



Foreign &
Commonwealth
Office

Standard HRD Programme Project Terms and Conditions

Please see below for details of our standard terms & conditions.¹ We have a more detailed set of terms & conditions for projects in hostile / conflict environments. We will distribute these as required.

Once a project is approved for funding an Accountable Grant Agreement containing the most up to date Terms and Conditions will be sent to the Grantee. Both the Grantee and the Authority must sign this before any activity takes place. **These terms and conditions are non-negotiable.**

The Secretary for State for Foreign and Commonwealth Affairs represented by:

[Name]
[Position]
[Location]

for the Foreign and Commonwealth Office (the Authority) of the one part, has agreed to make a grant of funds to:

[Name of project implementing company (if applicable)]
[Registered address of project implementing company/Individual]
[Name and position of representative individual]

(the Grantee) of the other part, upon the following terms.

Article 1 – Purpose of the Grant

- 1(1) The grant is made for the implementation of the project entitled: *[Project Title]* (the Project). The title, purpose, outputs and activities of the Project are set out in Annex A (the Final Bid Form).
- 1(2) The Grantee will be awarded the grant on the terms and conditions set out in this document and its Annexes, and which the Grantee hereby declares it has taken note of and accepts.

¹ These Terms and Conditions are correct at December 2012. Terms and conditions are periodically updated. The most up-to-date terms and conditions will be sent to successful bidders and implementers should ensure they check the AGA carefully before they sign.

- 1(3) The Grantee accepts responsibility for the grant and undertakes that it will be used only for the purposes of carrying out the Project in accordance with Annex A (the Final Bid Form).
- 1(4) The Authority reserves the right to make payment of the grant subject to such governance arrangements (including terms of reference, steering committees and virtual boards) as it thinks fit to support and manage the Grantee.

Article 2 – Duration of Project

- 2(1) Implementation of the Project will begin on the day following that on which the last of the two parties signs this Accountable Grant Agreement.
- 2(2) The Project's duration is from *[Start Date]* to *[End Date]*. Any amendments to this period must be agreed by both parties in writing.
- 2(3) Continuation of the project in subsequent financial years will be dependent upon satisfactory progress under the Project and an assessment of the progress made against original bid documents, by the end of the first financial year.

Article 3 - Financing the Operation

- 3(1) Subject to Article 7 below, the Authority shall provide up to a maximum of *[£...grant amount]* towards the total costs of the Project, of which *[amount]* will be paid in the current financial year. Financing by the Authority for subsequent years of the operation is not guaranteed, and will depend on the availability of funding to the Authority and upon satisfactory progress being achieved at the end of the first financial year.
- 3(2) Payment will be made *[1 month to 3 months]* in arrears upon production of an invoice and financial report.
- 3(3) Procurement of goods or services by the Grantee using grant funds must comply with the good practice of the Authority, using transparent processes and fair and open competition. [Note: A statement of FCO Procurement Good Practice principles can be found at Annex C. The project manager should ensure that procurement principles are communicated to Grantees.]
- 3(4) Any non-consumable items of equipment purchased out of the grant monies with an initial value of more than £1,000 and a useful life of more than one year will (in the absence of specific agreement in writing by the Authority to the contrary) be the property of the Authority and must not be disposed of except as the Authority directs. The Grantee shall maintain an inventory and notify the Authority of all purchases. Entries must include the following:
- Description;
 - specific identification (e.g. serial number);
 - date of purchase;
 - original value (including VAT if paid);

- location and/or use;
 - person responsible for the purchase.
- 3(5) The Project funds should be spent in the appropriate financial year for which they were intended – as set out in Annex B (the Project Activity Based Budget). Funds may only be carried forward to subsequent years with the prior agreement of the Authority's representative.

Article 4 – Reports and Payments

- 4(1) The Project's costing is set out in Annex B (the Project Activity Based Budget).
- 4(2) The Grantee shall provide an updated Activity Based Budget every month for the duration of the grant at the request of the Authority.
- 4(3) By the 15th September 2013 and again on the 15th December 2013, the Grantee shall provide a brief narrative report (the Quarterly Monitoring Report) of the activities undertaken and outputs achieved under the Project and an assessment of the progress made against original bid documents. This assessment should also compare progress against the indicators of success recorded in Annex A (the Final Bid Form).
- 4(4) On *[date]* and every month thereafter, the Grantee shall submit a report stating how the Project funds were spent, including details of any consultants' fees and travel expenses.
- 4(5) All financial reports should include originals or copies of invoices and receipts. The Authority shall return the originals of invoices and receipts to the Grantee within one month of the receipt of the financial report.
- 4(6) Items spent against the grant must be clearly identifiable within the Grantee's accounts.
- 4(7) Unless otherwise agreed, grant funds shall be transferred to a separate bank account nominated solely for this Project.
- 4(8) Once the Project has been completed, a final grant payment will only be made when a final report (a "Project Completion Report") has been submitted to such person and in such form as is required by the Authority.
- 4(9) The Authority reserves the right to commission an external audit of the financial report covering the implementation of the Project at any time.
- 4(10) The Grantee shall provide annual externally audited financial reports for any Project with an annual expenditure of over £200,000. Such a report, covering the year, or part year up to 5 April should be received by the Authority by 5 August (i.e. 4 months after the end of the Authority's financial year).

- 4(11) The Authority reserves the right to reclaim at any time within a period of 5 years after the date of this Accountable Grant Agreement any grant money which remains unspent at the termination of this Project, or money spent on purposes which do not fall within Annex B (the Project Activity Based Budget) or which is unaccounted for.
- 4(12) The Grantee shall allow access for the Authority or its representatives to project sites and to all relevant records for the purposes of monitoring, evaluation and audit.

Article 5 – Monitoring and Evaluation

- 5(1) The Authority will supervise the progress of the Project throughout and reserves the rights to carry out monitoring/evaluation visits at a time agreed with the Grantee upon reasonable notice being given or to appoint an external evaluator.
- 5(2) The method and timing of the evaluation of the Project will be at the discretion of the Authority.
- 5(3) The Grantee will make staff available to meet with, answer questions and provide management information to the evaluator appointed by the Authority.

Article 6 – Amendment of the Accountable Grant Agreement

- 6(1) This Accountable Grant Agreement may be amended only by written agreement of the parties.

Article 7 – Termination of the Accountable Grant Agreement

- 7(1) Either party may terminate this Accountable Grant Agreement upon one month's written notice to the other if:
- the other party commits a material breach of any terms of this Accountable Grant Agreement and the breach is not remedied after communication and within the period agreed by the parties; or
 - there is a force majeure event which prevents the implementation of the Project.

In addition, the Authority may terminate this contract, upon one month's notice to the Grantee, if:

- any changes occur which, in the opinion of the Authority, impair significantly the value of the contribution of the Project towards the Authority's policy objectives;
 - there are changes to the Authority's policy priorities within which the programme is to be delivered; or
 - the funding available to the Authority becomes, or is likely to become, in the Authority's sole opinion, insufficient for it to continue to finance the Project.
- 7(2) Upon termination of this Accountable Grant Agreement the Grantee shall provide financial and narrative reports (including invoices and receipts) up to the date of such termination.

- 7(3) A joint review between the Authority and the Grantee shall be undertaken at any time during the implementation of the Project if the Authority considers it necessary to refocus the Project outputs. If the Project outputs are not achieving the agreed objectives, impact and deliverables, the Authority may terminate the Project at any stage.
- 7(4) Upon termination of this Accountable Grant Agreement the Authority retains the right to recover any funds given to the Grantee under this Accountable Grant Agreement which have not been used for the purposes of implementing the Project or cannot be accounted for.

Article 8 – Acknowledgement of Funding

- 8(1) Unless there are exceptional reasons for funding not to be acknowledged, the Grantee undertakes to acknowledge the contribution of the Authority (and any particular funding source) on materials produced in the course of the Project (including information available in electronic format) and at all public events.
- 8(2) Subject to Article 8(1), the Grantee should consult the Authority on all promotion or publicity of the Project, and seek approval of the Authority before using any branding or acknowledgement of the Authority in publicity material, materials produced during the Project and/or at public events.

Article 9 – Liability

- 9(1) The Grantee undertakes to provide adequate supervision of and care for its staff, agents and visitors, and accepts that in no circumstances will the Authority be responsible for the acts or omissions of the Grantee's staff, agents or visitors or for any loss or liability arising as a result of the Project, which remains the entire responsibility of the Grantee.
- 9(2) Where the Authority has publicly advised against all travel to a country or region where the Project is to be implemented or where the Authority has highlighted specific security or safety concerns, the Grantee must liaise closely and in good time with the Authority about the feasibility of travel to such country or region. Nevertheless, the Grantee shall be responsible for obtaining security advice from security providers that are established and reputable with appropriate experience, qualified personnel and insurance cover. The costs of any specialist security provision shall be borne by the Project budget.

Article 10 – Intellectual Property Rights

- 10 (1) Any intellectual property rights which arise in the course of the implementation of the Project by the Grantee shall belong to the Grantee provided that the Grantee hereby grants to the Authority a worldwide, perpetual, royalty free licence to use such intellectual property rights for any purpose directly connected with the Project.
- 10(2) Save as provided in Article 10(1) above this Accountable Grant Agreement shall not vest in either party any rights over the other party's intellectual property rights.

- 10(3) The Grantee warrants, represents and undertakes that its implementation of the Project under this Accountable Grant Agreement will not infringe any intellectual property rights of any third party. The Grantee agrees to indemnify and hold harmless the Authority against all liability, loss, damage, costs and expenses (including legal costs) which the Authority may incur or suffer as a result of any claim of alleged or actual infringement of a third party's intellectual property rights by reason of Grantee's implementation of the Project.

Article 11 – Information on Employees/Sub-contractors

- 11(1) The Grantee shall provide to the Authority upon request and to the extent permitted by the Data Protection Act 1998 any and all information regarding each of its employees and sub-contractors (including confidential personnel information) as the Authority may require in order to carry out any checks which the Authority (in its absolute discretion) deems necessary.

Article 12 – Dispute Resolution

- 12(1) The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Accountable Grant Agreement.
- 12(2) The parties may use an Alternative Dispute Resolution approach, other than that specified in Article 19(3), which they agree.
- 12(3) If the dispute cannot be resolved by the parties pursuant to Article 12(1) the dispute may, by agreement between the parties, be referred to mediation in accordance with the Model Mediation Procedure issued by the Centre for Effective Dispute Resolution's ("CEDR"), or such other mediation procedure as is agreed by the parties. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation the party shall give notice in writing (the ADR Notice) to the other party, and that latter party will choose whether or not to accede to mediation. A copy of the ADR Notice should be sent to CEDR. The mediation will start no later than 14 days after the date of the ADR Notice.
- 12(4) The performance of the Services will not cease or be delayed by the reference of a dispute to mediation pursuant to Article 12(3).

Article 13 – Entire Agreement

- 13(1) This Accountable Grant Agreement constitutes the entire agreement between the parties hereto (including terms of reference where applicable) and supersede all negotiations, representation or agreements either written or oral preceding it, without prejudice to the Authority's rights and remedies at law or otherwise.

- 13(2) The Grantee acknowledges that the Authority shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure and that any notice or indication provided by the Grantee that information is commercially sensitive or confidential is of indicative value only.

Article 14 – Law

- 14(1) This Accountable Grant Agreement will be governed by and construed in accordance with English law and the Grantee hereby irrevocably submits to the jurisdiction of the English courts. The submission to such jurisdiction will not (and will not be construed so as to) limit the right of the Authority to take proceedings against the Grantee in any other court of competent jurisdiction, nor will the taking of proceedings by the Authority in any one or more jurisdictions preclude the taking of proceedings by the Authority in any other jurisdiction, whether concurrently or not.

Article 15 – Privileges and Immunities

This Article will only be relevant if the Implementer is a body which has Privileges and Immunities (e.g. International Organisations).

- 15(1) Nothing in or relating to this Accountable Grant Agreement shall affect any privileges and immunities that may be enjoyed by the Grantee and/or its staff.

Annex C

Statement of FCO Procurement Good Practice principles

1. Good procurement practice includes the key principles set out below:
 - Purchasing should be done with the aim of securing value for money.
 - Purchasing should be done by competition unless there is a robust justification (legal/operational) for not having a competition.
 - Buyers should have, develop and use their awareness of particular supply markets to improve the quality and competitiveness of goods/services etc that are offered (effective supplier management).
 - Buyers (in FCO) should comply with applicable legal and international obligations.
 - *Wherever possible* anything purchased should have been produced in a sustainable manner.
 - Ethical conduct is extremely important.

2. Ethical conduct relates in particular to ensuring that:
 - Buyers' integrity must be beyond reproach (this ties in with issues around acceptance of gifts and hospitality from suppliers or equally offering gifts or hospitality to suppliers – this should not happen)
 - Staff involved in purchasing activity must declare any interest they have in a particular transaction whether this is because of personal gain to them or to a family member or close associate (effective management of potential and actual conflicts of interest)
 - The confidentiality of information is protected unless there is a lawful reason which justifies disclosure (e.g. compliance with the Freedom of Information Act 2000, contractual agreement between contract parties that certain types of information can be disclosed). There may also be reasons based on government policy which require disclosure of certain types of information.
 - Any information provided to suppliers is accurate and not intentionally misleading or misleading due to inattention on the buyer's part.
 - All suppliers are treated fairly (i.e. not favouring one supplier or acting to the disadvantage of another)
 - The competition process does not undermine ongoing relationships with suppliers. This is about conducting purchasing activity in a way that inspires confidence in the fairness of the process.