



# PANAGORAGROUP

## REQUEST FOR QUOTATION (RFQ)

<b>RFQ Number:</b>	PIMMELA- RFQ-001
<b>Issue Date:</b>	March 14, 2024 at 10:00 A.M
<b>Offers Due Date and Time:</b>	Thursday, April 4, 2024 at 10:00 A.M. Manila time
<b>Questions Due Date:</b>	Thursday, March 21, 2024 at 10:00 A.M. Manila time
<b>Description:</b>	<i>Payroll Services</i> , including making required legal and customary tax withholdings, social and health contributions, and facilitating ad hoc payments.
<b>For:</b>	USAID Philippines, Pacific Islands and Mongolia Monitoring, Evaluation and Learning Activity (PIMMELA)
<b>Funded by:</b>	United States Agency for International Development (USAID), Contract No. 72049224C00001
<b>Implemented by:</b>	Panagora Group
<b>Type of Award:</b>	Professional Services Agreement
<b>Point of Contact:</b>	Fota Ishaq, fotaishaq@panagoragroup.net

### ETHICAL AND BUSINESS CONDUCT REQUIREMENTS

Panagora Group is committed to integrity in procurement and only selects suppliers based on objective business criteria such as price and merit. Panagora expects suppliers to comply with our standards terms and conditions. Panagora does not tolerate fraud, collusion among offerors, or falsified proposals or bids. Any firm or individual violating these standards will be disqualified from this procurement and barred from future procurement opportunities. In addition, Panagora will inform USAID of any supplier offers of money, commissions, or gifts to obtain business. Employees and agents of Panagora are strictly prohibited from asking for or accepting any money, fee, commission, credit, gift, gratuity, or object of value from current or potential vendors or suppliers in exchange for or as a reward for business. Offerors responding to this RFQ must disclose and include the following information as part of the proposal submission:

- Close, familial, or financial relationships with Panagora Group or activity staff. For example, if an offeror's cousin is employed by the activity, the offeror must state this.
- Disclose any family or financial relationship with other offerors submitting proposals. For example, if the offeror's father owns a company that is submitting another proposal, the offeror must state this.
- Certify that the prices in the offer have been arrived at independently, without any consultation, communication, or agreement with any other offeror or competitor for the purpose of restricting competition.
- Certify that all information in the proposal and all supporting documentation are authentic and accurate.
- Certify understanding and agreement to NAME OF SUBSERVICE PROVIDER' prohibitions against fraud, bribery and kickbacks.

Please contact [businessconduct@panagoragroup.net](mailto:businessconduct@panagoragroup.net) with any questions or concerns regarding the above information or to report any potential violations.

## SECTION 1: GENERAL INSTRUCTIONS TO OFFERORS

- 1. Introduction:** Panagora Group, a woman-owned small business, is a major subcontractor to Management Systems International (MSI), the prime contractor to the Philippines, Pacific Islands and Mongolia Monitoring, Evaluation and Learning Activity (PIMMELA) for the United States Agency for International Development (USAID). **The purpose of this RFQ is to solicit quotations for payroll services.**

Offerors are responsible for ensuring that their offers are received by Panagora Group in accordance with the instructions, terms, and conditions described in this RFQ. Failure to adhere to instructions described in this RFQ may lead to disqualification of an offer from consideration.

- 2. Offer Deadline and Protocol:** Offers must be received by email to the point of contact listed on the cover page no later than the date on the cover page. Please reference the RFQ number in any response to this RFQ. Offers received after the specified time and date will be considered late and will be considered only at Panagora's discretion.

- 3. Questions:** Questions regarding the requirements of this RFQ may be submitted no later than the date on the cover page by the point of contact listed on the cover page. Questions must be submitted in writing; phone calls will not be accepted. Questions and requests for clarification—and the responses thereto—that Panagora believes may be of interest to other offerors will be circulated to all RFQ recipients who have indicated an interest in bidding.

Only the written answers issued by Panagora Group will be considered official and carry weight in the RFQ process and subsequent evaluation. Any verbal information received from Panagora Group employees or any other entity should not be considered an official response to any questions regarding this RFQ.

- 4. Specifications:** The specifications of the required services are found in Section 3 of the RFQ.

- 5. Pre-Qualification Criteria:** Offerors responding to this RFQ are requested to submit the following:

- Certified corporate resolution authorizing the signer to sign the quotation and other relevant documents on behalf of the Company.
- Copy of their official registration or business license with the Companies and Intellectual Property Commission, CIPC.
- Original valid tax clearance certificate certifying that the tax affairs of that company are in order.
- Copy of offeror's standard Professional Services Agreement
- Certification Regarding Trafficking In Persons Compliance Plan (Attachment 3)
- 899 Vendor Certification Form (Attachment 4)

- 6. Evaluation Criteria:** Quotations in response to this RFQ must include the following:
  - 1) Schedule of fee-for-service basis and all related costs. Pricing must be presented in either Philippine peso (PHP) or US Dollars, depending on the currency of payment. Offers must remain valid for not less than sixty (60) calendar days after the offer deadline.
  - 2) Organizational capabilities demonstrating the ability to deliver the required services found in Section 3.

- 3) Past experience working with USAID contractors or international firms, plus three (3) references.

**7. Instructions for the Preparation and Submission of the quotations:** Offerors must submit full, accurate, and complete information as required by this solicitation. The RFQs must be submitted in English. Panagora may determine an offer to be unacceptable if the offer does not comply with all the terms and conditions of this solicitation. Panagora will not pay for any preparation costs.

All quotations will be evaluated against the evaluation criteria provided in Section 1.6. The Offeror with the lowest cost may not necessarily be awarded the subcontract. Therefore, an award resulting from this RFQ will be made to the company that offers the greatest value to Panagora from a technical and cost standpoint in line with the specified evaluation criteria.

Panagora reserves the right to cancel or amend this request for quotation without further notice to any offerors. This request for quotation does not commit Panagora to issue a purchase order to any prospective offerors responding to this RFQ.

**8. Duty Station:** The location for service delivery described in this RFQ will be Manila, The Philippines.

**9. Source/Nationality/Manufacture:** All services offered in response to this RFQ or supplied under any resulting award must meet **USAID Geographic Code 937** in accordance with the United States Code of Federal Regulations (CFR), [22 CFR §228](#). The cooperating country for this RFQ is the Philippines. Offerors may not offer or supply any commodities or services that are manufactured or assembled in, shipped from, transported through, or otherwise services that involve any of the following countries: Cuba, Iran, North Korea, or Syria.

The U.S. Government prohibits any sub-service provider from procuring or obtaining, or extending or renewing a contract to procure or obtain, any [equipment](#), system, or service from the following (also see Section 5 Attachments):

- Telecommunications [equipment](#) produced by Huawei Technologies Company or ZTE Corporation (or any [subsidiary](#) or affiliate of such entities);
- For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications [equipment](#) produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any [subsidiary](#) or affiliate of such entities). (Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or [Equipment](#) (FAR 52,204-25) (November 2021). Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 ([Pub. L. 115-232](#)))
- FAR 52.204-27 prohibits the use of ByteDance Covered Application Tik Tok

**10. Warranties, Representations, Assurances, and Insurance:** The Offeror warrants, represents and assures it is validly incorporated, organized and subsisting in accordance with the laws of its place of incorporation, the performance of under any resulting agreement will not constitute a breach of law or obligation applicable to it, and it has and will continue to hold all necessary regulatory approvals to perform the services offered. The Offeror will provide supporting documentation upon request.

The Offeror assures that it has those insurance policies which is legally required to maintain in the jurisdictions in which it is operating and will maintain them. The Offeror will provide supporting documentation upon request.

The Offeror assures that it has the necessary policies and procedures in place to ensure confidentiality and protect personal data in accordance with the laws of the jurisdictions in which it is operating. The Offeror will provide supporting documentation upon request. Please complete and sign the required certification included as Attachment 2: Certification regarding trafficking in persons compliance plan and Attachment 3: 899 vendor certification form.

- 11. Taxes and VAT:** The agreement under which this procurement is financed does not permit the financing of any taxes, VAT, tariffs, duties, or other levies imposed by any laws in effect in the Philippines. No such Philippines or other USAID cooperating country taxes, VAT, charges, tariffs, duties, or levies will be paid under an order resulting from this RFQ.
- 12. Eligibility:** By submitting an offer in response to this RFQ, the offeror certifies that it and its principal officers are not debarred, suspended, or otherwise considered ineligible for an award financed by the U.S. Government. Panagora Group will not award a contract to any firm that is debarred, suspended, or considered to be ineligible by the U.S. Government.
- 13. Evaluation and Award:** An award will be made to one Offeror whose offer follows the RFQ instructions, meets the eligibility requirements, and is determined via a trade-off analysis to be the best value and most advantageous approach based on the evaluation criteria provided in Section 1.6.

Please note that if there are significant deficiencies regarding responsiveness to the requirements of this RFQ, an offer may be deemed “non-responsive” and thereby disqualified from consideration. Panagora Group reserves the right to waive immaterial deficiencies at its discretion.

Panagora Group will select the successful service provider using a *Best-Value approach*, considering organizational capability, past performance, and price factors. Panagora Group’s procurement specialist, at his/her discretion, may enter negotiations with one or more offerors to discuss improvements in the quotation and cost deduction. Upon successful negotiation with the offeror(s), best-offer quotations will be requested.

Please note that in submitting a response to this RFQ, the offeror understands that USAID and Management Systems International (MSI) are not parties to this solicitation and the offeror agrees that any protest hereunder must be presented—in writing with full explanations—to Panagora. Panagora Group, at its sole discretion, will make a final decision on the protest for this procurement.

Panagora Group may cancel this RFQ at any time.

- 14. Terms and Conditions:** This is a Request for Quotations only. Issuance of this RFQ does not in any way obligate Panagora Group to make an award or pay for costs incurred by potential vendors in the preparation and submission of a quotation.

This solicitation is subject to Panagora Group’s standard terms and conditions (Attachment 2). Any resultant award will be governed by these terms and conditions. Please note the following terms and conditions will apply:

- (a) Panagora Groups' standard payment terms are net 30 days after receipt and acceptance of any commodities or deliverables. Payment will only be issued to the entity submitting the offer in response to this RFQ and identified in the resulting award; payment will not be issued to a third party.
- (b) Any award resulting from this RFQ will be a services agreement. If the bidder has a standard Master Service Agreement, please include it with your proposal.
- (c) No services may be supplied that are involving any of the following countries: Cuba, Iran, North Korea, Syria.
- (d) United States law prohibits transactions with, and the provision of resources and support to individuals and organizations associated with terrorism. The supplier under any award resulting from this RFQ must ensure compliance with these laws.

## **SECTION 2: OFFER CHECKLIST**

To assist offerors in preparation of proposals, the following checklist summarizes the documentation to include an offer in response to this RFQ:

- Cover letter, signed by an authorized representative of the offeror (see Section 5 for template)
- Official quotation (see Section 3 for specifications and technical requirements) including:
  - Schedule of fee-for-service basis and all related costs. Pricing must be presented in either Philippine peso (PHP) or US Dollars, depending on the currency of payment. Offers must remain valid for not less than sixty (60) calendar days after the offer deadline.
  - Organizational capabilities demonstrating the ability to deliver the required services found in Section 3.
  - Past experience working with USAID contractors or international firms, plus three (3) references.
- Supporting pre-qualification documents (see Section 1.5)
  - Certified corporate resolution authorizing the signer to sign the quotation and other relevant documents on behalf of the Company.
  - Copy of their official registration
  - Original valid tax clearance certificate certifying that the tax affairs of that company are in order.
  - Copy of offeror's standard Master Service Agreement
  - Certification Regarding Trafficking In Persons Compliance Plan (Attachment 3) and
  - 899 Vendor Certification Form (Attachment 4)

### **SECTION 3: SPECIFICATIONS AND TECHNICAL REQUIREMENTS**

Panagora Group, a woman-owned small business, is a major subcontractor to USAID PIMMELA and is currently hiring and onboarding 12 local staff in the Philippines.

Panagora seeks to contract a company for the following function:

**Payroll Services:** Serve as local payroll vendor for employees and consultants (collectively referenced below as workers). Duties could include the following. *This is not an exhaustive list of services but indicates the minimum service for each staff engagement.*

1. Facilitate semi-monthly payroll in compliance with local labor laws, including required filing and remittance of annual tax documentation
2. Provide monthly payroll reports to Panagora
3. Facilitate payment of the workers' taxes and social security, Pag-ibig, PhilHealth, pension/retirement, and/or other requirements
4. Complete other payments such as annual bonuses and severance pay
5. Process disabilities against the corresponding entities
6. Verification and/or Registration of the contractor/employer
7. Process payroll and generate a Payroll Report for Client Approval
8. Withhold and pay statutory deductions and contributions (Taxes, Pension/Social Security, Medical where applicable, etc.) in the name of Panagora
9. Issue employees with annual statements for pension accounts, social contributions, and taxes
10. Maintain records of all statutory deductions/contributions
11. Issue employees/contractors with pay slips via email. Panagora should receive copies of all employee's pay slips
12. Submit evidence of all payments to Panagora
13. Process termination of workers in compliance with all applicable legal requirements

**NB.** Panagora will remain responsible for the day-to-day management and oversight of the employees.

## **SECTION 4: DECISION AND NOTIFICATION**

### **Submission Due Date and Time**

The Offerors must submit their quotes in response to this RFQ no later than date and time on the cover page, by email to the point of contact on the cover page. Please reference the RFQ number in any response to this RFQ. Offers received after the specified time and date will be considered late and will not be considered.

### **Confidentiality**

Information regarding review, evaluation, comparison, and subsequent rating of the quotes and the recommendation for awarding the services agreement will not be revealed to offerors or other persons who have no official involvement in said process.

Any attempt by an offeror to influence Panagora with respect to the review, evaluation, comparison, and subsequent rating of the quotes or awarding of the services agreement and any subsequent work order will result in that offeror's quote being rejected.

As soon as the period for reviewing quotes opens, if any of the offerors would like to contact the contracting entity about matters related to the solicitation process, they should do so in writing.

### **1. Clarifications regarding proposals**

To assist in the review, evaluation, comparison, and subsequent rating of the proposals, Panagora may, at its discretion, request clarifications from an offeror regarding its quote. Any clarifications presented by offerors that are not in response to a request by the contracting entity will be disregarded. Requests for clarification and responses thereto will be in writing.

### **2. Conformance of proposals**

Panagora Group's determination of the responsiveness of a quote will be based on the quote itself. A substantially responsive quote is one that fulfills the terms, conditions, and specifications of the solicitation without significant deviations, reservations, or omissions. A significant deviation, reservation, or omission is one that:

- Affects in a substantial manner the scope, quality, or performance of the items specified in the Purchase Order, or
- Limits in a substantial manner, in contradiction to the solicitation, Panagora's rights or the offeror's obligations pursuant to the Purchase Order, or
- If corrected, would unfairly affect the competitive position of other offerors that present quotes that substantially conform to the requirements.

### **3. Preliminary review of proposals**

Panagora will review the quotes to confirm that all the documents that comprise the quote (the legal documents and the quote) have been submitted. It will likewise review the legal documents to determine the integrity of each of the documents presented. If any of the required legal documents are missing, the proposal may be rejected.

#### 4. Review of the terms and conditions

Panagora will review the proposal to confirm that the offeror has accepted all the terms and conditions specified in the RFQ without any deviations or reservations. Once the terms and conditions have been reviewed, if Panagora determines that the proposal does not substantially conform to the requirements, said proposal will be rejected.

#### 5. Evaluation of proposals

Panagora will evaluate each quote that has been determined up to that stage of the evaluation to substantially conform to the requirements requested.

To evaluate a proposal, Panagora will use all the methods and criteria defined in this RFQ. No other criteria or methodology will be allowed. Panagora will evaluate the technical aspects of the items included in the quote in keeping with this RFQ.

#### 6. Evaluation factors for Award

Panagora will evaluate offerors' quotations on their responsiveness to the specification and technical requirements defined in Section 3. The best terms from both a cost and technical standpoint will be deemed responsible to the RFQ.

No	Evaluation Criteria	Points
1	Proposed fee and cost of services	40
2	Organizational capability demonstrating the ability to deliver the required services in Section 3: <ul style="list-style-type: none"><li>• Strong company credentials with a minimum 5 years experience and proven track record in managing payroll;</li><li>• Knowledge of tax law and compliance system in the Philippines. Demonstrated experience processing timely payments to workers;</li><li>• Experience facilitating payment of the workers' statutory deductions and contributions (taxes, social security, Pag-ibig, PhilHealth, pension/retirement, medical insurance; and</li><li>• Capability to provide accurate reporting and invoicing.</li></ul>	30
3	Past experience working with USAID contractors or international firms, plus three (3) references that Panagora can contact to provide testimonials on customer service	30
	<b>Total</b>	<b>100</b>

#### 7. Cancellation of the solicitation



Panagora reserves the right to cancel the RFQ process and reject all the quotes at any time prior to awarding the services agreement and any subsequent work order, without incurring any obligation to offerors for this reason.

**8. Award criteria**

One offer that meets the evaluation criteria may be awarded with a services agreement, with individual work orders negotiated as services are required by the Activity.

**9. Notification**

Prior to expiration of the quote validity period, Panagora will notify any successful offeror in writing if its quote has been accepted. At the same time, Panagora will also notify the other offerors of the results of the solicitation.

**10. Services agreement signing**

Within five (05) days of receiving contract documents, the winning offeror is to sign, date, and return them to Panagora.

**SECTION 5: ATTACHMENTS**

**Attachment 1: Cover Letter**

*The following cover letter must be placed on letterhead and completed/signed/stamped by a representative authorized to sign on behalf of the offeror:*

PIMMELA Activity  
Panagora Group  
8601 Georgia Ave, 8th Floor  
Silver Spring, MD 20910

Reference: PIMMELA -001- Payroll Services

To Whom It May Concern:

We, the undersigned, hereby provide the attached offer to provide payroll services in the Philippines as described in the above-referenced RFQ. Please find our offer attached.

We hereby acknowledge and agree to all terms, conditions, special provisions, and instructions included in the above-referenced RFQ. We further certify that the below-named firm—as well as the firm’s principal officers and all services offered in response to this RFQ—are eligible to participate in this procurement under the terms of this solicitation and under USAID regulations.

Furthermore, we hereby certify that, to the best of our knowledge and belief:

- We have no close, familial, or financial relationships with any Panagora Group or the PIMMELA activity staff members.
- We have no close, familial, or financial relationships with any other offerors submitting proposals in response to the above-referenced RFQ; and
- The prices in our offer have been arrived at independently, without any consultation, communication, or agreement with any other offeror or competitor for the purpose of restricting competition.
- All information in our proposal and all supporting documentation is authentic and accurate.
- We understand and agree to Panagora Group’s prohibitions against fraud, bribery, and kickbacks.

We hereby certify that the enclosed representations, certifications, and other statements are accurate, current, and complete.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name and Title of Signatory Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

Company Telephone \_\_\_\_\_ and Website: \_\_\_\_\_

Company Registration or Taxpayer ID Number: \_\_\_\_\_ Does the company have an active bank account (Yes/No)? \_ Official name associated with bank account (for payment): \_\_\_\_\_

## Attachment 2: Standard Purchase Order Terms and Conditions

- I. **DEFINITIONS:** The following definitions apply to this Purchase Order, and any related correspondence:
- a. “Commodity” means any material, article, supply, good, or equipment provided under this order.
  - b. “Cooperating Country” means the country where the Purchase is executed.
  - c. “Geographic Code” means the country(ies) or area(s) assigned by USAID to a certain three digit code, as defined in the following section of the United States Code of Federal Regulations (CFR): [22 CFR §228](#).
  - d. “Origin” means the country where a commodity is mined, grown or produced. A commodity is produced when, through manufacturing, processing, or substantial and major assembling of components, a commercially recognized new commodity results that is significantly different in basic characteristics or in purpose of utility from its components.
  - e. “Source” means the country from which a commodity is shipped to the Cooperating Country, or the Cooperating Country if the commodity is located therein at the time of the purchase.
  - f. “Supplier” means the vendor (identified on the cover page) supplying the commodities and/or services under this Purchase Order.
  - g. “US” or “United States” means the United States of America, including any State(s) of the United States, the District of Columbia, and areas of U.S.-associated sovereignty, including commonwealths, territories, and possessions.
  - h. “USAID” or “AID” means the United States Agency for International Development.
- II. **CONTRACT:** This Purchase Order, when properly completed and signed, is the only form which will be recognized by Panagora Group and will constitute the fixed-price subcontract. No terms stated by the Supplier in accepting or acknowledging this order shall be binding on Panagora Group unless accepted in writing by Panagora Group. The Purchase Order may not be assigned or delegated, in whole or in part, by the Supplier without the written consent of Panagora Group; absent such written consent, any assignment is void.
- III. **PAYMENT:** Payment will be made in U.S. dollars or Philippine pesos (as applicable) in accordance with the price terms described in the Purchase Order document upon presentation of required documentation and Panagora Group’s inspection of delivered commodities and services. Required documentation includes (1) an original electronic invoice from the Supplier and (2) Panagora Group confirmation that services were delivered as ordered and in compliance with Purchase Order specifications, terms, and conditions. The payment will be executed **30 (thirty)** days after approval of the required documentation.
- IV. **TAXES:** The agreement under which this transaction is financed does **not** permit the use of USAID funds to finance any taxes, tariffs, duties, or other levies imposed by any laws in effect in the Cooperating Country. No such taxes, charges, tariffs, duties, or levies will be paid under this order.
- V. **ELIGIBILITY OF COMMODITIES AND SUPPLIERS:** The Supplier shall adhere to the following in carrying out this Purchase Order:
- a. The required source and origin for the commodity or service under this order must comply with USAID Geographic Code 937 in accordance with [22 CFR §228](#) unless otherwise indicated in writing by Panagora Group.

- b. No commodities or otherwise services that are involving any of the following countries Cuba, Iran, Iraq, Laos, Libya, North Korea, or Syria may be supplied.
- c. The Supplier must be a citizen or legal resident of, or a corporation, partnership, joint venture, or unincorporated association organized under the laws of the Cooperating Country or a country in USAID Geographic Code 937.
- d. No commodities or service shall be eligible for payment under this order if provided by a Supplier included on any list of suspended, debarred, or ineligible bidders used by USAID or the United States Government.
- e. Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits Panagora and its subcontractors and vendors from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service from the following:).
  - (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
  - (2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (FAR 52,204-25) (November 2021)
- f. FAR 52.204-27 prohibits the use of ByteDance Covered Application Tik Tok
  - (a) *Definitions.* As used in this clause—
    - Covered application* means the social networking service TikTok or any successor application or service developed or provided by ByteDance Limited or an entity owned by ByteDance Limited.
    - Information technology*, as defined in 40 U.S.C. 11101(6)—
      - (1) Means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—
        - (i) Of that equipment; or
        - (ii) Of that equipment to a significant extent in the performance of a service or the furnishing of a product;
      - (2) Includes computers, ancillary equipment (including imaging peripherals, input, output, and storage devices necessary for security and surveillance), peripheral equipment designed to be controlled by the central processing unit of a computer, software, firmware and similar procedures, services (including support services), and related resources; but
      - (3) Does not include any equipment acquired by a Federal contractor incidental to a Federal contract.
    - (b) *Prohibition.* Section 102 of Division R of the Consolidated Appropriations Act, 2023 (Pub. L. 117-328), the No TikTok on Government Devices Act, and its implementing guidance under Office of Management and Budget (OMB) Memorandum M-23-13, dated February 27, 2023, “No TikTok on Government Devices” Implementation Guidance, collectively prohibit the presence or use of a covered application on executive agency information technology, including certain

equipment used by Federal contractors. The Contractor is prohibited from having or using a covered application on any information technology owned or managed by the Government, or on any information technology used or provided by the Contractor under this contract, including equipment provided by the Contractor's employees; however, this prohibition does not apply if the Contracting Officer provides written notification to the Contractor that an exception has been granted in accordance with OMB Memorandum M-23-13.

VI. **INSPECTION AND ACCEPTANCE:** Panagora Group reserves the right to inspect any services delivered by the Supplier as a result of this Purchase Order. Panagora Group may require re-performance of nonconforming services at no increase in Purchase Order price. If re-performance will not correct the defects or is not possible, Panagora Group may seek an equitable price reduction or adequate consideration for acceptance of nonconforming services. Panagora Group must exercise its post-acceptance rights within a reasonable time after the defect was discovered or should have been discovered.

VII. **CHANGES:** Panagora Group may at any time, by written order, and without notice to the sureties, make changes within the general scope of this Purchase Order. If any such changes cause an increase or decrease in the cost, or the time required for the performance, of any part of the work under this Purchase Order, an equitable adjustment shall be made in the Purchase Order price or delivery schedule, or both, and the Purchase Order shall be modified in writing accordingly. Any claim by the Supplier for adjustment under this Purchase Order must be asserted within thirty (30) days from the date of receipt by the Supplier of the modification or change.

VIII. **GOVERNING LAW AND RESOLUTION OF DISPUTES:**

- (A) *Governing Law.* This Purchase Order, including any disputes related thereto, shall be governed by the laws of the state of Maryland.
- (B) *Disputes between the Parties.* The following procedures shall govern the resolution of any controversy, dispute or claim between or among "Parties," arising out of the interpretation, performance, breach or alleged breach of this Purchase Order ("Dispute") that is covered by (B) above.
  - (1) *Negotiation.* The Parties shall promptly attempt to resolve any Dispute by negotiation in the normal course of business. If, after good faith efforts, the Dispute is not resolved, either Party may request in writing that the Dispute be resolved via Executive Consultation pursuant to subparagraph (2) below.
  - (2) *Executive Consultation.* For Disputes submitted to Executive Consultation, each Party shall designate a senior company official with authority and responsibility for attempting to resolve the matter. For Panagora Group, such designee shall be a Senior Vice President, or a person at a higher level of authority. For Supplier, such designee shall be an authorized negotiator. The Party initiating the claim shall provide, in addition to documents supporting the claim, a brief summary of the claim, its perception of the positions of the Parties and any perceived barriers to settlement of the case. The summary may be submitted directly to the designated Party Executive. Within 30 calendar days after delivery of the claim summary, the Parties shall meet and attempt to resolve the Dispute. If the Dispute is not resolved within 45 days from submission of the claim summary, or such other amount of time as agreed between the Parties, the claiming Party may proceed under subparagraph (3) below.

(3) *Arbitration.* Any controversy or claim between the Parties arising out of or relating to this Purchase Order, or the breach thereof, that has not been resolved by Executive Consultation, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, including the Optional Rules for Emergency Measures of Protection, unless otherwise provided herein. The arbitrators shall not be empowered to award damages in excess of compensatory damages and each Party expressly waives and foregoes any right to punitive, exemplary, or similar damages. Each Party will bear the cost of its own attorney fees. The Arbitration shall be in Silver Spring, Maryland otherwise agreed between the Parties.

(C) *Obligation to perform work.* Supplier shall diligently proceed with the performance of work pending final resolution of any Dispute.

IX. **FORCE MAJEURE:** “Force Majeure” as used herein means: acts of God, natural disasters, invasion or war (whether declared or not) and other hostilities, revolution, rebellion, labor disputes, insurrection or riot, confrontation or other disorder, ionizing radiation or confrontation by regular activity from any unclear or waste, radioactive, biological, chemical or toxic explosives or other hazardous properties of any explosives, biological or chemical agents, nuclear assembly or nuclear components thereof, or other act, event or circumstance of a similar nature or force, arising from circumstances beyond the control of the Supplier or which Supplier could not reasonably be expected to have taken into account and which or the consequences of which the Supplier could not reasonably be expected to have avoided or overcome.

The Supplier shall not be liable for any excess costs if the failure to perform the Purchase Order arises out of a Force Majeure cause and if the Supplier, within 20 (twenty) days from the beginning of any such Force Majeure, notifies Panagora Group of such prevention of performance and the cause thereof. If the failure to perform is caused by the fault of a Supplier’s subcontractor and if such default arises out of causes beyond the control of both the Supplier and the Supplier’s subcontractor and without the fault or negligence of either of them (Force Majeure), and the Supplier, within **20 (twenty)** days from the beginning of any such Force Majeure, notifies Panagora Group in writing of such prevention of performance and the cause thereof, the Supplier shall not be liable for any excess costs due to the failure to perform, unless the supplies or services to be furnished by the Supplier were obtainable from other sources in sufficient time to permit the Supplier to meet the required delivery schedule.

X. **COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS:** The Supplier shall comply with all applicable laws, ordinances, codes, regulations, and other authoritative rules of the United States and of the Cooperating Country and their political subdivisions and with the standards of relevant licensing boards and professional associations.

XI. **INDEMNITY AND SUPPLIER WAIVER OF BENEFITS**

A. The Supplier waives any additional benefits and agrees to indemnify and save harmless Panagora Group, USAID, and their officers, directors, agents, and employees from and against any and all claims and liability, loss, expenses, suits, damages, judgments, demands, and costs (including reasonable legal and professional fees and expenses) arising out of:

(1) the acts or omissions of Supplier, its employees, officers, directors, agents or its subcontractors;

- (2) injury or death to persons, including officers, directors, employees, agents and subcontractors of Supplier, or loss of or damage to property, or fines and penalties which may result, in whole or in part, by reason of the buying, selling, distribution, or use of any of the goods or services purchased or provided under this Purchase Order except to the extent that such damage is due to the negligence of Panagora Group;
  - (3) the infringement or violation of any patent, copyright, trademark, service mark, trade secret, or other proprietary interest of any third party resulting from Panagora Group' use, distribution, sale, sublicensing, or possession of the goods (including software and all forms of written materials) or services purchased or provided, as authorized hereunder, or from the use or possession of said goods or services by Panagora Group and USAID, as authorized hereunder; or false claims submitted by Supplier or its subcontractors under this Purchase Order or as a result of a Supplier misrepresentation of fact or fraud by Supplier.
- B. Supplier shall defend and settle at its sole expense all suits or proceedings arising out of the foregoing, provided that Supplier has notice or is given prompt written notice of such claim or suit and, further, that Supplier shall be given necessary information, reasonable assistance and the authority to defend such claim or suit. Supplier shall not settle, compromise or discharge any pending or threatened suit, claim or litigation, arising out of, based upon, or in any way related to the subject matter of this Purchase Order and to which Panagora Group is or may reasonably be expected to be a party, unless and until Supplier has obtained a written agreement, approved by Panagora Group (which shall not be unreasonably withheld) and executed by each party to such proposed settlement, compromise or discharge, releasing Panagora Group from any and all liability.
- C. If any of the goods or services provided by Supplier hereunder, including without limitation software and all forms of written materials, become the subject of a claim of infringement or violation of a third party's intellectual property, privacy and/or proprietary rights, Supplier shall, at its own expense, use its best efforts—
- (1) to procure for Panagora Group the right to continue use and, if authorized under this Purchase Order, distribution of the infringing goods or services or,
  - (2) to modify the goods or services to make them non-infringing, or to replace them with equivalent, non-infringing counterparts.
- If none of the above-mentioned can be successfully implemented, then Supplier shall refund to Panagora Group all monies paid to the Supplier for the infringing goods and services.

XII. **TERMINATION BY CONVENIENCE:** The performance of work under this order may be terminated by Panagora Group in whole or in part whenever Panagora Group and/or USAID determine that such termination is in the best interests of Panagora Group and/or USAID. Panagora Group reserves the unilateral right to terminate this fixed price Purchase Order at any time, paying for all deliverables completed at the time of termination and a pro-rata share of any deliverable in progress, in accordance with FAR Clause 52.249-1, "Termination for Convenience of the Government (Fixed Price) (Short Form) (April 1984). In the event of termination by convenience, the Supplier shall submit a written claim not later than one month from the notice of termination.

XIII. **TERMINATION BY DEFAULT:** Panagora Group may, by written notice of default sent to the Supplier by registered mail, terminate in whole or part of this order if A) the Supplier fails to make delivery of the commodities within the time specified in the order or B) if the Supplier fails to

perform any of the other provisions of this order, or so fails to make progress as to endanger performance of this Purchase Order in accordance with its terms and, and, in either of these two circumstances, does not cure such failure within a period of **10 (ten) days** (or longer period as Panagora Group may authorize in writing) after receipt from Panagora Group specifying such failure.

XIV. **ANTI-CORRUPTION AND ANTI-KICKBACK:** No offer, payment, consideration, or benefit of any kind that constitutes an illegal or corrupt practice shall be made, either directly or indirectly, as an inducement or reward for the award of this Purchase Order. Any such practice will be grounds for canceling the award of this order and for such other actions, civil and or/criminal, as may be applicable.

XV. **AUDIT AND RECORDS:**

- a. The Supplier shall maintain books, records, documents, and other evidence and shall apply consistent accounting principles and practices sufficient to reflect properly all transactions under or in connection with the Purchase Order. The foregoing constitute "records" for the purpose of this clause.
- b. The Supplier shall maintain such records during the Purchase Order term and for a period of three years after final payment. However, records that relate to appeals under the "Disputes" clause or litigation or the settlement of claims arising out of the performance of this Purchase Order shall be retained until such appeals, litigation, or claims have been finally settled.
- c. All records shall be subject to inspection and audit by Panagora Group or its authorized agents at all reasonable times. The Supplier shall afford Panagora Group proper facilities for such inspection and audit. If this is a fixed-price Purchase Order, it is not subject to audit of costs (except for any cost-reimbursable items) but is subject to audit for compliance with other provisions of this Purchase Order.
- d. The Supplier further agrees to include in all its subcontracts hereunder a provision that the Supplier agrees that Panagora Group or any of its authorized agents, shall, until the expiration of three years after final payment under the Purchase Order, have access to and the right to examine any records of such Supplier involving transactions related to the Purchase Order.

XVI. **TERRORIST FINANCING PROHIBITION:** The Supplier is reminded that U.S. Executive Orders and U.S. law prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Supplier to ensure compliance with these Executive Orders and laws. This provision must be included in all subcontracts issued under this order.

XVII. **CLAUSES INCORPORATED BY REFERENCE:** This Purchase Order incorporates the following clauses of the [Federal Acquisition Regulation](#) (48 Code of Federal Regulations, Chapter 1) and [USAID Acquisition Regulation](#) (48 Code of Federal Regulations, Chapter 7) by reference, with the same force and effect as if they were given in full text. It is understood and agreed that the Supplier may be obligated by and to Panagora Group for any specifications or documentation required of Panagora Group under these clauses, and that references to the Contractor may also refer to the Supplier. The Supplier hereby agrees to abide by the terms and conditions imposed by these clauses. With respect to documentation and approvals required under these clauses, all such



documentation and approvals shall be submitted to or requested from Panagora Group. References in the text of incorporated clauses to "the Government," "USAID," or "Contracting Officer" may, depending on their context, refer to "Panagora Group," and references to "the Contractor" may refer to the "Supplier."

**Federal Acquisition Regulation (FAR) Clauses:**

<b>FAR CLAUSE NUMBER</b>	<b>TITLE AND YEAR</b>
52.202-1	Definitions (JUL 2004)
52.203-3	Gratuities (APR 1984)
52.203-6	Restriction on Subcontractor Sales to the Government (SEP 2006)
52.203-7	Anti-Kickback Procedures (JUL 1995)
52.203-11	Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions (SEP 2005)
52.203-12	Limitation of Payments to Influence Certain Federal Transactions (SEP 2005)
52.209-6	Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (SEP 2006)
52-215-2	Audit and Records—Negotiation (JUN 1999)
52.215-14	Integrity of Unit Prices (OCT 1997)
52.225-13	Restrictions on Certain Foreign Purchases (FEB 2006)
52.225-14	Inconsistency between English Version and Translation of Contract (FEB 2000)
52.227-1	Authorization and Consent (JUL 1995)
52.227-2	Notice and Assistance Regarding Patent and Copyright Infringement (AUG 1996)
52.227-9	Refund of Royalties (APR 1984)
52.228-3	Workers' Compensation and War-Hazard Insurance Overseas (APR 1984)
52.229-6	Taxes—Foreign Fixed-Price Contracts (JUN 2003)
52.242-15	Stop-Work Order (AUG 1989)
52.246-23	Limitation of Liability (FEB 1997)
52.249-1	Termination for Convenience of the Government (Fixed-Price) (Short Form) (APR 1984)
52.249-8	Default (Fixed-Price Supply and Service) (APR 1984)

**United States Agency for International Development Acquisition Regulation (AIDAR) Clauses:**

<b>AIDAR</b>	<b>Title</b>
752.202 Alt.70 and Alt.72	Definitions Alt. 70 (JAN 1990)/Alt.72 (JAN 1990)
752.211-70	Language and Measurement (JUN 1992) [especially provision in (a)]
752.225-70	Source, Origin and Nationality Requirements (FEB 1997)
752.225-71	Local Procurement (FEB 1997) [*Only if authorized to procure non-expendables.]

752.7009	Marking (JAN 1993)
752.7034	Acknowledgement and Disclaimer (DEC 1991)

### **Attachment 3 - 52.222-50 Subcontractor Certification Regarding Trafficking in Persons Compliance Plan (March 2, 2015)**

The Subcontractor Certifies that:

- (1) It has implemented a compliance plan to prevent any prohibited activities identified in paragraph (b) of the clause at 52.222-50, Combating Trafficking in Persons, and to monitor, detect, and terminate the contract with a subcontractor engaging in prohibited activities identified at paragraph (b) of the clause at 52.222-50, Combating Trafficking in Persons;
- (2) The compliance plan applicable to the qualifying Subcontract meets the minimum requirements set forth in subsection (h)(3) of clause 52.222-50, including the following:
  - a. An awareness program to inform Subcontractor employees about the Government's policy prohibiting trafficking-related activities, the activities prohibited, and the actions that will be taken against the employee for violations.
  - b. A process for employees to report, without fear of retaliation, activity inconsistent with the policy prohibiting trafficking in persons, including a means to make available to all employees the hotline phone number of the Global Human Trafficking Hotline at 1-844-888-FREE and its email address at [help@befree.org](mailto:help@befree.org).
  - c. A recruitment and wage plan that only permits the use of recruitment companies with trained employees, prohibits charging recruitment fees to the employee, and ensures that wages meet applicable host-country legal requirements or explains any variance.
  - d. A housing plan, if the subcontractor intends to provide or arrange housing that ensures that the housing meets host-country housing and safety standards.
  - e. Procedures to prevent agents and subcontractors at any tier and at any dollar value from engaging in trafficking in persons (including activities in paragraph (b) of this clause) and to monitor, detect, and terminate any agents, subcontracts, or subcontractor employees that have engaged in such activities.
- (3) The Subcontractor will post the relevant contents of the compliance plan, no later than the initiation of contract performance, at the workplace (unless the work is to be performed in the field or not in a fixed location) and on the Subcontractor's Web site (if one is maintained). If posting at the workplace or on the Web site is impracticable, the Subcontractor shall provide the relevant contents of the compliance plan to each worker in writing. The Subcontractor agrees to inform Panagora immediately of any credible information it receives from any source (including host country law enforcement) that alleges a contractor employee, subcontractor, subcontractor employee, or their agent has engaged in conduct that violates the policy.
- (4) After having conducted due diligence, either—
  - (i) To the best of the subcontractor's knowledge and belief, neither it nor any of its proposed agents, subcontractors, or their agents is engaged in any such activities; or,
  - (ii) If abuses relating to any of the prohibited activities identified in 52.222- 50(b) have been found, the subcontractor or proposed Subcontractor has taken the appropriate remedial and referral actions.

PLEASE SIGN AND RETURN THIS CERTIFICATION TO PANAGORA

Company Name \_\_\_\_\_

Company Address \_\_\_\_\_

Signature \_\_\_\_\_ Printed Name \_\_\_\_\_

Title \_\_\_\_\_ Date \_\_\_\_\_

**NOTE: The Subcontractor is required to recertify annually by signing this document one year from the date signed above and resending it to the Contractor.**

**Attachment 4: 899 Vendor Certification Form (for Vendors)**

**Section 889 Telecommunications and Video Surveillance Equipment and Services**

Vendor Name: \_\_\_\_\_  
Country: \_\_\_\_\_  
Prime/Subcontract Name: \_\_\_\_\_  
Date: \_\_\_\_\_

Most of our procurements are conducted by email or phone. When procuring services and/or equipment from vendors, either have them carefully read and sign this form or you read/provide the statements below and collect all required information requested. The person (vendor or Panagora staff member) who completes this form should be the one who signs the form.

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1. As a U.S. government contractor, Panagora is prohibited from utilizing any telecommunications and/or video surveillance equipment or services from any of the following companies (or their subsidiaries and affiliates).
- a. Huawei Technologies Company
  - b. ZTE Corporation
  - c. Hytera Communications Corporation
  - d. Hangzhou Hikvision Digital Technology Company
  - e. Dahua Technology Company

Please note that telecommunications services also include Internet, telephones, and cell/mobile phone services and equipment.

Does any of the services or equipment being purchased or obtained from you originate from or were manufactured from any of the above companies? **Please answer 0 Yes or 0 No**

1a. If you responded “Yes” to Question 1, please describe the equipment and/or services you are providing and the name of each company? *Skip this question if it does not apply.*

Name of Covered Company	Description of Equipment and/or Services

1b. Based on information provided under 1a. above, would it be possible to replace any of the listed equipment and/or services with non-covered telecommunications or video surveillance equipment or services? **Please answer 0 Yes 0 No.**

1.b.1 If yes, please provide the make/model and detailed specifications of the equivalent replacement item(s).

1.b.2 How long will it take to replace the covered equipment and/or service with non-covered equipment and/or service?

**Vendor Representation**

You confirm that based on the information you provided resulting from Panagora’s reasonable inquiry into the supply and utilization of covered telecommunications and video surveillance equipment and services (*Choose One Answer*):

- a. You will not supply or utilize covered equipment or services in this order \_\_\_\_\_
- b. You will immediately discontinue supplying or utilizing covered equipment or services under the order \_\_\_\_\_

The person completing this form should complete the following section and sign.

**Print Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

***End of Representation***