

Other USAID Contract Provisions Required by Law

Mercy Corps, in accordance with donor regulations, requires certain certifications and provisions, set forth herein, to be included in all contracts.

1. The recipient must not engage in transactions with, or provide resources or support to, individuals and organizations associated with terrorism, including those individuals or entities that appear on the Specially Designated Nationals and Blocked Persons List maintained by the U.S. Treasury (online at: <http://www.treasury.gov/resource-center/sanctions/SDNList/Pages/default.aspx>) or the United Nations Security designation list (online at: http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml).
2. Contractor certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any US Government department or agency.
3. Contractor certifies that it will not and has not used any funds received directly or indirectly from the U.S. Government to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of U.S. Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining this Contract or any other U.S. government funded project.
4. Mercy Corps, USAID, and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records of Contractor which are directly pertinent to this Contract for the purpose of making audits, examinations, excerpts and transcriptions.
5. The Contractor or its employees, or any Subcontractor or its employees, must not engage in any of the following conduct:
 - (i) Trafficking in persons (as defined in the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention against Transnational Organized Crime) during the period of this Contract;
 - (ii) Procure a commercial sex act during the period of this Contract;
 - (iii) Use forced labor in the performance of the Contract; or
 - (iv) Commit acts that directly support or advance trafficking in persons, including the following acts:
 - a. Destroying, concealing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
 - b. Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from which the employee was recruited upon the end of employment if requested by the employee, unless:
 - exempted from the requirement to provide or pay for such return transportation by Mercy Corps under this award; or
 - the employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action;
 - c. Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;
 - d. Charging employees recruitment fees ; or
 - e. Providing or arranging housing that fails to meet the host country housing and safety standards.

Contractor agrees to report in a timely manner to Mercy Corps any credible information from any source that alleges the contractor or any sub-contractor has engaged in any of the prohibited activities identified in this provision.

6. The Contractor must inform its employees working under this contract in the predominant native language of the workforce that they are afforded the employee whistleblower rights and protections provided under 41 U.S.C. § 4712; and
7. Prohibition on Requiring Certain Internal Confidentiality Agreements or Statements
 - (a) The Contractor must not require its employees or sub-contractors to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict employees or sub-contractors from lawfully reporting waste, fraud, or abuse related to the performance of this contract to Mercy Corps or to USAID's Office of the Inspector General.
 - (b) The Contractor must notify current employees and sub-contractors that prohibitions and restrictions of any preexisting internal confidentiality agreements or statements covered by this provision, to the extent that such prohibitions and restrictions are inconsistent with the prohibitions of this provision, are no longer in effect.
 - (c) If Mercy Corps, USAID or other authorized officials of the US Government determines that the Contractor is not in compliance with the requirements of this provision, Mercy Corps may, at its sole discretion, suspend or terminate the contract. Further, Mercy Corps may, at its sole discretion, decide not pay a portion or all of amounts invoiced or expenditures incurred, as applicable, by the Contractor with funds provided under this contract, and also may require the Contractor to refund a portion or all of any amounts paid to the Contractor under this contract.
 - (d) Definitions:

Terms in this clause will have the meaning defined in this section or as defined in 2 CFR 200.

"Internal confidentiality agreement or statement" means a confidentiality agreement or any other written statement that the Contractor requires any of its employees or sub-contractors to sign regarding nondisclosure of recipient information, except that it does not include confidentiality agreements arising out of civil litigation or confidentiality agreements that Contractor employees or sub-contractors sign at the behest of a US government agency.
 - (e) The Contractor must include this provision, including this paragraph (e), in subawards and sub-contracts funded under this contract.
8. Contractor must disclose, in a timely manner, in writing to the USAID Office of Inspector General and Mercy Corps all violations of US government criminal law involving fraud, bribery or gratuity violations potentially affecting this Contract.

Disclosures to USAID must be sent to:
U.S. Agency for International Development
Office of the Inspector General
P.O. Box 657
Washington, DC 20044-0657
Phone: 1-800-230-6539 or 202-712-1023
Email: ig.hotline@usaid.gov
URL: <https://oig.usaid.gov/content/usaid-contractor-reporting-form>
9. USAID policy requires that the contractor not discriminate against any beneficiaries in implementation of this contract, such as, but not limited to, by withholding, adversely impacting, or denying equitable access to the benefits provided through this contract on the basis of any factor not expressly stated in the contract. This includes, for example, race, color, religion, sex (including gender identity, sexual orientation, and pregnancy), national origin, disability, age, genetic information, marital status, parental status, political affiliation, or veteran's status. Nothing in this provision is intended to limit the ability of the contractor to target activities toward the assistance needs of certain populations as defined in the contract.
10. The Contractor agrees to incorporate the terms of "Annex-B" word-for-word in all of its sub-contracts funded under this Contract, if any.

Other Contract Provisions Required by Law or MC's Donor

Mercy Corps has received funding from the European Union. Mercy Corps, in accordance with the European Union regulations under which this contract is executed, requires certain certifications and provisions, set forth herein, to be included in all contracts.

Liability/Indemnity

Under no circumstances nor for any reason whatsoever will the European Union be held liable for damages as a result of the work pursuant to this Contract.

Right of Access/ Audit

- (a) The Contractor will be responsible for holding all invoices, receipts and financial and accounting documents relating to this Contract for at least seven years following final payment made under this Contract.
- (b) The Contractor will allow Mercy Corps or the European Union (or any other organisation authorised by the European Union) access to the location where the Contractor is based or any location where the Services are being implemented and to all documents, information and other material related to this Contract (including in electronic format), necessary to assess, or audit the implementation of the project and compliance with this Contract. Such audit may take place at any time during this Contract and up to seven years following final payment made under this Contract.

Confidentiality

The Contractor acknowledges that Mercy Corps has reporting obligations to the European Union. Accordingly, the Contractor consents to Mercy Corps sharing information about the Contractor or the Services with the European Union as required.

Anti-corruption

The Parties recognize that Mercy Corps has a zero tolerance approach to bribery and corruption. The Contractor will comply with all relevant anti-bribery and anti-corruption laws (including the UK Bribery Act 2010) and comply with the principles of Mercy Corps' Anti-Corruption and Anti-Bribery Policies, or equivalent policies, including: (a) not accepting or offering a bribe or facilitation payment; and (b) reporting immediately to Mercy Corps any bribery issues which the Contractor becomes aware of during this Contract; and, at the reasonable request of Mercy Corps, confirming in writing that they have complied with this Clause and provide any information reasonably requested in support of such compliance.

Mercy Corps recognizes that in complying with this Clause, the Contractor is not expected to risk life, limb or freedom.

Visibility

Any information or publications, in any form and medium, including the Internet, published pursuant to this Contract must include the following text or a similar disclaimer: "This document has been produced with the financial assistance of the European Union. The views expressed herein should not be taken, in any way, to reflect the official opinion of the European Union."

Principle of Ethical Procurement

The Contractor acknowledges that Mercy Corps must comply with the European Union's principle of Ethical Procurement including adhering to the minimum ethical standards of the avoidance of child labour, and the respect of basic social rights and working conditions based on international labour standards.