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# **Translation Services for the UNAIDS Secretariat – English, French, Spanish and Russian**

***Request for Proposal (RFP) via E-Tendering  
Reference Number: RFP-2018-03***

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## **1. INTRODUCTION**

### **1.1 Objective of the RFP**

The purpose of this Request for Proposal (RFP) is to enter into long-term agreements (LTAs) for a period of two (2) years with multiple successful bidders to carry out translation services from English into French, Spanish and Russian, as well as from French, Russian and Spanish into English, including document revisions and proof-reading.

A long-term agreement may be extended for another two (2) years subject to a satisfactory review and assessment of the successful bidder's performance and quality of services provided.

UNAIDS is a United Nations organization that is dependent on contributions it receives from various donors for the implementation of its activities. Bidders are therefore requested to propose the best and most cost-effective solutions to meet UNAIDS' requirements, while ensuring a high level of service.

For more information about UNAIDS please visit our website [www.unaids.org](http://www.unaids.org).

### **1.2 Characteristics of the bidder**

#### **1.2.1 Status**

The provider shall be a public institution, company, individual or NGO operating in the field of translation services, with proven expertise in providing a variety of translation-related services.

#### **1.2.2 Accreditations**

- University degree in modern languages or equivalent.
- Post-graduate qualification in translation studies, applied linguistics or related discipline will be an asset.
- An accreditation (ISO or similar) or an on-going accreditation process by a certified accreditation body will be an asset.

#### **1.2.3 Previous experience**

- Proven experience in the area of translation, revision and proof-reading.
- Evidence of previous Long-term agreements or contracts
- Three references from UN clients or health sector clients
- Samples of translations of publications (via electronic link to the source and target texts)
- Previous work with UNAIDS, an international institution, government bodies, and/or NGOs/corporate organizations operating in the field of HIV/AIDS or public health will be a strong asset.

#### **1.2.4 Logistics and Technical capacity**

Required hardware and software capacity to perform a variety of translation-related tasks and ensure appropriate communication tools are in place for ease of access and coordination with the UNAIDS Translations Coordinator. Ability to submit translation of at least 500 words within a standard turnaround of 24 hours.

### 1.2.5 Staffing

- In the case of companies, it is required to have staff assigned on a non-exclusive basis for translation coordination and project management

## 1.3 Work to be performed

Central to UNAIDS' work is the provision of quality information in four main and recognized UN languages – English, French, Russian and Spanish – through printed materials as well as through its website. These range from advocacy documents to epidemiological data about HIV.

All previously translated publications are available on the UNAIDS website at [www.unaids.org](http://www.unaids.org) and can be viewed for purposes of a better understanding of the expected outputs and quality of the work to be performed.

To this end, UNAIDS is currently seeking to establish long-term agreements with multiple professional translators, revisers and proof-readers for translation, revision, proof-reading and terminology services for its documents. The service providers should ensure the best possible quality levels while at the same time maintaining the most cost-effective processes.

The work to be performed includes:

1. Various translation-related tasks from English to French, English to Spanish and English to Russian. In addition, a limited number of services will be required for translation from either French or Spanish or Russian, into English. The tasks expected to be performed include:

- Translation of media materials (Press releases and statements, Executive Director interviews, speeches and statements, media advisories, fact sheets etc.) - usually with a rapid turnaround time and without subsequent revision by another translator; often under urgency and with a maximum turnaround time of 24 hours;
- Delivery of translation of a short document within the day. A short document typically consists of 1 page or 500 words.
- Translation of documents for meetings of the UNAIDS governing body – the Programme Coordinating Board (PCB);
- Translation of any other documents as required (e.g. Executive Office correspondence, World AIDS Campaign (WAC) messages, posters and brochures, Estimation and Projection Package (EPP) etc.)
- Translation, revision and proof-reading of UNAIDS publications (annual and bi-annual reports, policy briefs, technical guidelines, Best Practice documents, etc.).
- In the case of a company or institution, it is preferred where possible, that the same translator is re-assigned a document for revision. This assures consistency and eases follow-up by UNAIDS. if possible to assure consistency
- Flexibility to deliver translation services during non-working days, especially before or during major UNAIDS report launches/conferences/events (mostly in French)

2. As part of pre-editing, study as necessary the reference materials provided by the UNAIDS Translation coordinator for translation services and clarify with him/her all technical queries for each document: target audience, technical content, required style, etc. – so as to be able to apply HIV-related terminology in a variety of thematic fields: health, medicine and pharmaceuticals, education, business and the private sector, economics and finance, law and social issues, food security and others.

3. Study feedback provided by UNAIDS and amending own vocabulary and style accordingly. In addition, suppliers are encouraged to send their own inputs for enhancement of the UNAIDS terminology database.

4. Use of computer-assisted translation (CAT) tools as necessary.

Taking into account the scope of tasks as mentioned above, as well as current volume needs and priorities, UNAIDS will be aiming for the following quantitative outcomes of the Request For Proposal:

- English to French – up to 15 translators, revisers and proof-readers;
- English to Spanish – up to 10 translators, revisers and proof-readers;
- English to Russian - up to 5 translators, revisers and proof-readers;
- French to English – up to 2 translators;
- Spanish to English – up to 2 translators;
- Russian to English – up to 2 translators.

A company, depending on its capacity, can bid for all language combinations. For that purpose, the company must propose specific translators, please refer to the section 1.2 for the requirements to be submitted for each.

In the case of companies, UNAIDS will communicate via its designated focal point or project manager. The company's translators/revisers/proof-readers proposed for each activity will be assessed and tested individually, on the clear understanding that only these specific individuals, should they pass the test, are to be tasked by the company with UNAIDS requests.

### **1.3.1 Key requirements**

The proposed translators must meet the following requirements:

- Proven experience in the area of translation, revision and proof-reading.
- Target language (French, Russian, Spanish or English) must be the mother tongue of the translator;
- Professional knowledge of the source language (English, French, Spanish or Russian) certified by relevant university degree;
- Proficiency in methods and techniques specific to translation (post-graduate qualification/certificate in translation, applied linguistics or related field);
- Excellent drafting and editing skills and good written style;
- Relevant IT skills, e.g. within the scope of ICDL certificate, Computer Assisted Translation (CAT) skills;
- Good communication skills, ability to work as part of a team of translators on bigger project(s);
- Analytical skills and ability to do research;
- Sensitivity to the cultural context and the target audience;
- Adaptability and flexibility required to work under pressure and to meet short deadlines;
- Experience in doing translations for the UN system is a strong asset;
- Specialized knowledge of HIV/AIDS is an asset;
- Ability to perform related tasks (e.g. layout in InDesign format) is an asset.

### **1.3.2 Reporting requirements**

- Each translated document, unless otherwise specified, is to be provided in its final form, keeping the original source language formatting as much as possible.
- Suppliers are encouraged to keep the UNAIDS Translations Coordinator informed about their availability and current capacity so as to facilitate the placement of work.
- Self-monitoring of the funds spent under their contracts and alerting the Translation Coordinator accordingly is required.

### 1.3.3 Finance and accounting requirements

- UNAIDS will issue an Agreement for the Performance of Work (APW) contract, the terms of the APW, including the rates payable to the contractor will be consistent with the Long Term Agreement entered into as a result of this Request For Proposal
- Payments are made upon submission of an invoice and following satisfactory completion of work.
- For each request submitted by UNAIDS, the contractor will record information about the request itself, including charge items that apply for invoicing purposes and refer to the Purchase Order number that will be contained in the APW.
- UNAIDS uses an automated invoice payment system to process payments to its service providers. Therefore, invoices submitted to UNAIDS for payment should be in clear black and white print with standard invoicing information and must always quote the Purchase Order number that will be provided by UNAIDS for each job request.
- Invoices must be submitted in the currency of the bank account held by the supplier. As such, where necessary, UNAIDS will convert any other currency to the bank account currency provided by the winning bidder at the ruling UN operational exchange rate. Note that these rates may vary slightly from ruling foreign exchange market rates.
- To avoid any delays in the processing of a payment, registered UNAIDS service providers are required to inform UNAIDS of any modification/change to their banking information. This should be done as soon as new banking information is available and before submission of the next invoice that would be due for payment.

### 1.3.4 Performance monitoring

- The UNAIDS Translation coordinator will provide selected winning bidders with reference materials, address content queries, provide feedback and any technical assistance as required.
- The UNAIDS Translation coordinator will monitor the quality of work, together with timeliness of service-delivery and accuracy of invoicing.
- Cases of unsatisfactory performance, such as inadequate quality of translation (based on specific client feedback), inability to meet deadlines or poor availability will be documented and the contractor informed accordingly.
- It should be noted that satisfactory performance *per se* does not guarantee constant demand for services of a supplier. This demand is dictated by UNAIDS current needs and requirements for translation services in a given language, and UNAIDS is under no obligation to request a contractor under a LTA for services, nor does it prevent UNAIDS from requesting similar services from other sources.

### 1.3.5 Further Capacities

No additional capacities required.

## **2. INSTRUCTIONS TO BIDDERS**

Bidders should follow the instructions set below in the submission of their proposal to UNAIDS.

### **2.1 Language of the Proposal and other Documents**

The proposal prepared by the bidder, and all correspondence and documents relating to the proposal exchanged between the bidder and UNAIDS shall be written in the English language.

### **2.2 Intention to Bid**

Bidders must register in the UNAIDS' E-Tendering system and use it to "Express Interest" and access all documents related to this Request for Proposal.

Only after having access to all documents, bidders may indicate their confirmation of involvement by "Opt-in" into the process.

The "Opt-In" is considered the intention to bid from the bidder.

Please note that the "Opt-In" or Intention to Bid is not a requirement to submit a proposal, however UNAIDS will be able to better identify potential bidders announcing their intention to bid and communicate with them in case of changes to the RFP or clarifications to questions asked.

### **2.3 Cost of Proposal**

The bidder shall bear all costs associated with the preparation and submission of the proposal, including but not limited to the possible cost of discussing the proposal with UNAIDS, making a presentation, negotiating a contract and any related travel.

UNAIDS will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the selection process

### **2.4 Contents of the Proposal**

Proposals may offer services for the total requirement, or for a part of it only. Bidders shall indicate precisely which specific services they intend to provide.

The bidder is expected to examine all corresponding instructions, forms, terms and specifications contained in this RFP. Failure to follow the instructions provided, terms and specifications and/or to submit the forms requested will be at the bidder's risk and may affect the evaluation of the proposal.

### **2.5 Joint Proposal**

Two or more entities may form a consortium and submit a joint proposal offering to jointly undertake the work. Such a proposal must be submitted in the name of one member of the consortium - hereinafter the "lead organization". The lead organization will be responsible for undertaking all negotiations and discussions with and be the main point of contact for UNAIDS. The lead organization and each member of the consortium will be jointly and severally responsible for the proper performance of the contract

### **2.6 Communications during the RFP Period**

A prospective bidder requiring any clarification on technical, contractual or commercial matters may notify UNAIDS through the "Correspondence" tab in UNAIDS' E-Tendering system.



UNAIDS will respond in writing by a consolidated document to any request for clarification of the RFP that it receives prior to one week of the closing date established in section 2.10.

The consolidated document of UNAIDS's response to all questions (including an explanation of the query but without identifying the source of enquiry) will be made available to all prospective bidders in the E-Tendering system after the date indicated above. Questions are to be submitted in the format "Paragraph Number - Question."

There shall be no individual presentation by or meeting with bidders until after the closing date. From the date of issue of this RFP to the final selection, contact with UNAIDS officials concerning the RFP process shall not be permitted, other than through the submission of queries through the e-Tendering system as indicated above, and/or through a possible presentation or meeting called for by UNAIDS, in accordance with the terms of this RFP.

## 2.7 Proposal structure

### 2.7.1 Proposal Submission Form

The bidder's proposal must be accompanied by a Proposal Submission Form, available in the E-Tendering system, signed by a duly authorized representative of the bidder, stating:

- That the proposal meets the requirements of the RFP,
- That the bidder undertakes, on its own behalf and on behalf of its possible partners and contractors, to provide the goods/services in accordance with the terms of the Request for Proposal (RFP), and its accompanying documents, for the amount set forth in the attached Financial Proposal,
- The number of days the proposal is valid (from the date of closing of the RFP).

### 2.7.2 Information of Firm/Organization submitting Proposal

In case of individuals, a brief summary of qualifications and expertise is requested to be attached.

In case of companies bidding, the following information must be provided in order to ascertain capabilities to deliver the work proposed.

| Information of Firm/Organization submitting Proposal |   |
|--|---|
| 1  | <b>Company Information</b>  |
| 1.1  | <b>Corporate information</b>  |
| 1.1.1  | Company <b>mission statement</b> (if applicable)  |
| 1.1.2  | <b>Quality Assurance / Quality Control mechanisms in place at the company</b>   |
| 1.1.3  | <b>Organization</b> structure   |
| 1.1.4  | <b>Geographical</b> presence  |
| 1.2  | <b>Staffing information</b>   |
| 1.2.1  | <b>Number and Geographical</b> distribution of staff  |
| 1.2.2  | <b>Number of consultants</b> employed on similar projects in each of the past three years   |
| 1.3  | Audited <b>financial statements</b> for the past three (3) years  |
| 1.4  | <b>Legal information</b>  |
| 1.4.1  | History of <b>Bankruptcy</b>  |
| 1.4.2  | Pending major <b>lawsuits</b> and <b>litigations</b> in excess of USD 100,000 at risk (indicate particularly those by licensees or patent infringement)   |
| 1.4.3  | Pending <b>Criminal/Civil lawsuits</b>  |
| 1.5  | <b>Contractual relationships</b>  |
| 1.5.1  | <b>Contractual programmes</b> (with other UN agencies or International Organizations)   |
| 1.5.2  | <b>Company Certifications</b> and certification status  |
| 1.6  | Proposed <b>sub-contractor</b> arrangements including <b>company information</b> (as above for each sub-contractor)   |
| 2  | <b>Experiences and Reference Contact Information</b> (list and provide up to five (5) detailed examples of relevant experience gained within the past five years of the issuance of this RFP that demonstrate the |

|         |   |
|---------|---|
|         | contractor's ability to deliver a solution that substantially demonstrates the functional and technical requirements of this RFP)                               |
| 2.1     | <b>Project Name</b> (project one)   |
| 2.1.1   | <b>Project Description</b> including but not limited to project starting date and duration, project and contract value, and total FTE involved from the company |
| 2.1.2   | <b>Status</b> (under development/implemented)   |
| 2.1.3   | <b>Reason for Relevance</b> (provide reason why this project can be seen as relevant to this RFP)   |
| 2.1.4   | <b>Roles and responsibilities</b> (list and clearly identify the roles and responsibilities for each participating Organization)                                |
| 2.1.4.1 | <b>Client</b> Role and Responsibility   |
| 2.1.4.2 | <b>Contractor</b> Role and Responsibility. Previous contractor role in project  |
| 2.1.4.3 | <b>Third party contractors</b> Role and Responsibility. Previous specified 3 <sup>rd</sup> party role in project.   |
| 2.1.5   | <b>Team members</b> (indicate relevant members of the team from the project that will be used in the performance of services)                                   |

Bidders will be excluded if;

- they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are the subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- they have been convicted of an offence concerning their professional conduct by a judgment which has the force of res judicata; have been subject of a judgment which has the force of res judicata for fraud, corruption, involvement in a criminal organization or any other illegal activity;
- it becomes apparent to UNAIDS that they are guilty of misrepresentation in supplying, or if they fail to supply, the information required under this RFP and/or as part of the bid evaluation process; or
- they give rise to a conflict of interest.

### 2.7.3 Technical Proposal

The bidder should include in this section all information deemed relevant for UNAIDS to evaluate the proposal, including information relating to coverage of UNAIDS needs and requirements, as specified in section 1, and resources dedicated partially or fully to the project.

**IMPORTANT:** The Technical Proposal shall contain no price or cost information.

The Technical Proposal must include the following sections:

- Proposal Submission Form completed and signed.**
- In case of companies the information of the firm/organization submitting the proposal as per section 2.7.2**
- Summary of qualifications and expertise for each translator in the template attached**
- 3 relevant samples of each translator's work**

**IMPORTANT NOTE:** Please note that the CVs will be subject to review for compliance with the Key requirements in Section 1.3, and thus they **must not contain information about the name of the translator**. Companies submitting several Translators must identify each CV with a number and separately attach a list matching the number with the name of the translator.

### 2.7.4 Financial Proposal

The bidder's **separate** price component must contain an overall quotation in a single currency, either in US Dollars or in the currency of the bidder's country of incorporation or registration. If

the bidder opts for the latter and for evaluation purposes only, its proposal will be converted into US dollars using the United Nations operational rate of exchange in effect on the closing date for the submission of proposals.

The Financial Proposal shall be accompanied by a cover letter signed by a duly authorized representative of the bidder, confirming the following:

- (a) the price; and
- (b) the period of validity of the bid.

The price component for each language combination should specify the following:

- Price per 1000 words of translation;
- Price per 1000 words of revision;
- Price per 1000 words of proof-reading;

If applicable, special urgent rates for the above activities should be specified. An urgent rate implies the necessity to exceed the average daily production rate of 1500 words per day, work during week-ends and holidays or beyond usual office hours.

## 2.8 Format and Signing of Proposals

The bidder shall submit the **separate technical and financial proposals** via the E-Tendering system by the closing date set forth in section 2.10. Proposals by e-mail will not be accepted.

In addition:

- 1) Documents requiring signature should be scanned in (.pdf) format.
- 2) All pages of the proposal shall be numbered in the format 'Page X of Y'.
- 3) All proposals shall be signed by the bidder or a person or persons duly authorized to bind the bidder to the contract.
- 4) The proposal and supporting documents should be in PDF, or Microsoft Office compatible format.
- 5) The responses to the functional requirements should be submitted in the structure provided in this RFP.
- 6) If a template for financial proposal is provided with this RFP, the financial proposal shall be submitted with that template.
- 7) The master copy of the "Technical Proposal" shall be submitted through the tab marked "Technical Proposal"
- 8) The master copy of the "Financial Proposal" shall be submitted through the tab marked "Financial Proposal"

There will be no automatic confirmation of receipt as the proposals are only opened after the closing date.

## 2.9 Period of Validity of Proposals

The offer outlined in the proposal must be valid for a minimum period of 120 calendar days after the closing date. A proposal valid for a shorter period may be rejected by UNAIDS. In exceptional circumstances, UNAIDS may solicit the bidder's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. Any bidder granting the request will not be required nor permitted to modify its proposal.

## 2.10 Closing Date for Submission of Proposals

**Proposals must be received as specified in section 2.8 no later than 30 March 2018 at 17.00 Geneva time.**

UNAIDS may, at its own discretion, extend this closing date for the submission of proposals by notifying all bidders thereof in writing through the e-tendering system ("Correspondence" tab)

Any proposal received by UNAIDS after the closing date for submission of proposals may be rejected.

## 2.11 Modification and Withdrawal of Proposals

Bidders may withdraw their proposal any time after the proposal's submission but before the opening date, provided that written signed notice of the withdrawal (by a duly authorized representative of the bidder) is provided via the "Correspondence" tab of the E-tendering system.

The bidder's withdrawal notice shall be received before the closing date in accordance with section 2.10.

No proposal may be modified after the closing date for submission of proposals, unless UNAIDS has issued an amendment to the RFP allowing such modifications (see section 2.13).

No proposal may be withdrawn in the interval between the opening date and the expiration of the period of proposal validity specified by the bidder in the proposal.

## 2.12 Receipt of Proposals from Non-invitees

UNAIDS may, at its own discretion, extend the RFP to bidders that were not included in the individual invitation list if this is necessary and in the interest of UNAIDS. RFPs published by UNAIDS on the UNAIDS website are open for all qualified bidders.

## 2.13 Amendments of the RFP

At any time prior to the closing date for submission of proposals, UNAIDS may, for any reason, whether on its own initiative or in response to a clarification requested by a bidder, modify the RFP by amendment. Amendments could include modification of project scope or requirements, project timeline expectations or extension of the closing date for submission.

All prospective bidders that have received the RFP will be notified in writing of all amendments to the RFP. In addition, all amendments will be posted on the UNAIDS website in the Request for Proposals section and in any other website used by UNAIDS directly for publishing the Request for Proposals.

### 3. OPENING AND EVALUATION OF PROPOSALS

#### 3.1 Opening of Proposals

UNAIDS will open the technical proposals in the presence of a Committee formed by UNAIDS at the Headquarters office in Geneva, Switzerland on a date fixed after the closing of the tendering period. Each technical proposal will be opened during the session with each bidder announced. Financial proposals will be opened only after the technical evaluation of the proposals.

There will be no public opening of bids.

#### 3.2 Clarification of Proposals

UNAIDS may, at its discretion, ask any bidder for clarification of any part of its proposal to assist in the examination, evaluation and comparison of proposals. The request for clarification and the response shall be in writing. No change in price or substance of the proposal shall be sought, offered or permitted during this exchange.

#### 3.3 Preliminary Examination of Proposals

UNAIDS will examine the proposals to determine whether: (i) they are complete, (ii) any computational errors have been made, (iii) the documents have been properly signed, and (iv) the proposals are generally in order.

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

### 3.4 Technical Evaluation of Proposals

A two-stage procedure will be utilized in evaluating the proposals, with technical evaluation of the proposal being completed prior to any evaluation of the Financial Proposal.

(1) The technical evaluation of proposals will be conducted by a selection panel. It will start with a preliminary evaluation with pass/fail criteria based on the requirements specified in section 1.3. which include academic qualifications, quality and relevance of experience and other required competences as specified. **This evaluation will be done anonymously therefore the CV must not contain the name of the translator.**

(2) The bidders passing preliminary evaluation will then be invited to take (via email) a technical written test, which will consist of translating, revising and proofreading a short material to be graded by the selection panel according to a standard set of quantitative and qualitative criteria (assigning each type of error a specific weight). These criteria will include, among others, readability of target language (grammar and spelling mistakes, unnecessary transfer of structure/elements from the source text etc.); functional and textual adequacy (goals, purpose, audience etc.), non-specialized content (meaning) (unwarranted deviations from original, omission/additions, nuances and shades of meaning, connotations etc.); and specialized content and terminology. **One written test per translator identified in the bid will be required.** The evaluation of the written test will also be conducted anonymously. Finally and only for candidates passing successfully the technical test with a threshold of 70% or more, a short interview (via telephone) may be organized to validate their qualifications. At the end of the interview process, the selection panel will mark the bidders as either meeting qualification requirements or not

### 3.5 Financial Proposal Evaluation

The financial proposal will only be evaluated if the technical proposal achieves a minimum of 70% of the total allocable points for the technical evaluation. Proposals failing to obtain this minimum threshold will not be eligible for further consideration.

**Proposals will be ranked according to their financial offers from the lowest to the highest offer and selection will be made based on that ranking; that is, based on the most competitive rates.**

### 3.6 Bidders' Presentations

There will be no need for bidder's presentations, only the short interview after the technical test is foreseen if required.

NOTE: Presentations or other individual contact is expressly prohibited before the closing date for proposal submission.

## 4. AWARD OF CONTRACT

### 4.1 Award Criteria, Award of Contract

UNAIDS reserves the right to:

- a) Award the contract to a bidder of its choice, even if its bid is not the lowest;
- b) Award separate contracts for parts of the work, components or items, to one or more bidders of its choice, even if their bids are not the lowest;
- c) Accept or reject any proposal, and to annul the solicitation process and reject all proposals at any time prior to award of contract, without thereby incurring any liability to the affected bidder or bidders and without any obligation to inform the affected bidder or bidders of the grounds for UNAIDS' action;
- d) Award the contract on the basis of UNAIDS' particular objectives to a bidder whose proposal is considered to be the most responsive to the needs of the Organization and the activity concerned;
- e) Not award any contract at all.

UNAIDS has the right to eliminate bids on technical or other reasons throughout the evaluation/selection process. UNAIDS shall not in any way be obligated to reveal, or discuss with any bidder, how a proposal was assessed, or to provide any other information relative to the evaluation/selection process or to state the reasons for elimination to any bidder

NOTE: UNAIDS is **acting in good faith** by issuing this RFP. However, **this document does not obligate UNAIDS to contract for the supply of any products or services.**

#### 4.1.1 Right to modify Scope or Requirements during the Proposal Process

UNAIDS reserves the right to, at any time during the proposal process, modify the scope of services and goods specified in the RFP. At any time in the selection process, UNAIDS reserves the right to issue an amendment to the RFP detailing the change which should be notified only to bidders who have not been officially eliminated due to technical reasons at that point in time.

#### 4.1.2 Right to Extend/Revise Scope or Requirements at Time of Award

UNAIDS reserves the right, at the time of award of contract, to extend/revise the scope of services and goods specified in the RFP without any change in the base price of services and goods or other terms and conditions offered by the selected bidder.

#### 4.1.3 Right to enter into Contract Price Negotiations

UNAIDS reserves the right to enter into negotiations, with one or more bidders that have not been eliminated during the evaluation process, including but not limited to negotiations of the terms of the proposal(s), the price quoted in such proposal(s) and/or the deletion of certain parts of the work, components or items called for under this RFP.

### 4.2 Signing of the Contract

Within 30 days of receipt of the contract the successful bidder shall sign and date the contract and return it to UNAIDS according to the instructions provided at that time. If the bidder does not accept the contract terms without changes, then UNAIDS has the right not to proceed with the selected bidder and instead contract with another bidder of its choice.

The award of contract will be published in the UNAIDS public website, after all internal clearances and acceptance of the contract by the selected bidder.

### **4.3 United Nations Procurement Harmonization and Cooperation**

Bidders are informed that UNAIDS, in the spirit of United Nations Procurement Harmonization, may at its discretion share details of the contract(s) resulting from this RFP with any other UN Entity without requesting the prior approval of the Contractor. For the purposes of this paragraph, "UN Entity" means the United Nations, any subsidiary organ of the United Nations established in accordance with Articles 22 or 29 of the Charter of the United Nations, and any organization of the Specialized Agencies of the United Nations System, within the meaning of Articles 57 and 63 of the Charter of the United Nations



## 5. GENERAL AND CONTRACTUAL CONDITIONS

The contract between UNAIDS and the selected bidder ("the Contract") will, unless otherwise explicitly agreed in writing, include the provisions as set forth in this section, and will otherwise inter alia address the following issues:

- Responsibilities of the selected bidder(s) ("The Contractor(s)") and UNAIDS;
- clear deliverables, timelines and acceptance procedures;
- payment terms tied to the satisfactory completion of the work;
- notices.

The prices payable by UNAIDS for the work to be performed under the Contract shall be fixed for the duration of the Contract and shall match the currency of the bank account

The total amount payable by UNAIDS under the Contract may be either a lump sum or a maximum amount. If the option for payment of a lump sum applies, that lump sum is payable in the manner provided, subject to satisfactory performance of the work. If the option for payment of a maximum amount applies:

- the Contract shall include a detailed budget;
- any advance payments by UNAIDS shall be used by the Contractor exclusively for the work in accordance with the budget and any unspent balance shall be refunded to UNAIDS;
- payment by UNAIDS shall be subject to satisfactory performance and the acceptance of the Contractor's invoices; and
- all financial reports shall be subject to audit by or on behalf of UNAIDS, including examination of supporting documentation and relevant accounting entries in the Contractor's books. In order to facilitate financial reporting and audit, the Contractor shall keep systematic and accurate accounts and records in respect of the work.

Unless otherwise specified in the Contract, UNAIDS shall have no obligation to purchase any minimum quantities of goods or services from the Contractor, and UNAIDS shall have no limitation on its right to obtain goods or services of the same kind, quality and quantity as described in the Contract, from any other sources at any time.

### 5.1 Conditions of Contract

Any and all of the Contractor's (general and/or special) conditions of contract are hereby explicitly excluded from the Contract, i.e., regardless of whether such conditions are included in the Contractor's offer, or printed or referred to on the Contractor's letterhead, invoices and/or other material, documentation or communications.

### 5.2 Responsibility

The Contractor will be responsible to ensure that the work performed under the Contract meets the agreed specifications and is completed within the time prescribed. The Contractor shall facilitate the operational audit related to the execution of the work and the compliance with the obligations set forth in the Contract, by persons so designated by UNAIDS. In this regard, the Contractor shall make all relevant operational information, without restriction, available to persons so designated by WHO and provide satisfactory explanations to all queries arising in connection therewith.

### 5.3 Source of Instructions

The Contractor shall neither seek nor accept instructions from any authority external to UNAIDS in connection with the performance of its services under this Contract. The Contractor shall refrain from any action which may adversely affect UNAIDS and shall fulfil its commitments with the fullest regard to the interests of UNAIDS.

### 5.4 Warranties

The Contractor will warrant and represent to UNAIDS as follows:

- 1) The deliverables shall meet the specifications and shall function in a manner which is fully adequate to meet its intended purpose. The Contractor furthermore warrants that the deliverables shall be error-free, in that the Contractor shall correct any errors in the deliverables, free of charge, within fifteen days after their notification to the Contractor, during a period of at least six months after completion of the work. It is agreed, however, that errors and other defects, which have been caused by modifications to the deliverables made by UNAIDS without agreement of the Contractor are not covered by this paragraph.
- 2) The deliverables shall, to the extent it is not original, only be derived from, or incorporate, material over which the Contractor has the full legal right and authority to use it for the proper implementation of this Contract. The Contractor shall obtain all the necessary licenses for all non-original material incorporated in the deliverables including, but not limited to, licenses for UNAIDS to use any underlying software, application, and operating deliverables included in the deliverables or on which it is based, so as to permit UNAIDS to fully exercise its rights in the deliverables and the software without any obligation on UNAIDS's part to make any additional payments whatsoever to any party.
- 3) The deliverables shall not violate any copyright, patent right, or other proprietary right of any third party and be delivered to UNAIDS free and clear of any and all liens, claims, charges, security interest and any other encumbrances of any nature whatsoever.
- 4) The Contractor, its employees and any other persons and entities used by the Contractor shall not violate any intellectual property rights, confidentiality, right of privacy or other right of any person or entity whomsoever..
- 5) Except as otherwise explicitly provided in this Contract, the Contractor shall at all times provide all the necessary on-site and off-site resources to meet its obligations hereunder. The Contractor shall only use highly qualified staff, acceptable to UNAIDS, to perform its obligations hereunder.
- 6) The Contractor shall take full and sole responsibility for the payment of all wages, benefits and monies due to all persons and entities used by it in connection with the implementation and execution of the Contract, including, but not limited to, the Contractor's employees, permitted subcontractors and suppliers.

The Contractor furthermore warrants and represent that the information provided by it to UNAIDS in response to the RFP and during the bid evaluation process is accurate and complete. The Contractor understands that in the event The Contractor has failed to disclose any relevant information which may have impacted UNAIDS' decision to award the Contract to The Contractor, or has provided false information, UNAIDS will be entitled to rescind the contract with immediate effect, in addition to any other remedies which UNAIDS may have by contract or by law

### 5.5 Legal Status

The Contractor shall be considered as having the legal status of an independent contractor vis-à-vis UNAIDS, and nothing contained in or relating to the Contract shall be construed as establishing or creating an employer/employee relationship between UNAIDS, on the one hand, and the Contractor or any person used by the Contractor in the performance of the work, on the other hand.

Thus the Contractor shall be solely responsible for the manner in which the work is carried out. UNAIDS shall not be responsible for any loss, accident, damage or injury, suffered by the Contractor or persons or entities claiming under the Contractor, arising during or as a result of the implementation or execution of the Contract, including travel, whether sustained on UNAIDS premises or not.

The Contractor shall obtain adequate insurance to cover such loss, accident, injury and damages, before commencing work on the Contract. The Contractor shall be solely responsible in this regard and shall handle any claims for such loss, accident, damage or injury.

## **5.6 Relation Between the Parties**

The Contract does not constitute a partnership between the Parties or does not constitute either Party as the agent of the other.

## **5.7 Waiver of Breach**

The waiver by either Party of any provision or breach of the contract shall not prevent subsequent enforcement of such provision or excuse further breaches.

## **5.8 Liability**

The Contractor hereby indemnifies and holds UNAIDS harmless from and against the full amount of any and all claims and liabilities, including legal fees and costs, which are or may be made, filed or assessed against UNAIDS at any time and based on, or arising out of, breach by the Contractor of any of its representations or warranties under the Contract, regardless of whether such representations and warranties are explicitly incorporated here in or are referred to in any attached Appendices.

## **5.9 Assignment**

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

## **5.10 Officials not to Benefit**

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

## **5.11 Indemnification**

The Contractor shall indemnify and hold UNAIDS harmless, from and against the full amount of any and all claims and liabilities, including legal fees and costs, which are or may be made, filed or assessed against UNAIDS at any time and based on, or arising out of, the acts or omissions of the Contractor, or the Contractor's employees, officers, agents, partners or sub-contractors, in the performance of the Contract. This provision shall extend, inter alia, to claims and liabilities in the nature of workmen's compensation, product liability and liability arising out of the use of patented inventions or devices, copyrighted material or other intellectual property by the Contractor, its employees, officers, agents, servants, partners or sub-contractors.

## **5.12 Contractor's Responsibility for Employees**

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

### **5.13 Subcontracting**

Any intention to subcontract aspects of the Contract must be specified in detail in the proposal submitted. Information concerning the subcontractor, including the qualifications of the staff proposed for use must be covered with same degree of thoroughness as for the prime contractor. No subcontracting will be permitted under the Contract unless it is proposed in the initial submission or formally agreed to by UNAIDS at a later time. In any event, the total responsibility for the Contract remains with the Contractor.

The Contractor shall be responsible for ensuring that any and all subcontracts shall be fully consistent with the Contract and shall not in any way prejudice the implementation of any of its provisions.

### **5.14 Place of Performance**

The place of performance of the work under the Contract shall be the place of the supplier but with the flexibility to meet UNAIDS working hours (and sometime outside of working hours) needs.

### **5.15 Language**

The communications relating to the Contract and/or performance of the work there under shall be in English.

### **5.16 Confidentiality**

- 1) Except as explicitly provided in the Contract, the Contractor shall keep confidential all information which comes to its knowledge during, or as a result of, the implementation and execution of the Contract. Accordingly, the Contractor shall not use or disclose such information for any purpose other than the performance of its obligations under the Contract. The Contractor shall ensure that each of its employees and/or other persons and entities having access to such information shall be made aware of, and be bound by, the obligations of the Contractor under this paragraph. However, there shall be no obligation of confidentiality or restriction on use, where: (i) the information is publicly available, or becomes publicly available, otherwise than by any action or omission of the Contractor, or (ii) the information was already known to the Contractor (as evidenced by its written records) prior to becoming known to the Contractor in the implementation and execution of this Contract; or (iii) the information was received by the Contractor from a third party not in breach of an obligation of confidentiality.
- 2) The Contractor, its employees and any other persons and entities used by the Contractor shall furthermore not copy and/or otherwise infringe on copyright of any document (whether machine-readable or not) to which the Contractor, its employees and any other persons and entities used by the Contractor have access in the performance of this Contract.
- 3) The Contractor may not communicate at any time to any other person, Government or authority external to UNAIDS, any information known to it by reason of its association with UNAIDS which has not been made public except with the authorization of UNAIDS; nor shall the Contractor at any time use such information to private advantage.

### **5.17 Title Rights**

- 1) All rights pertaining to any and all deliverables under the Contract and the original work product leading thereto, as well as the rights in any non-original material incorporated therein as referred in section 5.4.2 above, shall be exclusively vested in UNAIDS..
- 2) UNAIDS reserves the right to revise the work, to use the work in a different way from that originally envisaged or to not use the work at all.
- 3) At UNAIDS's request, the Contractor shall take all necessary steps, execute all necessary

documents and generally assist UNAIDS in securing such proprietary rights and transferring them to UNAIDS in compliance with the requirements of applicable law.

## 5.18 Termination and Cancellation

UNAIDS shall have the right to cancel the Contract (in addition to other rights, such as the right to claim damages):

- 1) In the event the Contractor fails to begin work on the date agreed, or to implement the work in accordance with the terms of the Contract; or
- 2) In the event the progress of work is such that it becomes obvious that the obligations undertaken by the Contractor and, in particular, the time of fulfilment, will not be respected.

In addition, UNAIDS shall be entitled to terminate the Contract (or part thereof), in writing:

- 1) At will with the provision of thirty (30) days prior notice in writing
- 2) With immediate effect (in addition to other rights, such as the right to claim damages), if, other than as provided in the paragraph above, the Contractor is:
  - a. In breach of any of his material obligations under the Contract and fails to correct such breach within a period of thirty (30) days after having received a written notification to that effect from UNAIDS; or
  - b. Adjudicated bankrupt or formally seeks relief of his financial obligations.

## 5.19 Force Majeure

No party to the Contract shall be responsible for a delay caused by force majeure, that is, a delay caused by reasons outside such party's reasonable control, it being agreed, however, that UNAIDS shall be entitled to terminate the Contract (or any part of the Contract) forthwith if the implementation of the work is delayed or prevented by any such reason for an aggregate of thirty (30) days. Such termination shall be subject to payment of an equitable part of the Contract sum and/or other reasonable charges. In the event of such termination, the Contractor shall, in accordance with the ownership rights referred to in section 5.17 *Title rights*, deliver to UNAIDS all work products and other materials so far produced.

In the event of and as soon as possible after the occurrence of any cause constituting force majeure, the Contractor shall give notice and full particulars in writing to UNAIDS, of such occurrence or change if the Contractor is thereby rendered unable, wholly or in part, to perform its obligations and meet its responsibilities under this Contract. The Contractor shall also notify UNAIDS of any other changes in conditions or the occurrence of any event which interferes or threatens to interfere with its performance of this Contract. The notice shall include steps proposed by the Contractor to be taken including any reasonable alternative means for performance that is not prevented by force majeure. On receipt of the notice required under this Article, UNAIDS shall take such action as, in its sole discretion, it considers to be appropriate or necessary in the circumstances, including the granting to the Contractor of a reasonable extension of time in which to perform its obligations under this Contract.

## 5.20 Surviving Provisions

Those rights and obligations of the Parties as set forth in section 5 that are intended by their nature to survive the expiration or earlier termination of the Contract shall survive indefinitely. This includes, **but is expressly not limited to**, any provisions relating to UNAIDS' right to financial and operational audit, conditions of contract, warranties, legal status and relationship between the parties, breach, liability, indemnification, subcontracting, confidentiality, title rights, use of the UNAIDS and WHO name and emblem, successors and assignees, insurance and liabilities to third parties, settlement of disputes, observance of laws, privileges and immunities, no terrorism or corruption, foreign nationals and compliance with UNAIDS policies

## **5.21 Use of UNAIDS and WHO name and emblem**

Without UNAIDS's prior written approval, the Contractor shall not, in any statement of an advertising or promotional nature, refer to the Contract or its relationship with UNAIDS and/or the World Health Organization (WHO) (which provides the administration of UNAIDS, including its secretariat). In no case shall the Contractor use the name or the emblem of UNAIDS and/or WHO, or any abbreviation thereof, in relation to its business or otherwise.

## **5.22 Successors and Assignees**

The Contract shall be binding upon the successors and assignees of the Contractor and the Contract shall be deemed to include the Contractor's successors and assignees, provided, however, that nothing in the Contract shall permit any assignment without the prior and written approval of UNAIDS.

## **5.23 Payment**

Payment will be made against presentation of an invoice in the currency of the Contractor's bank account in accordance with the payment schedule contained in the Contract and subject to UNAIDS's acceptance of satisfactory performance of work. Any payments by UNAIDS to the Contractor shall reflect any tax exemptions to which UNAIDS is entitled by reason of the immunity it enjoys. UNAIDS is exempt from all direct taxes, customs duties and the like and the Contractor shall consult with UNAIDS so as to avoid the imposition of such charges. As regards duties and other indirect taxes, the Contractor shall list such charges on invoices as a separate item and, to the extent required, cooperate with UNAIDS to enable reimbursement thereof.

## **5.24 Title to Equipment**

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

## **5.25 Insurance and Liabilities to Third Parties**

The Contractor shall provide and thereafter maintain:

- (i) insurance against all risks in respect of its property and any equipment used for the execution of this Contract.
- (ii) all appropriate workmen's compensation insurance, or its equivalent, with respect to its employees to cover claims for personal injury or death in connection with this Contract.
- (iii) liability insurance in an adequate amount to cover third party claims for death or bodily injury, or loss of or damage to property, arising from or in connection with the performance of work under the Contract or the operation of any vehicles, boats, airplanes or other equipment owned or leased by the Contractor or its agents, servants, employees partners or sub-contractors performing work in connection with the Contract.

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

- a) Name UNAIDS as additional insured;
- b) Include a waiver of subrogation of the Contractor's rights to the insurance carrier against UNAIDS;

- c) Provide that UNAIDS shall receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage.

The Contractor shall, upon request, provide UNAIDS with satisfactory evidence of the insurance required under this section.

## **5.26 Settlement of Disputes**

Any dispute relating to the interpretation or application of the contract shall, unless amicably resolved, be subject to conciliation. In the event of failure of the latter, the dispute shall be settled by arbitration. The arbitration shall be conducted in accordance with the modalities to be agreed upon by the parties or, in the absence of agreement, with the rules of arbitration of the International Chamber of Commerce. The parties shall accept the arbitral award as final.

## **5.27 Observance of the Law**

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

## **5.28 Authority to Modify**

No modification or change in the Contract, no waiver of any of its provisions or any additional contractual relationship of any kind shall be valid and enforceable unless signed by a duly authorized representative of both parties.

## **5.29 Privileges and Immunities**

Nothing in or relating to this Contract shall:

- be deemed a waiver of any of the privileges and immunities of UNAIDS and/or the World Health Organization in conformity with the Convention on the Privileges and Immunities of the Specialized Agencies approved by the General Assembly of the United Nations on November 21, 1947 or otherwise under any national or international law, convention or agreement.
- Be construed as submitting UNAIDS and/or WHO to any national jurisdiction

## **5.30 No Terrorism or Corruption**

The Contractor warrants that:

(i) it is not and will not be involved in, or associated with, any person or entity involved in terrorism, that it will not make any payment to any such person or entity and that it will not enter into any employment or subcontracting relationship with any such person or entity; and

(ii) it shall not engage in any illegal, corrupt, fraudulent, collusive or coercive practices in connection with execution of the Contract.

The Contractor agrees that breach of this provision is a breach of an essential term of the Contract.

Any payments used by the Contractor for the promotion of any terrorist activity or any illegal, corrupt, fraudulent, collusive or coercive practice shall be repaid to UNAIDS without delay

## **5.31 Personnel**

### **5.31.1 Approval of Contractor Personnel**

UNAIDS reserves the right to approve any employee, subcontractor or agent furnished by the Contractor and Contractor's consortium partners for the performance of the work under the Contract (hereinafter jointly referred to as "Contractor Personnel"). All Contractor Personnel must have



appropriate qualifications, skills and levels of experience and otherwise be adequately trained to perform the work. UNAIDS reserves the right to undertake an interview process as part of the approval of Contractor Personnel.

The Contractor acknowledges that the qualifications, skills and experience of the Contractor personnel proposed to be assigned to the project are material elements in UNAIDS's engaging the Contractor for the project. Therefore, in order to ensure timely and cohesive completion of the project, both parties intend that Personnel initially assigned to the project continue through to project completion. Once an individual has been approved and assigned to the project, such individual will not, in principle, thereafter be taken off the project by the Contractor to other duties. Circumstances may arise, however, which necessitate that Personnel be substituted in the course of the work e.g. in the event of promotions, termination of employment, sickness, vacation or other similar circumstances, at which time a replacement of comparable qualifications, skills and experience may be assigned to the project, subject to approval of UNAIDS.

UNAIDS may refuse access to or require replacement of any Contractor Personnel if such individual renders, in the sole judgment of UNAIDS, inadequate or unacceptable performance, or if for any other reason UNAIDS finds such individual does not meet its his/her security or responsibility requirements. The Contractor shall replace such an individual within fifteen (15) business days of receipt of written notice from UNAIDS. The replacement will have the required qualifications, skills and experience and will be billed at a rate that is equal to or less than the rate of the individual being replaced.

#### **5.31.2 Project Managers**

Each party shall appoint a qualified project manager ("Project Manager") who shall serve as such party's primary liaison throughout the course of the project. The Project Manager shall be authorized by the respective party to answer all questions posed by the other party and convey all decisions made by such party during the course of the project and the other party shall be entitled to rely on such information as conveyed by the Project Manager.

The Project Managers shall meet on regular basis in order to review the status of the project and provide UNAIDS with reports. Such reports shall include detailed time distribution, information in the form requested by UNAIDS and shall cover problems, meetings, progress and status against the implementation timetable.

#### **5.31.3 Foreign Nationals**

The Contractor shall verify that all Contractor Personnel is legally entitled to work in the country or countries where the work is to be carried out. UNAIDS reserves the right to request the Contractor to provide UNAIDS with adequate documentary evidence attesting this for each Contractor Personnel. Each party hereby represents that it does not discriminate against individuals on the basis of race, gender, creed, national origin, citizenship.

#### **5.31.4 Compliance with UNAIDS Policies**

The Contractor shall at all times comply with and ensure that the Contractor and each of its subcontractors and their employees and agents comply with any applicable laws and regulations and any UNAIDS policies and reasonable written direction and procedures relating to: (i) occupational health and safety, (ii) security and administrative requirements, including, but not limited to computer network security procedures, (iii) sexual harassment, (iv) privacy, (v) general business conduct and disclosure, (vi) conflicts of interest and (vii) business working hours and official holidays.

In the event that the Contractor becomes aware of any violation or potential violation by the Contractor, its subcontractor or any of their employees or agents, of any laws, regulations, UNAIDS policies or of other UNAIDS reasonable written directions and procedures, the Contractor shall immediately notify UNAIDS of such violation. UNAIDS, in its sole discretion, shall determine the course of action to remedy such violation or prevent such potential violation, in addition to any other remedy available to UNAIDS under the Contract or otherwise.



#### **5.31.5 Ethical Behaviour**

UNAIDS, the Contractor and each of the Contractor's partners, subcontractors and their employees and agents shall adhere to the highest ethical standards in the performance of the Contract. In this regard, the Contractor shall also ensure that neither Contractor nor its partners, subcontractors, agents or employees will engage in activities involving child labor, trafficking in arms, promotion of tobacco or other unhealthy behavior, or sexual exploitation or discrimination.

#### **5.31.6 Engagement of Third Parties and use of In-house Resources**

The Contractor acknowledges that UNAIDS may elect to engage third parties to participate in or oversee certain aspects of the project and that UNAIDS may elect to use its in-house resources for the performance of certain aspects of the project. The Contractor shall at all times cooperate with and ensure that the Contractor and each of its partners, subcontractors and their employees and agents cooperate, in good faith, with such third parties and with any UNAIDS in-house resources.