

REQUEST FOR PROPOSALS

TECHNICAL ASSISTANCE FOR THE

PORT OF LA UNION VESSEL TRAFFIC PROGRAM IN EL SALVADOR

Submission Deadline: **12:00 PM**

LOCAL TIME (SAN SALVADOR, EL SALVADOR)

JUNE 29, 2012

Submission Place: **Milton Lacayo**
Comisión Ejecutiva Portuaria Autónoma
Bulevar de Los Héroes, Colonia Miramonte
Centro Comercial Metrocentro, Edificio Torre Roble
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SEALED PROPOSALS SHALL BE CLEARLY MARKED AND RECEIVED PRIOR TO THE TIME AND DATE SPECIFIED ABOVE. PROPOSALS RECEIVED AFTER SAID TIME AND DATE WILL NOT BE ACCEPTED OR CONSIDERED.

REQUEST FOR PROPOSALS

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SECTION 1: INTRODUCTION

The U.S. Trade and Development Agency (“USTDA”) has provided a grant in the amount of US\$216,582 to the Comisión Ejecutiva Portuaria Autónoma de El Salvador (“CEPA”) (the “Grantee”) of El Salvador (the “Host Country”) in accordance with a grant agreement dated March 30, 2012 (the “Grant Agreement”), to fund technical assistance (“Technical Assistance”) for the Port of La Unión Vessel Traffic Program project (the “Project”). This Technical Assistance will assess vessel traffic improvement programs that would support the concession of the Port of La Unión in El Salvador. The Grant Agreement is attached at Annex 4 for reference. The Grantee is soliciting technical proposals from qualified U.S. firms to provide expert consulting services to perform the Technical Assistance.

1.1 BACKGROUND SUMMARY

In 2009, the President of El Salvador inaugurated the newly constructed Port of La Unión, consisting of a 560-meter wharf with berths for two ships and an open storage area of approximately 290,000 square meters. CEPA, the Salvadoran government entity responsible for developing and managing transportation infrastructure in El Salvador, intends to expand operations at the port under a public-private partnership in the form of a 30-year concession to a private company specializing in port operations. El Salvador’s National Assembly passed a concessions law in 2011 that has enabled the port concession process to move forward. Under the anticipated concession arrangement, CEPA would maintain certain responsibilities at the port, such as vessel traffic management and navigation, dredging and maintenance of the port’s approach channel, and providing support tug boat and pilot boat service to the shipping vessels that access the port. CEPA is receiving advisory services from the International Finance Corporation (“IFC”) of the World Bank Group to facilitate the port concession process.

The Technical Assistance will allow the Grantee to support expanded operations at the Port of La Unión by facilitating the safe passage of shipping vessels through the port’s approach channel.

The Project supports the Obama Administration’s Partnership for Growth initiative that was signed in November 2011 to support economic growth in El Salvador.

Portions of a background Definitional Mission report are provided for reference in Annex 2.

1.2 OBJECTIVE

The objective of this Technical Assistance is to assess vessel traffic improvement programs that would support the concession of the Port of La Unión in El Salvador.

The Terms of Reference (“TOR”) for this Technical Assistance are attached as Annex 5.

1.3 PROPOSALS TO BE SUBMITTED

Technical proposals are solicited from interested and qualified U.S. firms. The administrative and technical requirements as detailed throughout the Request for Proposals (“RFP”) will apply. Specific proposal format and content requirements are detailed in Section 3.

The amount for the contract has been established by a USTDA grant of US\$216,582. **The USTDA grant of US\$216,582 is a fixed amount. Accordingly, COST will not be a factor in the evaluation and therefore, cost proposals should not be submitted.** Upon detailed evaluation of technical proposals, the Grantee shall select one firm for contract negotiations.

1.4 CONTRACT FUNDED BY USTDA

In accordance with the terms and conditions of the Grant Agreement, USTDA has provided a grant in the amount of US\$216,582 to the Grantee. The funding provided under the Grant Agreement shall be used to fund the costs of the contract between the Grantee and the U.S. firm selected by the Grantee to perform the TOR. The contract must include certain USTDA Mandatory Contract Clauses relating to nationality, taxes, payment, reporting, and other matters. The USTDA nationality requirements and the USTDA Mandatory Contract Clauses are attached at Annexes 3 and 4, respectively, for reference.

SECTION 2: INSTRUCTIONS TO OFFERORS

2.1 PROJECT TITLE

The Project is called the “Port of La Unión Vessel Traffic Program.”

2.2 DEFINITIONS

Please note the following definitions of terms as used in this RFP:

The term "Request for Proposals" means this solicitation of a formal technical proposal, including qualifications statement.

The term "Offeror" means the U.S. firm, including any and all subcontractors, which responds to the RFP and submits a formal proposal and which may or may not be successful in being awarded this procurement.

2.3 DEFINITIONAL MISSION REPORT

USTDA sponsored a Definitional Mission to address technical, financial, sociopolitical, environmental, and other aspects of the proposed Project. Portions of the report are attached at Annex 2 for background information only. Please note that the TOR referenced in the report are included in this RFP as Annex 5.

2.4 EXAMINATION OF DOCUMENTS

Offerors should carefully examine this RFP. It will be assumed that Offerors have done such inspection and that through examinations, inquiries, and investigation they have become familiarized with local conditions and the nature of problems to be solved during the execution of the Technical Assistance.

Offerors shall address all items as specified in this RFP. Failure to adhere to this format may disqualify an Offeror from further consideration.

Submission of a proposal shall constitute evidence that the Offeror has made all the above mentioned examinations and investigations, and is free of any uncertainty with respect to conditions which would affect the execution and completion of the Technical Assistance.

2.5 PROJECT FUNDING SOURCE

The Technical Assistance will be funded under a grant from USTDA. The total amount of the grant is not to exceed US\$216,582.

2.6 RESPONSIBILITY FOR COSTS

Offeror shall be fully responsible for all costs incurred in the development and submission of the proposal. Neither USTDA nor the Grantee assumes any obligation as a result of the issuance of this RFP, the preparation or submission of a proposal by an Offeror, the evaluation of proposals, final selection, or negotiation of a contract.

2.7 TAXES

Offerors should submit proposals that note that in accordance with the USTDA Mandatory Contract Clauses, USTDA grant funds shall not be used to pay any taxes, tariffs, duties, fees, or other levies imposed under laws in effect in the Host Country.

2.8 CONFIDENTIALITY

The Grantee will preserve the confidentiality of any business proprietary or confidential information submitted by the Offeror, which is clearly designated as such by the Offeror, to the extent permitted by the laws of the Host Country.

2.9 ECONOMY OF PROPOSALS

Proposal documents should be prepared simply and economically, providing a comprehensive yet concise description of the Offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.

2.10 OFFEROR CERTIFICATIONS

The Offeror shall certify (a) that its proposal is genuine and is not made in the interest of, or on behalf of, any undisclosed person, firm, or corporation, and is not submitted in conformity with, and agreement of, any undisclosed group, association, organization, or corporation; (b) that it has not directly or indirectly induced or solicited any other Offeror to put in a false proposal; (c) that it has not solicited or induced any other person, firm, or corporation to refrain from submitting a proposal; and (d) that it has not sought by collusion to obtain for itself any advantage over any other Offeror or over the Grantee or USTDA or any employee thereof.

2.11 CONDITIONS REQUIRED FOR PARTICIPATION

Only U.S. firms are eligible to participate in this tender. However, U.S. firms may utilize subcontractors from the Host Country for up to 20 percent of the amount of the USTDA grant for specific services from the TOR identified in the subcontract. USTDA's nationality requirements, including definitions, are detailed in Annex 3.

2.12 LANGUAGE OF PROPOSAL

All proposal documents shall be prepared and submitted in English and Spanish.

2.13 PROPOSAL SUBMISSION REQUIREMENTS

The Cover Letter in the proposal must be addressed to:

Milton Lacayo
Comisión Ejecutiva Portuaria Autónoma
Bulevar de Los Héroes, Colonia Miramonte
Centro Comercial Metrocentro, Edificio Torre Roble
San Salvador
El Salvador
Phone: + (503) 2218-1300
+ (503) 2620-9010
+ (503) 7070-8014

An original in English, an original in Spanish, one (1) copy in English, and three (3) copies in Spanish of your proposal must be received at the above address no later than 12:00 PM, on June 29, 2012.

Proposals may be either sent by mail, overnight courier, or hand-delivered. Whether the proposal is sent by mail, courier, or hand-delivered, the Offeror shall be responsible for actual delivery of the proposal to the above address before the deadline. Any proposal received after the deadline will be returned unopened. The Grantee will promptly notify any Offeror if its proposal was received late.

Upon timely receipt, all proposals become the property of the Grantee.

2.14 PACKAGING

Each original and each copy of the proposal must be sealed to ensure confidentiality of the information. The proposals should be individually wrapped and sealed, and labeled for content, including the name of the project and designation of "original" or "copy number x." The original in English, the original in Spanish, one (1) copy in English, and three (3) copies in Spanish should be collectively wrapped and sealed, and clearly labeled, including the contact name and the name of the project.

Neither USTDA nor the Grantee will be responsible for premature opening of proposals not properly wrapped, sealed, and labeled.

2.15 OFFEROR'S AUTHORIZED NEGOTIATOR

The Offeror must provide the name, title, address, telephone number, e-mail address, and fax number of the Offeror's authorized negotiator. The person cited shall be empowered to make binding commitments for the Offeror and its subcontractors, if any.

2.16 AUTHORIZED SIGNATURE

The proposal must contain the signature of a duly authorized officer or agent of the Offeror empowered with the right to bind the Offeror.

2.17 EFFECTIVE PERIOD OF PROPOSAL

The proposal shall be binding upon the Offeror for ninety (90) days after the proposal due date, and the Offeror may withdraw or modify this proposal at any time prior to the due date upon written request, signed in the same manner and by the same person who signed the original proposal.

2.18 EXCEPTIONS

All Offerors agree by their response to this RFP announcement to abide by the procedures set forth herein. No exceptions shall be permitted.

2.19 OFFEROR QUALIFICATIONS

As provided in Section 3, Offerors shall submit evidence that they have relevant past experience and have previously delivered advisory, technical assistance, Technical Assistance, and/or other services similar to those required in the TOR, as applicable.

2.20 RIGHT TO REJECT PROPOSALS

The Grantee reserves the right to reject any and all proposals.

2.21 PRIME CONTRACTOR RESPONSIBILITY

Offerors have the option of subcontracting parts of the services they propose. The Offeror's proposal must include a description of any anticipated subcontracting arrangements, including the name, address, and qualifications of any subcontractors. USTDA nationality provisions apply to the use of subcontractors and are set forth in detail in Annex 3. The successful Offeror shall cause appropriate provisions of its contract, including all of the applicable USTDA Mandatory Contract Clauses, to be inserted in any subcontract funded or partially funded by USTDA grant funds.

2.22 AWARD

The Grantee shall make an award resulting from this RFP to the best qualified Offeror, on the basis of the evaluation factors set forth herein. The Grantee reserves the right to reject any and all proposals received.

2.23 COMPLETE SERVICES

The successful Offeror shall be required to (a) provide local transportation, office space, and secretarial support required to perform the TOR if such support is not provided by the Grantee; (b) provide and perform all necessary labor, supervision, and services; and (c) in accordance with best technical and business practice, and in accordance with the requirements, stipulations, provisions, and conditions of this RFP and the resultant contract, execute and complete the TOR to the satisfaction of the Grantee and USTDA.

2.24 INVOICING AND PAYMENT

Deliverables under the contract shall be delivered on a schedule to be agreed upon in a contract with the Grantee. The Contractor may submit invoices to the designated Grantee Project Director in accordance with a schedule to be negotiated and included in the contract. After the Grantee's approval of each invoice, the Grantee will forward the invoice to USTDA. If all of the requirements of USTDA's Mandatory Contract Clauses are met, USTDA shall make its respective disbursement of the grant funds directly to the U.S. firm in the United States. All payments by USTDA under the Grant Agreement will be made in U.S. currency. Detailed provisions with respect to invoicing and disbursement of grant funds are set forth in the USTDA Mandatory Contract Clauses attached in Annex 4.

SECTION 3: PROPOSAL FORMAT AND CONTENT

To expedite proposal review and evaluation, and to assure that each proposal receives the same orderly review, all proposals must follow the format described in this section.

Proposal sections and pages shall be appropriately numbered and the proposal shall include a Table of Contents. Offerors are encouraged to submit concise and clear responses to the RFP. Proposals shall contain all elements of information requested without exception. Instructions regarding the required scope and content are given in this section. The Grantee reserves the right to include any part of the selected proposal in the final contract.

The proposal shall consist of a technical proposal only. A cost proposal is NOT required because the amount for the contract has been established by a USTDA grant of US\$216,582 which is a fixed amount.

Offerors shall submit one (1) original in English, one (1) original in Spanish, one (1) copy in English, and three (3) copies in Spanish of the proposal. Proposals received by fax cannot be accepted.

Each proposal must include the following:

- Transmittal Letter,
- Cover/Title Page,
- Table of Contents,
- Executive Summary,
- Firm Background Information,
- Completed U.S. Firm Information Form,
- Organizational Structure, Management Plan, and Key Personnel,
- Technical Approach and Work Plan, and
- Experience and Qualifications.

Detailed requirements and directions for the preparation of the proposal are presented below.

3.1 EXECUTIVE SUMMARY

An Executive Summary should be prepared describing the major elements of the proposal, including any conclusions, assumptions, and general recommendations the Offeror desires to make. Offerors are requested to make every effort to limit the length of the Executive Summary to no more than five (5) pages.

3.2 U.S. FIRM INFORMATION

A U.S. Firm Information Form in .pdf fillable format is attached at the end of this RFP in Annex 6. The Offeror must complete the U.S. Firm Information Form and include the completed U.S. Firm Information Form with its proposal.

3.3 ORGANIZATIONAL STRUCTURE, MANAGEMENT, AND KEY PERSONNEL

Describe the Offeror's proposed project organizational structure. Discuss how the project will be managed including the principal and key staff assignments for this Technical Assistance. Identify the Project Manager who will be the individual responsible for this project. The Project Manager shall have the responsibility and authority to act on behalf of the Offeror in all matters related to the Technical Assistance.

Provide a listing of personnel (including subcontractors) to be engaged in the project, including both U.S. and local subcontractors, with the following information for key staff: position in the project; pertinent experience, curriculum vitae; other relevant information. If subcontractors are to be used, the Offeror shall describe the organizational relationship, if any, between the Offeror and the subcontractor.

A manpower schedule and the level of effort for the project period, by activities and tasks, as detailed under the Technical Approach and Work Plan shall be submitted. A statement confirming the availability of the proposed Project Manager and key staff over the duration of the project must be included in the proposal.

3.4 TECHNICAL APPROACH AND WORK PLAN

Describe in detail the proposed Technical Approach and Work Plan (the "Work Plan"). Discuss the Offeror's methodology for completing the project requirements. Include a brief narrative of the Offeror's methodology for completing the tasks within each activity series. Begin with the information gathering phase and continue through delivery and approval of all required reports.

Prepare a detailed schedule of performance that describes all activities and tasks within the Work Plan, including periodic reporting or review points, incremental delivery dates, and other project milestones.

Based on the Work Plan, and previous project experience, describe any support that the Offeror will require from the Grantee. Detail the amount of staff time required by the Grantee or other participating agencies and any work space or facilities needed to complete the Technical Assistance.

3.5 EXPERIENCE AND QUALIFICATIONS

Provide a discussion of the Offeror's experience and qualifications that are relevant to the objectives and TOR for the Technical Assistance. If a subcontractor(s) is being used, similar

information must be provided for the prime and each subcontractor firm proposed for the project. The Offeror shall provide information with respect to relevant experience and qualifications of key staff proposed. The Offeror shall include letters of commitment from the individuals proposed confirming their availability for contract performance.

As many as possible but not more than six (6) relevant and verifiable project references must be provided for each of the Offeror and any subcontractor, including the following information:

- Project name,
- Name and address of client (indicate if joint venture),
- Client contact person (name/position/current phone and fax numbers),
- Period of Contract,
- Description of services provided,
- Dollar amount of Contract, and
- Status and comments.

Offerors are strongly encouraged to include in their experience summary primarily those projects that are similar to the Technical Assistance as described in this RFP.

SECTION 4: AWARD CRITERIA

Individual proposals will be initially evaluated by a Procurement Selection Committee of representatives from the Grantee. The Committee will then conduct a final evaluation and completion of ranking of qualified Offerors. The Grantee will notify USTDA of the best qualified Offeror, and upon receipt of USTDA's no-objection letter, the Grantee shall promptly notify all Offerors of the award and negotiate a contract with the best qualified Offeror. If a satisfactory contract cannot be negotiated with the best qualified Offeror, negotiations will be formally terminated. Negotiations may then be undertaken with the second-most qualified Offeror and so forth.

The selection of the Contractor will be based on the following criteria and their corresponding assigned weights:

1. Technical Experience (40 points): Offeror's experience with coastal hydrology and hydrologic analysis, hydrological surveys, geotechnical engineering, coastal engineering (especially prevention and management of sedimentation), determination of dredging requirements, formulation of dredging programs, navigation and shipping channel design, vessel piloting, tug boat operation, and knowledge of naval architecture for the preparation of specifications for dredges, tug boats, and pilot boats.
2. Technical Approach and Work Plan (35 points): Adequacy, soundness, and thoroughness of the Technical Approach and Work Plan. In addition to the aspects outlined in Section 3.4 above, the proposal shall describe the Offeror's plan for coordinating with CEPA and the IFC port operating concession project.
3. Regional Experience (15 points): Offeror's familiarity and experience with ports, shipping, and dredging in Central America, including local and international regulations, standards, and requirements. Offeror's experience and ability to work in the Spanish language.
4. Finance (10 points): Offeror's experience with cost estimating and development of capital investment programs for port and maritime infrastructure projects, cost-benefit analysis, and recovery of costs via port user fees. Offeror's experience with the preparation of specifications for the acquisition of capital equipment, maritime project financing, and the financial structuring of projects in Central America. Offeror's familiarity with the requirements of potential sources of financing for the Project, including local and multilateral banks.

Proposals that do not include all requested information may be considered non-responsive.

Price will not be a factor in Contractor selection.

A N N E X 1

FEDBIZOPPS ANNOUNCEMENT

Milton Lacayo
Comisión Ejecutiva Portuaria Autónoma
Bulevar de Los Héroes, Colonia Miramonte
Centro Comercial Metrocentro, Edificio Torre Roble
San Salvador, El Salvador
Phone: + (503) 2218-1300, (503) 2620-9010, (503) 7070-8014

B – El Salvador: Port of La Unión Vessel Traffic Program Technical Assistance

POC: Anthony O'Tapi, USTDA, 1000 Wilson Boulevard, Suite 1600, Arlington, VA 22209-3901, Tel: (703) 875-4357, Fax: (703) 875-4009. Port of La Unión Vessel Traffic Program Technical Assistance, El Salvador.

The Grantee (the Comisión Ejecutiva Portuaria Autónoma de El Salvador, CEPA) invites submission of qualifications and proposal data (collectively referred to as the "Proposal") from interested U.S. firms that are qualified on the basis of experience and capability to conduct a Technical Assistance for the Port of La Unión Vessel Traffic Program.

The objective of this Technical Assistance is to assess vessel traffic improvement programs that would support the concession of the Port of La Unión in El Salvador. The Technical Assistance will allow the Grantee to support expanded operations at the Port of La Unión by facilitating the safe passage of shipping vessels through the port's approach channel.

The U.S. firm selected will be paid in U.S. dollars from a \$216,582 grant to the Grantee from the U.S. Trade and Development Agency ("USTDA").

A detailed Request for Proposals ("RFP"), which includes requirements for the Proposal, the Terms of Reference, and portions of a background Definitional Mission report are available from USTDA, at 1000 Wilson Boulevard, Suite 1600, Arlington, VA 22209-3901. To request the RFP in PDF format, please go to:

<https://www.ustda.gov/businessopps/rfpform.asp>.

Requests for a mailed hardcopy version of the RFP may also be faxed to the IRC, USTDA at 703-875-4009. In the fax, please include your firm's name, contact person, address, and telephone number. Some firms have found that RFP materials sent by U.S. mail do not reach them in time for preparation of an adequate response. Firms that want USTDA to use an overnight delivery service should include the name of the delivery service and your firm's account number in the request for the RFP. Firms that want to send a courier to USTDA to retrieve the RFP should allow one hour after faxing the request to USTDA before scheduling a pick-up. Please note that no telephone requests for the RFP will be honored. Please check your internal fax verification receipt. Because of the large number of RFP requests, USTDA cannot respond to requests for fax verification. Requests for RFPs received before 4:00 PM will be mailed the same day.

Requests received after 4:00 PM will be mailed the following day. Please check with your courier and/or mail room before calling USTDA.

Only U.S. firms and individuals may bid on this USTDA financed activity. Interested firms, their subcontractors and employees of all participants must qualify under USTDA's nationality requirements as of the due date for submission of qualifications and proposals and, if selected to carry out the USTDA-financed activity, must continue to meet such requirements throughout the duration of the USTDA-financed activity. All goods and services to be provided by the selected firm shall have their nationality, source, and origin in the U.S. or host country. The U.S. firm may use subcontractors from the host country for up to 20 percent of the USTDA grant amount. Details of USTDA's nationality requirements and mandatory contract clauses are also included in the RFP.

Interested U.S. firms should submit their Proposal in English and Spanish directly to the Grantee by **12:00 PM (local time in El Salvador), June 29, 2012**, at the above address. Evaluation criteria for the Proposal are included in the RFP. Price will not be a factor in Contractor selection, and therefore, cost proposals should NOT be submitted. The Grantee reserves the right to reject any and/or all Proposals. The Grantee also reserves the right to contract with the selected firm for subsequent work related to the project. The Grantee is not bound to pay for any costs associated with the preparation and submission of Proposals.

A N N E X 2

PORTIONS OF BACKGROUND DEFINITIONAL MISSION REPORT

Definitional Mission

Final Report

SOLICITATION CO201151104

Definitional Mission: El Salvador Transportation Infrastructure Projects

Submitted to:

US Trade & Development Agency
1000 Wilson Blvd., Suite 1600
Arlington, VA 22209-3901

Submitted by:

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This report was funded by the U.S. Trade and Development Agency (USTDA), an agency of the U.S. Government. The opinions, findings, conclusions, or recommendations expressed in this document are those of the author(s) and do not necessarily represent the official position or policies of USTDA. USTDA makes no representation about, nor does it accept responsibility for, the accuracy or completeness of the information contained in this report.

Mailing and Delivery Address: 1000 Wilson Boulevard, Suite 1600, Arlington, VA 22209-3901
Phone: 703-875-4357 • **Fax:** 703-875-4009 • **Web site:** www.ustda.gov



The U.S. Trade and Development Agency

The U.S. Trade and Development Agency helps companies create U.S. jobs through the export of U.S. goods and services for priority development projects in emerging economies. USTDA links U.S. businesses to export opportunities by funding project planning activities, pilot projects, and reverse trade missions while creating sustainable infrastructure and economic growth in partner countries.

Executive Summary

Airline Capital Associates (“ACA”) was awarded a contract by USTDA to conduct a Definitional Mission (“DM”) to identify and assess transportation sector projects in El Salvador to determine if they warrant USTDA grant support.

Mr. Frank Rosenberg, the DM project leader and aviation expert, and Dr. Richard Morris, who focused on seaport and rail projects, made a site visit to El Salvador in 2011. They met key officials from Comisiòn Ejecutiva Portuaria Autònoma (CEPA), the government entity that controls and operates the airports, seaports and railways, to ascertain government priorities; managers of the largest airlines that operate in El Salvador to determine the carriers’ concerns; and representatives of financing entities to identify possible sources of financing of development projects.

During the site visit, the DM met with the President of CEPA; the Director Ejecutivo of the Autoridad de Aviación Civil (CAA); the managers of El Salvador International Airport, Ilopango Airport, the Ports of La Unión and Acajutla, and the railroad company FENADESAL who all work for CEPA; managers of TACA International Airlines, Delta Air Lines and American Airlines; and representatives from the Central American Bank for Economic Integration (BCIE), the Banco Multisectorial de Inversiones (BMI) and the International Finance Corporation (IFC).

While in El Salvador, Mr. Rosenberg and Dr. Morris made visits to the El Salvador International Airport, Ilopango Airport, and the port of Acajutla in order to review the site of possible development projects.

Based on the meetings and visits, the DM recommends USTDA support for two projects, a feasibility study relating to the modernization and expansion of the passenger terminal at SAL and a technical assistance study that will support the IFC marketing of the CEPA tender for a private concessionaire to operate the Port of La Unión.

Port of La Unión Access Channel Technical Assistance

The DM recommends that USTDA provide a Grant to CEPA in the amount of \$216,582 to fund a technical assistance study which will provide independent support to CEPA in its effort to successfully complete a thirty-year operating concession of the Port of La Unión. The Port concession to private management is being facilitated by IFC under an advisory contract with CEPA. IFC has determined that in order to attract concessionaires to the project certain costs and operations must be borne by CEPA. An independent assessment for the cost and responsibilities of CEPA will add credibility to the concession and assist in its completion. Hence our support for the Study, which will define:

Executive Summary

- Improvements to the Port's approach channel geometry and/or the number and location of navigational aids in the channel to enhance safety and facilitate the passage of vessels through the channel.
- Dredging needed to return the Port's 22-km approach channel, turning basin and berths to their design depths.
- An approach channel maintenance program to maintain the channel, turning basin and berths at their design depths.
- A vessel traffic management system to govern ship movements in the 22-km approach channel.
- Necessary acquisition of tug boats and pilot boats to support vessel operations at the Port.

El Salvador's National Assembly recently passed legislation which permits and defines the Port of La Unión's concession. The IFC is to manage the procurement process for a concessionaire, and this Study should proceed in close cooperation with the IFC.

Port of La Unión Channel Access Technical Assistance

Project Description

In June of 2009, the President of El Salvador inaugurated the newly constructed Port of La Unión (Port), consisting of a 560-meter marginal wharf with berths for two ships and a working and open storage area of approximately 290,000 square meters. Five rubber-tired gantry cranes for container mobilization and stacking were acquired in 2010. In spite of the new facilities, however, no ship operators have yet begun to call at the Port. CEPA, the entity responsible for running the Port, wants to develop the Port operation under a public private partnership (PPP) in the form of a long-term (30-year) operating concession to a company specializing in port operations.

CEPA has contracted with the International Finance Corporation (IFC) to advise on the concession, including preparation of terms and conditions for the tender, and the recruitment of port operating companies to participate. A law permitting the concession that was requested by IFC has been passed by the National Assembly and the concession can now go ahead. The concession as proposed in the new law will include the operation of the Port for thirty years and the development of lands around the Port. In addition to operating the Port, the law specifies that the concessionaire invests \$30 million in new infrastructure within five years.

The concessionaire will be required to implement certain upgrades to the container terminal, including pavement improvements and the addition of ship-to-shore cranes, and the IFC will contract for engineering and other studies to determine the likely cost and extent of these projects. In addition, the IFC has determined that CEPA will be required to make improvements in other areas to make the concession attractive to potential operators and ensure the successful operation of the Port. Providing an independent assessment of the responsibilities of CEPA and the costs involved will add credibility to the concession project and assist in its completion.

The DM recommends that USTDA fund a technical assistance study (Study) to establish the need for and the requirements and costs of the following projects to support operations at the Port of La Unión:

- Improvements to the Port's approach channel geometry and/or the number and location of navigational aids in the channel to enhance safety and facilitate the passage of vessels through the channel.
- Dredging the Port's 22-km approach channel, turning basin and berths to their design depths.
- An approach channel maintenance program to maintain the channel, turning basin and berths at their design depths.
- A vessel traffic management system to govern ship movements in the 22-km approach channel.

Port of La Unión

- The acquisition of tug boats and pilot boats to support vessel operations at the Port.

The Study should be closely coordinated with the efforts of the IFC working on behalf of CEPA to prepare the tender for the concession of the operation of the Port of La Unión because the Study is needed to complete the concession tender process.

Sponsor Commitment

The President of CEPA stated that the initiation of operations at Port of La Unión via the proposed concession is one of the five highest priority transportation sector projects of CEPA and the El Salvadoran government. It is politically as well as strategically important to the government, which is evidenced by the recent passage of legislation that will allow CEPA to concession the Port of La Unión.

CEPA's commitment is further evidenced by its engagement of the IFC to assist in structuring the concession and its associated tender and attracting qualified port operating companies to participate in the tender.

Study Team Qualifications

[Refer to Section 4 of the RFP]

Justification

The technical assistance will provide independent support to CEPA in its effort to successfully complete a thirty-year operating concession of the Port of La Unión, transferring the management of the Port from government to the private sector. The concession arrangement is being facilitated by IFC under an advisory contract with CEPA, and an independent assessment of the ongoing responsibilities of CEPA during the concession and their associated costs will add credibility to the project and assist in its completion.

Recommendation

Based on the findings of the DM, ACA has determined that the provision of technical assistance related to the improvement of the approach channel and the acquisition of tug and pilot boats should be supported by USTDA. The DM recommends that USTDA provide a grant in the amount of \$216,582 to fund the technical assistance described in the following Terms of Reference.

Port of La Unión

Terms of Reference

[Refer to Annex 5 of the RFP]

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A N N E X 3

USTDA NATIONALITY REQUIREMENTS



**U.S. TRADE AND DEVELOPMENT AGENCY
Arlington, VA 22209-2131**

NATIONALITY, SOURCE, AND ORIGIN REQUIREMENTS

The purpose of USTDA's nationality, source, and origin requirements is to assure the maximum practicable participation of American contractors, technology, equipment and materials in the prefeasibility, feasibility, and implementation stages of a project.

USTDA STANDARD RULE (GRANT AGREEMENT STANDARD LANGUAGE):

Except as USTDA may otherwise agree, each of the following provisions shall apply to the delivery of goods and services funded by USTDA under this Grant Agreement: (a) for professional services, the Contractor must be either a U.S. firm or U.S. individual; (b) the Contractor may use U.S. subcontractors without limitation, but the use of subcontractors from host country may not exceed twenty percent (20%) of the USTDA Grant amount and may only be used for specific services from the Terms of Reference identified in the subcontract; (c) employees of U.S. Contractor or U.S. subcontractor firms responsible for professional services shall be U.S. citizens or non-U.S. citizens lawfully admitted for permanent residence in the U.S.; (d) goods purchased for implementation of the Study and associated delivery services (e.g., international transportation and insurance) must have their nationality, source and origin in the United States; and (e) goods and services incidental to Study support (e.g., local lodging, food, and transportation) in host country are not subject to the above restrictions. USTDA will make available further details concerning these standards of eligibility upon request.

NATIONALITY:

1) Rule

Except as USTDA may otherwise agree, the Contractor for USTDA funded activities must be either a U.S. firm or a U.S. individual. Prime contractors may utilize U.S.

subcontractors without limitation, but the use of host country subcontractors is limited to 20% of the USTDA grant amount.

2) Application

Accordingly, only a U.S. firm or U.S. individual may submit proposals on USTDA funded activities. Although those proposals may include subcontracting arrangements with host country firms or individuals for up to 20% of the USTDA grant amount, they may not include subcontracts with third country entities. U.S. firms submitting proposals must ensure that the professional services funded by the USTDA grant, to the extent not subcontracted to host country entities, are supplied by employees of the firm or employees of U.S. subcontractor firms who are U.S. individuals.

Interested U.S. firms and consultants who submit proposals must meet USTDA nationality requirements as of the due date for the submission of proposals and, if selected, must continue to meet such requirements throughout the duration of the USTDA-financed activity. These nationality provisions apply to whatever portion of the Terms of Reference is funded with the USTDA grant.

3) Definitions

A "U.S. individual" is (a) a U.S. citizen, or (b) a non-U.S. citizen lawfully admitted for permanent residence in the U.S. (a green card holder).

A "U.S. firm" is a privately owned firm which is incorporated in the U.S., with its principal place of business in the U.S., and which is either (a) more than 50% owned by U.S. individuals, or (b) has been incorporated in the U.S. for more than three (3) years prior to the issuance date of the request for proposals; has performed similar services in the U.S. for that three (3) year period; employs U.S. citizens in more than half of its permanent full-time positions in the U.S.; and has the existing capability in the U.S. to perform the work in question.

A partnership, organized in the U.S. with its principal place of business in the U.S., may also qualify as a "U.S. firm" as would a joint venture organized or incorporated in the United States consisting entirely of U.S. firms and/or U.S. individuals.

A nonprofit organization, such as an educational institution, foundation, or association may also qualify as a "U.S. firm" if it is incorporated in the United States and managed by a governing body, a majority of whose members are U.S. individuals.

SOURCE AND ORIGIN:

1) Rule

In addition to the nationality requirement stated above, any goods (e.g., equipment and materials) and services related to their shipment (e.g., international transportation and insurance) funded under the USTDA Grant Agreement must have their source and origin in the United States, unless USTDA otherwise agrees. However, necessary purchases of goods and project support services which are unavailable from a U.S. source (e.g., local food, housing and transportation) are eligible without specific USTDA approval.

2) Application

Accordingly, the prime contractor must be able to demonstrate that all goods and services purchased in the host country to carry out the Terms of Reference for a USTDA Grant Agreement that were not of U.S. source and origin were unavailable in the United States.

3) Definitions

“Source” means the country from which shipment is made.

"Origin" means the place of production, through manufacturing, assembly or otherwise.

Questions regarding these nationality, source and origin requirements may be addressed to the USTDA Office of General Counsel.

A N N E X 4

**USTDA GRANT AGREEMENT,
INCLUDING MANDATORY CONTRACT CLAUSES**

GRANT AGREEMENT



This Grant Agreement is entered into between the Government of the United States of America, acting through the U.S. Trade and Development Agency ("USTDA"), and the Comisión Ejecutiva Portuaria Autónoma de El Salvador ("CEPA") ("Grantee"). USTDA agrees to provide the Grantee under the terms of this Grant Agreement US\$216,582 ("USTDA Grant") to fund the cost of goods and services required for the preparation of a technical assistance ("TA") on the proposed Port of La Unión Vessel Traffic Program project ("Project") in El Salvador ("Host Country").

1. USTDA Funding

The funding to be provided under this Grant Agreement shall be used to fund the costs of a contract between the Grantee and the U.S. firm selected by the Grantee ("Contractor") under which the Contractor will perform the TA ("Contract"). Payment to the Contractor will be made directly by USTDA on behalf of the Grantee with the USTDA Grant funds provided under this Grant Agreement.

2. Terms of Reference

The Terms of Reference for the TA ("Terms of Reference") are attached as Annex I and are hereby made a part of this Grant Agreement. The TA will examine the technical, financial, environmental, and other critical aspects of the proposed Project. The Terms of Reference shall also be included in the Contract.

3. Standards of Conduct

USTDA and the Grantee recognize the existence of standards of conduct for public officials, and commercial entities, in their respective countries. The parties to this Grant Agreement and the Contractor shall observe these standards, which include not accepting payment of money or anything of value, directly or indirectly, from any person for the purpose of illegally or improperly inducing anyone to take any action favorable to any party in connection with the TA.

4. Grantee Responsibilities

The Grantee shall undertake its best efforts to provide reasonable support for the Contractor, such as local transportation, office space, and secretarial support.

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5. USTDA as Financier

(A) USTDA Approval of Competitive Selection Procedures

Selection of the U.S. Contractor shall be carried out by the Grantee according to its established procedures for the competitive selection of contractors with advance notice of the procurement published online through *Federal Business Opportunities* (www.fedbizopps.gov). Upon request, the Grantee will submit these contracting procedures and related documents to USTDA for information and/or approval.

(B) USTDA Approval of Contractor Selection

The Grantee shall notify USTDA at the address of record set forth in Article 17 below upon selection of the Contractor to perform the TA. Upon approval of this selection by USTDA, the Grantee and the Contractor shall then enter into a contract for performance of the TA. The Grantee shall notify in writing the U.S. firms that submitted unsuccessful proposals to perform the TA that they were not selected.

(C) USTDA Approval of Contract Between Grantee and Contractor

The Grantee and the Contractor shall enter into the Contract for performance of the TA. The Contract, and any amendments thereto, including assignments and changes in the Terms of Reference, must be approved by USTDA in writing. To expedite this approval, the Grantee (or the Contractor on the Grantee's behalf) shall transmit to USTDA, at the address set forth in Article 17 below, a photocopy of an English language version of the signed Contract or a final negotiated draft version of the Contract.

(D) USTDA Not a Party to the Contract

It is understood by the parties that USTDA has reserved certain rights such as, but not limited to, the right to approve the terms of the Contract and any amendments thereto, including assignments, the selection of all contractors, the Terms of Reference, the Final Report (as defined in Clause I of Annex II), and any and all documents related to any contract funded under the Grant Agreement. The parties hereto further understand and agree that USTDA, in reserving any or all of the foregoing approval rights, has acted solely as a financing entity to assure the proper use of United States Government funds, and that any decision by USTDA to exercise or refrain from exercising these approval rights shall be made as a financier in the course of funding the TA and shall not be construed as making USTDA a party to the Contract. The parties hereto understand and agree that USTDA may, from time to time, exercise the foregoing approval rights, or discuss matters related to these rights and the Project with the parties to the Contract or any subcontract thereunder, jointly or separately, without thereby incurring any responsibility or liability to such parties. Any approval or failure to approve by USTDA shall not bar the Grantee or USTDA from asserting

any right they might have against the Contractor, or relieve the Contractor of any liability which the Contractor might otherwise have to the Grantee or USTDA.

(E) Grant Agreement Controlling

Regardless of USTDA approval, the rights and obligations of any party to the Contract or any subcontract thereunder must be consistent with this Grant Agreement. In the event of any inconsistency between the Grant Agreement and the Contract or any subcontract funded by the Grant Agreement, the Grant Agreement shall be controlling.

6. Disbursement Procedures

(A) USTDA Approval of Contract Required

USTDA will make disbursements of Grant funds directly to the Contractor only after USTDA approves the Contract.

(B) Contractor Invoice Requirements

The Grantee should request disbursement of funds by USTDA to the Contractor for performance of the TA by submitting invoices in accordance with the procedures set forth in the USTDA Mandatory Clauses in Annex II.

7. Effective Date

The effective date of this Grant Agreement ("Effective Date") shall be the date of signature by both parties or, if the parties sign on different dates, the date of the last signature.

8. TA Schedule

(A) TA Completion Date

The completion date for the TA, which is December 31, 2012, is the date by which the parties estimate that the TA will have been completed.

(B) Time Limitation on Disbursement of USTDA Grant Funds

Except as USTDA may otherwise agree, (a) no USTDA funds may be disbursed under this Grant Agreement for goods and services which are provided prior to the Effective Date; and (b) all funds made available under the Grant Agreement must be disbursed within four (4) years from the Effective Date.

9. USTDA Mandatory Clauses

All contracts funded under this Grant Agreement shall include the USTDA mandatory clauses set forth in Annex II. All subcontracts funded or partially funded with USTDA Grant funds shall include the USTDA mandatory clauses, except for clauses B(1), G, H, I, and J.

10. Use of U.S. Carriers

(A) Air

Transportation by air of persons or property funded under the Grant Agreement shall be on U.S. flag carriers in accordance with the Fly America Act, 49 U.S.C. 40118, to the extent service by such carriers is available, as provided under applicable U.S. Government regulations.

(B) Marine

Transportation by sea of property funded under the Grant Agreement shall be on U.S. carriers in accordance with U.S. cargo preference law.

11. Nationality, Source, and Origin

Except as USTDA may otherwise agree, the following provisions shall govern the delivery of goods and services funded by USTDA under the Grant Agreement: (a) for professional services, the Contractor must be either a U.S. firm or U.S. individual; (b) the Contractor may use U.S. subcontractors without limitation, but the use of subcontractors from the Host Country may not exceed twenty percent (20%) of the USTDA Grant amount and may only be used for specific services from the Terms of Reference identified in the subcontract; (c) employees of U.S. Contractor or U.S. subcontractor firms responsible for professional services shall be U.S. citizens or non-U.S. citizens lawfully admitted for permanent residence in the U.S.; (d) goods purchased for performance of the TA and associated delivery services (e.g., international transportation and insurance) must have their nationality, source, and origin in the United States; and (e) goods and services incidental to TA support (e.g., local lodging, food, and transportation) in the Host Country are not subject to the above restrictions. USTDA will make available further details concerning these provisions upon request.

12. Taxes

USTDA funds provided under the Grant Agreement shall not be used to pay any taxes, tariffs, duties, fees, or other levies imposed under laws in effect in the Host Country. Neither the Grantee nor the Contractor will seek reimbursement from USTDA for such taxes, tariffs, duties, fees, or other levies.

13. Cooperation Between Parties and Follow-Up

The parties will cooperate to assure that the purposes of the Grant Agreement are accomplished. For five (5) years following receipt by USTDA of the Final Report, the Grantee agrees to respond to any reasonable inquiries from USTDA about the status or results of the Project, and upon receipt by the Grantee of the Final Report, will designate (by both title and organization) a point of contact for any such inquiries.

14. Implementation Letters

To assist the Grantee in the implementation of the TA, USTDA may, from time to time, issue implementation letters that will provide additional information about matters covered by the Grant Agreement. The parties may also use jointly agreed upon implementation letters to confirm and record their mutual understanding of matters covered by the Grant Agreement.

15. Recordkeeping and Audit

The Grantee agrees to maintain books, records, and other documents relating to the TA and the Grant Agreement adequate to demonstrate implementation of its responsibilities under the Grant Agreement, including the selection of contractors, receipt and approval of contract deliverables, and approval or disapproval of contractor invoices for payment by USTDA. Such books, records, and other documents shall be separately maintained for three (3) years after the date of the final disbursement by USTDA. The Grantee shall afford USTDA or its authorized representatives the opportunity at reasonable times to review books, records, and other documents relating to the TA and the Grant Agreement.

16. Representation of Parties

For all purposes relevant to the Grant Agreement, the Government of the United States of America will be represented by the U.S. Ambassador to the Host Country or USTDA and Grantee will be represented by the President of CEPA. The parties hereto may, by written notice, designate additional representatives for all purposes under the Grant Agreement.

17. Addresses of Record for Parties

Any notice, request, document, or other communication submitted by either party to the other under the Grant Agreement shall be in writing or through a wire or electronic medium which produces a tangible record of the transmission, such as a telegram, cable, or facsimile, and will be deemed duly given or sent when delivered to such party at the following:

To: Comisión Ejecutiva Portuaria Autónoma
Bulevar de Los Héroes, Colonia Miramonte
Centro Comercial Metrocentro, Edificio Torre Roble
San Salvador
EL SALVADOR

Phone: + (503) 2218-1300
Fax: + (503) 2121-1212
E-Mail: Milton.Lacayo@cepa.gob.sv

To: U.S. Trade and Development Agency
1000 Wilson Boulevard, Suite 1600
Arlington, Virginia 22209-3901
USA

Phone: (703) 875-4357
Fax: (703) 875-4009
E-Mail: LAC@ustda.gov

All formal communications shall be in English, unless the parties otherwise agree in writing. In addition, the Grantee shall provide the Commercial Section of the U.S. Embassy in Host Country with a copy of each communication sent to USTDA.

Any communication relating to this Grant Agreement shall include the following fiscal data:

Appropriation No.: 11 12/13 1001
Activity No.: 2012-51012A
Reservation No.: 2012126
Grant No.: GH201251126

18. Termination

Either party may terminate the Grant Agreement by giving the other party thirty (30) days advance written notice. The termination of the Grant Agreement will end any obligations of the parties to provide financial or other resources for the TA, except for payments which they are committed to make pursuant to noncancellable commitments entered into with third parties prior to the written notice of termination.

19. Non-Waiver of Rights and Remedies

No delay in exercising any right or remedy accruing to either party in connection with the Grant Agreement shall be construed as a waiver of such right or remedy.

20. U.S. Technology and Equipment

By funding this TA, USTDA seeks to promote the Project objectives of the Host Country through the use of U.S. technology, goods, and services. In recognition of this purpose, the Grantee agrees that it will allow U.S. suppliers to compete in the procurement of technology, goods, and services needed for Project implementation.

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IN WITNESS WHEREOF, the Government of the United States of America and the Comisión Ejecutiva Portuaria Autónoma de El Salvador, each acting through its duly authorized representative, have caused this Agreement to be signed in the English language in their names and delivered as of the day and year written below. In the event that this Grant Agreement is signed in more than one language, the English language version shall govern.

**For the Government of the
United States of America**

By: *Seamus J. J...*

Date: *March 30, 2012*

**For the Comisión Ejecutiva
Portuaria Autónoma de El Salvador**

By: *A. J. J...*



Date: *march 29, 2012*

Annex I -- Terms of Reference

Annex II – USTDA Mandatory Clauses

Annex I

Terms of Reference

Objective

The objective of the technical assistance (“TA”) for the Port of La Unión Vessel Traffic Program Project (“Project”) is to assess vessel traffic improvement programs that would support the concession of the Port of La Unión in El Salvador. The TA will allow the Comisión Ejecutiva Portuaria Autónoma de El Salvador (“CEPA”) (“Grantee”) to support expanded operations at the Port of La Unión (“Port”) by facilitating the safe passage of shipping vessels through the Port’s approach channel and by eliminating any physical barriers to the use of the Port by large shipping vessels.

General Considerations for Deliverables and Documents

The U.S. firm selected by the Grantee to perform the TA (“Contractor”) shall undertake a quality control review process, including a technical and editorial review, of all deliverables and documents submitted to the Grantee to ensure readability, accuracy, and consistency. The interim deliverables specified in these Terms of Reference shall serve to keep the Grantee informed about the Contractor’s work on the TA and to ensure that the Contractor’s findings are acceptable to the Grantee before critical decisions are made on the TA. The Contractor shall submit monthly progress reports to the Grantee. The Contractor shall submit all deliverables and documents to the Grantee in English and Spanish. Meetings and presentations in El Salvador shall be conducted in Spanish.

Activities

Task 1: Collection and Review of Existing Information and Inventory of Port Facilities

1.1 The Contractor shall collect and review existing reports, plans, charts, and other documentation regarding the planning and development of the Port (most of which will be provided by the Grantee), including the following documentation, at a minimum:

- Original and as-built plans and drawings for the Phase 1 construction of the existing Port facilities;
- Records and surveys of the approach channel, turning basin, and berth depths during or after the Phase 1 construction program, and any existing dredging plans and charts for the approach channel, turning basin, berths, and anchorage;
- Results of hydrographic surveys of the approach channel, turning basin, berths, and anchorage, including the findings of the survey conducted for the Grantee by TOPONORT, S.A. in 2011 and the preliminary findings of the hydrographic study carried out by the Japan International Cooperation Agency (“JICA”) scheduled for completion in 2012;

- Records of comments of vessel operators regarding the geometry of the approach channel and the location of the marker buoys and other aids to navigation in the approach channel;
 - Records of weather and sea events affecting the Gulf of Fonseca and the rivers flowing into the Gulf of Fonseca since the approach channel was last dredged;
 - Plans for the future expansion of the Port;
 - Government of El Salvador developmental policies and priorities for relevant sectors, including industry, agriculture, and tourism;
 - El Salvador Ports Demand Study prepared by Nathan Associates, Inc. for the International Finance Corporation (“IFC”) project and any other traffic forecast information available from the IFC;
 - Port of La Unión Pre-Feasibility Study prepared by IFC; and
 - Hydrological and sedimentation studies for the Bay of La Unión and the Gulf of Fonseca, including those prepared by JICA.
- 1.2 The Contractor shall meet with relevant IFC staff and consultants involved with the Port of La Unión concession project to review the status of the project and establish lines of communication and coordination.
- 1.3 The Contractor shall travel to El Salvador to meet with relevant Grantee, Government of El Salvador, and IFC officials to determine the status of any related work at the Port and coordinate plans for the required visits to the Port.
- 1.4 The Contractor shall visit the Port and confirm the work that must be completed to enable the Grantee to provide the related services necessary for the operation of the Port by the selected operating company under the proposed operating concession.
- 1.5 The Contractor shall prepare an updated work plan and timeline for the TA in collaboration with the relevant Grantee and IFC officials.

Interim Deliverable No. 1:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 1.

Task 2: Approach Channel Design Review

- 2.1 The Contractor shall review and evaluate the geometric design of the approach channel and the placement of marker buoys and other aids to navigation in the approach channel.
- 2.2 The Contractor shall identify and describe any potential improvements to the geometry of the approach channel and any changes in the type, number, and location of the aids to navigation in and along the approach channel that would facilitate the passage of vessels through the approach channel and enhance the

operational safety of the approach channel in accordance with generally accepted industry standards.

Task 3: Dredging Program Requirements

- 3.1 After reviewing the adequacy of existing information and survey results, the Contractor shall conduct any further tests, studies, and analyses necessary to determine the causes of sedimentation, analyze tidal and current flows, determine existing and projected approach channel, turning basin, berth and anchorage depths, and obtain any other site information necessary to develop initial and maintenance dredging programs, and shall estimate the costs of the programs over a ten-year planning horizon. The Contractor shall be responsible for supplying the instruments and technical equipment required to conduct any necessary surveys and tests (which are not expected to be extensive). The Grantee will provide boats and personnel to operate them as required by the Contractor.

Initial Dredging Program

- 3.2 The Contractor shall determine the initial dredging quantities and material types that must be removed to return the approach channel, berths, and turning basin to their design depths, also taking into account any recommended modifications to the approach channel resulting from the approach channel design review in Task 2.
- 3.3 The Contractor shall develop, specify, and estimate the costs of an initial dredging program for returning the approach channel, turning basin, and berths to their design depths.
- 3.4 The Contractor shall identify an appropriate location (or locations) for the disposition of the dredging spoils, taking into account environmental and cost considerations.
- 3.5 The Contractor shall compare the costs and benefits of alternative approaches to the design of the initial dredging program.

Maintenance Dredging Program

- 3.6 Balancing the reliability of results with the time required to conduct the necessary analyses and obtain additional information, the Contractor shall employ appropriate methodologies and the best information available to estimate the expected rate of loss-of-depth in the approach channel, berths, and anchorage due to sedimentation or other causes during the ten-year planning horizon. The Contractor shall also evaluate any preventive measures that might be taken to redirect currents and sediments or otherwise reduce loss of depth in the approach channel, berths, and anchorage.

- 3.7 The Contractor shall determine the material types and quantities that will need to be dredged annually (or during some other specified time period) to maintain the approach channel, turning basin, and berths at their design depths during the ten-year planning horizon.

Dredge Options

- 3.8 The Contractor shall determine the initial costs of acquiring a dredge (via purchase or lease), and the various costs of operating a dredge and any barges and associated equipment needed to meet the initial and maintenance dredging requirements for the ten-year planning horizon. The Contractor shall compare the costs and benefits to the Grantee of operating the dredge itself with the costs and benefits of contracting with a dredge operator for the completion of the dredging programs. The recommendation for the acquisition of the dredge and associated equipment or the contracting of the dredging shall also take into account the potential use of the dredge and other equipment to meet the maintenance dredging requirements in order to achieve the most cost-effective long-term solution. The cost analysis shall indicate the acquisition costs of the dredge and relevant operating costs, including (but not limited to) fuel, labor, equipment maintenance, insurance, and program management for both the in-house and the contracted alternatives.
- 3.9 The Contractor shall specify and justify the type of dredge to be used, the projected timeline for the completion of the dredging programs, and the planned disposition of the dredging spoils.

Interim Deliverable No. 2:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 2 and Task 3.

Task 4: Channel Maintenance Program

- 4.1 The Contractor shall develop, specify, and estimate the initial and annual costs of a program for maintaining the approach channel, turning basin, and berths (and anchorage area, if necessary) at their design depths during the ten-year planning horizon. The channel maintenance program shall consider continuous or periodic dredging, as well as any feasible preventative measures that might be taken to redirect currents and sediments or otherwise reduce the depositing and accumulation of materials in the approach channel, turning basin, berths, and anchorage. The analysis shall include:
- Relevant information obtained from Task 3, including appropriate locations for the disposition of the dredging spoils, the purchase or lease costs of the dredge and associated equipment, relevant annual costs of operating the dredge and disposing the dredging spoils during the ten-year planning horizon, and a comparison of the costs and benefits of acquiring and operating

the dredge in-house with the costs and benefits of contracting the maintenance dredging program; and

- The initial costs and annual maintenance costs of any civil works or other measures designed to reduce or prevent the depositing of materials in the approach channel, berths, and anchorage.

4.2 The Contractor shall compare the costs and benefits of alternative approaches for achieving the objectives of the channel maintenance program.

Interim Deliverable No. 3:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 4.

Task 5: Vessel Traffic Management System

5.1 Based on the El Salvador Ports Demand Study prepared by Nathan Associates, Inc. and other traffic projections related to the tender of the Port of La Unión operating concession, the Contractor shall forecast the ship profiles and movements to and from the Port through the approach channel during a ten-year planning horizon, specifying variables such as vessel size, frequency of arrival and departure, and time in the approach channel.

5.2 Based on the contours of the approach channel and the volume and characteristics of the expected vessel traffic during each year of the ten-year planning horizon, the Contractor shall determine the probability of vessels traveling in the same or opposite directions in the approach channel run into each other and evaluate the risk of a collision or grounding occurring in the approach channel without a vessel traffic management system in place.

5.3 Based on the risks determined in Task 5.2, the Contractor shall define the need for a vessel traffic management system and specify the requirements, potential sources, and timeline for implementing a vessel traffic management system capable of reducing accident risks to an acceptable level. The Contractor shall also recommend an organizational structure and staffing for the operation and management of the vessel traffic management system, and shall estimate the capital costs and the annual operating costs of the vessel traffic management system. The cost estimates shall include, at a minimum, costs related to labor, program management, maintenance, utilities, insurance, and training. The vessel traffic management system specifications should be suitable for use in a tender process.

5.4 The Contractor shall compare the costs and benefits of alternative approaches for achieving the objectives of the vessel traffic management system.

Interim Deliverable No. 4:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 5.

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Task 6: Tug Boat and Pilot Boat Specifications

- 6.1 Using the traffic projections compiled in Task 5, the Contractor shall determine the number and size of tug boats required to assist vessels with passage through the approach channel and docking at and departing from the Port wharf during the ten-year planning horizon. The Contractor shall also determine the number and type of pilot boat(s) required to transport pilots safely and efficiently to and from the entrance to the approach channel or other pilot boarding locations.
- 6.2 The Contractor shall develop specifications of the tug boats and pilot boats suitable for use in a tender process, estimate the approximate purchase or leasing costs of the tug boats and pilot boats, and identify potential sources and timelines for their acquisition. Within the tug boat specifications, the Contractor shall consider the potential use of the tug boats in emergency response situations such as fire, rescue, and oil spill containment and cleanup.
- 6.3 The Contractor shall recommend an organizational structure and staffing for the operation and management of the tug boats and pilot boats.
- 6.4 The Contractor shall estimate the annual operating costs of the tug boats and pilot boats, including maintenance, fuel, crew, insurance, supervision, program management, and other relevant expenses.

Interim Deliverable No. 5:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 6.

Task 7: Preliminary Environmental Impact Assessment

- 7.1 Based on a review of the existing Port and any current environmental improvement or remediation plans, the Contractor shall establish a baseline for measuring potential environmental impacts.
- 7.2 The Contractor shall conduct a preliminary review of the Project's environmental impact and environmental compliance with reference to local requirements and those of multilateral development banks (such as the World Bank and Inter-American Development Bank). This review shall identify potential positive and negative impacts, discuss the extent to which negative impacts can be avoided or mitigated, and develop plans for a full environmental impact assessment in anticipation of the Project moving forward to the implementation stage. In particular, this review shall examine the proposed dredging programs, channel maintenance program, vessel traffic management system, and tug boat and pilot boat acquisition.

Interim Deliverable No. 6:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 7.

Task 8: Management and Financial Review

- 8.1 The Contractor shall prepare a summary of the capital costs and annual operating costs of the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats.
- 8.2 The Contractor shall indicate potential sources of capital to finance the acquisition and up-front costs of the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats.
- 8.3 The Contractor shall coordinate with the IFC team assisting the Grantee with the Port operating concession to verify the entity (or entities) that have authority to manage the billing, collection, and receipt of associated usage fees related to the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats.
- 8.4 The Contractor shall develop recommendations to ensure that the management and financing of the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats are coordinated with the Port operating concession to ensure effective and efficient operation of the Port.

Implementation Plan

- 8.5 The Contractor shall develop a plan and timeline for Project implementation. The implementation plan and timeline shall specify appropriate periods of time for tender preparation, vendor bid preparation, bid evaluation, design work, manufacturing, installation and testing of equipment, and commencement. The implementation plan and timeline shall be developed in coordination with the timeline being developed by the IFC for the Port operating concession.

Interim Deliverable No. 7:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 8.

Task 9: U.S. Sources of Supply

- 9.1 The Contractor shall identify prospective U.S. suppliers of equipment and services for the Project in accordance with Clause I of Annex II of the Grant Agreement. The Contractor shall identify the potential value of U.S. exports of equipment and services and prepare a searchable list of U.S. suppliers that outlines prospective U.S. sources for procurement of goods and services related to Project implementation. The list shall include business name, point of contact,

address, telephone and fax numbers, e-mail address, and a general description of products and services that may be procured.

Interim Deliverable No. 8:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 9.

Task 10: Developmental Impact Assessment

10.1 For the benefit of those interested in the Project, the Contractor shall assess the development benefits associated with the Project and the methodology for measuring those benefits. The assessment shall include examples of the development benefits that would be expected in the Host Country if the Project is implemented as outlined in the TA. The Contractor shall focus on examples from the categories listed below and shall develop a methodology for assessing these impacts over time. The Contractor shall only list benefits in the categories that are applicable to the Project. The categories to be considered are as follows:

- *Infrastructure*: Provide a statement on the expected infrastructure impacts of the Project, particularly in relation to the overall operation of the Port.
- *Technology Transfer and Productivity Improvement*: Provide a description of any advanced technologies that would be utilized and any efficiencies that would be gained.
- *Human Capacity Building*: Assess the number and type of local positions that would be needed.
- *Market-Oriented Reforms*: Provide a description of any regulation, laws, or institutional changes that may be recommended.
- *Other*: Describe any other developmental benefits derived from the Project, such as improved safety or environmental benefits.

Interim Deliverable No. 9:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 10.

Task 11: Final Report

The Contractor shall prepare and deliver to the Grantee and USTDA a substantive and comprehensive final report of all work performed under these Terms of Reference ("Final Report"). The Final Report shall be organized according to the above tasks, and shall include all deliverables and documents that have been provided to the Grantee. The Final Report shall be prepared in accordance with Clause I of Annex II of the Grant Agreement. The Final Report shall be prepared in English and Spanish.

Notes:

- (1) The Contractor is responsible for compliance with U.S. export licensing requirements, if applicable, in the performance of the Terms of Reference.

- (2) The Contractor and the Grantee shall be careful to ensure that the public version of the Final Report contains no security or confidential information.
- (3) The Grantee and USTDA shall have an irrevocable, worldwide, royalty-free, non-exclusive right to use and distribute the Final Report and all work product that is developed under these Terms of Reference.



Annex II

USTDA Mandatory Contract Clauses

A. USTDA Mandatory Clauses Controlling

The parties to this contract acknowledge that this contract is funded in whole or in part by the U.S. Trade and Development Agency ("USTDA") under the Grant Agreement between the Government of the United States of America acting through USTDA and the Comisión Ejecutiva Portuaria Autónoma de El Salvador ("CEPA") ("Client"), dated _____ ("Grant Agreement"). The Client has selected _____ ("Contractor") to perform a technical assistance ("TA") for the Port of La Unión Vessel Traffic Program project ("Project") in El Salvador ("Host Country"). Notwithstanding any other provisions of this contract, the following USTDA mandatory contract clauses shall govern. All subcontracts entered into by Contractor funded or partially funded with USTDA Grant funds shall include these USTDA mandatory contract clauses, except for clauses B(1), G, H, I, and J. In addition, in the event of any inconsistency between the Grant Agreement and any contract or subcontract thereunder, the Grant Agreement shall be controlling.

B. USTDA as Financier

(1) USTDA Approval of Contract

All contracts funded under the Grant Agreement, and any amendments thereto, including assignments and changes in the Terms of Reference, must be approved by USTDA in writing in order to be effective with respect to the expenditure of USTDA Grant funds. USTDA will not authorize the disbursement of USTDA Grant funds until the contract has been formally approved by USTDA or until the contract conforms to modifications required by USTDA during the contract review process.

(2) USTDA Not a Party to the Contract

It is understood by the parties that USTDA has reserved certain rights such as, but not limited to, the right to approve the terms of this contract and amendments thereto, including assignments, the selection of all contractors, the Terms of Reference, the Final Report, and any and all documents related to any contract funded under the Grant Agreement. The parties hereto further understand and agree that USTDA, in reserving any or all of the foregoing approval rights, has acted solely as a financing entity to assure the proper use of United States Government funds, and that any decision by USTDA to exercise or refrain from exercising these approval rights shall be made as a financier in the course of financing the TA and shall not be construed as making USTDA a party to the contract. The parties hereto understand and agree that USTDA may, from time to time, exercise the foregoing approval rights, or discuss matters related to these rights and the Project with the parties to the contract or any subcontract, jointly or separately, without thereby incurring any responsibility or

liability to such parties. Any approval or failure to approve by USTDA shall not bar the Client or USTDA from asserting any right they might have against the Contractor, or relieve the Contractor of any liability which the Contractor might otherwise have to the Client or USTDA.

C. Nationality, Source, and Origin

Except as USTDA may otherwise agree, the following provisions shall govern the delivery of goods and services funded by USTDA under the Grant Agreement: (a) for professional services, the Contractor must be either a U.S. firm or U.S. individual; (b) the Contractor may use U.S. subcontractors without limitation, but the use of subcontractors from Host Country may not exceed twenty percent (20%) of the USTDA Grant amount and may only be used for specific services from the Terms of Reference identified in the subcontract; (c) employees of U.S. Contractor or U.S. subcontractor firms responsible for professional services shall be U.S. citizens or non-U.S. citizens lawfully admitted for permanent residence in the U.S.; (d) goods purchased for performance of the TA and associated delivery services (e.g., international transportation and insurance) must have their nationality, source, and origin in the United States; and (e) goods and services incidental to TA support (e.g., local lodging, food, and transportation) in Host Country are not subject to the above restrictions. USTDA will make available further details concerning these provisions upon request.

D. Recordkeeping and Audit

The Contractor and subcontractors funded under the Grant Agreement shall maintain, in accordance with generally accepted accounting procedures, books, records, and other documents, sufficient to reflect properly all transactions under or in connection with the contract. These books, records, and other documents shall clearly identify and track the use and expenditure of USTDA funds, separately from other funding sources. Such books, records, and documents shall be maintained during the contract term and for a period of three (3) years after final disbursement by USTDA. The Contractor and subcontractors shall afford USTDA, or its authorized representatives, the opportunity at reasonable times for inspection and audit of such books, records, and other documentation.

E. U.S. Carriers

(1) Air

Transportation by air of persons or property funded under the Grant Agreement shall be on U.S. flag carriers in accordance with the Fly America Act, 49 U.S.C. 40118, to the extent service by such carriers is available, as provided under applicable U.S. Government regulations.

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(2) Marine

Transportation by sea of property funded under the Grant Agreement shall be on U.S. carriers in accordance with U.S. cargo preference law.

F. Workman's Compensation Insurance

The Contractor shall provide adequate Workman's Compensation Insurance coverage for work performed under this Contract.

G. Reporting Requirements

The Contractor shall advise USTDA by letter as to the status of the Project on March 1st annually for a period of two (2) years after completion of the TA. In addition, if at any time the Contractor receives follow-on work from the Client, the Contractor shall so notify USTDA and designate the Contractor's contact point including name, telephone, and fax number. Since this information may be made publicly available by USTDA, any information which is confidential shall be designated as such by the Contractor and provided separately to USTDA. USTDA will maintain the confidentiality of such information in accordance with applicable law.

H. Disbursement Procedures

(1) USTDA Approval of Contract

Disbursement of Grant funds will be made only after USTDA approval of this contract. To make this review in a timely fashion, USTDA must receive from either the Client or the Contractor a photocopy of an English language version of a signed contract or a final negotiated draft version to the attention of the General Counsel's office at USTDA's address listed in Clause M below.

(2) Payment Schedule Requirements

A payment schedule for disbursement of Grant funds to the Contractor shall be included in this Contract. Such payment schedule must conform to the following USTDA requirements: (1) up to twenty percent (20%) of the total USTDA Grant amount may be used as a mobilization payment; (2) all other payments, with the exception of the final payment, shall be based upon contract performance milestones; and (3) the final payment may be no less than fifteen percent (15%) of the total USTDA Grant amount, payable upon receipt by USTDA of an approved Final Report in accordance with the specifications and quantities set forth in Clause I below. Invoicing procedures for all payments are described below.

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(3) Contractor Invoice Requirements

USTDA will make all disbursements of USTDA Grant funds directly to the Contractor. The Contractor must provide USTDA with an ACH Vendor Enrollment Form (available from USTDA) with the first invoice. The Client shall request disbursement of funds by USTDA to the Contractor for performance of the contract by submitting the following to USTDA:

(a) Contractor's Invoice

The Contractor's invoice shall include reference to an item listed in the Contract payment schedule, the requested payment amount, and an appropriate certification by the Contractor, as follows:

(i) For a mobilization payment (if any):

"As a condition for this mobilization payment, the Contractor certifies that it will perform all work in accordance with the terms of its Contract with the Client. To the extent that the Contractor does not comply with the terms and conditions of the Contract, including the USTDA mandatory provisions contained therein, it will, upon USTDA's request, make an appropriate refund to USTDA."

(ii) For contract performance milestone payments:

"The Contractor has performed the work described in this invoice in accordance with the terms of its contract with the Client and is entitled to payment thereunder. To the extent the Contractor has not complied with the terms and conditions of the Contract, including the USTDA mandatory provisions contained therein, it will, upon USTDA's request, make an appropriate refund to USTDA."

(iii) For final payment:

"The Contractor has performed the work described in this invoice in accordance with the terms of its contract with the Client and is entitled to payment thereunder. Specifically, the Contractor has submitted the Final Report to the Client, as required by the Contract, and received the Client's approval of the Final Report. To the extent the Contractor has not complied with the terms and conditions of the Contract, including the USTDA mandatory provisions contained therein, it will, upon USTDA's request, make an appropriate refund to USTDA."

(b) Client's Approval of the Contractor's Invoice

(i) The invoice for a mobilization payment must be approved in writing by the Client.

(ii) For contract performance milestone payments, the following certification by the Client must be provided on the invoice or separately:

"The services for which disbursement is requested by the Contractor have been performed satisfactorily, in accordance with applicable Contract provisions and the terms and conditions of the USTDA Grant Agreement."

(iii) For final payment, the following certification by the Client must be provided on the invoice or separately:

"The services for which disbursement is requested by the Contractor have been performed satisfactorily, in accordance with applicable Contract provisions and terms and conditions of the USTDA Grant Agreement. The Final Report submitted by the Contractor has been reviewed and approved by the Client."

(c) USTDA Address for Disbursement Requests

Requests for disbursement shall be submitted by courier or mail to the attention of the Finance Department at USTDA's address listed in Clause M below.

(4) Termination

In the event that the Contract is terminated prior to completion, the Contractor will be eligible, subject to USTDA approval, for reasonable and documented costs which have been incurred in performing the Terms of Reference prior to termination, as well as reasonable wind down expenses. Reimbursement for such costs shall not exceed the total amount of undisbursed Grant funds. Likewise, in the event of such termination, USTDA is entitled to receive from the Contractor all USTDA Grant funds previously disbursed to the Contractor (including but not limited to mobilization payments) which exceed the reasonable and documented costs incurred in performing the Terms of Reference prior to termination.

I. USTDA Final Report

(1) Definition

"Final Report" shall mean the Final Report described in the attached Annex I Terms of Reference or, if no such "Final Report" is described therein, "Final Report" shall mean a substantive and comprehensive report of work performed in accordance with the attached Annex I Terms of Reference, including any documents delivered to the Client.

(2) Final Report Submission Requirements

The Contractor shall provide the following to USTDA:

(a) One (1) complete version of the Final Report for USTDA's records. This version shall have been approved by the Client in writing and must be in the English language. It is the responsibility of the Contractor to ensure that confidential information, if any, contained in this version be clearly marked. USTDA will maintain the confidentiality of such information in accordance with applicable law.

and

(b) One (1) copy of the Final Report suitable for public distribution ("Public Version"). The Public Version shall have been approved by the Client in writing and must be in the English language. As this version will be available for public distribution, it must not contain any confidential information. If the report in (a) above contains no confidential information, it may be used as the Public Version. In any event, the Public Version must be informative and contain sufficient Project detail to be useful to prospective equipment and service providers.

and

(c) Two (2) CD-ROMs, each containing a complete copy of the Public Version of the Final Report. The electronic files on the CD-ROMs shall be submitted in a commonly accessible read-only format. As these CD-ROMs will be available for public distribution, they must not contain any confidential information. It is the responsibility of the Contractor to ensure that no confidential information is contained on the CD-ROMs.

The Contractor shall also provide one (1) copy of the Public Version of the Final Report to the Foreign Commercial Service Officer or the Economic Section of the U.S. Embassy in Host Country for informational purposes.

(3) Final Report Presentation

All Final Reports submitted to USTDA must be paginated and include the following:

(a) The front cover of every Final Report shall contain the name of the Client, the name of the Contractor who prepared the report, a report title, USTDA's logo, and USTDA's mailing and delivery addresses. If the complete version of the Final Report contains confidential information, the Contractor shall be responsible for labeling the front cover of that version of the Final Report with the term "Confidential Version." The Contractor shall be responsible for labeling the front cover of the Public Version of the Final Report with the term "Public Version." The front cover of every Final Report shall also contain the following disclaimer:

"This report was funded by the U.S. Trade and Development Agency (USTDA), an agency of the U.S. Government. The opinions, findings, conclusions or recommendations expressed in this document are those of the author(s) and do not necessarily represent the official position or policies of USTDA. USTDA makes no representation about, nor does it accept responsibility for, the accuracy or completeness of the information contained in this report."

(b) The inside front cover of every Final Report shall contain USTDA's logo, USTDA's mailing and delivery addresses, and USTDA's mission statement. Camera-ready copy of USTDA Final Report specifications will be available from USTDA upon request.

(c) The Contractor shall affix to the front of the CD-ROM a label identifying the Host Country, USTDA Activity Number, the name of the Client, the name of the Contractor who prepared the report, a report title, and the following language:

"The Contractor certifies that this CD-ROM contains the Public Version of the Final Report and that all contents are suitable for public distribution."

(d) The Contractor and any subcontractors that perform work pursuant to the Grant Agreement must be clearly identified in the Final Report. Business name, point of contact, address, telephone, and fax numbers shall be included for Contractor and each subcontractor.

(e) The Final Report, while aiming at optimum specifications and characteristics for the Project, shall identify the availability of prospective U.S. sources of supply. Business name, point of contact, address, telephone, and fax numbers shall be included for each commercial source.

(f) The Final Report shall be accompanied by a letter or other notation by the Client which states that the Client approves the Final Report. A certification by

the Client to this effect provided on or with the invoice for final payment will meet this requirement.

J. Modifications

All changes, modifications, assignments or amendments to this contract, including the appendices, shall be made only by written agreement by the parties hereto, subject to written USTDA approval.

K. TA Schedule

(1) TA Completion Date

The completion date for the TA, which is December 31, 2012, is the date by which the parties estimate that the TA will have been completed.

(2) Time Limitation on Disbursement of USTDA Grant Funds

Except as USTDA may otherwise agree, (a) no USTDA funds may be disbursed under this contract for goods and services which are provided prior to the Effective Date of the Grant Agreement; and (b) all funds made available under the Grant Agreement must be disbursed within four (4) years from the Effective Date of the Grant Agreement.

L. Business Practices

The Contractor agrees not to pay, promise to pay, or authorize the payment of any money or anything of value, directly or indirectly, to any person (whether a governmental official or private individual) for the purpose of illegally or improperly inducing anyone to take any action favorable to any party in connection with the TA. The Client agrees not to receive any such payment. The Contractor and the Client agree that each will require that any agent or representative hired to represent them in connection with the TA will comply with this paragraph and all laws which apply to activities and obligations of each party under this Contract, including but not limited to those laws and obligations dealing with improper payments as described above.

M. USTDA Address and Fiscal Data

Any communication with USTDA regarding this Contract shall be sent to the following address and include the fiscal data listed below:

U.S. Trade and Development Agency
1000 Wilson Boulevard, Suite 1600
Arlington, Virginia 22209-3901
USA

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Phone: (703) 875-4357
Fax: (703) 875-4009

Fiscal Data:

Appropriation No.: 11 12/13 1001
Activity No.: 2012-51012A
Reservation No.: 2012126
Grant No.: GH201251126

N. Definitions

All capitalized terms not otherwise defined herein shall have the meaning set forth in the Grant Agreement.

O. Taxes

USTDA funds provided under the Grant Agreement shall not be used to pay any taxes, tariffs, duties, fees, or other levies imposed under laws in effect in Host Country. Neither the Client nor the Contractor will seek reimbursement from USTDA for such taxes, tariffs, duties, fees, or other levies.

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**TERMS OF REFERENCE
(FROM USTDA GRANT AGREEMENT)**

Annex I

Terms of Reference

Objective

The objective of the technical assistance (“TA”) for the Port of La Unión Vessel Traffic Program Project (“Project”) is to assess vessel traffic improvement programs that would support the concession of the Port of La Unión in El Salvador. The TA will allow the Comisión Ejecutiva Portuaria Autónoma de El Salvador (“CEPA”) (“Grantee”) to support expanded operations at the Port of La Unión (“Port”) by facilitating the safe passage of shipping vessels through the Port’s approach channel and by eliminating any physical barriers to the use of the Port by large shipping vessels.

General Considerations for Deliverables and Documents

The U.S. firm selected by the Grantee to perform the TA (“Contractor”) shall undertake a quality control review process, including a technical and editorial review, of all deliverables and documents submitted to the Grantee to ensure readability, accuracy, and consistency. The interim deliverables specified in these Terms of Reference shall serve to keep the Grantee informed about the Contractor’s work on the TA and to ensure that the Contractor’s findings are acceptable to the Grantee before critical decisions are made on the TA. The Contractor shall submit monthly progress reports to the Grantee. The Contractor shall submit all deliverables and documents to the Grantee in English and Spanish. Meetings and presentations in El Salvador shall be conducted in Spanish.

Activities

Task 1: Collection and Review of Existing Information and Inventory of Port Facilities

1.1 The Contractor shall collect and review existing reports, plans, charts, and other documentation regarding the planning and development of the Port (most of which will be provided by the Grantee), including the following documentation, at a minimum:

- Original and as-built plans and drawings for the Phase 1 construction of the existing Port facilities;
- Records and surveys of the approach channel, turning basin, and berth depths during or after the Phase 1 construction program, and any existing dredging plans and charts for the approach channel, turning basin, berths, and anchorage;
- Results of hydrographic surveys of the approach channel, turning basin, berths, and anchorage, including the findings of the survey conducted for the Grantee by TOPONORT, S.A. in 2011 and the preliminary findings of the hydrographic study carried out by the Japan International Cooperation Agency (“JICA”) scheduled for completion in 2012;

- Records of comments of vessel operators regarding the geometry of the approach channel and the location of the marker buoys and other aids to navigation in the approach channel;
 - Records of weather and sea events affecting the Gulf of Fonseca and the rivers flowing into the Gulf of Fonseca since the approach channel was last dredged;
 - Plans for the future expansion of the Port;
 - Government of El Salvador developmental policies and priorities for relevant sectors, including industry, agriculture, and tourism;
 - El Salvador Ports Demand Study prepared by Nathan Associates, Inc. for the International Finance Corporation (“IFC”) project and any other traffic forecast information available from the IFC;
 - Port of La Unión Pre-Feasibility Study prepared by IFC; and
 - Hydrological and sedimentation studies for the Bay of La Unión and the Gulf of Fonseca, including those prepared by JICA.
- 1.2 The Contractor shall meet with relevant IFC staff and consultants involved with the Port of La Unión concession project to review the status of the project and establish lines of communication and coordination.
- 1.3 The Contractor shall travel to El Salvador to meet with relevant Grantee, Government of El Salvador, and IFC officials to determine the status of any related work at the Port and coordinate plans for the required visits to the Port.
- 1.4 The Contractor shall visit the Port and confirm the work that must be completed to enable the Grantee to provide the related services necessary for the operation of the Port by the selected operating company under the proposed operating concession.
- 1.5 The Contractor shall prepare an updated work plan and timeline for the TA in collaboration with the relevant Grantee and IFC officials.

Interim Deliverable No. 1:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 1.

Task 2: Approach Channel Design Review

- 2.1 The Contractor shall review and evaluate the geometric design of the approach channel and the placement of marker buoys and other aids to navigation in the approach channel.
- 2.2 The Contractor shall identify and describe any potential improvements to the geometry of the approach channel and any changes in the type, number, and location of the aids to navigation in and along the approach channel that would facilitate the passage of vessels through the approach channel and enhance the

operational safety of the approach channel in accordance with generally accepted industry standards.

Task 3: Dredging Program Requirements

- 3.1 After reviewing the adequacy of existing information and survey results, the Contractor shall conduct any further tests, studies, and analyses necessary to determine the causes of sedimentation, analyze tidal and current flows, determine existing and projected approach channel, turning basin, berth and anchorage depths, and obtain any other site information necessary to develop initial and maintenance dredging programs, and shall estimate the costs of the programs over a ten-year planning horizon. The Contractor shall be responsible for supplying the instruments and technical equipment required to conduct any necessary surveys and tests (which are not expected to be extensive). The Grantee will provide boats and personnel to operate them as required by the Contractor.

Initial Dredging Program

- 3.2 The Contractor shall determine the initial dredging quantities and material types that must be removed to return the approach channel, berths, and turning basin to their design depths, also taking into account any recommended modifications to the approach channel resulting from the approach channel design review in Task 2.
- 3.3 The Contractor shall develop, specify, and estimate the costs of an initial dredging program for returning the approach channel, turning basin, and berths to their design depths.
- 3.4 The Contractor shall identify an appropriate location (or locations) for the disposition of the dredging spoils, taking into account environmental and cost considerations.
- 3.5 The Contractor shall compare the costs and benefits of alternative approaches to the design of the initial dredging program.

Maintenance Dredging Program

- 3.6 Balancing the reliability of results with the time required to conduct the necessary analyses and obtain additional information, the Contractor shall employ appropriate methodologies and the best information available to estimate the expected rate of loss-of-depth in the approach channel, berths, and anchorage due to sedimentation or other causes during the ten-year planning horizon. The Contractor shall also evaluate any preventive measures that might be taken to redirect currents and sediments or otherwise reduce loss of depth in the approach channel, berths, and anchorage.

- 3.7 The Contractor shall determine the material types and quantities that will need to be dredged annually (or during some other specified time period) to maintain the approach channel, turning basin, and berths at their design depths during the ten-year planning horizon.

Dredge Options

- 3.8 The Contractor shall determine the initial costs of acquiring a dredge (via purchase or lease), and the various costs of operating a dredge and any barges and associated equipment needed to meet the initial and maintenance dredging requirements for the ten-year planning horizon. The Contractor shall compare the costs and benefits to the Grantee of operating the dredge itself with the costs and benefits of contracting with a dredge operator for the completion of the dredging programs. The recommendation for the acquisition of the dredge and associated equipment or the contracting of the dredging shall also take into account the potential use of the dredge and other equipment to meet the maintenance dredging requirements in order to achieve the most cost-effective long-term solution. The cost analysis shall indicate the acquisition costs of the dredge and relevant operating costs, including (but not limited to) fuel, labor, equipment maintenance, insurance, and program management for both the in-house and the contracted alternatives.
- 3.9 The Contractor shall specify and justify the type of dredge to be used, the projected timeline for the completion of the dredging programs, and the planned disposition of the dredging spoils.

Interim Deliverable No. 2:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 2 and Task 3.

Task 4: Channel Maintenance Program

- 4.1 The Contractor shall develop, specify, and estimate the initial and annual costs of a program for maintaining the approach channel, turning basin, and berths (and anchorage area, if necessary) at their design depths during the ten-year planning horizon. The channel maintenance program shall consider continuous or periodic dredging, as well as any feasible preventative measures that might be taken to redirect currents and sediments or otherwise reduce the depositing and accumulation of materials in the approach channel, turning basin, berths, and anchorage. The analysis shall include:
- Relevant information obtained from Task 3, including appropriate locations for the disposition of the dredging spoils, the purchase or lease costs of the dredge and associated equipment, relevant annual costs of operating the dredge and disposing the dredging spoils during the ten-year planning horizon, and a comparison of the costs and benefits of acquiring and operating

the dredge in-house with the costs and benefits of contracting the maintenance dredging program; and

- The initial costs and annual maintenance costs of any civil works or other measures designed to reduce or prevent the depositing of materials in the approach channel, berths, and anchorage.

4.2 The Contractor shall compare the costs and benefits of alternative approaches for achieving the objectives of the channel maintenance program.

Interim Deliverable No. 3:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 4.

Task 5: Vessel Traffic Management System

5.1 Based on the El Salvador Ports Demand Study prepared by Nathan Associates, Inc. and other traffic projections related to the tender of the Port of La Unión operating concession, the Contractor shall forecast the ship profiles and movements to and from the Port through the approach channel during a ten-year planning horizon, specifying variables such as vessel size, frequency of arrival and departure, and time in the approach channel.

5.2 Based on the contours of the approach channel and the volume and characteristics of the expected vessel traffic during each year of the ten-year planning horizon, the Contractor shall determine the probability of vessels traveling in the same or opposite directions in the approach channel run into each other and evaluate the risk of a collision or grounding occurring in the approach channel without a vessel traffic management system in place.

5.3 Based on the risks determined in Task 5.2, the Contractor shall define the need for a vessel traffic management system and specify the requirements, potential sources, and timeline for implementing a vessel traffic management system capable of reducing accident risks to an acceptable level. The Contractor shall also recommend an organizational structure and staffing for the operation and management of the vessel traffic management system, and shall estimate the capital costs and the annual operating costs of the vessel traffic management system. The cost estimates shall include, at a minimum, costs related to labor, program management, maintenance, utilities, insurance, and training. The vessel traffic management system specifications should be suitable for use in a tender process.

5.4 The Contractor shall compare the costs and benefits of alternative approaches for achieving the objectives of the vessel traffic management system.

Interim Deliverable No. 4:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 5.

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Task 6: Tug Boat and Pilot Boat Specifications

- 6.1 Using the traffic projections compiled in Task 5, the Contractor shall determine the number and size of tug boats required to assist vessels with passage through the approach channel and docking at and departing from the Port wharf during the ten-year planning horizon. The Contractor shall also determine the number and type of pilot boat(s) required to transport pilots safely and efficiently to and from the entrance to the approach channel or other pilot boarding locations.
- 6.2 The Contractor shall develop specifications of the tug boats and pilot boats suitable for use in a tender process, estimate the approximate purchase or leasing costs of the tug boats and pilot boats, and identify potential sources and timelines for their acquisition. Within the tug boat specifications, the Contractor shall consider the potential use of the tug boats in emergency response situations such as fire, rescue, and oil spill containment and cleanup.
- 6.3 The Contractor shall recommend an organizational structure and staffing for the operation and management of the tug boats and pilot boats.
- 6.4 The Contractor shall estimate the annual operating costs of the tug boats and pilot boats, including maintenance, fuel, crew, insurance, supervision, program management, and other relevant expenses.

Interim Deliverable No. 5:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 6.

Task 7: Preliminary Environmental Impact Assessment

- 7.1 Based on a review of the existing Port and any current environmental improvement or remediation plans, the Contractor shall establish a baseline for measuring potential environmental impacts.
- 7.2 The Contractor shall conduct a preliminary review of the Project's environmental impact and environmental compliance with reference to local requirements and those of multilateral development banks (such as the World Bank and Inter-American Development Bank). This review shall identify potential positive and negative impacts, discuss the extent to which negative impacts can be avoided or mitigated, and develop plans for a full environmental impact assessment in anticipation of the Project moving forward to the implementation stage. In particular, this review shall examine the proposed dredging programs, channel maintenance program, vessel traffic management system, and tug boat and pilot boat acquisition.

Interim Deliverable No. 6:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 7.

Task 8: Management and Financial Review

- 8.1 The Contractor shall prepare a summary of the capital costs and annual operating costs of the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats.
- 8.2 The Contractor shall indicate potential sources of capital to finance the acquisition and up-front costs of the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats.
- 8.3 The Contractor shall coordinate with the IFC team assisting the Grantee with the Port operating concession to verify the entity (or entities) that have authority to manage the billing, collection, and receipt of associated usage fees related to the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats.
- 8.4 The Contractor shall develop recommendations to ensure that the management and financing of the dredging programs, channel maintenance program, vessel traffic management system, and tug boats and pilot boats are coordinated with the Port operating concession to ensure effective and efficient operation of the Port.

Implementation Plan

- 8.5 The Contractor shall develop a plan and timeline for Project implementation. The implementation plan and timeline shall specify appropriate periods of time for tender preparation, vendor bid preparation, bid evaluation, design work, manufacturing, installation and testing of equipment, and commencement. The implementation plan and timeline shall be developed in coordination with the timeline being developed by the IFC for the Port operating concession.

Interim Deliverable No. 7:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 8.

Task 9: U.S. Sources of Supply

- 9.1 The Contractor shall identify prospective U.S. suppliers of equipment and services for the Project in accordance with Clause I of Annex II of the Grant Agreement. The Contractor shall identify the potential value of U.S. exports of equipment and services and prepare a searchable list of U.S. suppliers that outlines prospective U.S. sources for procurement of goods and services related to Project implementation. The list shall include business name, point of contact,

address, telephone and fax numbers, e-mail address, and a general description of products and services that may be procured.

Interim Deliverable No. 8:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 9.

Task 10: Developmental Impact Assessment

10.1 For the benefit of those interested in the Project, the Contractor shall assess the development benefits associated with the Project and the methodology for measuring those benefits. The assessment shall include examples of the development benefits that would be expected in the Host Country if the Project is implemented as outlined in the TA. The Contractor shall focus on examples from the categories listed below and shall develop a methodology for assessing these impacts over time. The Contractor shall only list benefits in the categories that are applicable to the Project. The categories to be considered are as follows:

- *Infrastructure*: Provide a statement on the expected infrastructure impacts of the Project, particularly in relation to the overall operation of the Port.
- *Technology Transfer and Productivity Improvement*: Provide a description of any advanced technologies that would be utilized and any efficiencies that would be gained.
- *Human Capacity Building*: Assess the number and type of local positions that would be needed.
- *Market-Oriented Reforms*: Provide a description of any regulation, laws, or institutional changes that may be recommended.
- *Other*: Describe any other developmental benefits derived from the Project, such as improved safety or environmental benefits.

Interim Deliverable No. 9:

The Contractor shall prepare and submit to the Grantee an interim report detailing the findings from Task 10.

Task 11: Final Report

The Contractor shall prepare and deliver to the Grantee and USTDA a substantive and comprehensive final report of all work performed under these Terms of Reference ("Final Report"). The Final Report shall be organized according to the above tasks, and shall include all deliverables and documents that have been provided to the Grantee. The Final Report shall be prepared in accordance with Clause I of Annex II of the Grant Agreement. The Final Report shall be prepared in English and Spanish.

Notes:

- (1) The Contractor is responsible for compliance with U.S. export licensing requirements, if applicable, in the performance of the Terms of Reference.

- (2) The Contractor and the Grantee shall be careful to ensure that the public version of the Final Report contains no security or confidential information.
- (3) The Grantee and USTDA shall have an irrevocable, worldwide, royalty-free, non-exclusive right to use and distribute the Final Report and all work product that is developed under these Terms of Reference.



A N N E X 6

U.S. FIRM INFORMATION FORM



USTDA-Funded Feasibility Study, Technical Assistance, or Training Grant

U.S. Firm Information Form

This form is designed to enable the U.S. Trade and Development Agency ("USTDA") to obtain information about entities and individuals proposed for participation in USTDA-funded activities. Information in this form is used to conduct screening of entities and individuals to ensure compliance with legislative and executive branch prohibitions on providing support or resources to, or engaging in transactions with, certain individuals or entities with which USTDA must comply.

USTDA Activity Number *[To be completed by USTDA]*

Activity Type <i>[To be completed by USTDA]</i>	Feasibility Study	Technical Assistance	Other (specify)
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Activity Title *[To be completed by USTDA]*

Full Legal Name of U.S. Firm

Business Address (street address only)

Telephone	Fax	Website
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Year Established (include any predecessor company(s) and year(s) established, if appropriate).
Please attach additional pages as necessary.

Please provide a list of directors and principal officers as detailed in Attachment A. Attached? Yes No

Type of Ownership	Publicly Traded Company
	Private Company
	Other (please specify)

If Private Company or Other (if applicable), provide a list of shareholders and the percentage of their ownership. In addition, for each shareholder that owns 15% or more shares in U.S. Firm, please complete Attachment B.

Is the U.S. Firm a wholly-owned or partially owned subsidiary?	Yes <input type="checkbox"/> No <input type="checkbox"/>
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If so, please provide the name of the U.S. Firm's parent company(s). In addition, for any parent identified, please complete Attachment B.

Is the U.S. Firm proposing to subcontract some of the proposed work to another firm?	Yes <input type="checkbox"/> No <input type="checkbox"/>
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If yes, U.S. Firm shall complete Attachment C for each subcontractor. Attached?	Yes <input type="checkbox"/> Not applicable <input type="checkbox"/>
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Project Manager

Name	Surname	
	Given Name	
Address		
Telephone		
Fax		
Email		

Negotiation Prerequisites

Discuss any current or anticipated commitments which may impact the ability of the U.S. Firm or its subcontractors to complete the Activity as proposed and reflect such impact within the project schedule.

Identify any specific information which is needed from the Grantee before commencing negotiations.

U.S. Firm may attach additional sheets, as necessary.

U.S. Firm's Representations

U.S. Firm shall certify to the following (or provide any explanation as to why any representation cannot be made):

1. U.S. Firm is a [check one] Corporation LLC Partnership Sole Proprietor Other:
 duly organized, validly existing and in good standing under the laws of the State of:
 The U.S. Firm has all the requisite corporate power and authority to conduct its business as presently conducted, to submit this proposal, and if selected, to execute and deliver a contract to the Grantee for the performance of the USTDA Activity. The U.S. Firm is not debarred, suspended, or to the best of its knowledge or belief, proposed for debarment or ineligible for the award of contracts by any federal or state governmental agency or authority.
2. The U.S. Firm has included herewith, a copy of its Articles of Incorporation (or equivalent charter or document issued by a designated authority in accordance with applicable laws that provides information and authentication regarding the legal status of an entity) and a Certificate of Good Standing (or equivalent document) issued within 1 month of the date of signature below by the State of:
 The U.S. Firm commits to notify USTDA and the Grantee if it becomes aware of any change in its status in the state in which it is incorporated. USTDA retains the right to request an updated certificate of good standing.
3. Neither the U.S. Firm nor any of its principal officers have, within the ten-year period preceding the submission of this proposal, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating federal or state criminal tax laws, or receiving stolen property.
4. Neither the U.S. Firm, nor any of its principal officers, is presently indicted for, or otherwise criminally or civilly charged with, commission of any of the offenses enumerated in paragraph 3 above.
5. There are no federal or state tax liens pending against the assets, property or business of the U.S. Firm. The U.S. Firm, has not, within the three-year period preceding the submission of this proposal, been notified of any delinquent federal or state taxes in an amount that exceeds US\$3,000 for which the liability remains unsatisfied. Taxes are considered delinquent if (a) the tax liability has been fully determined, with no pending administrative or judicial appeals; and (b) a taxpayer has failed to pay the tax liability when full payment is due and required.
6. The U.S. Firm has not commenced a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself of its debts under any bankruptcy, insolvency or other similar law. The U.S. Firm has not had filed against it an involuntary petition under any bankruptcy, insolvency or similar law.
7. The U.S. Firm certifies that it complies with USTDA Nationality, Source, and Origin Requirements and shall continue to comply with such requirements throughout the duration of the USTDA-funded activity. The U.S. Firm commits to notify USTDA and the Grantee if it becomes aware of any change which might affect U.S. Firm's ability to meet the USTDA Nationality, Source, and Origin Requirements.

The U.S. Firm shall notify USTDA if any of the representations are no longer true and correct.

U.S. Firm certifies that the information provided in this form is true and correct. U.S. Firm understands and agrees that the U.S. Government may rely on the accuracy of this information in processing a request to participate in a USTDA-funded activity. If at any time USTDA has reason to believe that any person or entity has willfully and knowingly provided incorrect information or made false statements, USTDA may take action under applicable law. The undersigned represents and warrants that he/she has the requisite power and authority to sign on behalf of the U.S. Firm.

Name	<input type="text"/>	Signature	<input type="text"/>
Title	<input type="text"/>		
Organization	<input type="text"/>	Date	<input type="text"/>



ATTACHMENT B

USTDA-Funded Feasibility Study, Technical Assistance, or Training Grant

U.S. Firm Information Form – Shareholder(s) and Parent Company(s)

If applicable, U.S. Firm provided a list of shareholders and the percentage of their ownership. This form shall be completed for each shareholder that owns 15% or more shares in U.S. Firm, as well as any parent corporation of the U.S. Firm ("Shareholder"). In addition, this form shall be completed for each shareholder identified in Attachment B that owns 15% or more shares in any Shareholder, as well as any parent identified in Attachment B.

USTDA Activity Number [To be completed by USTDA]	
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Activity Title [To be completed by USTDA]	
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Full Legal Name of U.S. Firm	
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Full Legal Name of Shareholder	
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Business Address of Shareholder (street address only)	
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Telephone number		Fax Number	
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Year Established (include any predecessor company(s) and year(s) established, if appropriate). Please attach additional pages as necessary.	
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Country of Shareholder's Principal Place of Business	
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Please provide a list of directors and principal officers as detailed in Attachment A. Attached?	Yes
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Type of Ownership	Publicly Traded Company
	Private Company
	Other

If applicable, provide a list of shareholders and the percentage of their ownership. In addition, for each shareholder that owns 15% or more shares in Shareholder, please complete Attachment B.	
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Is the Shareholder a wholly-owned or partially owned subsidiary?	Yes
	No

If so, please provide the name of the Shareholder's parent(s). In addition, for any parent identified, please complete Attachment B.	
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Shareholder may attach additional sheets, as necessary.



ATTACHMENT C

USTDA-Funded Feasibility Study, Technical Assistance, or Training Grant

Subcontractor Information Form

This form is designed to enable the U.S. Trade and Development Agency ("USTDA") to obtain information about entities and individuals proposed for participation in USTDA-funded activities. Information in this form is used to conduct screening of entities and individuals to ensure compliance with legislative and executive branch prohibitions on providing support or resources to, or engaging in transactions with, certain individuals or entities with which USTDA must comply.

USTDA Activity Number [<i>To be completed by USTDA</i>]	
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Activity Title [<i>To be completed by USTDA</i>]	
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Full Legal Name of Prime Contractor U.S. Firm ("U.S. Firm")	
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Full Legal Name of Subcontractor	
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Business Address of Subcontractor (street address only)	
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Telephone Number	
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Fax Number	
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Year Established (include any predecessor company(s) and year(s) established, if appropriate). Please attach additional pages as necessary.	
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Subcontractor Point of Contact

Name	Surname	
	Given Name	

Address	
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Telephone	
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Fax	
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Email	
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Subcontractor's Representations

Subcontractor shall provide the following (or any explanation as to why any representation cannot be made), made as of the date of the proposal:

1. Subcontractor is a <i>[check one]</i>	<input type="checkbox"/> Corporation	<input type="checkbox"/> LLC	<input type="checkbox"/> Partnership	<input type="checkbox"/> Sole Proprietor	<input type="checkbox"/> Other
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duly organized, validly existing and in good standing under the laws of: _____ .

The subcontractor has all the requisite corporate power and authority to conduct its business as presently conducted, to participate in this proposal, and if the U.S. Firm is selected, to execute and deliver a subcontract to the U.S. Firm for the performance of the USTDA Activity and to perform the USTDA Activity. The subcontractor is not debarred, suspended, or to the best of its knowledge or belief, proposed for debarment or ineligible for the award of contracts by any federal or state governmental agency or authority.

2. Neither the subcontractor nor any of its principal officers have, within the ten-year period preceding the submission of the Offeror's proposal, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, violating federal or state criminal tax laws, or receiving stolen property.

3. Neither the subcontractor, nor any of its principal officers, is presently indicted for, or otherwise criminally or civilly charged with, commission of any of the offenses enumerated in paragraph 2 above.

4. There are no federal or state tax liens pending against the assets, property or business of the subcontractor. The subcontractor, has not, within the three-year period preceding this RFP, been notified of any delinquent federal or state taxes in an amount that exceeds \$3,000 for which the liability remains unsatisfied. Taxes are considered delinquent if (a) the tax liability has been fully determined, with no pending administrative or judicial appeals; and (b) a taxpayer has failed to pay the tax liability when full payment is due and required.

5. The subcontractor has not commenced a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law. The subcontractor has not had filed against it an involuntary petition under any bankruptcy, insolvency or similar law.

6. The Subcontractor certifies that it complies with the USTDA Nationality, Source, and Origin Requirements and shall continue to comply with such requirements throughout the duration of the USTDA-funded activity. The Subcontractor commits to notify USTDA, the Contractor, and the Grantee if it becomes aware of any change which might affect U.S. Firm's ability to meet the USTDA Nationality, Source, and Origin Requirements.

The selected Subcontractor shall notify the U.S. Firm, Grantee and USTDA if any of the representations included in its proposal are no longer true and correct.

Subcontractor certifies that the information provided in this form is true and correct. Subcontractor understands and agrees that the U.S. Government may rely on the accuracy of this information in processing a request to participate in a USTDA-funded activity. If at any time USTDA has reason to believe that any person or entity has willfully and knowingly provided incorrect information or made false statements, USTDA may take action under applicable law. The undersigned represents and warrants that he/she has the requisite power and authority to sign on behalf of the Subcontractor.

Name		Signature	
Title			
Organization		Date	