



CONTRACT FOR SUPPLIER SERVICES

2 January 2014

Section 1 - FORM OF CONTRACT

CONTRACT FOR: Programme Evaluation of Palestinian Market Development Programme

PURCHASE ORDER NUMBER: 6465

THIS CONTRACT is made

BETWEEN: The Secretary of State for International Development at the Department for International Development, B-28 Tara Crescent, Qutab Institutional Area, New Delhi 110016, INDIA ("DFID");

AND: GDSI UK, whose principal place of business, or, where the Supplier is a company, whose registered office is situated at No 2, Regent Apartments, Redland Court Road, Bristol, BS6 7BH, United Kingdom.

(together "the Parties").

WHEREAS:

A. DFID requires the Supplier to provide the services as defined in Section 3 ("the Services") to DFID for the benefit of the Palestinian Market Development Programme ("the Recipient"); and

B. the Supplier has agreed to provide the Services on the terms and conditions set out in this Contract.

IT IS HEREBY AGREED as follows:

1. Documents

This Contract shall be comprised of the following documents:

- Section 1 Form of Contract
- Section 2 General Conditions
- Section 3 Terms of Reference
- Section 4 Special Conditions
- Section 5 Schedule of Prices

This Contract constitutes the entire agreement between the Parties in respect of the Suppliers obligations and supersedes all previous communications between the Parties, other than as expressly provided for in Section 3 and/or Section 4.

2. Contract Signature

If the Original Form of Contract is not returned to the Contract Officer (as identified in Section 4) duly completed, signed and dated on behalf of the Supplier within 30 days of the date of signature on behalf of DFID, DFID will be entitled, at its sole discretion, to declare this Contract void.

No payment will be made to the Supplier under this Contract until a copy of the Form of Contract, signed on behalf of the Supplier, is returned to the Contract Officer.

3. Commencement and Duration of the Services

The Supplier shall start the Services on 15 January 2014 ("the Start Date") and shall complete them by 30 September 2019 ("the End Date") unless this Contract is terminated earlier in accordance with its terms and conditions.

4. Financial Limit

Payments under this Contract shall not, in any circumstances, exceed £438,390 (UK Pound Four Hundred Thirty Eight Thousand and Three Hundred Ninety only) ("the Financial Limit") inclusive of all taxes.

5. Time of the Essence

Time shall be of the essence as regards the performance by the Supplier of its obligations under this Contract.

For and on behalf of
The Secretary of State for
International Development

Name:

Position:

Signature:

Date:

For and on behalf of
GDSI UK

Name:

Position:

Signature:

Date:

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DEFINITIONS AND INTERPRETATION

1. Definitions

“Commercially Sensitive Information” the information listed in Section 4 comprising the information of a commercially sensitive nature relating to the Supplier, its intellectual property rights or its business of which the Supplier has indicated to DFID that, if disclosed by DFID, would cause the Supplier significant commercial disadvantage of material financial loss;

“Confidential Information” means all Personal Data and any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including all intellectual property rights, together with all information derived from any of the above, and any other information clearly being designated as being confidential (whether or not it is marked “confidential”) or which ought reasonably be considered to be confidential;

"the Supplier" means the person(s), partnership(s) or company(ies) with whom this Contract is placed.

"the Supplier's Personnel" means any person instructed pursuant to this Contract to undertake any of the Supplier's obligations under this Contract, including the Supplier's employees, agents and sub-contractors.

"the Contract Officer" means the person named in Section 4 who is responsible for all contractual aspects of the Contract.

“Contracting Authority” any contracting authority as defined in Regulation 5(2) of the Public Contracts (Works, Services and Supply) (Amendment) Regulations other than DFID;

“Crown Body” any department, office or agency of the Crown;

“Data Controller” shall have the same meanings as set out in the Data Protection Act 1998;

“DFID Data” means (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are: (i) supplied to the Supplier by or on behalf of DFID; or (ii) which the Supplier is required to generate, process, store or transmit pursuant to this Agreement; or (b) any Personal Data for which DFID is the Data Controller;

“Data Processor” shall have the same meaning as set out in the Data Protection Act 1998;

“Data Protection Legislation” means the Data Protection Act 1998 and all other applicable laws and regulations relating to the processing of personal data and privacy, including without limitation, the guidance and codes of practice issued by the Information Commissioner;

“Data Subject” shall have the same meaning as set out in the Data Protection Act 1998;

“Environmental Information Regulations” means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Department in relation to such regulations;

"the Equipment" means any equipment, computer hardware or software, materials, goods and vehicles and associated services necessarily required for the implementation of the Services, which the Supplier cannot reasonably be expected to provide, which are financed or provided by DFID for use by the Supplier.

"the Financial Limit" means the amount specified in Section 1 and is the maximum amount payable by DFID under this Contract.

"FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Department in relation to such legislation;

"Information" has the meaning given under Section 84 of the Freedom of Information Act 2000;

"Law" means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body;

"Personal Data" shall have the same meaning as set out in the Data Protection Act 1998;

"Process" has the meaning given to it under the Data Protection Legislation but, for the purposes of this Contract, it shall include both manual and automatic processing;

"the Project Officer" means the person named in Section 4 who is responsible for issuing instructions and dealing with all correspondence in connection with the technical aspects of the Contract;

"Regulatory Bodies" means those government departments, regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of DFID and "Regulatory Body" shall be construed accordingly;

"Request for Information" a request for information or an apparent request under the FOIA, the Environmental Information Regulations and associated codes of practice;

"the Security Policy" means DFID's security policy, which can be accessed on DFID's website at <http://www.dfid.gov.uk/work-with-us/procurement/dfid-information-security-policy-for-contractorsconsultants/> or as notified to the Supplier from time to time;

"the Services" means the services set out in the Terms of Reference (Section 3).

2. Interpretation

2.1 In the event of any inconsistency between the Form of Contract (Section 1), these General Conditions (Section 2) and the Special Conditions (Section 4), the Special Conditions shall prevail.

2.2 Except as expressly provided in Clause 23 the Supplier is not the agent of DFID and has no authority to represent and shall not purport to represent or enter into any commitments on behalf of DFID in any respect.

2.3 Nothing in this Contract is intended to make nor shall it make DFID the employer of the Supplier or any of the Supplier's Personnel.

2.4 All communications by the Supplier relating to notifications or applications for consents or instructions must be addressed to the DFID Contract Officer whose name and address are given in Section 4.

OBLIGATIONS OF THE SUPPLIER

3. Obligations

3.1 The Supplier shall perform all its obligations under this Contract (including the provision of the Services) with all necessary skill, diligence, efficiency and economy to satisfy generally accepted professional standards expected from experts.

3.2 If the Supplier is a joint venture then each of the joint venture parties shall have joint and several liability in respect of the Supplier's obligations under this Contract.

4. Personnel

4.1 All members of the Supplier's Personnel shall be appropriately qualified, experienced and in a suitable physical condition so as to ensure that the Supplier complies with all the Supplier's obligations under this Contract.

4.2 No changes or substitutions may be made to members of the Supplier's Personnel identified as key personnel in Section 4 of this Contract without DFID's prior written consent.

4.3 If DFID considers any member of the Supplier's Personnel unsuitable, the Supplier shall substitute such member as quickly as reasonably possible without direct or indirect charge to DFID with a replacement acceptable to DFID.

4.4 The Supplier is responsible for all acts and omissions of the Supplier's Personnel and for the health, safety and security of such persons and their property. The provision of information by DFID shall not in any respect relieve the Supplier from responsibility for its obligations under this Contract. Positive evaluation of proposals and award of this Contract (or any subsequent Contract Amendments) is not an endorsement by DFID of the Supplier's security arrangements.

4.5 The Supplier shall comply with the Staff Vetting Procedures in respect of all Supplier's Personnel employed or engaged in the provision of the Services. The Supplier confirms that all Supplier's Personnel employed or engaged by the Supplier by the agreed start date of this contract were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures, as provided within DFID's Security Policy.

4.6 The Supplier shall provide training on a continuing basis for all Supplier Personnel employed or engaged in the provision of the Services in compliance with the Security Policy and the Security Plan.

5. Sub Contractors

5.1 The Supplier shall not sub-contract any of its obligations under this Contract without the prior written consent of DFID.

5.2 If, having obtained DFID's consent, the Supplier sub-contracts any of its obligations, the sub-contract shall:-

(a) provide that payments due to the sub-contractor shall be made not more than 30 days after provision to the Supplier of a valid invoice; and

(b) include rights for the Supplier and obligations on the sub-contractor to ensure that DFID's rights to require replacement of personnel (as set out in Clause 4.3) and DFID's rights and the Supplier's obligations (as detailed within this contract) can be enforced against the sub-contractor.

6. DFID Data

6.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to DFID Data.

6.2 The Supplier shall not store, copy, disclose, or use DFID Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly authorised in writing by DFID.

6.3 To the extent that DFID Data is held and/or processed by the Supplier, the Supplier shall supply that DFID Data to DFID as requested by DFID in the format(s) specified by DFID.

6.4 Upon receipt or creation by the Supplier of any DFID Data and during any collection, processing, storage and transmission by the Supplier of any DFID Data, the Supplier shall take responsibility for preserving the integrity of DFID Data and preventing the corruption or loss of DFID Data.

6.5 The Supplier shall perform secure back-ups of all DFID Data and shall ensure that up-to-date back-ups are stored off-site in accordance with the Security Policy. The Supplier shall ensure that such back-ups are available to DFID at all times upon request, with delivery times as specified by DFID.

6.6 The Supplier shall ensure that the system on which the Supplier holds any DFID Data, including back-up data, is a secure system that complies with the Security Policy.

6.7 If DFID Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, DFID may:

6.7.1 require the Supplier (at the Supplier's expense) to restore or procure the restoration of DFID Data to the extent and in accordance with the Business Continuity and Disaster Recovery Provisions specified in the Security Policy and the Supplier shall do so as soon as practicable but not later than three days following written request from DFID; and/or

6.7.2 itself restore or procure the restoration of DFID Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified in the Business Continuity and Disaster Recovery Provisions specified in the Security Policy.

6.8 If at any time the Supplier suspects or has reason to believe that DFID Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify DFID immediately and inform DFID of the remedial action the Supplier proposes to take.

7. Protection of Personal Data

7.1 With respect to the parties' rights and obligations under this Contract, the parties agree that DFID is the Data Controller and that the Supplier is the Data Processor.

7.2 The Supplier shall:

7.2.1 process the Personal Data only in accordance with instructions from DFID (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by DFID to the Supplier during the Term);

7.2.2 process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;

7.2.3 implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

7.2.4 take reasonable steps to ensure the reliability of any Supplier's Personnel who have access to the Personal Data;

7.2.5 obtain prior written consent from DFID in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;

7.2.6 ensure that all Supplier's Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this clause 7;

7.2.7 ensure that none of Supplier's Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by DFID;

7.2.8 notify DFID (within two Working Days) if it receives:

7.2.8.1 a request from a Data Subject to have access to that person's Personal Data; or

7.2.8.2 a complaint or request relating to DFID's obligations under the Data Protection Legislation;

7.2.9 provide DFID with full cooperation and assistance in relation to any complaint or request made, including by:

7.2.9.1 providing DFID with full details of the complaint or request;

7.2.9.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with DFID's instructions;

7.2.9.3 providing DFID with any Personal Data it holds in relation to a Data Subject (within the timescales required by DFID); and

7.2.9.4 providing DFID with any information requested by DFID;

7.2.10 permit DFID or its representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with clause 16 (Access and Audit), Supplier's data processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by DFID to enable DFID to verify and/or procure that the Supplier is in full compliance with its obligations under this Contract;

7.2.11 provide a written description of the technical and organisational methods employed by the Supplier for processing Personal Data (within the timescales required by DFID); and
7.2.12 not Process Personal Data outside the United Kingdom without the prior written consent of DFID and, where DFID consents to a transfer, to comply with:

7.2.12.1 the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and

7.2.12.2 any reasonable instructions notified to it by DFID.

7.3 The Supplier shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause DFID to breach any of its applicable obligations under the Data Protection Legislation.

8. Freedom of Information

8.1 The Supplier acknowledges that DFID is subject to the requirements of the FOIA, the Environmental Information Regulations and associated codes of practice shall assist and cooperate with DFID to enable DFID to comply with its Information disclosure obligations.

8.2 The Supplier shall and shall ensure that its Sub-contractors shall:

8.2.1 transfer to DFID all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

8.2.2 provide DFID with a copy of all Information in its possession, or power in the form that DFID requires within five Working Days (or such other period as DFID may specify) of DFID's request; and

8.2.3 provide all necessary assistance as reasonably requested by DFID to enable DFID to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

8.3 DFID shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA, the Environmental Information Regulations and associated codes of practice.

8.4 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by DFID.

8.5 The Supplier acknowledges that (notwithstanding the provisions of Clause 8) DFID may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("**the Code**"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:

8.5.1 in certain circumstances without consulting the Supplier; or

8.5.2 following consultation with the Contractor and having taken their views into account; provided always that where 8.5.1 applies DFID shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

8.6 The Supplier shall ensure that all Information is retained for disclosure in accordance with clauses 8.7 and 8.8 and shall permit DFID to inspect such records as requested from time to time.

8.7 The Supplier shall, during this Contract and for a period of at least seven years following the expiry or termination of this Contract, retain and maintain all Information:

8.7.1 in accordance with the requirements of the Public Records Office and in accordance with the exercise of the degree of care that would be expected from a leading company within the relevant industry or business sector;

8.7.2 in chronological order;

8.7.3 in a form that is capable of audit;

8.7.4 at its own expense.

8.8 Wherever practical, original Information shall be retained and maintained in hard copy form.

8.9 The Supplier acknowledges that any Commercially Sensitive Information noted within this contract is of indicative value only and that DFID may be obliged to disclose it in accordance with clause 8.5.

9. Confidentiality

9.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each party shall:

9.1.1 treat the other party's Confidential Information as confidential and safeguard it accordingly; and

9.1.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

9.2 Clause 9.1 shall not apply to the extent that:

9.2.1 such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA, the Environmental Information Regulations and associated codes of practice pursuant to clause 42 (Freedom of Information);

9.2.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

9.2.3 such information was obtained from a third party without obligation of confidentiality;

9.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or

9.2.5 it is independently developed without access to the other party's Confidential Information.

9.3 The Supplier may only disclose DFID's Confidential Information to the Supplier's Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Supplier's Personnel are aware of and shall comply with these obligations as to confidentiality.

9.4 The Supplier shall not, and shall procure that the Supplier's Personnel do not, use any of DFID's Confidential Information received otherwise than for the purposes of this Contract.

9.5 At the written request of DFID, the Supplier shall procure that those members of the Supplier's Personnel identified in DFID's notice signs a confidentiality undertaking prior to commencing any work in accordance with this Contract.

9.6 Nothing in this Contract shall prevent DFID from disclosing the Supplier's Confidential Information:

9.6.1 to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;

9.6.2 to any person conducting an Office of Government Commerce gateway review;

9.6.3 for the purpose of the examination and certification of DFID's accounts; or

9.6.4 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which DFID has used its resources.

9.7 DFID shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to clause 9.6 is made aware of DFID's obligations of confidentiality.

9.8 Nothing in this clause 9 shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.

10. Warranties

10.1 The Supplier warrants, represents and undertakes for the duration of the Term that:

10.1.1 all personnel used to provide the Services will be vetted in accordance with Good Industry Practice and the Security Policy;

10.1.2 it has and will continue to hold all necessary (if any) regulatory approvals from the Regulatory Bodies necessary to perform the Supplier's obligations under this Contract;

10.1.3 it has and will continue to have all necessary rights in and to the Supplier's Software or the Third Party Software and/or the Supplier's Background IPRs, or any other materials made available by the Supplier and/or the Sub-contractors to DFID necessary to perform the Supplier's obligations under this Contract;

10.1.4 in performing its obligations under this Contract, all Software used by or on behalf of the Supplier will:

10.1.4.1 be currently supported versions of that Software; and

10.1.4.2 perform in all material respects in accordance with its specification,

10.1.5 as at the agreed Contract start date all statements and representations in the Supplier's response to the ITT and any follow up information provided by the Supplier are to the best of its knowledge, information and belief, true and accurate and that it will advise DFID of any fact, matter or circumstance of which it may become aware which would render any such statement or representation to be false or misleading;

10.1.6 as detailed in this contract or at the request of DFID, the Supplier will provide a Business Process Manual and supporting documentation containing all necessary information and explanation required for the purpose of executing the Exit Plan and for suitably qualified employees of DFID or of the Replacement Contractor to be able to use the Software and receive the Services and to perform the Replacement Services on termination or expiry; and

10.1.7 the Supplier's system and assets used in the performance of the Services:

10.1.7.1 will be free of all encumbrances [any exceptions must be agreed in writing with DFID]

10.1.7.2 will be Date Compliant; and

10.1.7.3 will be Euro Compliant.

10.1.8 it shall at all times comply with Law in carrying out its obligations under this Contract.

11. Security Requirements

11.1 The Supplier shall comply, and shall procure the compliance of the Suppliers Personnel, with the Security Policy and the Security Plan and the Supplier shall ensure that the Security Plan produced by the Supplier fully complies with the Security Policy.

11.2 DFID's Security Policy can be accessed on the DFID website at <http://www.dfid.gov.uk/work-with-us/procurement/dfid-information-security-policy-for-contractorsconsultants/> or as notified to the Supplier from time to time. The Supplier shall ensure that they keep up to date with the latest version of the Security Policy on this website.

11.3 If the Supplier believes that a change to the Security Policy will have a material and unavoidable cost implication to the Services it may submit a Change Request. In doing so, the Supplier must support its request by providing evidence of the cause of any increased costs and the steps that it has taken to mitigate those costs. Any change to the Charges shall then be agreed in discussion with the Contract Officer.

11.4 Until and/or unless a change to the Charges is agreed by DFID pursuant to clause 11.3 the Supplier shall continue to perform the Services in accordance with its existing obligations.

12. Malicious Software

12.1 The Supplier shall, as an enduring obligation throughout the Term, use the latest versions of anti-virus definitions available [from an industry accepted anti-virus software vendor] to check for and delete Malicious Software from the ICT Environment.

12.2 Notwithstanding clause 12.1 if Malicious Software is found, the parties shall cooperate to reduce the effect of the Malicious Software and, particularly if Malicious

Software causes loss of operational efficiency or loss or corruption of DFID Data, assist each other to mitigate any losses and to restore the Services to their desired operating efficiency.

12.3 Any cost arising out of the actions of the parties taken in compliance with the provisions of clause 12.2 shall be borne by the parties as follows:

12.3.1 by the Supplier where the Malicious Software originates from the Supplier's Software, the Third Party Software or the DFID Data (whilst the DFID Data was under the control of the Contractor); and

12.3.2 by DFID if the Malicious Software originates from the DFID Software or the DFID Data (whilst DFID Data was under the control of DFID).

13. Disclosure of Information

13.1 The Supplier and the Supplier's Personnel shall not, without the prior written consent of DFID, disclose to any third party any confidential information obtained during or arising from this Contract (other than in the proper performance of this Contract or as may be required by authority of competent jurisdiction). In addition, no publicity is to be given to this contract without the prior written consent of DFID.

14. Intellectual Property Rights

14.1 All intellectual property rights in all material (including but not limited to reports, data, designs whether or not electronically stored) produced by the Supplier or the Supplier's Personnel pursuant to the performance of the Services ("the Material") shall be the property of the Supplier.

14.2 The Supplier hereby grants to DFID a world-wide, non-exclusive, irrevocable, royalty-free licence to use all the Material.

14.3 For the purpose of Clause 14.2, "use" shall mean, without limitation, the reproduction, publication and sub-licence of all the Material and the intellectual property rights therein, including the reproduction and sale of the Material and products incorporating the same for use by any person or for sale or other dealing anywhere in the world.

15. Official Secrets Acts

15.1 The Supplier shall ensure that all members of the Supplier's Personnel are aware that the Official Secrets Acts 1911 to 1989 apply to them.

16. Access and Audit

16.1 The Supplier shall keep accurate and systematic accounts, files and records ("the Records"). The Records shall clearly identify, among other things, the basis upon which invoices have been calculated and the Supplier shall keep the Records throughout the duration of this Contract and for six years following its termination.

16.2 The Supplier shall upon request provide DFID or its representatives including the National Audit Office, unrestricted access to the Records in order that the Records may be inspected and copied. The Supplier shall co-operate fully in providing to DFID or its representative's answers to such enquiries as may be made about the Records.

16.3 Where it is found by DFID that any overpayment has been made to the Supplier the Supplier shall reimburse DFID such amount within 28 days of the date of DFID's written demand.

17. Corruption, Commission, Discounts and Fraud

17.1 The Supplier warrants and represents to DFID that neither the Supplier nor any of the Supplier's Personnel:

(a) has given, offered or agreed to give or accepted, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any act in relation to the obtaining or execution of any contract or for showing or forbearing to show favour or disfavour to any person or entity in relation to any contract; or

(b) has entered into any contract in connection with which commission has been paid or agreed to be paid by or to the Supplier or Supplier's Personnel or on their behalf or to their

knowledge unless, before such contract was made, particulars of any such commission and of the terms of any agreement for the payment of such commission were disclosed in writing to DFID, whose written consent was subsequently given to such payment.

17.2 Neither the Supplier nor any of the Supplier's Personnel shall accept for or on their own benefit any trade commission, discount or similar payment or benefit in connection with this Contract.

17.3 The Supplier undertakes that neither the Supplier nor the Supplier's Personnel shall attempt or commit any fraud, deception, financial or procedural wrongdoing in relation to the performance by the Supplier of its obligations under the Contract and shall immediately notify DFID of any circumstances giving rise to a suspicion that such wrongful activity may occur or has occurred.

18. Conflict of Interest

18.1 Neither the Supplier nor any of the Supplier's Personnel shall engage in any personal, business or professional activity which conflicts or could conflict with any of their obligations in relation to this Contract.

18.2 The Supplier and the Supplier's Personnel shall notify DFID immediately of any actual or potential conflict together with recommendations as to how the conflict can be avoided.

19. Discrimination

19.1 The Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations Act 1976, the Sex Discrimination Acts 1975 and 1986, and the Disability Discrimination Act 1995 (as revised, amended or supplemented from time to time) or as prohibited by the laws of the place of the performance of any of the Services.

19.2 The Supplier shall take all reasonable steps to secure that the Supplier's Personnel do not unlawfully discriminate as set out in Clause 19.1.

20. Environmental Requirements

20.1 The Supplier shall take all reasonable steps to protect the environment in relation to the performance of the Services and shall comply with all applicable environmental laws, regulations and DFID practice.

21. Insurances

21.1 The Supplier shall maintain professional indemnity insurance cover of an amount not less than the Financial Limit.

21.2 At the request of DFID, or its representatives, the Supplier shall provide evidence showing that such insurance has been taken out and maintained and that current premiums have been paid.

22. Indemnity

22.1 Except where arising from the negligence of DFID or DFID's employees, the Supplier shall indemnify DFID in respect of any costs or damages howsoever arising out of or related to breach of warranty or representation, contract or statutory duty, or tortious acts or omissions by the Supplier or the Supplier's Personnel or any claims made against DFID by third parties in respect thereof.

PROCUREMENT AND EQUIPMENT

23. Procurement

23.1 Subject to Clause 23.4 all Equipment to be procured pursuant to this Contract and paid for by DFID shall be procured by a DFID registered procurement agent, acting as agent of DFID ("the Procurement Agent").

23.2 For the purpose of the appointment of a Procurement Agent and for this purpose only, the Supplier shall act as an agent of DFID.

23.3 The Supplier shall provide the Procurement Agent with sufficient details for the satisfactory procurement and delivery of Equipment and shall manage the Procurement Agent on DFID's behalf.

23.4 Where the total value of the Equipment is less than 50% of the Financial Limit or £100,000, whichever is less the Supplier may, subject to DFID's prior written consent, procure such Equipment.

23.5 All procurement of Equipment shall

(a) be undertaken in accordance with DFID Guidance on Procurement of Goods and Environmental Procurement Policy or such other procedures as may be agreed in writing by DFID;

(b) achieve "Value for Money" and be conducted in a fully transparent manner;

(c) be on the basis that the ownership in Equipment shall vest in DFID, and shall be so marked.

23.6 "Value for Money" shall mean procuring at the optimum combination of whole-life cost and quality to meet requirements.

24. Use of and Responsibility for Equipment

24.1 Equipment may only be used in providing the Services and shall be safely kept and maintained. Personal use of Equipment by the Supplier is not permitted unless DFID gives prior written consent.

24.2 The Supplier shall keep an up to date inventory of the Equipment its condition and location and make such inventory available to DFID immediately on request.

24.3 Subject to Clause 24.4 the Supplier shall be responsible for all loss or damage to Equipment other than that caused by fair wear and tear. The Supplier shall notify DFID immediately the Supplier becomes aware of any loss of or damage to Equipment.

24.4 Except as required by law, the Supplier shall not insure Equipment. DFID shall bear the risk in respect of loss or damage provided such loss or damage was not due to the Supplier's negligence and provided the Supplier obtains and pays to DFID such proper compensation as may be due from others.

24.5 The Supplier shall obtain DFID's instructions on the disposal of Equipment and comply with such instructions.

PRICE AND PAYMENT

25. Applicable Provisions and Financial Limit

25.1 Unless different provisions are substituted in Section 4, Clauses 25 to 29 inclusive shall apply in relation to price and payment.

25.2 The components which comprise the Financial Limit are set out in the Schedule of Prices, Section 5. No expenditure may be incurred in excess of the Financial Limit and no variations between components shown in the schedule of prices in Section 5 are permitted without the prior written authority of the Contract Officer.

26. Fees

26.1 Any fees payable are deemed to cover the cost of salary, overseas inducements, leave allowances, bonuses, profit, taxes, insurances, superannuation, non-working days and all other costs including, but not limited to, clothing, passports, visas and vaccinations, overheads and expenses of whatsoever nature that may be incurred except those otherwise specifically provided for in this Contract.

27. Expenses

27.1 Travel and living expenses will be paid at a rate consistent with the Schedule of Prices at Section 5 of the contract. All journeys by Rail or Air will be made by a class of travel that is no more than Standard / Economy.

28. Invoicing Instructions

28.1 Unless otherwise expressly provided in Section 4 or Section 5, invoices should be submitted monthly in arrears to the Accounts Payable Section, DFID Financial Management Group, Abercrombie House, Eaglesham Road, East Kilbride, Glasgow, G75 8EA, and in accordance with the remainder of clause 28.

28.2 DFID shall unless otherwise expressly provided in Section 4 make payments due by direct credit through the UK Bank Clearing Systems (BACS). All invoices must contain details of the UK bank account to which payments are to be made.

28.3 Invoices should include a form of letterhead, the Purchase Order number, bear an original signature and be numbered sequentially and dated. Each invoice should state the period the services were provided using "from" and "to" dates. The final invoice presented in connection with this Contract should be endorsed "Final Invoice".

28.4 All invoices should correspond with the budget lines identified in the Schedule of Prices, Section 5 of this Contract.

28.5 DFID may request proof of payment in respect of any item and shall be entitled to refuse to meet a claim if this cannot be provided.

28.6 Any invoice not presented in accordance with the above may be rejected and in any event shall be liable to query and delay in payment. DFID reserves the right not to pay any amount due in respect of an invoice received by DFID more than 90 days after the day of the Supplier becoming entitled to invoice for the payment to which it relates.

29. Payments

29.1 Subject to DFID being satisfied that the Supplier is or has been carrying out their duties, obligations and responsibilities under this Contract, sums duly approved shall be paid within 30 days of receipt of a valid invoice.

29.2 Payment shall be made in sterling in the UK. Expenses (if any) arising in foreign currency shall be reimbursed at the exchange rate stated in the London Financial Times "Guide to World Currencies" on the Friday immediately preceding the date on which the purchase was made or services acquired by the Supplier or, if this took place on a Friday, at the rate so stated on that day.

29.3 If for any reason DFID is dissatisfied with performance of this Contract, an appropriate sum may be withheld from any payment otherwise due. In such event DFID shall identify the particular Services with which it is dissatisfied together with the reasons for such dissatisfaction, and payment of the amount outstanding will be made upon remedy of any unsatisfactory work or resolution of outstanding queries.

29.4 Should DFID determine after paying for a particular service that the service has not been completed satisfactorily, DFID may recover, or withhold from further payments, an amount not exceeding that previously charged for that service until the unsatisfactory service is remedied to its satisfaction.

FORCE MAJEURE AND TERMINATION

30. Force Majeure

30.1 Where the performance by the Supplier of their obligations under this Contract is delayed, hindered or prevented by an event or events beyond the reasonable control of the Supplier and against which an experienced Supplier could not reasonably have been expected to take precautions, the Supplier shall promptly notify DFID in writing, specifying the nature of the force majeure event and stating the anticipated delay in the performance of this Contract.

30.2 From the date of receipt of notice given in accordance with Clause 30.1, DFID may, at its sole discretion, either suspend this Contract for up to a period of 6 months ("the Suspension Period") or terminate this Contract forthwith.

30.3 If by the end of the Suspension Period the parties have not agreed a further period of suspension or re-instatement of the Contract, this Contract shall terminate automatically.

31. Suspension or Termination without Default of the Supplier

31.1 DFID may, at its sole discretion, suspend or terminate this Contract at any time by so notifying the Supplier and giving the reason(s) for such suspension or termination.

31.2 Where this Contract has been suspended or terminated pursuant to Clause 31.1, the Supplier shall:

(a) take such steps as are necessary to terminate the provision of the Services, (including suspending or terminating any Sub-Contracts) in a cost-effective, timely and orderly manner; and

(b) provide to DFID, not more than 60 days after DFID notifies the Supplier of the suspension or termination of this Contract an account in writing, stating:

- (i) any costs, if any, due before the date of suspension or termination;
- (ii) any costs to be expended after the date of suspension or termination which the Supplier necessarily incurred in the proper performance of this Contract and which it cannot reasonably be expected to avoid or recover.

31.3 Subject to DFID's approval DFID shall pay such amount to the Supplier within 30 days after receipt from the Supplier of an Invoice in respect of the amount due.

32. Suspension or Termination with Default of the Supplier

32.1 DFID may notify the Supplier of the suspension or termination of this Contract where the Services or any part of them are not provided to the satisfaction of DFID, giving the reasons for such dissatisfaction and, in the case of suspension, the action required by the Supplier to remedy that dissatisfaction and the time within which it must be completed.

32.2 Where this Contract is suspended under Clause 32.1 and the Supplier subsequently fails to remedy the dissatisfaction DFID may terminate this Contract forthwith.

32.3 DFID may, without prejudice to its other rights, including but not limited to the right to claim for costs and losses incurred, terminate this Contract forthwith where:

- (a) the Supplier or any member of the Supplier's Personnel, either directly or through their servants or agents, breaches any of their obligations under this Contract; or
- (b) the Supplier or any member of the Supplier's Personnel has committed an offence under the Prevention of Corruption Acts 1889 to 1916 or the Anti-Terrorism Crime and Security Act 2001 or in breach of Clause 17 of this Contract; or
- (c) the Supplier is an individual or a partnership and at any time:
 - (i) becomes bankrupt; or
 - (ii) is the subject of a receiving order or administration order; or
 - (iii) makes any composition or arrangement with or for the benefit of the Supplier's creditors; or
 - (iv) makes any conveyance or assignment for the benefit of the Supplier's creditors; or
- (d) the Supplier is a company and:
 - (i) an order is made or a resolution is passed for the winding up of the Supplier; or
 - (ii) a receiver or administrator is appointed in respect of the whole or any part of the undertaking of the Supplier.
- (e) the Supplier is a partnership or a company and there is a Change in Control. "Change in Control" means that the person(s) (including corporate bodies) directly or indirectly in Control of the Supplier at the time this Contract is entered into cease to be in Control. "Control" means the power of a person to secure that the affairs of the Supplier are conducted in accordance with the wishes of that person.

32.4 Where this Contract is terminated in accordance with this Clause, the Supplier shall without prejudice to DFID's other remedies, take any steps necessary to terminate the provision of the Services in a timely and orderly manner but shall not be entitled to any further payment in relation to this Contract.

32.5 Where this Contract is terminated pursuant to Clause 32.3(b) the Supplier shall pay DFID within 10 days of notification such amount as DFID shall have determined as the amount of any loss to DFID resulting from such termination together with the amount or value of any gift, consideration or commission concerned.

GENERAL PROVISIONS

33. Variations

33.1 No variation in the terms or scope of this Contract shall be effective without DFID's prior written consent and recorded in writing [in the form of a letter entitled "Contract Amendment No. "]. DFID shall have no liability in respect of work performed outside the Services set out in Section 3 .

34. Assignment

34.1 Except where clause 34.2 applies, the Supplier shall not, without the prior written consent of DFID, assign or transfer or cause to be assigned or transferred, whether actually or as the result of takeover, merger or other change of identity or character of the Supplier, any of its rights or obligations under this Contract or any part, share or interest therein.

34.2 Notwithstanding clause 34.1, the Supplier may assign to a third party (“**the Assignee**”) the right to receive payment of the Contract Price or any part thereof due to the Supplier under this Contract (including any interest to which DFID is liable under the Late Payments of Commercial Debts (Interest) Act 1998). Any assignment under this clause 34.2 shall be subject to:

(a) reduction of any sums in respect of which DFID exercises its right of recovery under clauses 29.3 and 29.4;

(b) all related rights of DFID under the contract in relation to the recovery of sums due but unpaid; and

(c) DFID receiving notification under both clauses 34.3 and 34.4.

34.3 In the event that the Supplier assigns the right to receive the Contract price under clause 34.2, the Supplier shall notify DFID in writing of the assignment and the date upon which the assignment becomes effective.

34.4 The Supplier shall notify DFID of the Assignee’s contact information and bank account details to which DFID shall make payment.

35. Limit of Liability

35.1 Except where there has been misconduct, gross negligence, dishonesty or fraud on behalf of the Supplier or the Supplier's Personnel the Supplier's liability under this Contract shall be limited to the amount of the Financial Limit.

36. Retention of Rights

36.1 Clauses 5.2(b),6,7,8,9,11,12, 13, 14, 15 16, 22, 23, 35.1, 37 and 38 of this Section 2 and any relevant clauses listed under Section 4 shall continue in force following the termination of this Contract.

37. Law

37.1 This Contract shall be governed by the laws of England and Wales.

38. Amicable Settlement

38.1 The parties will attempt in good faith to negotiate a settlement to any claim or dispute between them arising out of or in connection with this Contract. If the matter is not resolved by negotiation the parties will refer the dispute to mediation in accordance with CEDR (Centre for Effective Dispute Resolution in London, UK) procedures. If the parties fail to agree terms of settlement within 90 days of the initiation of the procedure the dispute may be referred to an arbitrator as agreed between the parties or failing such agreement as may be nominated by the President of the Law Society of England and Wales upon application of any party. The initiation of the procedure is defined as the written request to CEDR by any party for a mediation provided that such request is copied to the other party (ies).

38.2 The decision of the arbitrator shall be final and binding on both parties.

38.3 The seat and place of arbitration shall be London.

39. Transparency of UK Government Spend

The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not confidential information. DFID shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

Notwithstanding any other term of this Contract, the Supplier hereby gives their consent for DFID to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.

DFID may consult with the supplier to inform its decision regarding any exemptions but DFID shall have the final decision in its absolute discretion.

The Supplier shall assist and cooperate with DFID to enable DFID to publish this Contract.

40. United Kingdom Income Tax and National Insurance Contributions

40.1 Where the Supplier is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.

40.2 Where the Supplier is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.

40.3 For those workers contracted on PAYE terms via the Supplier, their contract with the Supplier, signed in advance of any employment, will specifically state:

“The Temporary Staff shall be engaged by and shall sign terms of engagement with the Supplier and at no stage shall be deemed to have employment or co-employment with DFID. The Supplier shall be responsible for payment of remuneration of the Suppliers Temporary Staff and for making statutory deductions and payment of all statutory contributions in response of earnings in relation to National Insurance and the administration of Income Tax (PAYE) applicable to the Contractors Temporary Staff by Law.”

40.4 Where the Supplier engages a limited company (“The Company”) on behalf of DFID, the contract they enter into sets out that The Company has responsibility for, and indemnifies the Supplier in respect of any tax and NI payments:

“The Company shall indemnify the Employment Business in respect of any tax or employees national insurance together with any interest of penalties, costs or expenses incurred or arising out of or in connection with any such payments.”

Section 3

TERMS OF REFERENCE

Programme Evaluation of Palestinian Market Development Programme (PMDP)

PMDP : To Strengthen the competitiveness of the Private Sector in the Occupied Palestinian Territories (OPTS)

Introduction

DFID Palestinian Programme submits these Terms of Reference (TOR) for the engagement of an evaluation service provider (contractor) to evaluate the Palestinian Market Development Programme (PMDP). The PMDP aims to improve the competitiveness of the private sector in the OPTs, and will be implemented over six years starting around November 2013 and ending in March 2019.

Background

Although the Occupied Palestinian Territories' (OPTs) real GDP growth reached 9.9% per cent in 2011ⁱ, this was largely driven by donor supported public sector growth, and has failed to address high unemployment and high levels of poverty. Unemployment in the West Bank increased to 20.1 percent in the first quarter of 2012, and in Gaza to 31.5 percentⁱⁱ. The poverty headcount was estimated to be nearly 23 percent in 2009ⁱⁱⁱ.

Developing a sustainable economic base will depend largely upon the establishment of a dynamic and productive private sector. Increasing GDP will in turn increase tax revenues for the Palestinian Authority, promoting fiscal sustainability and reducing donor dependence.

Palestinian Market Development Programme (PMDP)

In line with the principles of Making Markets Work for the Poor (M4P)^{iv}, DFID will be implementing the PMDP over six years to improve the competitiveness of the private sector in the OPTs. This will be achieved through improving the skills and innovation of private sector, addressing market system failures in specific sectors, and strengthening trade and investment linkages with international markets. The programme will ultimately contribute to increased private sector-led economic growth in the OPTs. The attached Programme Summary and logframe outline the programme intervention including: the context and need; the theory of change of the programme; risks and assumptions; and indicative results.

The programme comprises three **outputs**:

- i. Improved private sector skills and innovation.
- ii. Market system failures addressed in specific sectors.
- iii. Strengthened trade and investment linkages with international markets.

The programme is managed and funded by DFID with co-financing from the European Union through a Delegated Agreement. A Steering Committee with members from the Ministry of National Economy (MoNE), DFID and the EU will monitor results and provide policy oversight throughout the programme lifetime.

The programme framework has been designed to improve the competitiveness of the Palestinian private sector. Further detailed design in some areas of the programme will be developed by the implementing contractor as part of the inception phase of the project.

This will include revising the targets of the output and outcome indicators, and developing new indicators to capture the wider impact of the programme.

An evaluation contractor is required to independently evaluate the programme throughout its lifetime on behalf of DFID Palestinian Programme. The evaluation contractor is expected to:

- quality assure data reported quarterly by the implementing contractor
- carry out annual assessments for the programme through surveys and in depth interviews and workshops with beneficiaries and other stakeholders, and
- undertake a full evaluation towards the end of the programme in line with DAC criteria.

A separate TOR for implementing and monitoring the programme has been tendered. Both programme implementation and evaluation contractors will be procured for the entire lifetime of the project (six years), albeit in sequence where by the implementation contractor will be contracted first. The actual implementation time for the programme, however, will be for five years, leaving the sixth year to allow for closing the programme and to conduct a full evaluation. The evaluation contractor will be expected to cooperate and work closely with the programme's implementer over the project period to prepare an agreed detailed evaluation plan with baselines.

Facility for New Market Development (FNMD)

In addition, the evaluation contractor will also be required to measure the business performance of former clients assisted by DFID through the Facility for New Market Development (FNMD)^v project, for example with respect to incremental sales and exports. In particular, it will be necessary to focus attention on former clients which received assistance during the last year of the FNMD (April 2011-2012) since incomplete reporting of business performance will have occurred due to a lag in data availability. Based on the findings of the assessment, the evaluation contractor will provide recommendations on the refinement of the programme design and implementation framework.

Over the four years of implementation, FNMD achieved the following results:

- FNMD contributed to incremental sales of more than \$118 M from a total of 603 firms assisted (363 from the matching grants scheme and 240 from the GBW). Exports share was \$20 M in incremental sales
- FNMD has contributed to the creation of 3,426 permanent jobs
- 87 firms entered new foreign markets
- Assisted firms have developed 129 new products and improved 136 products

The Objective

To appoint an evaluation contractor to:

- 1- Quality assure data reported quarterly by the implementing contractor, and to carry out annual assessments for the PMDP to assess progress against output and outcome indicators.
- 2- Undertake a full evaluation at the end of the programme in line with DAC criteria.
- 3- Measure the performance of former clients assisted by DFID through the FNMD project.

The results of the assignment will inform the programme implementer and the Programme Steering Committee to further develop and improve programme implementation.

Scope of Work

The 2012 final evaluation of the Facility for New Market Development highlighted a number of issues related to the monitoring and evaluation of any future similar programmes. The key issues identified by the evaluation are listed below; the evaluation document includes notes on how these might be addressed^v:

- issues of attribution;
- reliability of data; and
- burden of reporting for implementing partner and for beneficiary SMEs.

In the case of the forthcoming Palestinian Market Development Programme, DFID Jerusalem scored the overall strength of the evidence base for the programme as medium. In particular, while there is medium evidence at the output level, there is less evidence at the outcome level around:

- changes in behaviour among clients and non-clients
- indirect impacts such as crowding-in and other value chain effects
- political uncertainty and the appetite of the private sector to take risks and
- level of attribution of results to the project interventions.

The evaluation contractor is expected to address these issues and others in accordance with the attached Programme Summary in the detailed evaluation plan (see below).

In addition to the monitoring role of the implementing contractor against the logframe indicators (see the Programme Summary) the evaluation contractor will be required to produce several reports throughout the programme, including:

Detailed evaluation plan

The evaluation contractor will produce a detailed evaluation plan within three months of being contracted (during the inception phase). The evaluation plan will need to set out a detailed methodology for the work. The evaluation methodology will be discussed with DFID and the steering committee and quality assured to make sure it meets the needs of the programme.

Quarterly reports (PMDP only)

The evaluation contractor will submit reports **validating and quality assuring data and results** reported by the PMDP implementing partner on quarterly basis.

Annual assessments

The evaluation contractor will carry out **annual assessments** of the PMDP to assess progress against the objectives in the logframe especially measuring outcome indicators, check if the programme is on track, and if any adjustments need to be made.

In annual assessments, the evaluation contractor is also expected to **measure the business performance of former clients** (about 600) assisted by DFID through the FNMD project throughout the life of the programme (i.e 6 years). We envisage the evaluation contractor will use 10-15% of its time to achieve this work related to the FNMD project. The rest will be spent on efforts related to the PMDP. Although it is expected the level of plausible attribution to the FNMD for business performance impacts of former clients may diminish significantly over time, the finding will be used to refine the PMDP programme design and evaluation work. The monitoring of the business performance of former FNMD clients may present some challenges, particularly those associated with the lag between FNMD completion and the re-engagement of former FNMD clients. For example, there may be changes in client contacts, a need to establish trust to share potentially sensitive business data, and a loss of continuity in the monitoring process. These factors may serve to impede access to and the quality of data available

Full evaluation (PMDP only)

Towards the end of the programme, the evaluation contractor will undertake a **full evaluation** of the PMDP.

The contractor is expected to be able to operate in the West Bank, Gaza and East Jerusalem.

The target groups for this assignment include:

- Beneficiaries: grantee firms and firm consortiums and business service providers, including female entrepreneurs across the OPTs. This includes about 600 firms that received support from the FNMD project.
- Other stakeholders: EU, the Programme's staff, PA Ministry of National Economy, and other donors (World Bank, USAID, etc.).

Methodology

The quarterly reports, annual assessments and the full evaluation will be independent and use a methodology which applies international standards in line with DFID guidance including DFID's evaluation policy and MENAD M&E strategy. Wide consultation with recipients and other donors will be an important part of the methodology. The evaluation contractor is expected to include the views of beneficiaries where possible, particularly women, to consider, wherever relevant, the impact of the programme or policy on environment and where possible, to sex disaggregate findings. The annual assessment reports are also expected to inform DFID's published annual reviews. The full evaluation will be transparent and will be published on DFID's website with a management response. The evaluation contractor's proposed methodology for delivery of the work is expected to include quantitative and qualitative techniques. It will include but not be limited to the following tasks:

- Reviewing documents such as the attached Programme Summary, logframe, and progress reports.
- Use of existing data, commissioning surveys, and visits to programme's sites to assess the programme activities and to interview programme implementer staff and other stakeholders including beneficiaries, donors, and the Ministry of National Economy.
- Work with the programme's implementing contractor both in the inception and implementation phases in order to scope initial approaches and on an ongoing basis to ensure complementarity of monitoring and evaluation work.

The evaluation contractor is expected to carry out activities across three stages:

Stage 1 – inception phase

This will take place at the start of the programme (around **November 2013**) for three months. It will involve meetings with the Steering Committee members to learn about their expectations for the light touch quarterly reports, annual assessments and the full evaluation. The evaluation contractor is expected to work closely with the programme's implementer and meet firms and associations that received previous support from FNMD, and other partners including FCO in Jerusalem, donors, PIPA, and trade associations. The DFID team in the OPTs will coordinate introductions to facilitate meetings with relevant partners in country.

The main objective of Stage 1 is to:

- Establish a clear baseline situation of the PMDP and develop a detailed methodology and implementation plan to carry out the assignment.
- Identify additional key annual assessment and evaluation questions that DFID and partners will want it to address.
- Determine the exact nature of the light touch quarterly report, annual assessments and evaluation and resolve key methodological and practical issues.
- Formulate recommendations to improve the design and implementation framework of the PMDP

An inception report will be produced at the end of Stage 1, and we expect it to include:

- Detailed evaluation plan, which should set out the methodology that will be used for the annual surveys as well as setting out how to collect other information essential for the in-depth evaluation. This will also include how to measure the business performance of firms supported by FNMD project. The methodology will need to include mechanisms for collecting quantitative and qualitative information through focus group discussions, interviews, surveys, etc. The plan will need to detail:

- proposed output and outcome indicators
- how to measure changes to baseline data
- how to quality assure monitoring data
- how to assess attribution
- how to test the programme's theory of change as it progresses
- the proposed sample size and scope of the quantitative and qualitative surveys
- Detailed breakdown of roles and responsibilities for data collection across the implementing and evaluation contractors and beneficiary firms.
- Structure of the evaluation team, including team leader and with indications of the split in work between the team members.
- Proposed fieldwork length and revised overall timetable.
- Proposed fieldwork approach, including key agencies, people to interview, documents to obtain etc.
- Standard evaluation criteria customised as appropriate for PMDP¹.
- Risks inherent in the proposed approach and mitigation strategies.

The draft inception report will be submitted to DFID's project officer in Jerusalem as first point of contact for feedback and comments from relevant staff including the Middle East North Africa Department (MENAD) regional evaluation adviser and MENAD Senior Statistic Adviser to quality assure the quality of the evaluation plan and methodology. The project officer will send the draft report to the Steering Committee members for their comments which are to be incorporated by the evaluation contractor. After comments are incorporated, the Stage 1 report will be sent to the Programme Steering Committee for approval.

Stage 2 – fieldwork to produce light touch quarterly reports and annual assessments

The exact scope of the fieldwork for Stage 2 will be determined and outlined in the Stage 1 report (as indicated above). Two main tasks are expected during this stage. First, the evaluation contractor will carry out fieldwork to produce reports to validate and quality assure data provided by the programme implementer on quarterly basis. The reports will be circulated to the Steering Committee along with the quarterly progress reports; they will represent an independent evidence base of the results.

Second, the evaluation contractor will submit annual assessment reports around January each year. It is proposed that the fieldwork includes surveys of firms supported, and interviews with beneficiaries and other stakeholders. In line with the attached Programme Summary, we envisage the annual assessment reports will focus on the following areas, but not limited to:

- quantitative information on outcome indicators
- qualitative information on beneficiary views of the programme
- recommendations where appropriate, to adjust the project activities, logframe and theory of change
- in depth thematic report - each year, the report will include a specific theme such as value for money or gender
- monitoring the assumptions of the cost-benefit analysis, allowing an assessment of whether the project is on-track to achieve its expected return
- measuring improved performance of former clients assisted by DFID through the FNMD project

The PMDP implementer is expected to coordinate visits and provide the monitoring data they collect. Also they will provide a list of firms being assisted. The DFID team will also provide the list of firms supported by the FNMD project and their contact details.

Draft surveys and assessments will be submitted to DFID's project officer in Jerusalem as first point of contact for feedback and comments from relevant staff including the MENAD regional evaluation adviser and MENAD Senior Statistic Adviser to quality assure the quality of the surveys and assessments. The project officer will send the draft report to the

¹ These are relevance, effectiveness, efficiency, impact, sustainability, coherence, coverage and coordination

Steering Committee members for their comments which are to be incorporated by the evaluation contractor. After comments are incorporated, the Stage 2 annual assessments will be sent to the Programme Steering Committee for approval.

During this stage, the evaluation contractor is expected to respond and incorporate DFID's suggestions and comments to further improve the quality of surveys and assessment reports based on findings and recommendations reported.

Stage 3 – in depth full evaluation

As shown in the 2012 FNMD evaluation and other research, the main methodological challenge in estimating the impact of market development programmes at the firm level concerns the difficulty of measuring a counterfactual. For example, even if it was possible to identify a suitable control group of non-client firms that did not receive direct support from the PMDP, the intended broader market system impacts of the programme would likely also affect the performance of the control group of firms, thereby preventing the measurement of a meaningful counterfactual. For these reasons we envisage that there will not be a full impact evaluation with a control group. Rather the evaluation will focus more on qualitative information and assessments made by beneficiaries. It is necessary that any conclusions drawn from the beneficiaries' analysis are triangulated with other data sources as far as possible. Also we will consider further information / methodologies for comparison proposed by the evaluation contractor.

The exact format of the evaluation will be developed in the inception phase; however this may be amended to reflect findings and recommendations reported during annual assessments. The evaluation contractor will carry out the evaluation in 2018. The proposed fieldwork will include surveys of firms supported, review of all the programme's assessments and quarterly and annual reports, and interviews with beneficiaries and other stakeholders.

The full evaluation will cover the five OECD/DAC evaluation criteria of Relevance, Efficiency, Effectiveness, Impact, and Sustainability. In addition, it will look at whether programme activities, outputs, and outcomes in the logical framework are consistent with the overall impact; and also consider the impact of the programme in terms of mainstreaming cross-cutting issues such as gender and environmental considerations. The full evaluation will also include the following questions but not be limited to:

Relevance:

- Is the programme consistent with the local stakeholders' priorities and effective market demand?
- To what extent are the objectives of the project still valid?
- ***How well the programme was harmonised with other aid agencies***
- ***Is the programme including/excluding geographic locations and particular groups (e.g. women, and other marginalised groups), and what is the differential impact on those included and excluded?***

Effectiveness:

- To what extent did the programme achieve its targets?
- What internal and external factors contributed to the project results and how?
- What were the effects of the programme on female headed businesses?
- What could be done to make the programme more effective?

Efficiency:

- To what extent did the programme's benefits exceed its cost?
- Is it possible to increase benefits and/or reduce costs?
- What evidence is there that the programme represents value for money?

Impact:

- What is the impact of the programme on its grantee firms?
- To what extent can these impacts be plausibly attributed to the programme?

- How do grantee firms perceive the effects of the programme on themselves?
- To what extent do the assisted firms and the programme stimulate private sector development in the OPTs?

Sustainability:

- To what extent will the benefits continue without additional assistance?
- Does the programme have potential for replication or scaling up?

The questions of the evaluation will be further developed in the inception phase. Also, they will be refined before commencing the evaluation in line with the annual assessments findings and recommendations.

Finally, the evaluation is expected to inform all elements in DFID's Project Completion Review which will be published.

The initial findings of the evaluation will be summarised in a meeting with the Programme Steering Committee members.

A first draft of the report should be submitted to DFID's project officer in Jerusalem who will circulate to the Steering Committee and others as appropriate including the MENAD regional adviser and Senior Statistics Adviser. DFID's staff, programme implementer, and steering committee members will be invited to correct any factual errors and make comments. Although they may challenge findings they disagree with, and sometimes have additional information to support a claim, the MENAD Evaluation Adviser and Senior Statistics Adviser will support the evaluation team to ensure that the report remains a true independent evaluation. A second draft report and evaluation summary will be produced taking account of relevant comments. It will be sent to the MENAD Senior Statistics Adviser to check the quality before sending the report to the Evaluation Quality Assurance Panel (via EvD) who will quality assure the report against specific criteria (to be provided). All draft reports submitted should conform to the EvD style guide and be checked for typos, formatting errors and consistency of data presented. The final draft should be of publishable quality. The evaluation contractor will translate the evaluation summary into Arabic. Finally, the Programme Steering Committee will sign-off on the final evaluation report.

Reporting

The evaluation contractor will report to DFID's Project Officer based in Jerusalem.

Outputs

Inception report providing a clear baseline situation of the Palestinian Market Development Programme, as well as a detailed evaluation plan.

- **Quarterly reports** validating data and results reported by the implementing partner on quarterly basis.
- **Five high quality annual assessments** to assess progress against logframe indicators in particular in relation to outcome indicators. Also, they will include results of business performance of firms supported by FNMD.
- **A presentation** of preliminary findings of the evaluation to Programme Steering Committee
- **Evaluation Report and Summary.** The report shall be approximately 50-60 pages long (excluding annexes) and will include detailed lessons and recommendations. The summary will be translated into Arabic by the evaluation contractor.
- **Evaluation lessons learned note** reflecting on the evaluation process, outlining what worked well and what would be done differently. The note will consider possible approaches that could be applied in similar programmes, with a strong donor group and joint working. This note will be drafted in conjunction with the evaluation.

DFID will quality assure all deliverables and will require access to the consultant team's interim evidence summaries, e.g. completed matrices, although it is not expected that these should be of publishable quality.

Timing

Total duration of the project is 65 months, with an option to extend by 12 months subject to need and review recommendations.

The detailed timeframe will be agreed following Stage 1; but indicative timings are as follows:

- Inception report submitted and quality assured by DFID, and final version agreed by the Steering Committee within the three months of contracting.
- Reports every quarter timed with the programme progress quarterly reports. The first to be submitted after six months of start date.
- Five annual assessments of high quality to be produced around the time when DFID's Annual Reviews are due (i.e. around January every year).
- The evaluation will start in mid-2018, i.e. six months after completion of programme activities on the ground. This will allow time to capture the results of firms assisted in the final year of implementation.
 - First draft evaluation report to be submitted two weeks after end of fieldwork by June 2018.
 - Comments, two weeks after receipt of first draft report.
 - Revised report for QA, two weeks after receipt of comments.
 - Final report submitted by August 2018 and signed off by Programme Steering Committee.
- Production of management response, and publication of all three documents (report, management response, and summary of the report in Arabic) by the end of September 2018.

Governance

The **Programme Steering Committee** will oversee the whole evaluation process; it will be responsible for signing off the inception report, annual assessments and the evaluation report. The management response will be prepared by DFID in consultation with the Steering Committee.

DFID's team will be the main contact for the evaluation contractor; they are responsible for developing the TORs with input from the Programme Steering Committee, leading the selection of the evaluation contractor, and receiving all the evaluation's outputs. They will circulate to relevant DFID staff and Steering Committee members. This team with the input of the MENAD Regional Adviser and the Senior Statistics Adviser will be responsible for leading discussions with the evaluation contractor, advising on the purpose and methodology of the work, and ensuring the quality and independence of reports. They will discuss the inception report, the composition of the evaluation team, and the strategy for the main fieldwork. They will be a sounding board for the evaluation contractor during all stages of the fieldwork.

The **MENAD Evaluation Adviser** is responsible for advising on the TORs, and the methodology proposed by the evaluation contractor. Also the adviser will provide linkages with the Evaluation Department, the QA panel and other relevant evaluation staff within DFID, advising on the quality of the inception report, annual assessments, and the final evaluation report.

The **Senior Statistics Adviser** will provide overall support and quality assure the methodology, draft annual assessment reports, and the evaluation process. The Adviser will also check the quality of the evaluation report before sending it to the QA panel.

Programme implementing contractor is responsible for ensuring access to documents relevant to this TOR in good time. This will include access to monitoring data, quarterly and annual reports, and studies. They will also support the evaluation team in arranging meetings, by providing the necessary advice and contacts, and where necessary, arranging introductions. They will participate fully in discussions with the evaluation team, and attend meetings requested by the evaluation team.

Evaluation Department (EVD) will be responsible to quality assure the TORs of this assignment and the final evaluation report through the Evaluation Quality Assurance panel.

The **Evaluation Contractor** is responsible for identifying and engaging a team of

consultants appropriate to the regional context from within their company/consortium. The team must have strong experience in monitoring and evaluation of private sector programmes, including data collection, statistical analysis, cost-benefit analysis, and in measuring the indirect impacts of interventions (more details are in the competition criteria). The evaluation contractor is also responsible for maintaining ethical standards in implementing the evaluation and managing logistics in country, with support from DFID as appropriate. The contractor is responsible for ensuring that the evaluation is in line with DFID's evaluation policy and DFID MENAD's monitoring and evaluation strategy. They are responsible for drafting the reports according to the agreed schedule and to a high standard.

Dissemination

The annual assessments will inform DFID's published annual reviews. The final evaluation report will be published and distributed, electronically and in hard copy, to a wide ranging internal and external audience. A summary of the final report and the management response will be translated into Arabic and published. The consultants should be prepared to present their findings to DFID staff and others as appropriate. Specific dissemination arrangements will be determined as part of the inception report.

Budget and Competition Criteria

The indicative budget for this assignment is about £300,000.

The evaluation contractor must be a management consultancy with international expertise in evaluating private sector and grant making programmes. A proven track record of successfully operating in the Middle East is important and the evaluation contractor has to demonstrate an ability to access Palestinian expertise and mobilise personnel quickly.

The following table details the competition criteria for the assessment of the Management Contractor:

Criteria	Sub-Criteria
Personnel 20%	Quality of Team demonstrating capability and expertise in monitoring and evaluation, particularly focusing on evaluating market development programmes based on M4P approaches.
	Team/management structure including number and balance of days input, availability of key team members, provisions to secure and retain key staff and mobilisation.
Methodology (including use/numbers of days input) 50%	Demonstration of understanding of TOR and deliverables; clear rationale, evidence based approach clearly linking to results. The offer should provide a methodology to implement the contract with proposed resources.
	A clear and concise work plan with outputs and deliverables for the lifetime of the programme. The plan should demonstrate a high-level of confidence that it will be successfully delivered.
	Demonstration of innovative approaches based on a thorough understanding of the local context and the ability to draw upon international and local evidence on successful approaches in monitoring and evaluations in the OPTs
	Risk Assessment - the offer must clearly articulate risks associated with the programme evaluation and suggest appropriate mitigation strategies. A clear risk management strategy to be deployed over the life of the programme should be included.
	Quality assurance systems and effective systems for management of information
	Demonstrate excellent programme management including robust financial management systems clearly evidencing how

	the proposed structure will ensure effective delivery.
Commercial 30%	Competitiveness of consultant rates in relation to market
	Methodology and benchmarking of consultant rates
	Financial Plan
	Approach/methodology to deliver output based deliverables and VfM
	Methodology for ensuring programme will be delivered in line with agreed costs
	Financial Risk/ contingency incorporated into costs

The evaluation criteria and sub-weighting are also set out in the Invitation to Tender documentation.

Performance Requirements

The contractor must ensure that the overall programme plan is delivered to a minimum standard of 98% performance to plan. This means that all tasks must be completed on time and to required quality levels 98% in each quarter.

All reports submitted to DFID must be error free, correct and submitted on time to agreed quality standards, reporting templates 100% of the time.

The evaluation contractor must operate within the financial plan as per their tender. No deviation will be accepted and any overspends will require to be met by the service provider.

Security

The contractor must conform to DFID information security policy at all times and confirmation of this must be included in the annual audit report confirming adequacy of control.

Constraints

None identified

Implementation Requirements

The evaluation contractor must ensure full mobilisation of their team from day 1 of the contract award date and within 3 months of contract start date provide to DFID for approval an inception report including a detailed evaluation plan linked to outputs, and a detailed phased budget.

Procurement and Contractual Requirements

The contractor must ensure full compliance with DFID policy and procedures for any third party expenditure.

The contractor must follow the EU procurement rules for all procurements. DFID and the EU will make these procurement rules available to the evaluation contractor in writing before the contract is signed.

The evaluation contractor is expected to work closely with implementing partner and DFID's project officer and ensure the documents, contracts, and payments are in line with the DFID and EU requirements.

Section 4

SPECIAL CONDITIONS

DFID Officials

1.1 The Contract Officer is:

1.2 The Project Officer is:

2. Additional Documents to be included in this Contract

The following documents are included in and form part of the Contract in addition to Sections 1-5 inclusive:

- a. Technical Proposal dated 4 November 2013 and GDSI's response to Post Tender Clarification dated 17 December 2013.
- b. Commercial Proposal dated 4 November 2013

3. Key Personnel

The following of the Supplier's Personnel cannot be substituted by the Supplier without DFID's prior written consent:

4. Sub-Contractors

The Supplier has DFID's consent to appoint the following sub-contractors:

- Solutions for Development Consulting Co

5. Insurance

The Supplier is required to maintain professional indemnity insurance cover greater than the amount of the Financial Limit that insurance cover shall be in the sum of £5million.

6. Procurement

The Supplier shall appoint DFID's Procurement Agent pursuant to Clauses 23.1 to 23.3 of Section 2. However, for the purpose of this contract, keeping in view the relative value to be handled, it is agreed that the Supplier shall undertake the requirement procurement without involvement of DFID's Procurement Agent. In doing so, the Supplier must comply with Clauses 23.4 to 23.6 of Section 2 and shall obtain advance agreement from DFID on the procurement approach.

7. Price and Payment

If the amount to be paid to the Supplier by way of remuneration for the completion of the Supplier's obligations under this Contract has been fixed at the time of signature of this Contract the amount shall be as provided for in Section 5.

Payments of the fixed remuneration shall be made on a 'Milestone Payment Basis' and the following Clauses 26 and 27 shall be substituted for Clauses 26-27 inclusive, of Section 2.

“26. Milestone Payment Basis

26.1 Where the applicable payment mechanism is "Milestone Payment", invoices shall be submitted for the amounts indicated in Section 5 as and when the relevant milestone is achieved in its final form by the Supplier or following completion of the Services, as the case may be, indicating both the amount or amounts due at the time and cumulatively.

26.2 Payments pursuant to clause 29.1 are subject to the satisfaction of the Project Officer in relation to the performance by the Supplier of its obligations under the Contract and to verification by the Project Officer that all prior payments made to the Supplier under this Contract were properly due.

27. Intentionally blank.”

8. Medical Insurance

The Supplier is responsible for ensuring adequate and appropriate medical insurance cover before beginning work overseas under a DFID contract for services. The Supplier's fee is deemed to include an element to cover the cost of medical insurance.

It is not the responsibility of the local DFID office, British Embassy or High Commission to meet the cost of the Supplier's medical care nor to make arrangements for evacuation in a medical emergency, although they will provide assistance if they can. On arrival, the Supplier should report to the DFID local office, British Embassy or High Commission with details of medical insurance arrangements in case of a medical emergency.

9. Jurisdiction

Any dispute arising out of in relation to this Contract shall be determined in accordance with Clauses 37 and 38 of Section 2 and in addition the parties hereby submit to English jurisdiction to the exclusion of all foreign jurisdictions save that a foreign jurisdiction may apply solely for the purposes of giving full effect to this Contract and for the enforcement of any judgement order or arbitration award given under the English jurisdiction.

7. Break Points

Due to the long duration of the Programme, the Contract must have adequate provision for variation to adapt to changes that occur during the life of the Programme. DFID shall, as a condition of proceeding from one phase to the next, have the right to request changes to the Contract, including the Services, the Terms of Reference and the Contract Price to reflect lessons learned, or changes in circumstances, policies or objectives relating to or affecting the Programme.

7.1 The key review points for the Programme and Contract are at (i) after the end of inception phase, and (ii) after two years of the starting of contract.

7.2 The Inception Break is primarily to ensure that the Service Provider adheres to contractual and cost expectations, and that implementation milestones have been agreed. The second break point is to perform a review of project outputs, and to take decisions to scale up or down depending on programme activities, performance of the supplier, and availability of additional funding.

7.3 The Consultant shall use reasonable endeavours to keep its financial commitments limited to the duration of each phase to avoid unnecessary expense in the event of early variation or termination of this Contract

7.4 Continuation following the review point will be subject to satisfactory performance of the Supplier during the proceeding period and the continuing needs of the programme.

ⁱ Ministry of Finance, Palestine Central Bureau of Statistics and IMF estimates. Estimates based on first three quarters of 2011 (see footnote 3 World bank Report page 39-40).

ⁱⁱ IMF West Bank and Gaza – Economic Update May 2012.

ⁱⁱⁱ World Bank. Coping with Conflict? Poverty and Inclusion in the West Bank and Gaza based on PCBS Palestinian Expenditure and Consumption Survey data.

^{iv} www.m4phub.com

^v The Facility for New Market Development (FNMD) project was implemented between 2008 and 2012. It focused on strengthening the Palestinian private sector by supporting 600 companies in the OPTs to develop new markets and new products (in key sectors) and improving the business environment in Gaza Strip. DFID and the World Bank have provided £7.092m, and £0.6 million respectively towards the project.

^{vi} See FNMD evaluation document with its annexes. It suggests M&E methodology and forms.