



International
Labour
Organization

REQUEST FOR PROPOSAL
RFP N° 01/2016/PHI/15/50M/USA

***Assessment of the Labor Law Compliance
Officers' competency standards and
training needs requirements on
occupational safety and health***

Responses to be received by 19 September 2016

July 2016

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on occupational safety and health

Request for Proposal (RFP)

REQUEST FOR PROPOSAL

Reference: **RFP No 01/2016/PHI/15/50M/USA**

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements

Dear Sir/Madam,

On behalf of the International Labour Office (ILO), I invite individuals and firms to submit a proposal for the provision of services to carry out the **Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on occupational safety and health**, as further described in the Terms of Reference attached to this letter (Annex I).

The conditions set out in the ILO Terms and Conditions for the Purchase of Services, as well as any other conditions contained in or enclosed with this letter, will become part of any contract concluded with the successful bidder. If your offer is accepted, you will receive a formal Purchase Order.

By participating in this RFP, bidders accept in full and without restriction the ILO Terms and Conditions for USDOL funded Contracts as provided in Annex II attached.

Only bidders that are fully eligible to receive funds from the US government can submit a proposal.

The ILO reserves the right to disqualify all bidders that are included in the US government's lists of suspended and debarred parties, which are accessible on the US web platform www.sam.gov, as well as all bidders who have not accepted all ILO Terms and conditions for USDOL funded contracts, and who have not returned the relevant form (Annex III) duly signed.

SUBMISSION OF YOUR OFFER:

For this request, offers may be submitted by fax or E-mail. Offers received after the deadline specified above will not be considered. The ILO reserves the right to extend the deadline for the submission of offers. In such an event, the ILO will inform all potential bidders in writing of the terms and duration of the extension.

Yours sincerely,

Ma. Lourdes Macapanpan
Programme Assistant
ILO CO-Manila

Attachments:

- Terms of Reference (Annex I)
- Terms and Conditions applicable to ILO contracts (Annex II)
- ILO Terms and Conditions for USDOL funded Contracts (Annex III)

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

ANNEX I

Terms of Reference

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on occupational safety and health

1. BACKGROUND AND RATIONALE

The 2009 report of the Committee of Experts on Application of Conventions and Recommendations (CEACR)¹ highlights the importance of enforcing laws and regulations as essential building blocks of a national policy on occupational safety and health (OSH). The report confirms the importance of the preventive and advisory functions of labour inspectorates, alongside their traditional inspection and enforcement role. The report emphasizes, however, that labour inspectorates must be allocated the necessary resources to ensure workplace compliance with OSH requirements, including that covered workplaces are inspected thoroughly and with sufficient frequency. Establishing a national OSH inspection system as provided by Article 9 of the Occupational Safety and Health Convention, 1981 (No. 155)² and Article 4 of the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187) is a necessary predicate for an inspection systems to effectively monitor compliance with OSH laws and regulations.³

The International Labour Organization (ILO) is implementing a United States Department of Labour-funded Safeyouth@work project that aims to promote the safety and health of young workers on the job, with a particular focus on those aged 15-24. Working with key stakeholders, the project works to build tools and capacity to better protect young workers and to sustain a culture of OSH prevention in selected 'pilot' countries, including the Philippines. Among its core objectives, the project seeks to enhance the capacity of tripartite constituents, including labour inspectorates, to promote, monitor and enforce compliance with OSH laws and regulations, particularly regarding young workers. This objective can be supported by ensuring that training

¹ Report III (Part 1B) General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981)

² Enforcement of laws and regulations concerning OSH and the working environment shall be secured by an adequate and appropriate system of inspection, relating to the provisions of the Labour Inspection Convention, 1947 (No. 81) and Labour Inspection in Agriculture Convention, 1969 (No. 129) in establishing an inspection system

³ A national system for occupational safety and health shall include among others:...(c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

programmes provided to labour inspectors address the competency gaps that hinder the performance of their mandate, particularly on OSH. Closing these gaps is critical to ensure that workplace inspections effectively ensure compliance with national OSH standards.

Labour inspectors have a critical role in monitoring the OSH compliance of establishments and strengthening the promotion of workplace safety and health. Their role is even more critical for young workers, who suffer up to a 40 percent higher rate of non-fatal occupational injuries than older workers. Due partly to their lack of work experience, young workers are less able to safely handle hazardous substances and job tasks. They can also underestimate or overlook safety and health risks associated with their job. Young workers usually lack an awareness of applicable OSH rules, or the knowledge that they have a right to a safe and healthy workplace.

In the Philippines, the Department of Labor and Employment (DOLE) is the government agency with the mandate to conduct labour inspection as provided for by Department Order 131-B or Revised Rules on Labor Laws Compliance System (LLCS).⁴ The Order incorporates a compliance-enabling approach in its framework to secure a higher level of employer compliance with general labor and OSH standards, and ensure continuity and sustainability of labor law compliance by promoting a culture of voluntary compliance.

The compliance-enabling approach of the LLCS combines the following development tracks: (a) plant-level joint assessment of compliance by employer and worker representatives with the DOLE Labor Law Compliance Officer (LLCO), (b) awareness-raising/capacity building of both employers and workers and/or unions through a DOLE toolkit, (c) free technical assistance to employers on compliance with technical safety and OSH standards, (d) recognition of voluntary compliance by establishments through the Incentivizing Compliance Program (ICP), and (e) enhancement of plant-level partnership mechanisms such as the Labor Management Committee or any workplace cooperation and partnership structure by enabling subcommittees on OSH, Compliance Productivity, Family Welfare Program and Grievance.⁵

The LLCS is a paradigm shift of the DOLE's inspection process to promote workplace compliance with labour and OSH standards, following the ILO's Labour Inspection Audit in July 2009.⁶ It adopts a strategy that involves active participation of both employer and worker

⁴ Revised Rules on Labor Laws Compliance System (LLCS), DOLE, 18 May 2016; implementing rules and regulations government the visitorial and enforcement power of the Secretary of DOLE under Article 128 of the Labor Code

⁵ Ibid.

⁶ Ibid.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

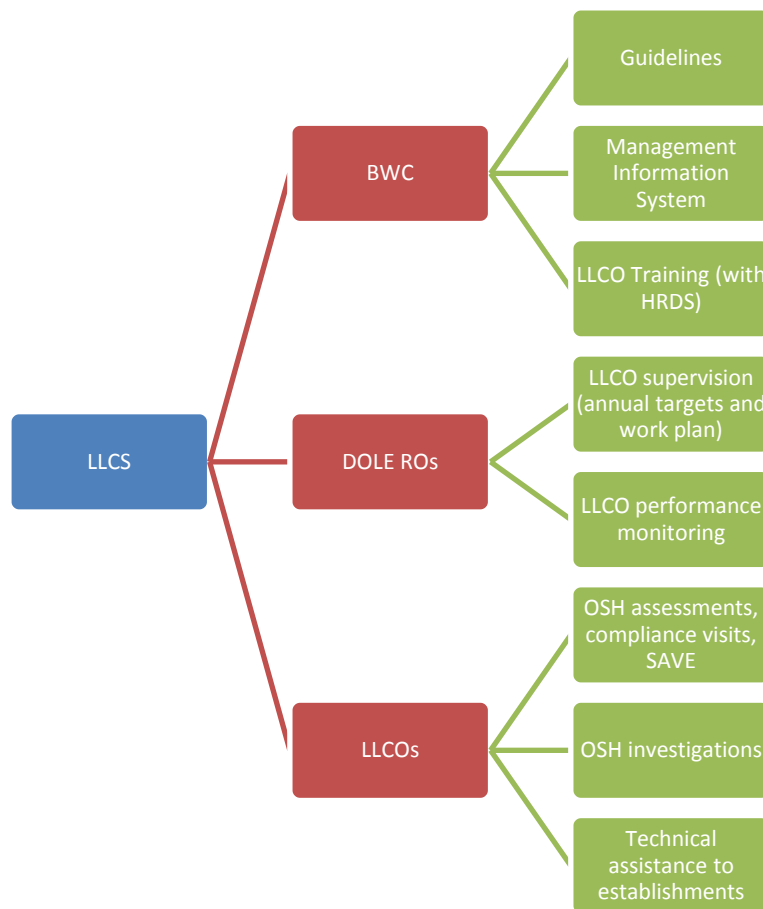
Request for Proposal (RFP)

representatives in the inspection or assessment process, promotes greater transparency in inspection findings, and utilizes both regulatory and developmental approaches to promote labour law compliance, including with OSH requirements.

The Bureau of Working Condition (BWC) of DOLE oversees the implementation of the LLCS in coordination with the DOLE Regional Offices. The BWC analyses inspection findings transmitted by LLCOs to the LLCS Management Information System (MIS) directly through handheld tablets. The findings are consolidated by the BWC and used to assess overall compliance and develop new policies to further strengthen the promotion and enforcement of general labour and OSH standards.

The DOLE Regional Offices provide supervision to the LLCOs as they carry-out their inspection and technical assistance duties at the establishment level. Regional Offices annually set inspection targets with the LLCOs, and also monitor their performance. An annual average target of 76,000 establishments are to be assessed nationwide. Regional allocations are made based on the number of LLCOs per region.

Figure 1: LLCS Overall Structure



Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

There are 574⁷ LLCOs deployed in DOLE field offices, plus several at BWC headquarters. Approximately 230 LLCOs are female, representing 40 per cent of the total inspectorate. The DOLE requires applicant LLCOs to have a bachelor's degree with a preference for a concentration in mechanical, electrical and civil engineering, and law.

There are 107 designated technical safety inspectors (with electrical, mechanical or civil engineering background). An estimated 40 to 50 LLCOs have either a law degree or have taken coursework in law.

The LLCOs deployed in the field work under the DOLE Regional Director and are supervised by its Technical Support and Services Division (TSSD). The LLCOs' OSH assessments determine the level of establishment compliance with OSH standards, and include the conditions of work premises, required personal protective equipment (PPE) and health programs, and other OSH requirements.

The LLCOs implement various types of assessments under the LLCS, namely: joint assessment, compliance visit, OSH investigation (OSHI), and Special Assessment or Visit of Establishments (SAVE). Joint assessments are jointly undertaken by the LLCO with the representative of the employer and the employees, while compliance visits are undertaken by the LLCO either on his/her own initiative or based on a complaint. OSH investigations are carried out to assess conditions relating to imminent danger, dangerous occurrence or an accident resulting in disabling injury. SAVE covers the establishment's head office and/or branches in specific regions or nationwide and is undertaken through a composite team composed of the LLCO or representative of the Regional Office, BWC, Occupational Safety and Health Center, and other DOLE agencies. This assessment covers general labour and OSH standards.⁸

The DOLE is committed to providing a supportive and complementary institutional framework that enables capacity building of LLCOs to meet their targets and more importantly, to carry out quality assessments that assist establishments towards OSH compliance. Adopting a developmental approach to labour inspection is also new under the LLCS -- many LLCOs need capacity building on the various DOLE programs and services, as well as in facilitating social dialogue at the establishment level to promote OSH compliance. Previous ILO consultations on labour inspection⁹ have also raised the profile of key human resource issues affecting LLCOs. Both worker and employer organizations have questioned the quality of inspection procedures

⁷ 372 LLCO positions were created to increase the number to 574; 202 previous inspectors were retained

⁸ Department of Labor and Employment Department Order 131-B, Series of 2016

⁹ Labour Inspection Audit and Consultations done by the Building the Capacity of the Philippine Labour Inspectorate Project

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

used by inspectors. Multi-tasking is a major concern for LLCOs, as many of them handle not just inspection, but also deliver conciliation and mediation services, OSH technical and advisory services, and promote DOLE's livelihood programs.¹⁰ During the first LLCs Summit held on December 2015, attended by almost all LLCOs in the country, there was strong interest expressed by the LLCOs in receiving OSH training to allow them to better assess the compliance of establishments in various sectors and industries.

Given their workload and continuing developments in DOLE inspection policies and regulations, LLCOs are challenged in coping with a wide variety of tasks. A starting point in addressing their concerns is to ensure the LLCOs possess the appropriate competencies to interact with various stakeholders - employers, workers, government agencies, and DOLE colleagues - as they perform their jobs. Key competencies include learning basic OSH concepts before seeking to understand the technical aspects of establishments. Second, there is a high demand to deepen the competency of LLCOs on OSH in key sectors such as construction, manufacturing, agriculture, education, transportation, tourism, and mining. Third, the LLCO capacity building programme should reflect good practices from other countries to ensure that competency development and inspection procedures align with international practices.

The Safeyouth@work project seeks to enhance the OSH competencies of the LLCOs in the Philippines through an assessment that will identify LLCOs' competency requirements. The findings of such an assessment will support project work on developing a competency-based OSH learning programme for LLCOs.

2. PURPOSE OF THE ASSESSMENT

The overall purpose of this TOR is to ensure that LLCOs are equipped with the necessary competencies to perform their OSH inspection mandate. More specifically, the consulting firm will:

- a. Conduct a functional analysis of the role of LLCOs in OSH and develop a competency assessment framework to set the key OSH competencies needed by LLCOs;
- b. Conduct a competency assessment of selected LLCOs to identify competency gaps and needs; and
- c. Develop a capacity building plan to bridge the LLCOs' competency gaps.

¹⁰ Results from consultation with LLCOs during the 1st Labor Law Compliance System Summit held on December 2015

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

3. METHODOLOGY AND DESIGN

This assessment will use various methods to elicit data and information from various target groups, namely:

Phase 1: Functional Analysis. This will include a literature review and key informant interviews with government, and workers' and employers' organizations. The literature review will cover competency standards based on ILO standards and international good practices on OSH inspection, investigation and advisory services, as well as relevant policies and regulations of the Philippines on OSH inspection, and other related documents that may be provided by the DOLE. Discussion and consultations with relevant officials among the tripartite constituents (national government agencies, worker and employer organizations) as well as safety organizations and international OSH institutions identified as important in the field of OSH inspection, investigation and advisory services, must be conducted to acquire all relevant documentation, including research, studies, and statistics on OSH competency standards. All documentation identified and collected will be indexed and provided to the ILO.

Phase 2: Competency Assessment. An online survey will be administered to all LLCOs and regional staff and findings confirmed through a direct observation and assessment of a random selection of LLCOs. Written findings from each observation/assessment must be compiled and used to facilitate subsequent analysis and validation of the information provided. All documentation identified and collected will be indexed and provided to the ILO.¹¹

Phase 3: A validation workshop of the findings and recommended capacity building plan. The validation workshop will be designed by the consulting firm subject to the approval of the Safeyouth@work Project, and BWC. The purpose of the validation workshop is to establish the competency framework for LLCOs, identify the documented competency gaps and needs, and articulate the capacity building plan to address those gaps and needs.

Method	Target Groups
Focus Group Discussion/ Key Informant Interviews	<ul style="list-style-type: none"><li data-bbox="531 1541 1382 1574">▪ Government agencies: DOLE BWC, OSH Center<li data-bbox="531 1585 1382 1653">▪ Workers' organization (TUCP, ALU, FFW, SENTRO, IndustriAll, CIWC, NACUSIP)<li data-bbox="531 1664 1382 1731">▪ Employers' organization (Employers Federation of the Philippines- ECOP)<li data-bbox="531 1742 1382 1776">▪ Safety Professionals and Organizations

¹¹All assessment instruments must be developed and pre-tested to ensure the questions are appropriate and relevant. These instruments must at least include the respondent's demographic profile such as age, gender, occupation, educational level and occupational sector/sub-sector. The measurement framework for competency and training needs assessment must also be defined as part of the proposal.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

<p>Online Survey, Direct Observation and Assessment</p>	<ul style="list-style-type: none"> ▪ Labour Law Compliance Officers ▪ DOLE Regional Directors ▪ DOLE Regional Office Technical Services and Support Division Chiefs
<p>Validation Workshop</p>	<ul style="list-style-type: none"> ▪ Government agencies: DOLE BWC, Regional Directors, Regional Office Technical Services and Support Division Chiefs, Labor Law Compliance Officers (sample size to be defined), OSH Center ▪ Workers' organizations: (TUCP, ALU, FFW, SENTRO, IndustriAll, CIWC, NACUSIP) ▪ Employers' organization: (Employers Federation of the Philippines- ECOP) ▪ Safety Professionals and Organizations

4. SCOPE OF WORK

The consulting firm will:

1. Submit an inception report, including a detailed methodology, proposed annotated report outline, fieldwork plan and pre-tested instruments.
2. Conduct a functional analysis of the role of LLCOs in OSH and develop a competency assessment framework to set the key competencies needed by LLCOs. This framework will be based on a comprehensive review of relevant documents, laws, regulations and institutional guidelines and mandates;
3. Administer a competency assessment to LLCOs to identify competency gaps and training needs;
4. Mobilize and manage the team to develop functional analysis and competency assessment tools and to administer these tools, including surveys, in preparation for the Focus Group Discussion (FGD) and Key Informant Interviews (KII);
5. Manage and analyze both the qualitative and quantitative data;
6. Write a draft report in English for comment by the Safeyouth@work Project of the ILO and the Project Steering Committee;
7. Incorporate comments made by the Safeyouth@work Project of the ILO and the Project Steering Committee;
8. Prepare a PowerPoint presentation presenting key findings of the assessment;
9. Design a validation workshop with the Safeyouth@work Project and DOLE;
10. Present the key findings to the DOLE and Project Steering Committee;
11. Facilitate a validation workshop that will validate the OSH competency framework and develop a capacity building plan for LLCOs to meet core OSH competency standards; and
12. Submit a final report containing the capacity building plan for LLCOs.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

5. DELIVERABLES AND TIMELINE

The outputs under this Terms of Reference shall contribute to improving the human resource development component of the LLCS' institutional framework and providing a more objective basis for identifying priority areas for building the capacity of LLCOs on OSH inspections, investigations and advisory services. The deliverables and timelines are shown below:

Deliverables	Timeline
1. Inception report, including detailed methodology, proposed annotated report outline, fieldwork plan and pre-tested instruments	30 days
2. Develop competency matrix based on comprehensive research and literature review	50 days
3. Administer competency assessments and conduct all necessary field work	80 days
4. Draft Report, PowerPoint presentation, and validation workshop design	100 days
5. Capacity building plan developed through the validation workshop	130 days
6. Final comprehensive report including the capacity building plan	140 days

6. ADMINISTRATIVE ARRANGEMENTS, FEES AND PAYMENT SCHEDULE

6.1 Contracting Party and Responsibilities

The Contracting Party will be the International Labour Organization (ILO), which will provide the funds needed for the conduct of the consultancy. The ILO through the Safeyouth@work National Project Coordinator in Manila will coordinate with the consulting firm or team. Technical backstopping will be provided by the Safeyouth@work Project and OSH Specialists or International Experts. Skype call meetings/ briefings will be organised to orient the consulting firm or team to the Safeyouth@work project and the expectations from this contract. A periodic catch-up meeting will be agreed with the consulting firm or team to report and discuss progress of the activities.

The DOLE will assign a core group of officials and staff from the BWC and Human Resource and Development Service (HRDS) to provide technical support for the work of the consulting firm or team, provide access to documents that are needed to deliver the outputs mentioned above, and organize and provide secretariat support to all activities associated with this Terms of Reference. The consulting firm or team

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

shall provide the ILO and DOLE advance copies of their work plan to include documents needed, profile of respondents, data gathering activities and timelines for enabling activities.

The Safeyouth@work Project will facilitate the consulting firm or team's introduction to stakeholders. The project will organize the validation workshop to present key findings to stakeholders including the development of the capacity building plan for LLCOs. Expenses for the workshop will be covered by the project.

6.2 Proposed consulting firm/team and fee

Proposals on the firm's structure are invited based on these Terms of Reference and should at least have the following team members:

- Team leader who will oversee the design and implementation of the assessment, analysis of findings, presentation of findings to stakeholders, conduct of validation workshop, and ensure submission of quality report.
- Organization Development or Human Resource Experts that will conduct the interviews and surveys, collect high quality data and confirm responses to ensure accurate information.
- Occupational safety and health expert that will provide technical advisory to the team.

a. Payment schedule

Deliverables	Payment Tranches
1. Inception report, including the detailed methodology, proposed annotated report outline, fieldwork plan and pre-tested instruments	30%
2. Draft Report, PowerPoint presentation, and validation workshop design	20%
3. Capacity building plan developed through the validation workshop	20%
4. Final comprehensive report including the capacity building plan	30%

b. Schedule

The consulting firm or team can propose the timeframe of the assessment based on the scope of work. However, the final report must be submitted on or before 180 days from execution of the consultancy contract.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

c. Submission of Proposal

The interested consulting firm or team must submit their proposal (not exceeding 20 pages excluding resumes) to the ILO Safeyouth@work Project with the following details:

- Consulting firm or team's experience and capacity: describe your qualification to undertake this engagement include list of similar previous and current engagements with detailed references and documentation references.
- Detailed CVs of consulting firm or team. If the group of consultants apply, all the detailed CVs of team members.
- Technical proposal including methodology for functional analysis and competency assessment, and work plan.
- Cost proposal with breakdown based on detailed activities.

All proposals must be submitted to the Safeyouth@work Project by email at levintow@ilo.org, offenloch@ilo.org, and bacale@ilo.org with copy to respall@ilo.org, macapanpan@ilo.org, and amparo@iloguest.org by COB of 19 September 2016. Only short-listed firms will be contacted. Please email amparo@iloguest.org for the detailed country scope of work.

7. PROPOSAL EVALUATION

The proposals will be evaluated in accordance with ILO regulations and criteria. The proposals will be scored against the below criteria. The scoring will be tabulated and the proposals will be ranked based on the numerical scores received. Detailed screening results will not be released. Only shortlisted candidates will be invited for interviews/ presentation of their proposal for final selection.

Criteria	Value of Criteria
1. Technical Proposal	
• Firm or team's Experience and Capabilities	30
• Proposed Staff Qualifications and Management Approach	20
• Methodology	20
• Work plan	10
2. Cost Proposal	20
Total	100

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

8. REFERENCE MATERIALS TO BE CONSULTED

- Labour Inspection Convention, 1947 (No. 81)
- Labour Inspection (Agriculture) Convention, 1969 (No. 129)
- Occupational Safety and Health Convention, 1981 (No. 155)
- Occupational Safety and Health Recommendation, 1981 (Recommendation No. 164)
- Protocol of 2002 to the Occupational Safety and Health Convention, 1981
- International Labour Standards and Guiding Principles on Labour Administration and Labour Inspection (Guiseppe Casale, Mario Fasani, 2012)
- A Guide to Selected Labour Inspection Systems (with special reference to OSH) (Gianni Arrigo, Guiseppe Casale, Mario Fasani, 2011)
- Labour Inspection: what it is and what it does
- Investigation of occupational accidents and diseases: A practical guide for labour inspectors
- International Labour Conference 98th Session, 2009, Report III (Part 1B): General Survey concerning the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and the Protocol of 2002 to the Occupational Safety and Health Convention, 1981, Report of the Committee of Experts on the Application of Conventions and Recommendations,
- International Labour Conference 95th Session, 2006, Report III (Part 1B): General Survey of the reports concerning the Labour Inspection Convention, 1947 (No. 81), and the Protocol of 1995 to the Labour Inspection Convention, 1947, and the Labour Inspection Recommendation, 1947 (No. 81), the Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82), the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and the Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)
- Guidelines on Occupational safety and health management systems, ILO-OSH 2001
- DOLE Department Order 131-13, Series of 2013
- DOLE Department Order 131-A, Series of 2014
- DOLE Department Order 131-B, Series of 2016
- Manual on Labor Laws and Compliance System and Procedures for Uniform Implementation (Department Order No. 131, Series of 2013, as amended Philippine Labor Code, as Amended
- Philippine Occupational Safety and Health Standards, as Amended

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

Annex II.

**TERMS AND CONDITIONS APPLICABLE TO ILO CONTRACTS
FOR SERVICES**

1. THE PARTIES

- 1.1. **LEGAL STATUS OF THE PARTIES:** The International Labour Organization, represented by the International Labour Office (ILO), and the Contractor (referred to individually as a "Party" and together as the "Parties") have the following legal status:
- 1.1.1. The International Labour Organization has full juridical personality, including the ability to contract and enjoys such privileges and immunities as are necessary for the independent fulfilment of its purposes pursuant to the *Constitution of the International Labour Organisation*. Nothing in or related to the Contract will be deemed a waiver of any of the privileges and immunities of the International Labour Organization recognized in the Convention on the Privileges and Immunities of the Specialized Agencies (1947), and relevant national and international law.
- 1.1.2. The Contractor is an independent contractor. Nothing contained in or relating to the Contract will be construed as establishing or creating between the Parties the relationship of employer and employee or of principal and agent.

2. CONTRACT DOCUMENTS AND VALIDITY

- 2.1. **NATURE OF THE CONTRACT:**
- 2.1.1. The Contract constitutes the complete and exclusive agreement between the Parties. It supersedes all proposals, verbal or written arrangements or agreements, and any other communications by one of the Parties or between the Parties relating to the Contract.
- 2.1.2. The Contract is composed of the following documents listed in their order of precedence:
- 2.1.2.1. **Purchase Order/Contract Document**, including any specific conditions;
- 2.1.2.2. Terms and Conditions applicable to ILO Contracts for Services (**Annex 1**); and
- 2.1.2.3. Any other document explicitly listed in the Purchase Order/Contract Document and attached to it (i.e., **Annex 2, 3**, etc).
- 2.1.3. Unless otherwise included in any of the documents listed in paragraph 2.1.2., the terms of business, conditions of contract, general reservations published or issued by the Contractor or written in any correspondence or documents emanating from the Contractor will not form part of the Contract.
- 2.2. **VALIDITY:** The Contract will expire upon fulfilment by the Parties of their respective obligations or otherwise in accordance with its provisions.
- 2.3. **NON-EXCLUSIVITY:** The ILO may contract for works or services (referred together to as "**Services**") of the same or similar kind and quality described in the Contract from any other source at any time.
- 2.4. **COMMUNICATIONS:** Communications (e.g., notices, documents) will be addressed to:

ILO Country Office for the Philippines (CO-Manila)
19th Floor, Yuchengco Tower, RCBC Plaza
6819 Ayala Avenue
Makati City
Philippines 1200
Facsimile: + (63) (2) 7856 75 97
Phone: + (63) (2) 580 99 41
e-mail: macapanpan@ilo.org, respass@ilo.org

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

3. PRICE AND PAYMENT

- 3.1. **PRICE AND CURRENCY:** The price and currency specified in the Contractor's offer are firm and not subject to revision. The ILO's financial liability under the Contract is restricted to the price and currency indicated in the Purchase Order/Contract Document.
- 3.2. **PAYMENT:** Upon receipt of the Contractor's written invoice and any related supporting documentation, the ILO will effect payment, normally within thirty (30) days, by bank transfer (the ILO will not pay through letters of credit or bank draft). The written invoice will be sent to the addressee specified in the Purchase Order/Contract Document and will contain the:
- 3.2.1. number of the Purchase Order/Contract Document that it relates to;
- 3.2.2. invoiced amount (without the rounding of currency decimals and exclusive of VAT, duties or charges); and
- 3.2.3. date of the completion of Services.
- In no event will complete or partial payment by the ILO, in and of itself, constitute acceptance of the Services.
- 3.3. **TAX EXEMPTION:** The International Labour Organization, as a United Nations Specialized Agency, enjoys a special tax status in Switzerland and in other member States. Except with the prior written authorization of the ILO, invoices will be submitted exclusive of any amount representing taxes (including value added tax), duties or charges. Where such authorization has been provided, the Contractor will provide the ILO with written evidence that payment of such taxes, duties or charges has been made. In the event any government authority refuses to recognize the ILO's exemption from such taxes, duties or charges, the Contractor will immediately consult with the ILO to determine a mutually acceptable procedure.

4. PERFORMANCE

- 4.1. **ITEMS FURNISHED BY THE CONTRACTOR:** The Contractor is solely responsible for the arrangement, provision and operation of all equipment, supplies, related support services and personnel (including any related costs so incurred) necessary for the performance of the Contractor's obligations under the Contract.
- 4.2. **ITEMS FURNISHED BY THE ILO TO THE CONTRACTOR:** Where goods and equipment (referred together as "Goods") are funded or provided by the ILO to the Contractor to support the performance of the Contractor's obligations under the Contract, the following terms apply:
- 4.2.1. The Contractor acknowledges and agrees that the ILO hereby disclaims any and all warranties regarding the functionality or installation of such Goods. The Contractor is solely responsible for the installation (including any personnel, tools, materials or other Goods necessary for installation), maintenance and functioning of all the Goods funded or provided by the ILO under the Contract.
- 4.2.2. The Contractor will promptly report to the ILO each loss, damage or theft of such Goods.
- 4.2.3. Title to the Goods that may be funded or provided by the ILO to the Contractor will be retained by the ILO. The Contractor will not cause or permit any lien, claim or other encumbrance to be attached to any or all such Goods, or to any other item that is the subject matter of the Contract.
- 4.2.4. Upon the termination or expiration of the Contract, all such Goods will be returned to the ILO in the same condition as when delivered to the Contractor, excluding normal wear and tear. The return of such Goods, or other disposal as the ILO may direct, will be at the Contractor's expense. Upon termination or expiration of the Contract, the Contractor will take all reasonable measures to avoid any loss of or deterioration to such Goods. The Contractor will compensate the ILO for actual costs of any loss of, damage to or deterioration of such Goods that is beyond normal wear and tear.
- 4.3. **INSTALLATION, MAINTENANCE, TRAINING:** Where installation, maintenance (ongoing or as specified in the Purchase Order/Contract Document) or training is required, the following terms apply:
- 4.3.1. The Contractor, in a timely manner, will arrange for and provide all equipment, supplies, related support services and personnel necessary to complete the installation, maintenance or training.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

- 4.3.2. All costs related to the installation, maintenance or training will be borne by the Contractor.
- 4.3.3. The ILO and the Consignee will be permitted to monitor the installation or maintenance work, as well as to oversee the training.
- 4.3.4. In addition, where training is required the Contractor will train any persons identified by ILO or the Consignee in the installation, operation, maintenance, etc. of the Services described in the Contract.
- 4.4. **ACCESS:** If some or all of the contractual obligations will be performed on ILO premises, the ILO will facilitate access to its premises in line with requirements for such performance. The Contractor will comply with ILO security requirements and any other relevant ILO rules, regulations and guidelines while on ILO premises, as well as with the instructions given by designated ILO officials.
- 4.5. **RESPONSIBILITY FOR PERSONNEL:**
 - 4.5.1. The employees, officials, representatives, staff or subcontractors (**Personnel**) of either of the Parties will not be considered in any respect as being the employees or agents of the other Party.
 - 4.5.2. Each Party is solely responsible for the professional and technical competence of its respective Personnel, which will permit that Party to effectively perform its obligations under the Contract.
 - 4.5.3. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to request at any time, in writing, the withdrawal or replacement of any of the Contractor's Personnel and such request will not be unreasonably refused by the Contractor.
 - 4.5.4. Each Party is solely responsible for all claims arising out of or relating to the engagement of its respective Personnel.
 - 4.5.5. All expenditures related to the assignment of the Contractor's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the Contractor. All expenditures related to the assignment of the ILO's Personnel, including allowances, insurance, cost of travel arrangements and local transport will be borne by the ILO.
- 4.6. **INSURANCE:**
 - 4.6.1. The Contractor, for the duration of the Contract, any extension thereof or any period following any termination of the Contract and reasonably adequate to deal with losses, will insure its Personnel against the consequences of the following risks:
 - 4.6.1.1. illness, injury and death; and
 - 4.6.1.2. incapacity to work due to accident and sickness either during normal working hours or outside working hours.
 - 4.6.2. Time lost as a result of the occurrence of the risks identified in subparagraphs **4.6.1.1** or **4.6.1.2** will not be chargeable to the ILO.
 - 4.6.3. The Contractor for the duration of the Contract, any extension thereof or any period following any termination of the Contract and reasonably adequate to deal with losses, warrants that it is insured with a coverage for a sufficient amount for the use of any vehicles, boats, airplanes or other transportation vehicles and equipment, whether or not owned by the Contractor, as well as that it carries comprehensive civil liability insurance with regard to third-parties, including the ILO and its Personnel, in respect of physical injury, damage to property or theft, as well as the direct or indirect effects thereof, including the unavailability of premises and loss of production.
 - 4.6.4. Where required by the ILO and as specified in the Purchase Order/Contract Document (except for the workers' compensation insurance or any self-insurance program maintained by the Contractor and approved by the ILO), the Contractor's insurance policies will:
 - 4.6.4.1. name the ILO as an additional insured under the liability policy/policies, including, if required, as a separate endorsement under the Contractor's policy/policies;
 - 4.6.4.2. include a waiver of subrogation of the Contractor's insurance carrier's rights against the ILO; and
 - 4.6.4.3. provide that the ILO will receive written notice from the Contractor's insurance carrier not less than thirty (30) days prior to any cancellation or material change of coverage.
 - 4.6.5. The Contractor will take out any other insurance required by the ILO and as specified in the Purchase Order/Contract Document.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

4.6.6. Upon written request by the ILO, the Contractor will provide the ILO with a copy of the general and specific conditions of the insurance policy/policies required under the Contract.

4.7. INDEMNIFICATION:

4.7.1. The Contractor is solely responsible for any claim or damage resulting from the negligence, acts, or omissions of its Personnel.

4.7.2. The Contractor will indemnify and hold the ILO harmless from and against any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO, its Personnel or third-parties which may result from the performance of the Contractor's obligations under the Contract or the Contractor's acts or omissions or those of the Contractor's Personnel.

4.7.3. The Contractor will immediately notify the ILO upon becoming aware of any direct or indirect responsibilities, complaints, claims (including intellectual property rights infringement), suits, judgments, damages and losses, including costs, fees and related expenses, in respect of any physical injury, damage to property, theft, or economic or other prejudice suffered by the ILO or which could adversely affect the ILO.

5. ASSIGNMENT AND SUBCONTRACTING

5.1. **ASSIGNMENT:** The Contractor may not assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract except with the prior written authorization of the ILO. Any such unauthorized assignment, transfer, pledge or other disposition, or any attempt to do so, will not be binding on the ILO.

5.2. **SUBCONTRACTING:** In the event that the Contractor requires the services of any subcontractor, the Contractor will obtain the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected. The authorization and approval by the ILO of such a subcontractor does not relieve the Contractor of any of its obligations under the Contract and the Contractor is solely responsible for the Services provided by a subcontractor in the framework of the Contract, including their quality. The Contractor, to the same extent as for its own Personnel, will be liable for a subcontractor and its Personnel who are performing any part of the Contractor's obligations under the Contract. The terms of any subcontract will be subject to and be in conformity with the provisions of the Contract. Except with the prior written authorization to subcontract and the approval of the ILO of the subcontractor selected, the Contractor will ensure that its subcontractor(s) do not subcontract, assign, transfer, pledge or make any other disposition of the Contract, of any part of the Contract, or of any of the rights, claims or obligations under the Contract. The provisions of this paragraph apply to any subcontractor who, in turn, requires the services of a subcontractor.

6. INTELLECTUAL PROPERTY RIGHTS AND CONFIDENTIALITY

6.1. PROPRIETARY ITEMS AND INTELLECTUAL PROPERTY RIGHTS:

6.1.1. All documents (including drawings, estimates, manuscripts, maps, plans, records, reports, recommendations) and other proprietary items (including data, devices, gauges, jigs, mosaics, parts, patterns, photographs, samples, and software) (jointly referred to as **Proprietary Items**), either developed by the Contractor or its Personnel in connection with the Contract or furnished to the Contractor by or on behalf of the ILO to support the performance of the Contractor's obligations under the Contract, are the exclusive property of the International Labour Organization; and, will be used by the Contractor and its Personnel solely for the purposes of the Contract.

6.1.2. All intellectual property rights and all other proprietary rights (including copyrights, patents, trademarks, source codes, products, processes, inventions, ideas, know-how) with regard to any materials (jointly referred to as **Intellectual Property**), either developed by the Contractor or its Personnel in connection with the Contract or furnished to the Contractor by or on behalf of the ILO to support the performance of the Contractor's obligations under the Contract, are the exclusive

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

- property of the International Labour Organization; and, will be used by the Contractor and its Personnel solely for the purposes of the Contract.
- 6.1.3. During the course of development, Proprietary Items and Intellectual Property developed or utilized by or furnished to the Contractor will be made available for use and inspection by the ILO, upon request at reasonable times and in reasonable places.
- 6.1.4. Such Proprietary Items and Intellectual Property will be delivered only to ILO authorized officials on completion of the Contract.
- 6.1.5. The Contractor will disclose, throughout its performance, to the ILO's authorized officials full particulars of all source codes, products, processes, inventions, ideas, know-how, documents and any other materials developed or conceived by the Contractor, alone or jointly, in connection with the Contract.
- 6.1.6. At the request of the ILO, the Contractor will take all necessary steps to execute all necessary documents and generally assist the ILO in securing intellectual property rights and all other proprietary rights in compliance with the requirements of applicable law.
- 6.1.7. To the extent that any Intellectual Property due to the ILO under paragraph 6.1.2 includes any intellectual property:
- 6.1.7.1. of the Contractor that: (i) pre-existed the performance by the Contractor of its obligations under the Contract; or (ii) it may develop or acquire, or that may have been developed or acquired, independently of the performance of the Contractor's obligations under the Contract; or
- 6.1.7.2. of a third-party;
- the Contractor grants to the International Labour Organization a perpetual, royalty-free license to make unrestricted use of such intellectual property. The International Labour Organization will not claim any ownership interest in the intellectual property described in subparagraphs 6.1.7.1 or 6.1.7.2.
- 6.1.8. The Contractor undertakes to obtain, at its own expense, permission to use any third-party protected rights that are necessary for the performance of the Contract and, if requested, provide the ILO with evidence of such permission.
- 6.1.9. In the event that any Proprietary Items or Intellectual Property provided to the ILO by the Contractor are for some reason enjoined or found to infringe any rights of a third-party, or in the event of a settlement, are enjoined, limited or otherwise interfered with, then the Contractor, at its sole cost and expense, will promptly:
- 6.1.9.1. procure for the ILO the unrestricted right to continue using such Proprietary Items and Intellectual Property provided to the ILO;
- 6.1.9.2. replace or modify the Proprietary Items and Intellectual Property provided to the ILO, or part thereof, with the equivalent or better Proprietary Items and Intellectual Property, or part thereof, that are non-infringing; or,
- 6.1.9.3. refund to the ILO the full price paid by the ILO for the right to have or use such Proprietary Items and Intellectual Property or part thereof.
- 6.2. **CONFIDENTIAL NATURE OF AND RESPONSIBILITY FOR PROPRIETARY ITEMS, INTELLECTUAL PROPERTY AND OTHER INFORMATION:**
- 6.2.1. Unless otherwise made public with the authorization of the ILO, Proprietary Items, Intellectual Property and other information, irrespective of what form they are, developed, collected, known, marked or received by the Contractor, will be treated by the Contractor as confidential and be used only for the purposes of the Contract.
- 6.2.2. The Contractor will not communicate at any time to any other person, government or entity external to the ILO, any Proprietary Items, Intellectual Property or other information known by reason of its association with the ILO, which has not been made public, except with the authorization of the ILO; nor will the Contractor at any time use such information for private advantage or in any manner prejudicial to or incompatible with the interests of the ILO. Where the Contractor is required by law to disclose such Proprietary Items, Intellectual Property or other information, it will give the ILO sufficient prior notice of the request to disclose in order to allow the ILO to have a reasonable opportunity to take protective measures or such other action as may be appropriate.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

- 6.2.3. The Contractor will be responsible for such Proprietary Items, Intellectual Property and other information. In case of loss of or damage to any Proprietary Items, Intellectual Property or other information the Contractor may be required to:
- 6.2.3.1. replace or repair the lost or damaged Proprietary Items, Intellectual Property or other information; or
 - 6.2.3.2. provide compensation to the ILO for the cost of replacing or repairing the lost or damaged Proprietary Items, Intellectual Property or other information.
- 6.3. **PUBLICITY AND USE OF THE NAME, EMBLEM OR OFFICIAL SEAL:**
- 6.3.1. The Contractor may neither disclose the terms and conditions of the Contract nor advertise or otherwise make public the fact that it is a Contractor to the ILO.
 - 6.3.2. The Contractor may not use or reproduce the name, emblem or the official seal of the International Labour Organization or of the International Labour Office, including their abbreviations, in connection with the Contractor's business or otherwise.
 - 6.3.3. In reporting its procurement activities, the ILO may publish (e.g., on the internet) the Contractor's name and amount of the Contract.

7. ETHICAL CONDUCT

- 7.1. **LABOUR CLAUSES:** The Contractor undertakes to respect, at all times and in all circumstances relevant to the performance of the Contract and in relation to all its Personnel, and to ensure that its subcontractors respect:
- 7.1.1. The following principles concerning international labour standards of the International Labour Organization:
- 7.1.1.1. the freely-exercised right of workers, without distinction, to organize, further and defend their interests and to bargain collectively, as well as the protection of those workers from any action or other form of discrimination related to the exercise of their right to organize, to carry out trade union activities and to bargain collectively;
 - 7.1.1.2. the prohibition of forced or compulsory labour in all its forms;
 - 7.1.1.3. equal remuneration for men and women for work of equal value;
 - 7.1.1.4. equality of opportunity and treatment in respect of employment and occupation without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin and such other ground as may be recognized under the national law of the country or countries where the performance, in whole or in part, of the Contract takes place;
 - 7.1.1.5. the prohibition of the employment of children below fourteen (14) years of age or, if higher than fourteen (14), the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of the Contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher;
 - 7.1.1.6. the prohibition of the employment of persons under the age of eighteen (18) for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons;
 - 7.1.1.7. the payment of wages in legal tender, at regular intervals no longer than one month, in full and directly to the workers concerned. The Contractor shall keep an appropriate record of such payments. Deductions from wages are permitted only under conditions and to the extent prescribed by the applicable law, regulations or collective agreement, and the workers concerned must be informed of such deductions at the time of each payment.
 - 7.1.1.8. the provision of wages, hours of work and other conditions of work not less favourable than the best conditions prevailing locally (i.e., as contained in: (i) collective agreements covering a substantial proportion of employers and workers; (ii) arbitration awards; or, (iii) applicable laws or regulations, whichever offers the best working conditions), for work of the same character performed in the trade or industry concerned in the area where work is carried out;
 - 7.1.1.9. the need to ensure, so far as is reasonably practicable, that the workplaces, machinery, equipment and processes under their control

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

- are safe and without risk to health, and that the chemical, physical and biological substances and agents under their control are without risk to health when the appropriate measures of protection are taken; and provide, where necessary, adequate protective clothing and protective equipment to prevent, so far as is reasonably practicable, risk of accidents or of adverse effects to health; and
- 7.1.2. All applicable laws or regulations concerning terms of employment and conditions of work, any collective agreements to which it is party, or any other related measure with which it must comply.
- 7.2. **PERSONNEL NOT TO BENEFIT:**
- 7.2.1. The ILO requires bidders and contractors to observe the highest ethical standards during the procurement process and the execution of contracts. In order to ensure the respect of these obligations, the ILO provides the following definitions:
- 7.2.1.1. "fraudulent practice" is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, another to obtain a financial or other benefit or to avoid an obligation;
- 7.2.1.2. "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of any advantage, in order to influence improperly the actions of another;
- 7.2.1.3. "conflict of interest" is a situation that gives rise to an actual, potential or perceived conflict between the interests of one party and another;
- 7.2.1.4. "collusive practice" is any conduct or arrangement between two or more bidders or contractors, designed to achieve an improper purpose, including to influence improperly the actions of another or to set prices at an artificial level or in a non-competitive manner;
- 7.2.1.5. "coercive practice" is impairing or harming, or threatening to impair or harm, directly or indirectly, another or the property of another to influence improperly the actions of another.
- 7.2.2. The Contractor will not (and will ensure that its Personnel do not) place itself in a position that may, or does, give rise to a conflict between its interests and the ILO's interests during the procurement process or the execution of the Contract.
- 7.2.3. If during any stage of the procurement process a conflict of interest arose or during contract execution a conflict of interest arises, or appears likely to arise, the Contractor will immediately notify the ILO in writing, setting out all relevant details, including any situation in which the interests of the Contractor conflict with the interests of the ILO, or in any situation in which any ILO official, employee or person under contract with the ILO may have, or appears to have, an interest of any kind in the Contractor's business or any kind of economic or personal ties with the Contractor. The Contractor will take such steps as the ILO may reasonably require to resolve or otherwise deal with the conflict to the satisfaction of the ILO.
- 7.2.4. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to disqualify the Contractor for a specified or indefinite period from participating in the procurement process of the ILO or contracting with the ILO, if it is shown that the Contractor has, directly or indirectly, employed fraudulent, corrupt, collusive or coercive practices or failed to disclose a conflict of interest.

8. FULL DISCLOSURE

- 8.1. **FULL DISCLOSURE:** The Contractor warrants that it has made and will make full and proper disclosure to the ILO of all relevant information relating to its business activities, financial condition and ownership, prior to entering into this Contract and for its duration, including that it is not identified on or associated with¹² any individual, groups, undertakings and entities identified on the list established by the United Nations Security Council

¹² United Nations Security Council Resolution 1617 defines "associated with" and it is available at <http://www.un.org/sc/committees/1267/resolutions.shtml>.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

Resolution 1267 (**1267 Consolidated List**)¹³; and that it is not, nor has been, subject to any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank.

9. DELAY, FORCE MAJEURE AND LIQUIDATED DAMAGES

9.1. DELAY:

- 9.1.1. Should the Contractor encounter conditions that do not constitute *Force majeure* and which impede or are likely to impede timely performance of the Contract (**Delay**), the Contractor will immediately notify the ILO in writing with full particulars of the Delay, including its likely duration, and its cause. At the ILO's request, the Contractor and the ILO will consult as soon as practicable after receipt of such notice, to evaluate any available means of mitigation or appropriate remedies provided under the Contract.
- 9.1.2. In addition to any other right or remedy available under the Contract, upon receiving notice of Contractor's Delay (or likely Delay) in performance, the ILO will have the right to:
 - 9.1.2.1. suspend the Contract, in whole or in part, and notify the Contractor not to proceed further with its performance which has been subject to (or will be subject to) Delay;
 - 9.1.2.2. withhold and/or deduct payment to the Contractor for the portion of the Contract subject to Delay; and
 - 9.1.2.3. procure all or part of the Services which the Contractor fails to provide in a timely manner.
- 9.1.3. Without prejudice to any other right or remedy available under the Contract, the Contractor will be liable for any increase in the price payable by the ILO resulting from the procurement of the Services from other sources and the ILO may apply such additional costs incurred, by deduction or otherwise, against future amounts owed by the ILO to the Contractor.
- 9.1.4. Upon receipt of notice of any decision by the ILO to suspend the Contract under subparagraph **9.1.2.1** and with respect to the suspended portion of the Contract, the Contractor will take immediate steps to reduce expenses to a minimum and will not undertake any further obligations; provided, however, that the ILO and the Contractor will continue performance of the Contract to the extent that it is not suspended or cancelled.

9.2. FORCE MAJEURE:

- 9.2.1. Neither Party will be liable to the other Party for failure to perform its respective obligations, if such failure is as a result of an unforeseeable and irresistible event, act of nature (including fire, flood, earthquake, storm, hurricane, epidemic or other natural disaster), any act of war (whether declared or not), invasion, revolution, insurrection, terrorism, or any other acts of a similar nature or force, (**Force Majeure**) provided that such acts arise from causes beyond the control and without the fault or negligence of the invoking Party.
- 9.2.2. The defaulting Party will notify, as soon as possible after the occurrence of the *Force Majeure* event, the other Party in writing with full particulars of the *Force Majeure* event, including its likely duration, the estimated expenditures that will likely be incurred for the duration of the *Force Majeure* event, and any other conditions which threaten to interfere with the defaulting Party's performance of the Contract.
- 9.2.3. Without prejudice to any other right or remedy available under the Contract, if either Party is rendered unable, in whole or in part, by reason of *Force Majeure* to perform its obligations and meet its responsibilities under the Contract and where the *Force Majeure* event exists beyond sixty (60) days then that Party will have the right to suspend or terminate the Contract with a period of written notice of seven (7) days.

- 9.3. **NOTICE OF DELAY AND FORCE MAJEURE:** If notice is not received by a Party in accordance with paragraphs **9.1.1** or **9.2.2**, the Party who fails to notify

¹³ The 1267 Consolidated List is available at http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

of the Delay or *Force Majeure* event will be liable for damages resulting from such non-receipt, except where the Delay or *Force Majeure* event also prevents transmission of the notice.

- 9.4. **LIQUIDATED DAMAGES:** Without prejudice to any other right or remedy available under the Contract, the Parties agree that if the Contractor breaches the Contract, including a Delay in performance of the Contractor's obligations under the Contract, it will be impractical or difficult to quantify the damages suffered by the ILO. The Parties, therefore, agree that in the event of such a breach by the Contractor, the Contractor will pay to the ILO, as liquidated damages, a sum equal to three-tenths of one (0.3) per cent of the Contract price for each day of delay until actual delivery or performance, up to a maximum of ten (10) per cent of the Contract price. Each Party acknowledges and agrees that the liquidated damages amount specified herein are intended to reasonably compensate the ILO and not intended to punish the Contractor. Without prejudice to any other right or remedy available under the Contract, the ILO reserves the right to recover such liquidated damages by deduction or otherwise, against future amounts owed by the ILO to the Contractor.

10. TERMINATION

10.1. TERMINATION BY THE ILO:

- 10.1.1. Without prejudice to any other right or remedy available under the Contract and without the authorisation of a court or any other authorisation, the ILO may terminate the Contract immediately by written notice in the event that the Contractor:
- 10.1.1.1. is found to have made any material or fraudulent misrepresentation in the making of or performance of the Contract regardless of when the misrepresentation is discovered;
 - 10.1.1.2. becomes bankrupt, otherwise insolvent, or the ILO reasonably determines that the Contractor has become subject to a materially adverse change in its financial condition that threatens to substantially affect the ability of the Contractor to perform any of its obligations under the Contract;
 - 10.1.1.3. fails to perform contractual obligations or to satisfy any guarantees or warranties it has made under the Contract and does not rectify such failure within sixty (60) days following receipt of a written notice by the ILO;
 - 10.1.1.4. is declared undesirable by the government where the Contractor is to perform any of its obligations under the Contract;
 - 10.1.1.5. is the subject of any sanction or temporary suspension imposed by any organization within the United Nations System including the World Bank; or
 - 10.1.1.6. the ILO's activities are curtailed or terminated.
- 10.1.2. Upon receipt of notice of termination by the ILO, the Contractor will take immediate steps to bring any Services to a close in a prompt and orderly manner, will reduce expenses to a minimum and will not undertake any further obligations from the date of receipt of notice of termination.
- 10.1.3. If the Contract should be terminated by the ILO, the ILO will make all payments which may be due up to the effective date of termination for any Services satisfactorily delivered or performed and accepted by the ILO.

10.2. TERMINATION BY THE CONTRACTOR:

- 10.2.1. Without prejudice to any other right or remedy available under the Contract and without the authorisation of a court or any other authorisation, the Contractor may terminate the Contract immediately by written notice in the event that the ILO:
- 10.2.1.1. fails to make payments which are due under the Contract and the ILO does not rectify such failure within a period of sixty (60) days after receipt of the Contractor's written notice of default; or
 - 10.2.1.2. fails in its contractual obligations so as to make it unreasonable for the Contractor to proceed with the performance of its obligations under the Contract and the ILO does not rectify such failure within a period of sixty (60) days after receipt of the Contractor's written notice of default.

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

11. WARRANTY

11.1. WARRANTY OF SERVICES:

- 11.1.1. The Contractor warrants that any Services provided in accordance with the Contract will meet the specifications, timeframes and related requirements set forth in the Contract. All materials and workmanship utilized in performing the Services under the Contract will be of the respective kind(s) described in the Contract and free from defects. Materials not conforming to the specifications in the Contract will not be used in performance of the Services without prior written approval of the ILO.
- 11.1.2. If the Services do not meet the requirements referred to above, the Contractor will, at its sole expense, either by repair or replacement, correct, promptly modify or change any faulty workmanship materials, parts and equipment supplied by it to the extent necessary to satisfy the above warranty.
- 11.1.3. If any defect or failure in the Services cannot be rectified by remedial measures within the period agreed by the ILO and the Contractor, the Contractor will be considered to be in default and in addition to exercising any suspension or termination rights set forth in the Contract, the ILO has the right to independently replace or repair the Services and the Contractor will be obligated to reimburse the ILO for all the additional costs so incurred, including by deduction or otherwise, against future amounts owed by the ILO to the Contractor.

12. MISCELLANEOUS

- 12.1. **CHANGE ORDERS:** The ILO may, by written notification, increase or decrease the scope of Services of the Contract provided the stage reached in the performance of the Contract so allows. If any such changes increase or decrease the cost of and/or the time required for the performance of any part of the Contract, an equitable adjustment will be made in the Contract's price or time schedule, or both, and the Contract will accordingly be amended. Any request for consultation or claim for adjustment under this paragraph will be asserted by the Contractor within thirty (30) working days from the date of receipt of ILO's change order.
- 12.2. **AMENDMENTS:** The Parties may by mutual agreement amend the Contract. Amendments will be effective only if in writing and when executed and delivered on behalf of the ILO and the Contractor by persons duly authorized to do so.
- 12.3. **NON-WAIVER OF RIGHTS:** Termination of the Contract in whole or in part by a Party or the failure by either Party to exercise any rights available to it, will not affect the accrued rights or claims and liabilities of either Party to the Contract.
- 12.4. **SURVIVAL:** The obligations contained in paragraphs 4.6 (Insurance); 4.7 (Indemnification); 6.1 (Proprietary Items and Intellectual Property Rights); 6.2 (Confidential Nature of and Responsibility for Proprietary Items, Intellectual Property and Other Information); 6.3 (Publicity and Use of the Name, Emblem or Official Seal); and 11.1 (Warranty of Services) survive the termination or expiration of the Contract.
- 12.5. **LIMITATION ON ACTIONS:** Irrespective of their nature, any dispute, controversy, or claim arising out of the Contract or the breach, termination, or invalidity thereof (other than obligations enumerated in paragraph 12.4) must be asserted within six (6) months after the termination or expiration of the Contract.

13. SETTLEMENT OF DISPUTES

- 13.1. **AMICABLE SETTLEMENT:** The Parties will use their best efforts to amicably settle any dispute, controversy, or claim arising out of the Contract or the breach, termination, or invalidity thereof by direct informal negotiations, including, where agreed, by referral, to an executive level of authority within the Parties. Where the Parties wish to seek such an amicable settlement through conciliation, the conciliation will take place in accordance with the Conciliation Rules then prevailing of the United Nations Commission on International Trade Law (UNCITRAL) or according to such other procedure as may be agreed between the Parties in writing.
- 13.2. **ARBITRATION:** Unless settled amicably under paragraph 13.1, within sixty (60) days, after receipt by one Party of the other Party's written request,

Assessment of the Labor Law Compliance Officers' competency standards and training needs requirements on Occupational Safety and Health

Request for Proposal (RFP)

- any dispute, controversy or claim arising out of the Contract, or the breach, termination or invalidity thereof, will be settled by arbitration in accordance with the UNCITRAL Arbitration Rules then prevailing. In addition:
- 13.2.1. the place of arbitration will be Geneva;
 - 13.2.2. the decisions of the arbitral tribunal will be based on general principles of international commercial law;
 - 13.2.3. the arbitral tribunal will have no authority to award punitive damages; and
 - 13.2.4. the Parties will be bound by any arbitration award rendered as a result of such arbitration as the final adjudication of any such dispute, controversy, or claim arising out of the Contract, or the breach, termination or invalidity thereof.
- 13.3. **LANGUAGE:** The conciliation and the arbitration proceedings will be conducted in the language in which the Contract is signed provided that it is one of the three working languages of the ILO (English, French and Spanish). In the event the Contract is in a language other than English, French or Spanish, the conciliation or the arbitration proceedings will be conducted in English, French or Spanish.



ILO TERMS AND CONDITIONS FOR USDOL FUNDED CONTRACTS

Required provisions where the United States of America is the donor:

The Contractor/Implementing Agent acknowledges and agrees that as the funding for the Contract/Implementation Agreement (Contract/Agreement) derives from the US Department of Labor (USDOL or Government), the following provisions are required and are to be read in conjunction with the Terms and Conditions applicable to ILO Contracts/ILO Implementation Agreements (**Annex 1** of the Contract/**Annex A** of the Agreement):

1. **RESTRICTIONS ON USE OF FUNDING:** The Contractor/Implementing Agent undertakes that it will *not* use Government funds:
 - 1.1 For **alcoholic beverages**.
 - 1.2 For **direct cash transfers** to target beneficiaries. Participant support costs incurred in the nature of incidental items that are purchased and distributed or the issuance of vouchers may be allowable. Participant support costs that are direct costs for items incidental to providing services, including such items as uniforms, school supplies, books, provision of tuition (e.g., in the form of stipends), and transportation costs, are allowable.
 - 1.3 For **entertainment**, including amusement, diversion, and social activities and any costs directly associated with entertainment (such as tickets, meals, lodging, rentals, transportation, and gratuities). Costs of training, meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. Costs of meals, refreshments, transportation, rental of facilities and other items incidental to such meetings and conferences, are allowable. Costs related to child labour educational activities, such as street plays and theatre, are allowable.
 - 1.4 For payments to **host country governments**, or entities that are agencies of, or operated by or for host country governments, ministries, officials or political parties, that duplicate or substitute for existing government functions. Payments to host country governments not specified in the Contract/Agreement are not allowed except when the Contractor/Implementing Agent has obtained prior approval in writing.
 - 1.5 With the intent to **influence a Government official** (including any member of Congress, Congressional staff, or any Federal, state, or local official of the Government), to favour, adopt, or oppose, by vote or otherwise, any Government legislation, law, ratification, policy or appropriation, or to influence in any way the outcome of a political election in the United States, or to contribute to any political party or campaign in the United States, or for activities carried on for the purpose of supporting or knowingly preparing for such efforts. This includes awareness raising and advocacy activities that include fund-raising or lobbying of Federal, state, or local officials of the Government. Any communications about the ILO and its programs or activities, in response to a request by any Government official, or for consideration or action on the merits of a federally-sponsored agreement or relevant regulatory matter by a Government official, will be handled in direct consultation with the ILO.
 - 1.6 For the purchase of **land**.
 - 1.7 For goods or services used for **private purposes** by the Contractor/Implementing Agent or its Personnel.¹⁴
 - 1.8 To lobby for, promote or advocate the **legalization or regulation of prostitution** as a legitimate form of work.

¹⁴ See respectively, paragraph 4.9.1 of the Terms and Conditions Applicable to ILO Contracts; paragraph 4.5.1 of the Terms and Conditions Applicable to ILO Contracts for Services (**Annex 1** of the Contract); or paragraph 2.2.1 of the Terms and Conditions Applicable to ILO Implementation Agreements (**Annex A** of the Agreement) for definition.



ILO TERMS AND CONDITIONS FOR USDOL FUNDED CONTRACTS

- 1.9 For **religious instruction**, worship, prayer, proselytizing or other inherently religious activities, or the purchase of religious materials. This includes matching funds.
 - 1.10 To provide support to individuals or entities associated with **terrorism**, including groups, undertakings and entities identified on the list established by the United Nations Security Council Resolution 1267 (1267 Consolidated List).
2. In implementing the Contract/Agreement, the Contractor/Implementing Agent acknowledges and agrees that:
- 2.1 **SELECTION OF ENTITIES:** It will use neutral, non-religious criteria that neither favour nor disfavour religion in the selection of any entities.
 - 2.2 **INHERENTLY RELIGIOUS ACTIVITIES:** It will separately account for any non- Government and non-matching funds, or allocable portion thereof, used for inherently religious activities. Any inherently religious activities must be clearly separated in time or physical space from activities funded by the Government. Direct beneficiaries of the project must have a clear understanding that their enrollment in a Government funded project is not conditioned on their participation in any religious activities and that any decision not to participate in any inherently religious activity will in no way impact or result in any negative consequences to their standing, participation in or receipt of benefits from a Government funded project.
 - 2.3 **PROGRAM INCOME:** Except as provided for in paragraph 2.4, it will retain program income generated during the Contract/Agreement period, to be added to funds committed to the project by the Government and the ILO, and use it to further eligible project or program objectives. This does not affect program income generated after the termination or expiration of the Contract/Agreement. Costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Government. Proceeds from the sale of property are not program income and will be handled in accordance with the requirements of the Government's Property Standards contained in 29 CFR 95.30 through 95.37 (available at <http://www.ecfr.gov>).
 - 2.4 **LICENSE FEES AND ROYALTIES:** Unless the Government's regulations or the terms and conditions of the agreement between the ILO and the Government provide otherwise, the Contractor/Implementing Agent will have no obligation to the Government with respect to program income generated from license fees and royalties for copyrighted material, patents, patent applications, trademarks and inventions produced. However, the Government's Patent and Trademark Amendments (35 U.S.C. 18) apply to inventions made that are funded by an agreement between the ILO and the Government for an experimental, developmental, or research award. The rights to any subject invention will be consistent with 35 U.S.C. 18 (available at <http://uscode.house.gov>).
 - 2.5 *** INTELLECTUAL PROPERTY RIGHTS:** Notwithstanding the Intellectual Property rights due to the ILO, the Government reserves a royalty-free, non-exclusive and irrevocable right to obtain, copy, publish, grant or otherwise use outputs produced using Government funds for Government purposes, and may so authorise others.
 - 2.6 *** TITLE:** Ownership of goods and equipment purchased, in whole or in part, with funds from the Government may not be transferred to it, or any other party, without prior authorization of the Government.
 - 2.7 *** RECORDS:** It will retain all records, including financial documents, related to or arising from the implementation of the Contract/Agreement for a period of not less than five (5) years from the termination or expiration of the Contract/Agreement. Where applicable, the ILO, or any person authorized by the ILO, may, at the sole discretion of the ILO, conduct a review, audit, investigation or other activity requiring access to such records during the term of the Contract/Agreement or thereafter. The Contractor/Implementing Agent will grant to any such person, at a time to be agreed upon, free access to all workplaces, and will make available at any time all records and documents, including supporting documents for expenditures that



Annex VI

ILO TERMS AND CONDITIONS FOR USDOL FUNDED CONTRACTS

- have been incurred for the delivery of Goods, in the completion of Services or in the execution of the Work described in the Contract/Agreement. This obligation will survive the termination or expiration of the Contract/Agreement.
- 2.8 * **AUDIT:** It will conduct and share audit reports carried out by an independent accounting firm, if it receives Government funds in excess of USD 500,000 either from the ILO or cumulatively from the ILO and other sources during a fiscal year (1 October to 30 September).
- 2.9 * **GOVERNMENT ACCESS:** Nothing in paragraphs 2.7 or 2.8 above, will be deemed to waive or otherwise limit any right or authority of the Government to review, audit, investigate or undertake any other activity requiring access to such records described above during the term of the Contract/Agreement or thereafter.
- 2.10 **OBSERVANCE OF LOCAL LAWS AND REGULATIONS:** It and its Personnel will observe the laws, regulations and other instruments having the force of law in the country or countries where the performance, in whole or in part, of the Contract/Agreement takes place, which regulate the sector in respect of which the delivery of Goods, the completion of Services or the execution of the Work are to be provided under the Contract/Agreement, including all safety and health regulations, and that no threat is posed to the mental or physical well-being of target beneficiaries.
- 2.11 * **DISABILITY ACCESS:** It will ensure that all outputs it produces (e.g. documents, publications) are accessible for individuals with disabilities (Section 508 of the Rehabilitation Act, <http://www.section508.gov>).
- 2.12 **TRAFFICKING IN PERSONS:** Neither it nor its employees/Personnel will during the Contract/Agreement period: (i) engage in severe forms of trafficking in persons; (ii) procure a commercial sex act; or (iii) use forced labour in the performance of the Contract/Agreement.
- 2.13 **TERMINATION:** The ILO, without prejudice to any other right or remedy available under the Contract/Agreement, may unilaterally terminate the Contract/Agreement, without penalty, if the Contractor/Implementing Agent: (i) is determined to have violated paragraph 2.12 above; or, (ii) has or had any employees/Personnel who are determined by the ILO to have violated, after entering into the Contract/Agreement, paragraph 2.12 above through conduct that is either: (a) associated with performance under the Contract/Agreement; or (b) imputed to the Contractor/Implementing Agent in accordance with paragraph 4 below.
3. **DEFINITIONS:** For purposes of paragraph 2.12 above, the following definitions apply:
- 3.1 “coercion” means: (i) threats of serious harm to or physical restraint against any person; (ii) any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or (iii) the abuse or threatened abuse of law or the legal process.
- 3.2 “commercial sex act” means any sex act on account of which anything of value is given to or received by any person.
- 3.3 “employee” means either: (i) an individual employed by the Contractor/Implementing Agent or a funded entity and engaged in the performance of the Contract/Agreement; or (ii) another person engaged in the performance of the Contract/Agreement and not compensated by the Contractor/Implementing Agent including, but not limited to, a volunteer or individual whose services are contributed by a third-party as an in-kind contribution toward cost sharing or matching requirements.
- 3.4 “forced labour” means labour or services of a person obtained by: (i) threats of serious harm to, or physical restraint against, that person or another person; (ii) any scheme, plan, or pattern intended to cause the person to believe that, if the person did not perform such labour or services, that person or another person would suffer serious harm or physical restraint; or (iii) the abuse or threatened abuse of law or the legal process.
- 3.5 “severe forms of trafficking in persons” means: (i) sex trafficking in which a commercial sex act is induced by force, fraud, coercion, or in which the person induced to perform such act



ILO TERMS AND CONDITIONS FOR USDOL FUNDED CONTRACTS

has not attained 18 years of age; or (ii) the recruitment, harbouring, transportation, provision, or obtaining of a person for labour or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

- 4. CONDUCT IMPUTED FROM AN INDIVIDUAL TO A CONTRACTOR/IMPLEMENTING AGENT:** For purposes of actions taken under paragraph **2.13** above, the ILO may impute conduct as follows:
- 4.1 The ILO may impute the fraudulent, criminal, or other improper conduct of any officer, director, shareholder, partner, employee, Personnel or other individual associated with a Contractor/Implementing Agent, to that Contractor/Implementing Agent when the improper conduct occurred in connection with the individual's performance of duties for or on behalf of that Contractor/Implementing Agent, or with the Contractor/Implementing Agent's knowledge, approval or acquiescence. The Contractor/Implementing Agent's acceptance of the benefits derived from the conduct is evidence of knowledge, approval or acquiescence.
- 4.2 Only if the record supports a conclusion that the Contractor/Implementing Agent shares in the individual's culpability, or blameworthiness, for the conduct, the misconduct of an individual associated with that Contractor/Implementing Agent may be imputed to the Contractor/Implementing Agent as described in paragraph **4.1** above. There may be circumstances in which a given activity is not illegal from a criminal standpoint, but is restricted or prohibited by the terms of the Contract/Agreement. In those circumstances, the degree of the Contractor/Implementing Agent's knowledge of the individual's conduct, and the extent of the Contractor/Implementing Agent's control over that conduct, is relevant to the determination by the ILO.
- 5.** * The Contractor/Implementing Agent acknowledges and agrees that it will comply with all applicable provisions of the Government's Federal laws, executive orders, regulations and policies that govern the use of the Government's funds, now or in the future, including:

**** For receipt and expenditure of federal financial assistance inside and outside of the United States:**

29 CFR Part 2 Subpart D - Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries;

29 CFR Part 93 - New Restrictions on Lobbying;

29 CFR Part 95 and the provisions of Annex A (OMB Circular A-110) - Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations;

29 CFR Part 98 - Federal Standards for Government-wide Debarment and Suspension (Nonprocurement);

2 CFR Part 220 (OMB Circular A-21) - Cost Principles for Educational Institutions;

2 CFR Part 230 (OMB Circular A-122) - Cost Principles for Non-Profit Organizations;

**** For receipt and expenditure of federal financial assistance inside of the United States:**



Annex VI

ILO TERMS AND CONDITIONS FOR USDOL FUNDED CONTRACTS

† **29 CFR Part 31** - Non-discrimination in Federally Assisted Programs of the Department of Labour – Effectuation of Title VI of the Civil Rights Act of 1964;

29 CFR Part 32 - Non-discrimination on the Basis of Handicap In Programs and Activities Receiving or Benefiting from Federal Financial Assistance;

29 CFR Part 33 - Enforcement of Non-discrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Labor;

29 CFR Part 35 - Non-discrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor;

29 CFR Part 36 - Federal Standards for Non-discrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;

29 CFR Part 94 - Federal Standards for Government-wide Requirements for Drug-Free Workplace (Federal Assistance);

29 CFR Part 96 (OMB Circular A-133) - Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements;

29 CFR Part 99 (OMB Circular A-133) - Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations;

2 CFR Part 170, Appendix A - Federal Funding Accountability and Transparency Act, Pub. L. 109-282.

By signing below, the Contractor/Implementing Agent warrants that it is not subject to any sanction or temporary suspension imposed by the Government (www.sam.gov), that the Contract/Agreement has not been made contingent upon it agreeing to provide matching funds, and that it will comply with the terms and conditions applicable to the Contract/Agreement. If the Contractor/Implementing Agent fails to comply, it may be obligated to reimburse the ILO for any disallowed costs as determined by it or the Government, including by deduction or otherwise, against future amounts owed by the ILO to the Contractor/Implementing Agent.

The Contractor/Implementing Agent further warrants that the terms of any subcontract will be subject to and be in conformity with the provisions of the Contract/Agreement, including this Annex.

[Name, Position]

[Date]

[Address]



International Labour Office

Annex VI

ILO TERMS AND CONDITIONS FOR USDOL FUNDED CONTRACTS

- * Items accompanied by an asterisk are not applicable to Contracts/Agreements for projects funded by the Government prior to 2013. In case of doubt, please refer to the ILO responsible official who, as required, may refer to the Technical Cooperation Project code and the relevant agreement between the ILO and the Government.
- † Items accompanied by an obelisk are applicable to 2013 non-IPEC Contracts/Agreements. In case of doubt please refer to the agreement between the ILO and the Government.
- **Headings are for indicative purposes only and do not relieve the Contractor/Implementing Agent from any liability.