. Please ensure that text boxes, graphics and tables are easily legible by reviewers.
- The technical application must be submitted as a searchable and editable Adobe PDF format.
- Applications must be submitted by email to the Agency Points of Contact listed in Section D.1.
- Email submissions must include the NOFO number and applicant's name in the subject line heading.
- For an application sent by multiple emails, the subject line must also indicate the desired sequence of the emails and their attachments (e.g., "No. 1 of 4", etc.). For example, if an application is being sent in two emails, the first email should have a subject line that states: "[NOFO number], [organization name], Application, Part 1 of 2".
- Each email must not exceed 10MB in size.

### **PHASE 1 - CONCEPT PAPER**

By the deadline indicated on the cover letter of this NOFO, applicants are invited to submit a Concept Paper via email to the agency point of contacts mentioned above. Applicants must retain proof of timely delivery in the form of system generated documentation of delivery receipt date and time. Applicants should retain a copy of the application and all enclosures for their records.

USAID is not requesting cost information as part of the Phase 1 submission.

**Page Limit:** The concept paper is limited to **10 pages**, inclusive of the cover page. The page limitation will be calculated by the total number of pages of the entire PDF. Any pages beyond the page limit will not be evaluated. Applicants may use maps, charts, or exhibits in the concept paper.

## CONCEPT PAPER CONTENT

Applicants must organize the concept paper to follow the information below:

### 1. Cover Page

- a. Organization's name
- b. Contact information
- c. Unique Entity Identifier (UEI) number (if applicable)
- d. Point of Contact and Alternate Point of Contact with name/title/email, phone
- e. Program Name: USAID Community Justice
- f. NOFO Number
- g. Name of any proposed sub-recipients or partnerships (identify if any of the organizations are local organizations, as per USAID's definition of local entity' under ADS303.

### 2. Technical Approach and Understanding

In Phase 1, the applicant must submit a concept paper that demonstrates a strong understanding of the rule of law and access to justice in Nepal. The applicant must propose innovative and feasible technical solutions and outputs that respond to the Program Description and addresses the following:

- A. Priority strategies that acknowledge and address social and cultural barriers to bring equality under law; entrenched issues of discrimination on the basis of caste, class, ethnicity, religion, origin, sex, gender, age; paternalism; and demographic power dynamics that hamper equal justice sector service delivery for women, youth, dalit and marginalized groups;
- B. A "[people-centered justice](#)" approach to enhance access to justice and rule of law promotion;
- C. A theory of change with a comprehensive description and illustration of how expected changes will happen; and
- D. A strong understanding of the current operating context and the needs of the federal and sub-national government, and judicial, and legal aid actors in Nepal; and

### 3. Institutional Capacity and Past Experience

The applicant must provide relevant details of institutional capacity, expertise, and past experience to support the proposed implementation approaches or their demonstrated potential to implement USAID Community Justice.

The applicant should address the following:

- A. Expertise of the Applicant's and proposed subpartner's (if any) that demonstrates their capacity to implement USAID Community Justice.

- B. Experience of the Applicant's and proposed subpartners (if any) in developing successful partnerships with the federal and sub-national governments and judicial actors in the implementation of community justice activities in Nepal.

In the Applicant's response, please submit, at minimum, a matrix that details the scope, size (in U.S. dollar), and period of performance (start and end dates) of past efforts that align with USAID Community Justice.

## **PHASE 2 - ORAL PRESENTATIONS**

Applicants invited to Phase 2 will present this component orally, in-person, or virtually to USAID/Nepal. Applicants invited to Phase 2 will be provided the details regarding the date, location, duration, and other details of the oral presentation in a notification letter.

Note that the instructions may be amplified during Phase 2 in the invitation letter. Further, USAID is not requesting cost information as part of the Phase 2 submission.

One week prior to Oral Presentations, applicants must submit slides using the Microsoft PowerPoint or Google Slides format not to exceed 15 slides. Applicants must also submit the names of individuals who will conduct their presentation; USAID anticipates the participation of approximately three representatives from each organization in Phase 2. Applicants are free to structure their oral presentations as they want using charts, graphs, or tables.

The requirements for oral presentations are provided below.

### **Technical Approach and Understanding**

The Technical and Understanding section must:

- Detail a feasible and innovative implementation plan of how the Recipient and subpartners, if applicable, will meet the requirements of Section A of the NOFO, which recognizes and mitigates ongoing challenges.
- In targeted geographies where similar activities are already taking place, an explanation should be provided as to how your approach will not duplicate existing activities and how these efforts will be coordinated.
- Detail inclusive approaches to advance equality rights.

During the Phase 2 oral presentation, applicants must also respond the following questions during the Technical Approach and Understanding section:

1. How will the applicant address and prove the theory of change proposed in the concept paper?
2. How will the applicant ensure equality is advanced under the law for women, youth, Dalit, and other marginalized groups?

3. How will cross-sectoral collaboration, and collaborative learning and adaptive management be prioritized?
4. How will sustainability be in-built throughout the implementation of the project?
5. How will the applicant address Do No Harm (conflict sensitivity) as described in Section A of the NOFO?

### **Management and Staffing Approach**

The Management and Staffing Approach must be appropriate and aligned with the proposed Technical Approach and Understanding section. In addition, the Management and Staffing Approach must:

- Specify the composition and organizational structure of the proposed staff, including subrecipients (if applicable),
- Describe key personnel's role and qualifications.
- Clearly describe the complementary roles of the prime partner, field staff, and sub-partners (if proposed).
- This section must address how the structure ensures effectiveness and efficiency in order to maximize results.
- The applicant must convincingly demonstrate how any proposed partnerships will be managed and how they work together to achieve the technical approach.
- The applicant must also describe how Diversity, Equity, Inclusion, and Accessibility (DEIA) will be applied to the Management and Staffing Approach, including recruitment and retention of staff and proposed subpartners, if applicable. USAID/Nepal's working definition of DEIA is as follows: "**Diversity** is the practice of including many communities, identities, races, ethnicities, backgrounds, abilities, cultures and beliefs. **Equity** is the consistent and systematic, fair, just and impartial treatment of all individuals. **Inclusion** is the recognition, appreciation, and use of the talents and skills of employees of all backgrounds. **Accessibility** is the design, construction, development and maintenance of facilities, information and communication technology, programs and services so that all people, including people with disabilities, can fully and independently use them."

During the Phase 2 oral presentation, applicants must also respond the following questions during the Management and Staffing Approach section:

1. What plans and capacities exist with the applicant's staffing to prove the required knowledge and skills and strategies they propose for effective implementation?
2. What are the applicant's proposed DEIA strategies?

### **PHASE 3 - FULL APPLICATION CO-DESIGN**

After Phase 2 has concluded, the apparently successful applicant will be invited to Phase 3 in

order to co-create the full technical and cost application with USAID and other relevant stakeholders. Only one apparently successful applicant will be invited to Phase 3.

USAID expects extensive participation of the apparently successful applicant during the Co-Creation phase 3. It is also expected that by the end of the co-creation process, the apparently successful applicant will have submitted a finalized and mutually agreed-upon program description, management and staffing approach, and cost application (see Section 4 below). Additional details and information with regards to Phase 3 will be made available to the invited applicant(s).

The final Program Description for USAID Community Justice should also integrate environmental issues in accordance with the requirements of Initial Environmental Examination (IEE) attached to this NOFO as Annex 3.

Notes: (1) USAID may authorize pre-award costs (See Funding Restrictions below) for the travel and logistics of the apparently successful applicant to participate in Phase 3 (only one applicant). (2) Instructions for Phase 3 may be amplified in the invitation letter.

If during the course of Phase 3, the Agreement Officer determines that the apparently successful Applicants is unable to provide satisfactory Technical and Cost/Business Application, or did not meet deadlines for submissions, or the Applicant and USAID cannot come to agreement on the terms and conditions of the final award, then the Agreement Officer may designate the next highest-evaluated Applicant from Phase II as the apparently successful Applicant.

## **5. Cost/Business Application**

USAID is not requesting cost information as part of the Phase 1 and Phase 2 application submission. The apparently successful applicant will develop and submit a full cost application during Phase 3. The detailed cost application instructions will be provided to the apparently successful applicant at the start of Phase 3.

## **6. Unique Entity Identifier (UEI) and SAM Requirements**

USAID may not award to an applicant unless the applicant has complied with all applicable unique entity identifier (UEI) requirements (formerly known as DUNS number) in SAM.gov (SAM). Each applicant (unless the applicant is an individual or Federal awarding agency that is exempted from requirements under 2 CFR 25.110(b) or (c), or has an exception approved by the Federal awarding agency under 2 CFR 25.110(d)) is required to:

1. Provide a valid unique entity identifier for the applicant and all proposed sub-recipients;
2. Be registered in SAM before submitting its full application. SAM is streamlining processes, eliminating the need to enter the same data multiple times, and

consolidating hosting to make the process of doing business with the government more efficient ([www.sam.gov](http://www.sam.gov)). Begin your USAID agreement application through proper U.S. Government registration using the [Registering to Work with USAID: Main Step-by-Step Guide](#).

3. Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

The registration process may take many weeks to complete. Therefore, applicants are encouraged to begin the process early. Applicants do not need to be registered in SAM when submitting the Phase 1 or Phase 2 Application. The apparently successful applicant must have registration in SAM by the time Phase 2 has concluded. If an applicant has not fully complied with the requirements above by the time USAID is ready to make an award, USAID may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant.

SAM registration: <http://www.sam.gov>.

If your entity had registered in SAM.gov prior to April 4, 2022, your Unique Entity ID (SAM) has already been assigned and is viewable in SAM.gov. This includes inactive registrations. Refer to the [guide to getting a unique entity id](#) if you want to get a Unique Entity ID (SAM) for your organization.

Non-U.S. applicants can find additional resources for registering in SAM, including a Quick Start Guide and a video on how to obtain an NCAGE code, on [www.sam.gov](http://www.sam.gov).

## **7. Pre-Award Risk Assessment**

Prior to making an award, the AO will make a risk determination as required by ADS 303.3.9 and 2 CFR 200.205 prior to making an award.

Specifically, the apparently successful applicant will be requested to submit the following information during Phase 3:

### **a) Indirect Cost Rate Agreement**

The apparently successful applicant must submit a Negotiated Indirect Cost Rate Agreement NICRA if the organization has such an agreement with an agency or department of the U.S. Government. If the apparently successful applicant does not have a NICRA the apparently successful applicant should submit the following:

- Reviewed Financial Statements Report: A report issued by a Certified Public Account (CPA) documenting the review of the financial statements was performed in accordance with Statements on Standards for Accounting and Review Services; that

management is responsible for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework and for designing, implementing and maintaining internal control relevant to the preparation. The account must also state that he or she is not aware of any material modifications that should be made to the financial statements; or

- Audited Financial Statements Report: An auditor issues a report documenting the audit was conducted in accordance with Generally Accepted Auditing Standards (GAAS), the financial statements are the responsibility of management, provides an opinion that the financial statements present fairly in all material respects the financial position of the company and the results of operations are in conformity with the applicable financial reporting framework (or issues a qualified opinion if the financial statements are not in conformity with the applicable financial reporting framework).

#### **b) Required Certifications and Assurances**

The apparently successful applicant must complete the following documents and submit a signed copy with their full Phase 3 application:

- (1) "Certifications, Assurances, Representations, and Other Statements of the Recipient" document found at <http://www.usaid.gov/ads/policy/300/303mav>.
- (2) Assurances for Non-Construction Programs (SF-424B)
- (3) Certificate of Compliance: Please submit a copy of your Certificate of Compliance if your organization's systems have been certified by USAID/Washington's Office of Acquisition and Assistance (M/OAA).

Please note that these certifications are required for both the prime applicant and all sub-grantees.

#### **c) History of Performance**

The apparently successful Applicant must provide information during Phase 3 regarding its recent history of performance for all its cost-reimbursement contracts, grants, or cooperative agreements involving similar or related programs, not to exceed three years as follows:

- Name of the Awarding Organization;
- Award Number;
- Activity Title;
- A brief description of the activity;
- Period of Performance;
- Award Amount;
- Reports and findings from any audits performed in the last three years; and
- Name of at least two (2) updated professional contacts who most directly observed the work at the organization for which the service was performed with complete

current contact information including telephone number, and e-mail address for each proposed individual.

If the Applicant encountered problems on any of the referenced Awards, it may provide a short explanation and the corrective action taken. The applicant should not provide general information on its performance. USAID reserves the right to obtain from any sources relevant information concerning an Applicant's history of performance and may consider such information in its review of the Applicant's risk. The Agency may request additional information and conduct a pre-award survey if it determines that it is necessary to inform the risk assessment.

**d) Additional Information**

Upon consideration of award or during the discussions leading to an award, the apparently successful Applicant may be required to submit additional documentation deemed necessary for the AO to make an affirmative determination of responsibility. These documents may include, but are not limited to:

1. Audited financial statements for the past three (3) years that have been audited by a certified public accountant or other auditor satisfactory to USAID;
2. Bylaws, constitution, and articles of incorporation, if applicable;
3. Copies of organizational travel, procurement, financial management, accounting manual and personnel policies and procedures, especially regarding salary, promotion, leave, differentials, etc., and indicate whether such policies and procedures have been reviewed and approved by any agency of the Federal Government. If so, provide the name, address, and phone number of the cognizant reviewing official;
4. Other documentation, as required by the AO, to substantiate that the Applicant:
  - Has adequate financial resources or the ability to obtain such resources as required during the performance of the Cooperative Agreement;
  - Has the ability to comply with the award's terms and conditions, taking into account all existing and currently prospective commitments of the Applicant, nongovernmental and governmental;
  - 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;
  - Has a satisfactory record of integrity and business ethics;
  - Is otherwise qualified and eligible to receive a Cooperative Agreement/Grant under applicable laws and regulations (e.g., Equal Employment Opportunity Laws).

An award may be made only by the Agreement Officer upon his/her signature only after she/he makes 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 specifically the proposed Activity, and that it will practice mutually agreed upon methods of accountability for funds and other assets provided by USAID.

For organizations that are new to working with USAID or for organizations with outstanding audit findings, or otherwise at USAID's discretion, 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, the Applicant must prepare, in advance, the required information and documents. See ADS 303.3.9.1 at <https://www.usaid.gov/sites/default/files/documents/303.pdf> for more information on pre-award surveys. Please note that a pre-award survey does not commit USAID to make any award.

## **8. Funding Restrictions**

USAID may authorize pre-award costs only to the apparently successful applicant to participate in the co-design process. The Agreement Officer must provide prior approval to the apparently successful applicant for the specific pre-award costs. USAID will not consider reimbursement of any other pre-award costs.

Profit is not allowable for recipients or subrecipients under this award. See 2 CFR 200.331 for assistance in determining whether a sub-tier entity is a subrecipient or contractor. Construction is not authorized under this award.

Except as may be specifically approved in advance by the AO, all commodities and services that will be reimbursed by USAID under this award must be from the authorized geographic code specified in Section B.4 of this NOFO and must meet the source and nationality requirements set forth in 22 CFR 228.

## **9. Branding Strategy and Marking Plan**

The apparently successful applicant will be asked to provide a Branding Strategy and Marking Plan during Phase 3 to be evaluated and approved by the Agreement Officer and incorporated into any resulting award.

### **Pre-Award Terms**

#### **1. Branding Strategy – Assistance (June 2012)**

- a. Applicants recommended for an assistance award must submit and negotiate a "Branding Strategy," describing how the program, project, or activity is named and positioned, and how it is promoted and communicated to beneficiaries and host country citizens.

- b. The request for a Branding Strategy, by the Agreement Officer from the applicant, confers no rights to the applicant and constitutes no USAID commitment to an award.
- c. Failure to submit and negotiate a Branding Strategy within the time frame specified by the Agreement Officer will make the applicant ineligible for an award.
- d. The applicant must include all estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth, in the budget portion of the application. These costs are subject to the revision and negotiation with the Agreement Officer and will be incorporated into the Total Estimated Amount of the grant, cooperative agreement or other assistance instrument.

The Branding Strategy must include, at a minimum, all of the following:

- (1) All estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth.
- (2) The intended name of the program, project, or activity.
  - (i) USAID requires the applicant to use the “USAID Identity,” comprised of the USAID logo and brandmark, with the tagline “from the American people” as found on the USAID Web site at <http://www.usaid.gov/branding>, unless Section VI of the RFA or APS states that the USAID Administrator has approved the use of an additional or substitute logo, seal, or tagline.
  - (ii) USAID prefers local language translations of the phrase “made possible by (or with) the generous support of the American People” next to the USAID Identity when acknowledging contributions.
  - (iii) It is acceptable to cobrand the title with the USAID Identity and the applicant's identity.
  - (iv) If branding in the above manner is inappropriate or not possible, the applicant must explain how USAID's involvement will be showcased during publicity for the program or project.
  - (v) USAID prefers to fund projects that do not have a separate logo or identity that competes with the USAID Identity. If there is a plan to develop a separate logo to consistently identify this program, the applicant must attach a copy of the proposed logos. Section VI of the RFA or APS will state if an Administrator approved the use of an additional or substitute logo, seal, or tagline.

- (3) The intended primary and secondary audiences for this project or program, including direct beneficiaries and any special target segments.
- (4) Planned communication or program materials used to explain or market the program to beneficiaries.
  - (i) Describe the main program message.
  - (ii) Provide plans for training materials, posters, pamphlets, public service announcement, billboards, Web sites, and so forth, as appropriate.
  - (iii) Provide any plans to announce and promote publicly this program or project to host country citizens, such as media releases, press conferences, public events, and so forth. Applicant must incorporate the USAID Identity and the message, "USAID is from the American People."
  - (iv) Provide any additional ideas to increase awareness that the American people support this project or program.
- (5) Information on any direct involvement from host-country government or ministry, including any planned acknowledgement of the host-country government.
- (6) Any other groups whose logo or identity the applicant will use on program materials and related materials. Indicate if they are a donor or why they will be visibly acknowledged, and if they will receive the same prominence as USAID.
- e. The Agreement Officer will review the Branding Strategy to ensure the above information is adequately included and consistent with the stated objectives of the award, the applicant's cost data submissions, and the performance plan.
- f. If the applicant receives an assistance award, the Branding Strategy will be included in and made part of the resulting grant or cooperative agreement.

**(END OF PRE-AWARD TERM)**

**2. Marking Plan – Assistance (June 2012)**

- a. Applicants recommended for an assistance award must submit and negotiate a "Marking Plan," detailing the public communications, commodities, and program materials, and other items that will visibly bear the "USAID Identity," which comprises of the USAID logo and landmark, with the tagline "from the American people." The USAID Identity is the official marking for the Agency, and is found on the USAID Web site at <http://www.usaid.gov/branding>. Section VI of the RFA or APS will state if an Administrator approved the use of an additional or substitute logo, seal, or tagline.

- b. The request for a Marking Plan, by the Agreement Officer from the applicant, confers no rights to the applicant and constitutes no USAID commitment to an award.
- c. Failure to submit and negotiate a Marking Plan within the time frame specified by the Agreement Officer will make the applicant ineligible for an award.
- d. The applicant must include all estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth, in the budget portion of the application. These costs are subject to the revision and negotiation with the Agreement Officer and will be incorporated into the Total Estimated Amount of the grant, cooperative agreement or other assistance instrument.
- e. The Marking Plan must include all of the following:
  - (1) A description of the public communications, commodities, and program materials that the applicant plans to produce and which will bear the USAID Identity as part of the award, including:
  - (2) Program, project, or activity sites funded by USAID, including visible infrastructure projects or other sites physical in nature;
  - (3) Technical assistance, studies, reports, papers, publications, audiovisual productions, public service announcements, Web sites/Internet activities, promotional, informational, media, or communications products funded by USAID;
  - (4) Commodities, equipment, supplies, and other materials funded by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs; and
  - (5) It is acceptable to cobrand the title with the USAID Identity and the applicant's identity.
  - (6) Events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities. If the USAID Identity cannot be displayed, the recipient is encouraged to otherwise acknowledge USAID and the support of the American people.
- f. A table on the program deliverables with the following details:
  - (i) The program deliverables that the applicant plans to mark with the USAID Identity;
  - (ii) The type of marking and what materials the applicant will use to mark the program deliverables;

- (iii) When in the performance period the applicant will mark the program deliverables, and where the applicant will place the marking;
  - (iv) What program deliverables the applicant does not plan to mark with the USAID Identity; *and*
  - (v) The rationale for not marking program deliverables.
- g. Any requests for an exemption from USAID marking requirements, and an explanation of why the exemption would apply. The applicant may request an exemption if USAID marking requirements would:
- (i) Compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials. The applicant must identify the USAID Development Objective, Interim Result, or program goal furthered by an appearance of neutrality, or state why an aspect of the award is presumptively neutral. Identify by category or deliverable item, examples of material for which an exemption is sought.
  - (ii) Diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent. The applicant must explain why each particular deliverable must be seen as credible.
  - (iii) Undercut host-country government “ownership” of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications. The applicant must explain why each particular item or product is better positioned as host-country government item or product.
  - (iv) Impair the functionality of an item. The applicant must explain how marking the item or commodity would impair its functionality.
  - (v) Incur substantial costs or be impractical. The applicant must explain why marking would not be cost beneficial or practical.
  - (vi) Offend local cultural or social norms, or be considered inappropriate. The applicant must identify the relevant norm, and explain why marking would violate that norm or otherwise be inappropriate.
  - (vii) Conflict with international law. The applicant must identify the applicable international law violated by the marking.
- h. The Agreement Officer will consider the Marking Plan's adequacy and reasonableness and will approve or disapprove any exemption requests. The Marking Plan will be reviewed to ensure the above information is adequately included and

consistent with the stated objectives of the award, the applicant's cost data submissions, and the performance plan.

- i. If the applicant receives an assistance award, the Marking Plan, including any approved exemptions, will be included in and made part of the resulting grant or cooperative agreement, and will apply for the term of the award unless provided otherwise.

**(END OF PRE-AWARD TERM)**

**10. Conflict of Interest Pre-Award Term (August 2018)**

a. Personal Conflict of Interest

1. An actual or appearance of a conflict of interest exists when an applicant organization or an employee of the organization has a relationship with an Agency official involved in the competitive award decision-making process that could affect that Agency official's impartiality. The term "conflict of interest" includes situations in which financial or other personal considerations may compromise, or have the appearance of compromising, the obligations and duties of a USAID employee or recipient employee.
2. The applicant must provide conflict of interest disclosures when it submits an SF-424. Should the applicant discover a previously undisclosed conflict of interest after submitting the application, the applicant must disclose the conflict of interest to the AO no later than ten (10) calendar days following discovery.

b. Organizational Conflict of Interest

The applicant must notify USAID of any actual or potential conflict of interest that they are aware of that may provide the applicant with an unfair competitive advantage in competing for this financial assistance award. Examples of an unfair competitive advantage include but are not limited to situations in which an applicant or the applicant's employee gained access to non-public information regarding a federal assistance funding opportunity, or an applicant or applicant's employee was substantially involved in the preparation of a federal assistance funding opportunity. USAID will promptly take appropriate action upon receiving any such notification from the applicant.

**(END OF PRE-AWARD TERM)**

**[END SECTION D]**

## **SECTION E – APPLICATION REVIEW INFORMATION**

### **A. MERIT REVIEW**

#### **PHASE 1 - CONCEPT PAPER REVIEW**

USAID will conduct merit reviews of all Concept Papers received that comply with the instructions in this NOFO. Concept Papers will be evaluated in accordance with the merit review criteria set forth below. No budget or cost application will be accepted during Phase 1; therefore, no cost information will be reviewed.

The criteria set forth below will be used by the merit review committee to evaluate all concept papers submitted in response to this NOFO. The criteria are listed in descending order of importance.

Merit Review Criteria for the Concept Paper:

1. Technical Approach and Understanding
2. Institutional Capacity and Past Experience

#### **TECHNICAL APPROACH AND UNDERSTANDING**

The applicant will be evaluated based on the quality and appropriateness of the technical approach, including the extent to which the applicant provides innovative and feasible solutions that respond to the Program Description; demonstrates a strong understanding of the operating context, rule of law, and access to justice in Nepal; employs a people-centered justice approach; presents a clear theory of change; and presents feasible strategies that address equality under law, entrenched issues of discrimination, and demographic power dynamics.

#### **INSTITUTIONAL CAPACITY AND PAST EXPERIENCE**

The applicant will be evaluated based on the extent to which the responses demonstrate its and the subpartners' (if applicable) capacity or potential to efficiently and effectively implement USAID Community Justice. Such capacities will be also evaluated based on relevance and appropriateness to achieve the proposed objectives.

#### **PHASE 2 - ORAL PRESENTATIONS REVIEW**

Oral presentations will be evaluated in accordance with the merit review criteria set forth below. No budget or cost application will be accepted during Phase 2; therefore, no cost information will be evaluated.

The criteria set forth below will be used by the merit review committee to evaluate all Phase 2 Oral Presentations. The criteria are equally important.

- 1) Technical Approach and Understanding
- 2) Management and Staffing Approach

### **TECHNICAL APPROACH AND UNDERSTANDING**

The applicant will be evaluated based on the applicant's likelihood of achieving an implementation plan that meets the requirements of USAID Community Justice; is feasible, innovative, and recognizes/mitigates on-going challenges in Nepal; is not duplicative of similar interventions in Nepal; and contains inclusive approaches to advance equality rights. The Applicant will also be evaluated on its ability to convincingly respond to the Technical Approach and Understanding questions in Section D.

### **MANAGEMENT AND STAFFING APPROACH**

The applicant will be evaluated based on the extent to which the Management and Staffing Approach and responses to the Management and Staffing Approach questions in Section D convincingly demonstrate the Applicant's and consortium partners (if applicable) capacity to successfully manage and implement USAID Community Justice. Furthermore, USAID will also evaluate the extent to which the Management and Staffing Approach demonstrates meaningful adoption of the concepts of diversity, equity, inclusion, and accessibility.

### **PHASE 3 - FULL APPLICATION REVIEW**

#### ***PROGRAM DESCRIPTION***

There are no technical evaluation criteria for Phase 3. This phase is devoted to the program description co-design process. The apparently successful applicant selected from Phase 2 will work collaboratively with USAID/Nepal to co-design the Program Description, which will be incorporated into the resulting Cooperative Agreement.

#### ***COST APPLICATION***

A full cost application will be developed by the apparently successful applicant selected for Phase 3 co-creation during Phase 3.

USAID will evaluate the cost application of the apparently successful applicant under consideration for an award as a result of the merit review criteria to determine whether the costs are allowable in accordance with the cost principles found in 2 CFR 200 Subpart E.

USAID will also consider (1) the extent of the applicant's understanding of the financial aspects of the program and the applicant's ability to perform the activities within the amount requested; (2) whether the applicant's plans will achieve the program objectives with reasonable economy and efficiency; and (3) whether any special conditions relating to costs should be included in the award.

## **B. PRE-AWARD SURVEYS**

Prior to making an award, the USAID AO may perform a pre-award survey of the apparently successful applicant if the AO determines that any of the following criteria apply, in accordance with USAID ADS Chapter 303.3.9.1:

- (1) USAID is uncertain about the apparently successful applicant's capacity to perform financially or programmatically;
- (2) The apparently successful applicant has never had a USAID grant, cooperative agreement, or contract. This requirement does not apply to Fixed Amount Awards;
- (3) The apparently successful applicant has not received an award from any Federal agency within the last five years. This requirement does not apply to Fixed Amount Awards;
- (4) USAID has knowledge of deficiencies in the applicant's annual audit (Single Audit or equivalent); *and*
- (5) The USAID Agreement Officer determines it to be in the best interest of the U.S. Government.

A major component of the pre-award survey is the accounting system survey. The accounting system survey team examines the applicant's systems to determine whether the prospective recipient has the necessary organization, experience, and accounting and operational controls in order to achieve the objectives of the program, or whether specific conditions are needed for the accounting systems to be in compliance with applicable regulations and accounting and cost principles.

Note: If notified by USAID that a pre-award survey is necessary, applicants must prepare in advance the required information and documents. A pre-award survey does not commit USAID to make an award to any organization.

**[END OF SECTION E]**

## SECTION F – FEDERAL AWARD ADMINISTRATION INFORMATION

### 1. Federal Award Notices

Award of the agreement contemplated by this NOFO cannot be made until funds have been appropriated, allocated and committed through internal USAID procedures. While USAID anticipates that these procedures will be successfully completed, potential applicants are hereby notified of these requirements and conditions for the award.

### 2. Administrative and National Policy Requirements

The resulting award from this NOFO will be administered in accordance with the following policies and regulations.

For Non US organizations: [ADS 303](#), [Standard Provisions for Non-U.S. Non-governmental Organizations](#).

Please see Annex 1, for a list of the standard provisions that will be applicable to any awards resulting from this NOFO.

### 3. Reporting Requirements<sup>6</sup>

#### 3.1 Financial Reporting

Financial reporting requirements shall be in accordance with the Standard Provision RAA1. "Advance Payment and Refunds (December 2020)"

#### Quarterly Financial Reports

The Recipient shall submit electronic copies of Financial Reports (quarterly SF 425 and final SF 425) in keeping with 22 CFR 200. The SF 425 must be submitted via electronic format to the U.S. Department of Health and Human Services (<http://www.dpm.psc.gov>). In addition, copies of all final financial reports shall be submitted to the AOR. Below are instructions to submit SF-425:

[Federal Financial Report Instructions \(neh.gov\)](#)

[SF-425 Federal Financial Report Letter of Credit \(LOC\) Account Set-Up and Payment Procedures \(usaid.gov\)](#)

[Federal Financial Report \(usaid.gov\)](#)

#### 3.2 Performance Reporting

---

<sup>6</sup> The apparently successful applicant must consult ADS 540 for detailed guidance on the submission of copies of reports and other information to USAID's Development Experience Clearinghouse (DEC).

The Recipient will provide the following documents to the USAID AO and the AO's Representative (AOR), as specified below and addressed in the Substantial Involvement Provisions. The title page of all reports forwarded to USAID must include a descriptive title, the author's name, grant number, the project number and title, the grantee's name, the name of the USAID office, and the publication or issuance date of the report.

#### **A. Annual Implementation Plans**

The Recipient will organize co-creation workshops for development of the annual implementation plans to facilitate collaboration amongst the Recipient, its partners, USAID, and key stakeholders including federal and sub-national governments, judicial and legal aid actors, CSOs, and other relevant USAID activities.. The first annual planning co-creation workshop will take place within 60 days of award, and subsequent annual implementation plan co-creation workshops shall take place at least 30 days prior to the due date of the Annual Implementation Plan.

The purpose of the workshop is to co-design and co-create the implementation plans for this Activity. These workshops will be preceded by preparatory meetings with USAID and GON, as appropriate, to discuss workshop objectives, participants, roles and responsibilities, information needs, and logistics. The workshop will ensure that the Recipient, their partners, USAID, and key stakeholders are operating from the same programmatic assumptions, taking lessons learned into account, considering relevant data, and identifying opportunities and sustainable solutions. This is a time to reconsider approaches, refine failing strategies and pivot to seize opportunities.

Annual implementation plans shall describe how the Recipient intends to organize work, both overall and by intermediate results. The First Implementation Plan will be due within 90 days of the award date and should cover activities for the period from award date through September 2024. Subsequent Annual Implementation Plans will be due by September each year. The Recipient shall ensure that reflections from collaborating, learning and adapting from previous years are taken into account in developing subsequent Annual implementation plans.

Annual Implementation Plans and its modifications are subject to written AOR approval.

*Sustainability Plan and Exit Strategy:* The Recipient must design and implement USAID Community Justice from its start-up with the vision to leave processes, products, and expertise that are positioned for longevity beyond the life of the activity. This will be captured in a Sustainability Plan and Exit Strategy included as an appendix to the first annual Implementation Plan, and reported against in every Annual Report. The Recipient shall identify indicators and targets against the Sustainability Plan and Exit Strategy tracked and reported in the activity Monitoring, Evaluation and Learning Plan.

*Communications Strategy:* The Recipient must develop a Communication Strategy as part of

the first annual implementation plan.

### **B. Quarterly Performance Reports**

The Recipient must submit to USAID a concise quarterly performance report to the AOR to reflect results and activities of each preceding quarter. These reports must be submitted on or before January 30th (for first quarter October-December), April 30th (for second quarter January-March) and July 30th (for third quarter April-June) of each year. Quarterly performance for the fourth quarter (July-September) shall be integrated as part of the annual progress report. The detailed content of the quarterly progress reports will be agreed upon with the AOR. Each quarterly report will summarize the country situation; program highlights, achievements, result actual vs targets, justification for critical deviations and major activities; summary of grant implementation and appraisal; problems encountered and proposed remedial actions.

### **C. Annual Reports**

The Recipient must submit a concise annual report on or before October 30th of each year (due within 30 calendar days of the end of each fiscal year). The annual report will be submitted in lieu of the fourth quarterly report. The detailed content of the annual report will be agreed upon with the AOR. Each annual report will summarize the country situation; program highlights, achievements, result actual vs targets, justification for critical deviations and major activities; summary of grant implementation and appraisal; problems encountered and proposed remedial actions; reporting on activities conducted during the prior fiscal year and actuals vs targeted results, justifications for critical deviations.

### **D. Final Report**

The Recipient must submit a concise, final report. The draft report must be submitted no later than 45 days after the award completion date, and the final report shall incorporate AOR feedback and be submitted no later than 90 days after the award completion date. The detailed content of the final report will be agreed upon with the AOR. The Final Performance Report shall contain at a minimum the following information:

- Overall description of the activities under the program during the period of this Cooperative Agreement, and the significance of these activities;
- Description of the methods of assistance used and the pros and cons of these methods;
- Life-of-project results towards achieving the project objectives and the performance indicators;
- Analysis of how the indicators illustrate the project's impact (impact data as per the approved monitoring, evaluation, and learning (MEL) Plan and measured against projections);

- Summary the program's accomplishments, as well as any unmet targets and the reasons for them;
- Summary of challenges, issues and problems that emerged during program implementation and the lessons learned in dealing with them;
- Comments and recommendations regarding unfinished work and/or future needs and directions for assistance in Nepal;
- Recommendations for what issues no longer require donor assistance;
- Possible lessons learned; and
- Sustainability of the project results.

#### **E. Monitoring, Evaluation and Learning (MEL) Plan**

The Recipient must develop an Activity Monitoring, Evaluation, and Learning (MEL) Plan, including an Activity Location Data collection component. The Recipient must co-design this requirement. As a performance management tool for planning, managing and documenting how performance data are collected and used, the MEL Plan must align with the USAID/Nepal Development Objective One and Mission CDCS Performance Management Plan (PMP). The MEL Plan has a critical role to play in the success of USAID Community Justice by tracking progress of activities towards the expected outcomes under each component and for USAID/Nepal's Country Development Cooperation Strategy (CDCS) Development Objective One (DO1). The MEL plan must present the activity theory of change along with activity purpose and results as well as a brief description of the linkages between the activity inputs, outputs and higher results. The MEL plan must include USAID Standard Foreign Assistance indicators (see [www.state.gov/foreign-assistance-resource-library](http://www.state.gov/foreign-assistance-resource-library)), as applicable, as well as customized outcome indicators to measure progress toward the key results this award aims to achieve. The Recipient must develop Performance Indicator Reference Sheets (PIRSs) for all indicators, including definitions, data sources, and frequency of data collection and reporting. Where appropriate, award indicators should be disaggregated by age, gender, and other relevant characteristics. Climate risk and environmental monitoring must be reflected in the MEL processes to determine if climate risk measures and environmental mitigation measures are being implemented and whether the measures are effectively managing climate and environmental risk.

All indicator targets will be subject to revision based on the approved annual work plan, as well as quarterly progress reports and reviews conducted by USAID. The Recipient must set targets and report on progress made with respect to the targets and other indicators, on a quarterly and annual basis. Such reports should explain any variances between the indicator targets and actual results and demonstrate how activities conducted under this agreement contributed to these outcomes. In the case of poor performance in certain areas, the Recipient must justify reasons for not meeting targets and deliverables and propose actions to improve performance.

In the MEL Plan, the Recipient must describe how they are integrating strategic collaboration, continuous learning, and adaptive management (CLA). CLA approaches to development

include collaborating intentionally with stakeholders to share knowledge and reduce duplication of effort, learning systematically by drawing on evidence from a variety of sources and taking time to reflect on implementation, and applying learning by adapting intentionally. The Recipient must reflect the dynamic nature of this activity and document how evidence-based adaptive management will be applied to adjust to new information, emerging opportunities, and changes in context. The Recipient must identify how it will engage partners and communities to seek their feedback, reflect on progress, incorporate lessons, and adapt approaches, such as through partner meetings, portfolio reviews, and after-action reviews.

Within the 90 days of the award date, and before major activity implementation actions begin, the Recipient must submit an activity MEL Plan to the USAID AOR for review and written approval. All substantial changes in the MEL Plan require prior written approval of the AOR.

USAID may elect to organize and carry out an independent performance evaluation of this activity. The Recipient must fully cooperate with USAID and the evaluation team to provide relevant information about the activity, its results, outcomes, and/or impacts including coordination with stakeholders for collecting data for the purpose of the evaluation

#### **F. Program Income**

If program income is anticipated to be generated under the award, the AO must consider how that income will be treated under the award in accordance with ADS 303.3.10 and 2 CFR 200 and the required as applicable standard provision RAA 16. Program Income (August 2020).

#### **G. Environmental Compliance**

Section 117 of the Foreign Assistance Act of 1961, as amended, requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's ADS 204, which require that any potential environmental impacts of USAID-financed activities be identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. In case of a conflict between host country and USAID regulations, the latter shall govern. The Recipient's environmental compliance obligations under these regulations and procedures are specified in the following paragraphs.

In addition, the Recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. No activity funded under this Cooperative Agreement shall be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion, Initial Environmental Examination (IEE), or Environmental Assessment duly signed by the Bureau Environmental Officer (See Annex 3).

As part of its Initial Work Plan, and all Annual Work Plans thereafter, the Recipient, in

collaboration with the USAID AOR and Mission Environmental Officer or Bureau Environmental Officer, as appropriate, review all ongoing and planned activities under this Cooperative Agreement to determine if they are within the scope of the approved Regulation 216 environmental documentation.

If the Recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments. Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

#### **H. Geospatial Reporting Requirements:**

##### **i. Activity Location Data**

The Recipient shall submit Activity Location Data as part of the quarterly and annual progress reports to indicate the geographic location or locations where the activity is implemented according to the following requirements:

##### **ii. Level of Geographic Detail**

The activity location(s) must be recorded at the National (levels to be finalized in conjunction with the design team pre award or post award with AOR): whole Nepal; Sub-national: District; Province; Local:Municipality; and Facility/ site level. When collected, latitude and longitude coordinates must be submitted in Decimal Degrees (hddd.ddddd) with at least five decimal places using the Geographic Coordinate System World Geodetic System 1984 (GCS WGS 1984) spatial reference.

##### **iii. Data Submission Frequency**

Activity Location Data must be submitted twice annually as part of the 2nd Quarterly Performance Report and the Annual Report. If the Activity Location Data has not changed since the previous data submission, it must be indicated when the data is submitted.

##### **iv. Data Submission Method**

Activity Location Data shall be submitted to an Agency approved reporting tool or in a digital format according to the standards and procedures provided by USAID. If Activity Location Data exists in a Geographic Information Systems (GIS) format: 1) it must also be submitted in a Shapefile (.shp) or GeoJSON (.geojson) file format. Geographic Data Files that are stored in other file formats that may be useful to end users can be voluntarily submitted in those file formats. For example, Geographic Data Files stored in a File Geodatabase (.gdb) or as a Web

Map Service (WMS) can also be submitted; 2) use the Geographic Coordinate System World Geodetic System 1984 (GCS WGS 1984) spatial reference; 3) include metadata ISO 19115 using the ISO 19139 XML implementation schema; 4) Geographic Data Visualization Files created using desktop GIS software will be submitted in Esri Map Document (.mxd) or QGIS Project (.qgs) file formats; 5) Geographic data visualization products that are finalized in separate desktop software or stored in a different file format can also be submitted if they may be of use to an end user. For example, when a data visualization product is stored as a Map Package or is finalized in Adobe Illustrator, the Map Package (.mpk), or Adobe Illustrator (.ai) file can be additionally submitted; 6) Geographic Data Visualization Files written in a programming language and used to generate web-based data visualization products will include an indication of the programming language (for example, a Python file would be .py, a Javascript file would be .js, etc.); and 7 ) Geographic Data Visualization Files will reference relative pathnames to the source of all Geographic Data Files that are displayed in the data visualization product.

**[END OF SECTION F]**

## **SECTION G – FEDERAL AWARDING AGENCY CONTACT(S)**

### **1. NOFO Points of Contact**

Name: Maria Televantos  
Title: Agreement Officer  
Email: [mtelevantos@usaid.gov](mailto:mtelevantos@usaid.gov).

Name: Ajaya Parajuli  
Title: Acquisition and Assistance Specialist  
Email: [aparajuli@usaid.gov](mailto:aparajuli@usaid.gov).

Any prospective applicant desiring an explanation or interpretation of this NOFO must request it in writing by the deadline for questions specified in the cover letter to allow a reply to reach all prospective applicants before the submission of their applications. Any information given to a prospective applicant concerning this NOFO will be furnished promptly to all other prospective applicants as an amendment of this NOFO, if that information is necessary in submitting applications or if the lack of it would be prejudicial to any other prospective applicants.

Any questions or comments concerning this NOFO must be submitted in writing by emails to the above email addresses by the deadline for questions indicated at the top of this NOFO's cover letter.

### **2. Acquisition and Assistance Ombudsman**

The A&A Ombudsman helps ensure equitable treatment of all parties who participate in USAID's acquisition and assistance process. The A&A Ombudsman serves as a resource for all organizations who are doing or wish to do business with USAID. Please visit this page for additional information:

<https://www.usaid.gov/work-usaid/acquisition-assistance-ombudsman>

[The A&A Ombudsman may be contacted via: Ombudsman@usaid.gov](mailto:Ombudsman@usaid.gov)

**[END OF SECTION G]**

## **SECTION H – OTHER INFORMATION**

USAID reserves the right to fund any or none of the applications submitted. The AO is the only individual who may legally commit the Government to the expenditure of public funds. Any award and subsequent incremental funding will be subject to the availability of funds and continued relevance to Agency programming.

### **Applications with Proprietary Data**

Applicants who include data that they do not want disclosed to the public for any purpose or used by the U.S. Government except for evaluation purpose, should mark the cover page with the following:

“This application includes data that must not be disclosed, duplicated or used – in whole or in part – for any purpose other than to evaluate this application. If, however, an award is made as a result of – or in connection with – the submission of this data, the U.S. Government will have the right to duplicate, use, or disclose the data to the extent provided in the resulting award. 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 sheets {insert sheet numbers}.”

Additionally, the applicant must mark each sheet of data it wishes to restrict with the following:

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

**[END OF SECTION H]**

**ANNEXES**

ANNEX 1 - STANDARD PROVISIONS

ANNEX 2 - ABBREVIATIONS AND ACRONYMS

ANNEX 3 - INITIAL ENVIRONMENTAL EXAMINATION (IEE)

**[END OF SECTION ANNEXES]**

## ANNEX 1 - STANDARD PROVISIONS

(Note: the full text of these provisions may be found at: <https://www.usaid.gov/ads/policy/300/303maa>, <https://www.usaid.gov/ads/policy/300/303mab>, and <https://www.usaid.gov/ads/policy/300/303mat>). The actual Standard Provisions included in the award will be dependent on the organization that is selected (or the type of award, in the case of a fixed amount award). The award will include the latest Mandatory Provisions for either U.S. or non-U.S. Nongovernmental organizations, as appropriate. The award will also contain the following “required as applicable” Standard Provisions:

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

- RAA1. ADVANCE PAYMENT AND REFUNDS (NOVEMBER 2020)
- RAA2. REIMBURSEMENT PAYMENT AND REFUNDS (DECEMBER 2014)
- RAA3. INDIRECT COSTS – NEGOTIATED INDIRECT COST RATE AGREEMENT (NICRA) (NOVEMBER 2020) - **Not Applicable**
- RAA4. INDIRECT COSTS – CHARGED AS A FIXED AMOUNT (NONPROFIT) (JUNE 2012) - TBD
- RAA5. INDIRECT COSTS – DE MINIMIS RATE (NOVEMBER 2020) - TBD
- RAA6. UNIVERSAL ENTITY IDENTIFIER (UEI) AND SYSTEM FOR AWARD MANAGEMENT (SAM) (DECEMBER 2022)
- RAA7. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (DECEMBER 2022)
- RAA8. SUBAWARDS (DECEMBER 2014)
- RAA9. TRAVEL AND INTERNATIONAL AIR TRANSPORTATION (DECEMBER 2014)
- RAA10. OCEAN SHIPMENT OF GOODS (JUNE 2012) - **Not Applicable**
- RAA11. REPORTING HOST GOVERNMENT TAXES (DECEMBER 2022)
- RAA12. PATENT RIGHTS (DECEMBER 2022)
- RAA13. [RESERVED]
- RAA14. INVESTMENT PROMOTION (DECEMBER 2022)-**Not Applicable**
- RAA15. COST SHARE (JUNE 2012)
- RAA16. PROGRAM INCOME (AUGUST 2020)
- RAA17. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)
- RAA18. STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID ASSISTANCE AWARDS INVOLVING CONSTRUCTION (SEPTEMBER 2004) - **Not applicable**
- RAA19. PROTECTION OF HUMAN RESEARCH SUBJECTS (JUNE 2012) -**Not applicable**
- RAA20. STATEMENT FOR IMPLEMENTERS OF ANTI-TRAFFICKING ACTIVITIES ON LACK OF SUPPORT FOR PROSTITUTION (JUNE 2012)
- RAA21. ELIGIBILITY OF SUBRECIPIENTS OF ANTI-TRAFFICKING FUNDS (JUNE 2012)
- RAA22. PROHIBITION ON THE USE OF ANTI-TRAFFICKING FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION (JUNE 2012)
- RAA23. VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009) -**Not applicable**

RAA24. CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE) (FEBRUARY 2012)-**Not Applicable**

RAA25. CONDOMS (ASSISTANCE) (SEPTEMBER 2014)-**Not Applicable**

RAA26. PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING (ASSISTANCE) (SEPTEMBER 2014)

RAA27. LIMITATION ON SUBAWARDS TO NON-LOCAL ENTITIES (JULY 2014)

RAA28. CONTRACT PROVISION FOR DBA INSURANCE UNDER RECIPIENT PROCUREMENTS (DECEMBER 2022)-**Not Applicable**

RAA29. RESERVED

RAA30. RESERVED

RAA31. NEVER CONTRACT WITH THE ENEMY (NOVEMBER 2020)-**Not Applicable**

## **ANNEX 2 - ABBREVIATIONS AND ACRONYMS**

Agreement Officer	AO
Agreement Officer's Representative	AOR
Certified Public Accountant	CPA
Child, Early, and Forced Marriage	CEFM
Civil Society and Media	CSM
Civil Society Organizations	CSOs
Collaborating, Learning, and Adapting	CLA
Data quality assessment	DQA
Diversity, Equity, Inclusion, and Accessibility	DEIA
Gender Equality and Social Inclusion	GESI
Geographic Information Systems	GIS
Initial Environmental Examination	IEE
Letter of Credit	LOC
Monitoring, Evaluation and Learning	MEL
Negotiated Indirect Cost Rate Agreement	NICRA
Notice of Funding Opportunity	NOFO
Performance Management Plan	PMP
Performance Plan and Report	PPR
System for Award Management	SAM
Unique Entity Identifier	UEI

**ANNEX 3-INITIAL ENVIRONMENTAL EXAMINATION (IEE)**

Asia 22-184



**REQUEST FOR CATEGORICAL EXCLUSION (RCE)**

**Project/Activity Data**

<b>Project/Activity Name:</b>	Community Justice Activity
<b>Implementation Start/End:</b>	March 2023/March 2028
<b>Funding Account(s):</b>	TBD
<b>Funding Amount:</b>	\$5 million
<b>Solicitation/Contract/Award Number:</b>	TBD
<b>Implementing Partner(s):</b>	TBD
<b>Tracking ID/link:</b>	TBD
<b>Tracking ID/link of Related IEE (if any):</b>	
<b>Tracking ID/link of Related Analyses:</b>	TBD

**Organizational/Administrative Data**

<b>Lead Bureau:</b>	Asia
<b>Operating Unit:</b>	Nepal
<b>Geographic Location(s) Covered:</b>	
<b>Prepared by:</b>	Reshma Thapa
<b>Date Prepared:</b>	August 12, 2022

**Environmental Compliance Review Data**

<b>Analysis Type:</b>	Request for Categorical Exclusion
<b>Environmental Determination(s):</b>	Categorical Exclusion
<b>Additional Analyses/Reporting Required</b>	Not required
<b>Analysis Expiration Date:</b>	Not required
<b>Climate Risks Identified (#):</b>	Low <input checked="" type="checkbox"/> Moderate <input type="checkbox"/> High <input type="checkbox"/>

## **I.0 PURPOSE OF RCE AND DESCRIPTION OF ACTIVITY:**

### **I.1 PURPOSE OF RCE:**

The purpose of this request for categorical exclusion (RCE) document is to establish that all proposed activities belong to classes of actions eligible for Categorical Exclusions as set out in Agency regulations (22 CFR 216.2(c)) and that there are no foreseeable significant direct or indirect impacts that would preclude them from receiving a Categorical Exclusion. Upon approval of this document, the Categorical Exclusions are affirmed for the project/activity. This analysis also documents the results of the project/activity level Climate Risk Management process in accordance with USAID policy (specifically, ADS 201 mandatory reference 201mal).

This RCE is a critical element of USAID's mandatory environmental review and compliance process meant to achieve environmentally sound activity design and implementation.

### **I.2 PROJECT/ACTIVITY OVERVIEW**

The Community Justice activity will primarily improve equality of justice sector service delivery for women, youth and marginalized groups in targeted communities.

### **I.3 PROJECT/ACTIVITY DESCRIPTION**

Under Objective 1 of this activity, USAID will strengthen local institutional capacity and justice sector coordination to improve access to justice, justice delivery, and oversight for women, youth, and marginalized groups. Under Objective 2 of this activity, USAID will strengthen civil society capacity to improve community legal literacy, local justice sector accountability, and access to legal aid for women, youth, and marginalized groups. This activity will adopt a co-creation approach to identify/refine the activities. The following table I provides illustrative activities to achieve the above-specified objectives:

**TABLE I:** Proposed Activities:

Objectives	Illustrative Activities
<p><b>Objective 1:</b>            Strengthen local institutional capacity and justice sector coordination to improve access to justice, justice delivery, and oversight for women, youth, and marginalized groups.</p>	<p><b>To Strengthen the Access to Justice:</b>            Legal aid referral linkages with pro bono lawyers network; training for JC members, mediation center Training on core job functions for JC Chairs, Members; etc.</p> <p><b>For Effective Justice Service Delivery:</b>            Support registering community mediation centers under the local governments Support for quality data reporting to municipal assembly and to the public; embedded legal support using legal interns/ members, elected reps, and legal aid lawyers and criminal defense.</p> <p><b>For Justice Oversight:</b>            Support linkages and coordination between Judicial Committees, judiciary and Justice Sector Coordination Committee; create formal coordination between CSO accountability networks, judiciary and District Legal Aid Committees to improve accountability of the legal aid system; etc.</p>
<p><b>Objective 2:</b>            Strengthen local institutional capacity and justice sector coordination to improve access to justice, justice delivery, and oversight for women, youth, and marginalized groups.</p>	<p><b>To Strengthen the Access to Justice:</b>            Public awareness campaign / community outreach on local justice deliveries; Legal representation through legal aid, pro bono lawyers and criminal defense; Promoting and strengthening a new set of justice sector CSO actors particularly among, youth, women, Dalit, and other marginalized communities; etc.</p> <p><b>For Effective Justice Service Delivery:</b>            Establish/strengthen legal aid and public defense referral network; public policy analysis, study, research and evidence-based advocacy; public documentation of rights violations based on discrimination and support for dissemination Capacity building of the CSOs in community development initiatives, and the advancement of fundamental rights; community education of informal justice providers; etc</p> <p><b>For Justice Oversight:</b>            Establish CSO accountability networks; establish Justice Sector Oversight Committees to monitor issues concerning women, youth, and marginalized groups; capacity building of network members, CSOs, community members and practitioners to advance civic oversight; etc.</p>

## 2.0 ENVIRONMENTAL ANALYSIS

### 2.1 JUSTIFICATION FOR CATEGORICAL EXCLUSION

The activities under the Political Context Analysis Activity are among the classes of actions listed in 22 CFR 216.2(c)(2) and have no foreseeable significant direct or indirect adverse effect on the environment. Therefore, under 22 CFR 216.2(c)(1), neither an IEE nor an EA will be required for these activities. Instead, a Categorical Exclusion is recommended for the projects/activities described above in Section 1.3 as follows:

**TABLE 2: RECOMMENDED DETERMINATION FOR CATEGORICAL EXCLUSION**

Project/Activity and Sub-Activity #	Recommended Determination for Categorical Exclusion
Proposed access, delivery, and oversight of justice related activities proposed under <b>Objective 1:</b> Strengthen local institutional capacity and justice sector coordination to improve access to justice, justice delivery, and oversight for women, youth, and marginalized groups.	Categorical Exclusion per 22 CFR 216.2(c) (2) (i) for capacity building activities and (c)(2) (iii) for workshop and meetings
Proposed access, delivery, and oversight of justice related activities proposed under <b>Objective 2:</b> Strengthen civil society capacity to improve community legal literacy, local justice sector accountability, and access to legal aid for women, youth, and marginalized groups	Categorical Exclusion per 22 CFR 216.2(c) (2) (i) for capacity building activities and (c)(2) (iii) for workshop and meetings

### 2.2 CLIMATE RISK MANAGEMENT

This section summarizes the findings of the CRM Screening (see Annex 1). The project design team, in consultation with the CIL, considered the potential effect of climate risks/stressors on the sustainability of the project (changing precipitation patterns, rising temperature, floods, droughts, fires, landslides, etc.) in addition to the impact of project activities on the climate (increased greenhouse gas emissions, land use changes, etc.).

Based on the 2017 [Nepal Climate Risk Profile](#) and subsequent analysis conducted by USAID/Nepal the climate risk of the Community Justice Activity is determined to be low or no

risks at all. The climate risk screening (see Table 2) for the Community Justice Showed a low climate risk rating for all initially planned activities. The intervention's low rating does not require the development of specific climate change mitigation plans. In addition to the risks screening, we also reviewed to the World Bank's recent Climate Risk Country Profile of Nepal available at:

<https://openknowledge.worldbank.org/bitstream/handle/10986/36374/Nepal-Climate-Risk-Country-Profile.pdf?sequence=1&isAllowed=y>

**TABLE 3:** Climate Risk Screening:

Tasks / Defined or Illustrative Interventions	Climate Risks	Risk Rating*	How Risks are Addressed and further analysis	Opportunities to Strengthen Climate Resilience
<b>Under Objective 1</b> of this activity, USAID will strengthen local institutional capacity and justice sector coordination to improve access to justice, justice delivery, and oversight for women, youth, and marginalized groups.	None	No Risk/ Low	Not applicable	Not applicable
<b>Under Objective 2:</b> Strengthen civil society capacity to improve community legal literacy, local justice sector accountability, and access to legal aid for women, youth, and marginalized groups	None	No Risk/ Low	Not applicable	Not applicable

**Overall:** The CRM screening for this activity scored “No Risk or Low” climate risk rating. Based on this screening result, the proposed activity does not require the development of any separate climate change mitigation plans. However, the activity will continuously look for opportunities to integrate and promote climate change adaptation and mitigation measures as well as conservation of uniquely diverse environment and natural resources of Nepal as and where applicable during the entire life of this activity.

### **3.0 LIMITATIONS OF THE CATEGORICAL EXCLUSION**

The categorical exclusions recommended in this document apply only to activities and sub-activities described herein.

Other activities that may arise must be subject to an environmental analysis and the appropriate documentation prepared and approved, whether it be a new Request for Categorical Exclusion, an amendment, or other type of 22 CFR 216 document.

It is confirmed that the projects/activities described herein do not involve actions normally having a significant effect on the environment, including those described in 22 CFR 216.2(d).

### **3.1 MANDATORY INCLUSION OF ENVIRONMENTAL COMPLIANCE REQUIREMENTS IN SOLICITATIONS, AWARDS, BUDGETS, AND WORK PLANS**

USAID will ensure the environmental compliance requirements are incorporated into solicitations, awards, budgets, and work plans, including relevant limitations of Section 3 above. In addition, climate risk management requirements will also be incorporated.

### **3.2 IMPLEMENTATION & MONITORING REQUIREMENTS**

USAID will ensure that the following requirements are met:

- C/AOR and MEO/CIL will provide an initial briefing for Implementing Partner (IP) on environmental compliance responsibilities, however in the absence of future scope changes subsequent environmental review will not be required.
- C/AOR and MEO/CIL will explain about the RCE to the IP at the post-award conference
- AOR/COR will conduct an annual review of project activities during the Annual Work Plan approval process to ensure that all proposed activities are still covered by the RCE, and work with the IP teams and MEO to modify the RCE if needed.
- In view that COVID 19 still threatens human health, the project shall be implemented in compliance with GON's COVID 19 guidelines/regulations and international best practices. The WHO guidelines available at the following link, especially the general awareness and proper selection of venues for meeting would be a good reference:  
<https://www.who.int/emergencies/diseases/novel-coronavirus-2019/advice-for-public>
- **Use opportunities to promote conservation and climate change mitigation in Nepal:** The prime IP, sub-grantees, and sub-contractors must use opportunities to discuss/enhance awareness about reducing vulnerabilities of climate change impact and conservation of uniquely diverse environment and natural resources of Nepal, as and where relevant.



**Clearances:**

<b>Name</b>	<b>Designation</b>	<b>Clearance</b>	<b>Date</b>
Reshma Thapa	Democracy and Governance Specialist	Drafter	09/15/2022
Bishwas Rana	Acting Director, DGO	Cleared	09/16/2022
Netra Sharma	Mission Environmental Officer	Cleared	09/16/2022
Andrei Barannik	Regional Environmental Adviser for Central & South Asia, and for Afghanistan and Pakistan	Cleared by W. Gibson in Andrei's stead	09/22/2022
Laura Gonzales	RLO, USAID/Indonesia	Cleared	10/12/2022
Charles Yesolitis	Acting Deputy Mission Director, USAID/Nepal	Cleared	10/12/2022

---

Copy to:

- Activity File
- MEO Tracking
- OAA
- RLO

**[END OF NOTICE OF FUNDING  
OPPORTUNITY-72036723RFA00009]**