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Annex 5: Required Certifications

The following Representations and Certifications must be completed and submitted with the proposal Part 2 along with the detailed requirements for Part 2 indicated in the Technical Specifications Annex, if applicable. Non adherence to these requirements may result in disqualification.

1. [Certificate Of Independent Price Determination](#)
2. [Certification And Disclosure Regarding Payments To Influence Certain Federal Transactions](#)
3. [Information Regarding Responsibility Matters \(April 2010\)](#)
4. [Offeror's Key Individual Certification On Narcotics Offenses And Drug Trafficking](#)
5. [Certification Regarding: Prohibition On The Promotion Or Advocacy Of The Legalization Or Practice Of Prostitution Or Sex Trafficking \(Acquisition\) \(June 2010\)](#)
6. [Contractor Code Of Business Ethics \(April 2010\)](#)
7. [Certification Of Toxic Chemical Release Reporting \(August 2003\)](#)
8. [Certification Regarding Debarment, Suspension, Or Proposed Debarment \(December 2010\)](#)
9. [Offeror's Evidence Of Responsibility Statement](#)

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Annex 5-1: Certificate of Independent Price Determination

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION

_____(hereinafter called the "Offeror")

(a) The Offeror certifies that—

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

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

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

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

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

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

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

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

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

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

Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

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Annex 5-2: Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions

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

_____ (hereinafter called the "Offeror")

(a) *Definitions.* As used in this provision—"Lobbying contact" has the meaning provided at 2 U.S.C. 1602(8). The terms "agency," "influencing or attempting to influence," "officer or employee of an agency," "person," "reasonable compensation," and "regularly employed" are defined in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12).

(b) *Prohibition.* The prohibition and exceptions contained in the FAR clause of this solicitation entitled "Limitation on Payments to Influence Certain Federal Transactions" (52.203-12) are hereby incorporated by reference in this provision.

(c) *Certification.* The Offeror, by signing its offer, hereby certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress on its behalf in connection with the awarding of this contract.

(d) *Disclosure.* If any registrants under the Lobbying Disclosure Act of 1995 have made a lobbying contact on behalf of the Offeror with respect to this contract, the Offeror shall complete and submit, with its offer, OMB Standard Form LLL, Disclosure of Lobbying Activities, to provide the name of the registrants. The Offeror need not report regularly employed officers or employees of the Offeror to whom payments of reasonable compensation were made.

(e) *Penalty.* Submission of this certification and disclosure is a prerequisite for making or entering into this contract imposed by 31 U.S.C. 1352. Any person who makes an expenditure prohibited under this provision or who fails to file or amend the disclosure required to be filed or amended by this provision, shall be subject to a civil penalty of not less than \$10,000, and not more than \$100,000, for each such failure.

(f) Should the Offeror's circumstances change during the life of any resulting subcontract with respect to the above, the Offeror will notify Buyer immediately.

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

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Annex 5-3: Certification Regarding Responsibility Matters

CERTIFICATION REGARDING RESPONSIBILITY MATTERS

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that -

(i) The Offeror and/or any of its Principals -

- (A) Are, are not, presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;
- (B) Have, have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating Federal criminal tax laws, or receiving stolen property;
- (C) Are, are not, presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision;
- (D) Have, have not, within a three-year period preceding this offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied.

(ii) The Offeror has has not, within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(b) "Principal," for the purposes of this certification, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment; and similar positions). This certification concerns a matter within the jurisdiction of an agency of the United States and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Section 1001, Title 18, US Code.

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(b) The Offeror shall provide immediate written notice to Chemonics if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by Chemonics may render the Offeror non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available Chemonics, Chemonics may terminate the contract resulting from this solicitation for default.

Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

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Annex 5-4: Offeror's Key Individual Certification on Narcotics Offenses and Drug Trafficking

KEY INDIVIDUAL CERTIFICATION NARCOTICS OFFENSES AND DRUG TRAFFICKING

I hereby certify that within the last ten years:

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

Signature: _____

Date: _____

Name: _____

Title/Position: _____

Organization: _____

Address: _____

Date of Birth: _____

NOTICE:

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

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Annex 5-5: Prohibition on the Promotion or Advocacy of the Legalization or Practice of Prostitution or Sex Trafficking

Prohibition on the Promotion or Advocacy of the Legalization or Practice of Prostitution or Sex Trafficking (Acquisition) (June 2010)

(a) This contract is authorized under the United States Leadership Against HIV/AIDS, Tuberculosis, and Malaria Act of 2003 (Pub.L. No. 108-25), as amended. This Act enunciates that the U.S. Government is opposed to prostitution and related activities, which are inherently harmful and dehumanizing, and contribute to the phenomenon of trafficking in persons. The contractor shall not use any of the funds made available under this contract to promote or advocate the legalization or practice of prostitution or sex trafficking. Nothing in the preceding sentence shall be construed to preclude the provision to individuals of palliative care, treatment, or post-exposure pharmaceutical prophylaxis, and necessary pharmaceuticals and commodities, including test kits, condoms, and, when proven effective, microbicides.

(b)(1) Except as provided in (b)(2) and (b)(3), by its signature of this contract or subcontract for HIV/AIDS activities, a non-governmental organization or public international organization awardee/sub-awardee agrees that it is opposed to the practices of prostitution and sex trafficking because of the psychological and physical risks they pose for women, men, and children.

(b)(2) The following organizations are exempt from (b)(1): the Global Fund to Fight AIDS, Tuberculosis and Malaria; the World Health Organization; the International AIDS Vaccine Initiative; and any United Nations agency.

(b)(3) Contractors and subcontractors are exempt from (b)(1) if the contract or subcontract is for commercial items and services as defined in FAR 2.101, such as pharmaceuticals, medical supplies, logistics support, data management, and freight forwarding.

(b)(4) Notwithstanding section (b)(3), not exempt from (b)(1) are contractors and subcontractors that implement HIV / AIDS programs under this contract or subcontract by: (i) providing supplies or services directly to the final populations receiving such supplies or services in host countries; (ii) providing technical assistance and training directly to host country individuals or entities on the provision of supplies or services to the final populations receiving such supplies and services; or (iii) providing the types of services listed in FAR 37.203(b)(1)-(6) that involve giving advice about substantive policies of a recipient, giving advice regarding the activities referenced in (i) and (ii), or making decisions or functioning in a recipient's chain of command (e.g., providing managerial or supervisory services approving financial transactions, personnel actions).

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

"Commercial sex act" means any sex act on account of which anything of value is given to or received by any person.

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"Prostitution" means procuring or providing any commercial sex act and the "practice of prostitution" has the same meaning.

"Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. 22 U.S.C. 7102(9).

(d) The contractor shall insert this provision in all subcontracts.

(e) Any violation of this provision will result in the immediate termination of this award by USAID.

(f) This provision does not affect the applicability of FAR 52.222-50 to this contract.

The Offeror (below named organization or firm) certifies that it has () has not () instituted a policy explicitly opposing prostitution and sex trafficking as required under this Request for Proposal and any possible subsequent subcontract.

Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

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Annex 5-6: Contractor Code of Business Ethics

CONTRACTOR CODE OF BUSINESS ETHICS (APR 2010)

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

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

Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

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Annex 5-7: Certification of Toxic Chemical Release Reporting

FAR 52.223.13 CERTIFICATION OF TOXIC CHEMICAL RELEASE REPORTING (AUG 2003)

By signing this offer, the Offeror certifies that:

1) As the owner or operator of facilities that will be used in the performance of this contract that are subject to the filing and reporting requirements described in section 313 of the Emergency Planning and Community Right-to-Know Act of 1986, (EPCRA) and requirement section 6607 of the Pollution Prevention Act of 1990 (PPA) (42 U.S.C. 13106), the Offeror will file and continue to file for such facilities for the life of the contract the Toxic Chemical Release Inventory Form (Form R) as described in sections 313(a) and (g) of EPCRA and section 6607 of EPA; or

2) None of its owned or operated facilities to be used in the performance of this contract is subject to the Form R filing and reporting requirements because each such facility is exempt for at least one of the following reasons: (check each block that is applicable)

The facility does not manufacture, process, or otherwise use any toxic chemicals listed in 40 CFR 372.65;

The facility does not have 10 or more full-time employees as specified in section 313(b)(1)(A) of EPCRA, 42 U.S.C. 11023(b)(1)(A);

The facility does not meet the reporting thresholds of toxic chemicals established under section 313(f) of EPCRA, 42 U.S.C. 11023(f) (including the alternate thresholds at 40 CFR 372.27, provided an appropriate certification from has been filed with EPA);

The facility does not fall within the following Standard Industrial Classification (SIC) codes or their corresponding North American Industry Classification System sectors: (A) Major group code 10 (except 1011, 1081, and 1094, (B) Major group code 12 (except 1241), (C) Major group codes 20 through 39, (D) Industry code 4911, 4931, or 4939 (limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce), (E) Industry code 4953 (limited to facilities regulated under the Resource Conservation and Recovery Act, Subtitle C (41 U.S.C 6921 et seq.), or 5169, or 5171, or 7389 (limited to facilities primarily engaged in solvent recovery services on a contract or fee basis); or

The Facility is not located in the United States or its outlying areas.

Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

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Annex 5-8: Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment

Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (DEC 2010)

This is is not a commercial subcontract. This subcontract is is not for the procurement of off-the-shelf items. The total price of the subcontract is is not greater \$30,000.

The subcontractor or its principals have or have not been debarred, suspended, or proposed for debarment.

Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____

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Annex 5-9: Evidence of Responsibility Form

EVIDENCE OF RESPONSIBILITY

1. Offeror Business Information

Company Name: _____

Address: _____

DUNS Number: _____

2. Authorized Negotiators

The Offeror's proposal may be discussed with any of the following individuals. These individuals are authorized to represent the Offeror in negotiation of this offer.

List Names of Authorized signatories

These individuals can be reached at the following office:

Address _____

Telephone/Fax _____

Email address _____

3. Adequate Financial Resources

The Offeror has adequate financial resources to manage this contract.

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

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

- a) In the previous tax year, was your company's gross income from all sources above \$300,000?

Yes No

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

Yes No

- c) Does the public have access to information about the compensation of the executives in your business or organization (the legal entity to which the DUNS number it provided belongs) through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986? (FFATA § 2(b)(1)):

Yes No

- d) Does your business or organization maintain an active registration in the System for Award Management (www.SAM.gov)?

Yes No

4. Ability to Comply

The Offeror is able to comply with the proposed delivery of performance schedule or provision of items offered having taken into consideration all existing business commitments, commercial as well as governmental.

5. Record of Performance, Integrity, and Business Ethics

(Instructions: Offeror should describe their record.)

Offeror record of integrity is

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

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

7. Equipment and Facilities

(Instructions: Offeror should state if they have necessary facilities and equipment to carry out the contract with specific details as appropriate per the requirements.)

8. Eligibility to Receive Award

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

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9. Cognizant Auditor

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

10. Acceptability of Contract Terms

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%%"Cf[Ub]nUjcb`cZ: Jfa

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Company Name: _____

By (Signature): _____ Title: _____

Printed Name: _____ Date: _____