USAID | VIETNAM
FROM THE AMERICAN PEOPLE

Issue Date: January 21, 2022
Deadline for Question Clarifications: February 8, 2022
Closing Date: February 28, 2022 (09:00 am, Hanoi Time)

Subject: Notice of Funding Opportunity (NOFO) Number: 72044022RFA00001

Activity Title: Strengthening Vietnam's Commercial and Investment Alternative Dispute Resolution Ecosystem Activity (Vietnam ADR)

Dear Prospective Applicants:

The United States Agency for International Development (USAID) in Vietnam (USAID/Vietnam) is seeking applications for a Cooperative Agreement from qualified entities to implement the *Strengthening Vietnam's Commercial and Investment Alternative Dispute Resolution Ecosystem Activity*. Eligibility for this award is not restricted. The authority for the NOFO is found in the Foreign Assistance Act of 1961, as amended.

USAID intends to make an award to the responsible applicant whose application best meets the requirements of this NOFO and the Merit Review Criteria contained herein. While one award is anticipated as a result of this Notice of Funding Opportunity (NOFO), USAID reserves the right to fund any or none of the applications submitted.

Applicants under consideration for an award that have never received funding from USAID may be subject to a pre-award audit to determine fiscal responsibility, ensure adequacy of financial controls, and establish an indirect cost rate.

For the purposes of this NOFO the term "Grant" is synonymous with "Cooperative Agreement"; "Grantee" is synonymous with "Recipient"; and "Grant Officer" is synonymous with "Agreement Officer". Eligible organizations interested in submitting an application are encouraged to read this funding opportunity thoroughly to understand the type of program sought, application submission requirements and evaluation process. The successful applicant will be responsible for ensuring the achievement of the program objectives.

To be eligible for award, the applicant must provide all information as required in this NOFO and meet eligibility standards in Section C of this NOFO. This funding opportunity is posted on www.grants.gov, and may be amended. Potential applicants should regularly check the website to ensure they have the latest information pertaining to this notice of funding opportunity. It is the responsibility of the applicant to ensure that the NOFO has been received from the internet in its entirety and USAID bears no responsibility for data errors resulting from transmission or conversion processes. If you have difficulty registering on www.grants.gov or accessing the NOFO, please

contact the Grants.gov Helpdesk at 1-800-518-4726 or via email at support@grants.gov for technical assistance.
USAID may not award to an applicant unless the applicant has complied with all applicable unique entity identifier and System for Award Management (SAM) requirements detailed in Section D.10. The registration process may take many weeks to complete. Therefore, applicants are encouraged to begin registration early in the process.

Please send any questions to the point(s) of contact identified in Section D. The deadline for questions is shown above. Responses to questions received prior to the deadline will be furnished to all potential applicants through an amendment to this notice posted on www.grants.gov.

Issuance of this notice of funding opportunity does not constitute an award commitment on the part of the Government nor does it commit the Government to pay for any costs incurred in preparation or submission of comments/suggestions or an application. Applications are submitted at the risk of the applicant. All preparation and submission costs are at the applicant's expense.

Thank you for your interest in USAID programs.

Sincerely,

/s/

Suzanne H. Johnson
Agreement Officer
Office of Acquisition & Assistance
USAID/Vietnam

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SECTION A: FUNDING OPPORTUNITY DESCRIPTION

This funding opportunity is authorized under the Foreign Assistance Act (FAA) of 1961, as amended. The resulting award will be subject to 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, and USAID's supplement, 2 CFR 700, as well as the additional requirements found in Section F.

A.1. Background and Context

Alternative Dispute Resolution (ADR) in commercial and investment activities is an exercise through which contract related disputes are resolved by facilitated negotiation, conciliation/mediation, and arbitration. These mechanisms often replace formal court proceedings and may help reduce the pressure on the court system. In Vietnam, ADR formally consists of commercial arbitration and mediation.

In recent years, especially after the issuance of the 2010 Law on Commercial Arbitration, ADR in Vietnam has gained momentum and is becoming an increasingly attractive method of resolving disputes for both domestic and foreign investors. When faced with lengthy civil litigation procedures and a court system with limited bandwidth in economic hubs like Hanoi and Ho Chi Minh City, ADR proceedings have advantages over traditional methods. ADR procedures are often quicker than court proceedings, which is of benefit to both businesses. The total cost of ADR is normally less than litigation, and procedures are often completed in private and conducted confidentially, avoiding the risk of adverse publicity and reputational damage that could arise from a court case.

While commercial ADR regulations show some improvements, ADR in international investment disputes is still a novel area for Vietnam and has not been addressed with sufficient detail in Vietnam's jurisprudence, body of law and relevant international treaties. It is currently being negotiated within the framework of the United Nations Commission on International Trade Law (UNCITRAL) Working Group III. Investment dispute settlement by mediation is considered to be less expensive, friendly and effective, and does not adversely affect the relationship between the Government and investors.

<u>ADR has great potential for development in Vietnam but awareness and trust of businesses in ADR is limited</u>. As ADR is a crucial aspect of an investment climate, the demand for ADR has increased along with Vietnam's impressive economic growth and active integration into the global economy. When entering any new market, foreign investors are always concerned with the availability of dispute resolution fora. This is no different in Vietnam, where an apparent lack of transparency in the local legal system, the risks associated with political interference and the local courts' limitations when dealing with complex and technical cases have always been imperative issues. In those circumstances, foreign investors often tend to favor arbitration, and Vietnam is responding to that trend[1]. In recent years, the number of commercial arbitration cases has increased substantially as a result of increased economic activities and improvement in ADR legislation. The number of cases at Vietnam International Arbitration Center (VIAC) - the largest and internationally

[1] Arbitration prospects and pitfalls in Vietnam: Is it just the beginning?

recognized arbitration center in Vietnam - increased more than 3 times from 64 cases in 2012 to 221 cases in 2020. The main areas of disputes resolved at the VIAC are sale of goods (47 percent), construction (14 percent) and services (12 percent), and the major nationalities of foreign parties are China, Singapore, and South Korea. Nearly 90 percent of the disputes at VIAC are in Hanoi and Ho Chi Minh City. In the future, the need for a more robust ADR system will only continue to grow as the many new Free Trade Agreements (FTAs) to which Vietnam is a signatory have ADR provisions to be fulfilled.

Despite this positive development, **local** businesses still prefer judicial litigation over ADR. According to a media report, the total numbers of arbitration cases only account for approximately 1% of the total commercial disputes handled by Vietnam's civil courts in 2017[2]. The Ministry of Justice (MOJ) reported that many local Vietnamese businesses do not even know the existence of ADR and usually use the court to solve their disputes. VIAC's analysis showed that Vietnamese enterprises especially small and medium sized enterprises do not have strong legal teams and therefore have little knowledge regarding dispute resolution in general, and ADR in particular[3].

<u>Besides poor awareness, another key reason for the under-utilization of ADR in Vietnam is the lack of trust in the ADR mechanism</u>. This is because domestic arbitral awards can be set aside or vacated without reasonable justification by the courts. Firms have lower confidence in the enforceability of arbitral awards, as judges can review and set aside domestic arbitral awards on grounds that do not align with international ADR practices. Weak enforceability of arbitral awards is disincentive to the adoption of arbitration in Vietnam. Although only 8 percent of the domestic arbitral awards were set aside by the courts, the vacated arbitral awards accounts for up to 50 percent of the total numbers of awards being challenged to courts during 2011-2014. **This means once an arbitral award is challenged to the courts by one party it will have a 50 percent chance of being vacated**. This uncertainty tarnishes the aspirational "finality" of an arbitral award raising the specter of continued legal action between concerned parties. Additionally, although the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, (commonly known as the "New York Convention 1958") came into force in Vietnam on December 11, 1995, there remains significant uncertainty as to the extent to which foreign arbitration awards can be enforced in Vietnam. The percentage of applications for enforcement of foreign arbitral awards which have been rejected by the Vietnamese courts is notably high. For example, according to the Ministry of Justice, **only 49 percent of the foreign arbitral awards were recognized in Vietnam from 2012 to 2019**. Even among the recognized arbitration awards, the percentage of awards which have been actually enforced is still unknown.

The root causes of these enforcement challenges are due to: (1) the Law on Commercial Arbitration (LCA) which allows for a broad scope of judicial review of arbitral awards unlike the international standards (UNCITRAL Model Law on International Commercial Arbitration); (2) limited ADR knowledge and other undue influence sometimes caused judges to provide inconsistent interpretation of the LCA and other related laws leading to this complication; and (3) civil judgement enforcement, which includes arbitral award enforcement, is not effective due to poor capacity and resources.

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[2] According to the statistics released at the workshop on ADR dated 7 August 2018, , the total commercial dispute handled by arbitration centers only equal to 1% of this number:

[3] VIAC's interview on commercial ADR in Vietnam

In addition, local ADR service quality is not up to international standards. The limited capacity of many Vietnamese arbitrators, mediators, and poor operation of ADR centers appear to hamper more widespread adoption of ADR in Vietnam**.** According to USAID's 2021 rapid assessment on Commercial ADR, arbitration centers in Vietnam do not have sufficient qualified arbitrators, especially in specialized areas such as energy, engineering, finance, intellectual property rights, etc. Only a few arbitrators have a common law background (while a large number of international transactions are governed by either English or Singapore law), and many ADR professionals are not fluent in English negatively affecting the ability to resolve international disputes. There may also be concerns that some arbitrators are vulnerable to political influence due to their past or present positions within, or related to, the government. Therefore, foreign arbitrations are normally preferred in resolving complex international disputes. For large disputes, foreign investors have indicated a preference for international arbitration centers, such as the Singapore International Arbitration Center (SIAC). Therefore, capacity building activities for alternative dispute resolution including activities related not only to commercial matter but also investment for central and local government agencies with management functions State on investment and investment dispute settlement is necessary.

ADR legislation needs further improvement to align with international standards and enable the healthy growth of ADR in Vietnam. Vietnam's legislation in this area has yet to meet international standards. Vietnam's Law on Commercial Arbitration has been in force since 2010 and many flaws and challenges have come to the fore after 11 years of implementation. In terms of mediation, Vietnam may also benefit from upgrading Decree 22/2017/ND-CP on commercial mediation, as the current decree is a sublaw document, and is unable to resolve legislation gaps among specialized laws.

A.2. Activity Goal and Objectives

Goal:

- To promote the utilization of commercial and investment Alternative Dispute Resolution (ADR) in Vietnam to improve rule of law, support judicial reform and enhance the business environment for both local and international businesses.

Objectives:

- To enhance trust in the local commercial and investment ADR ecosystem by:
    - Improving the ADR related legislation; *and*
    - Strengthening capacity and skills of ADR stakeholders.
- To enhance awareness of local businesses on the benefits and availability of ADR.

Geographic Focus

This is a nation-wide Activity and is designed for both national and local levels. However, the Recipient should focus its effort on provinces and cities which are considered economic and investment hubs where there are many exposures to dispute resolution opportunities in economic and investment areas.

A.3. Activity Theory of Change

Building on the context above, further analysis during the rapid assessment process found that a key reason for ADR under-utilization in Vietnam is low trust in the effectiveness of the system and poor awareness about the benefits of ADR in resolving commercial and investment disputes. Therefore, the theory of change is that: ***If*** *the trust in the local ADR system and awareness of ADR's benefits are enhanced* ***then*** *the utilization of ADR in resolving commercial and investment related conflicts will be improved.*

To realize this theory of change requires the following three-pronged approach:

(1) Strengthening the ADR/Justice System by improving the legislative and normative frameworks to remove obstacles to the development of commercial and investment ADR and enhance enforceability. The current ADR legislation and rules have run their course and need to change to support a stronger ADR market in Vietnam. The activity is designed to include: (1) supporting Vietnam to review ADR related regulations and identify opportunities to reform; (2) assisting Vietnam in aligning ADR regulations with international standards and best practices such as the UNCITRAL Model Law on International Commercial Arbitration and Mediation, Singapore Convention on International Mediation; and (3) supporting the Supreme People's Court (SPC) in introducing and publishing binding precedents for judges. USAID will discuss the possibility to support the development of such precedents to provide more consistency and predictability with the Ministry of Justice and SPC.

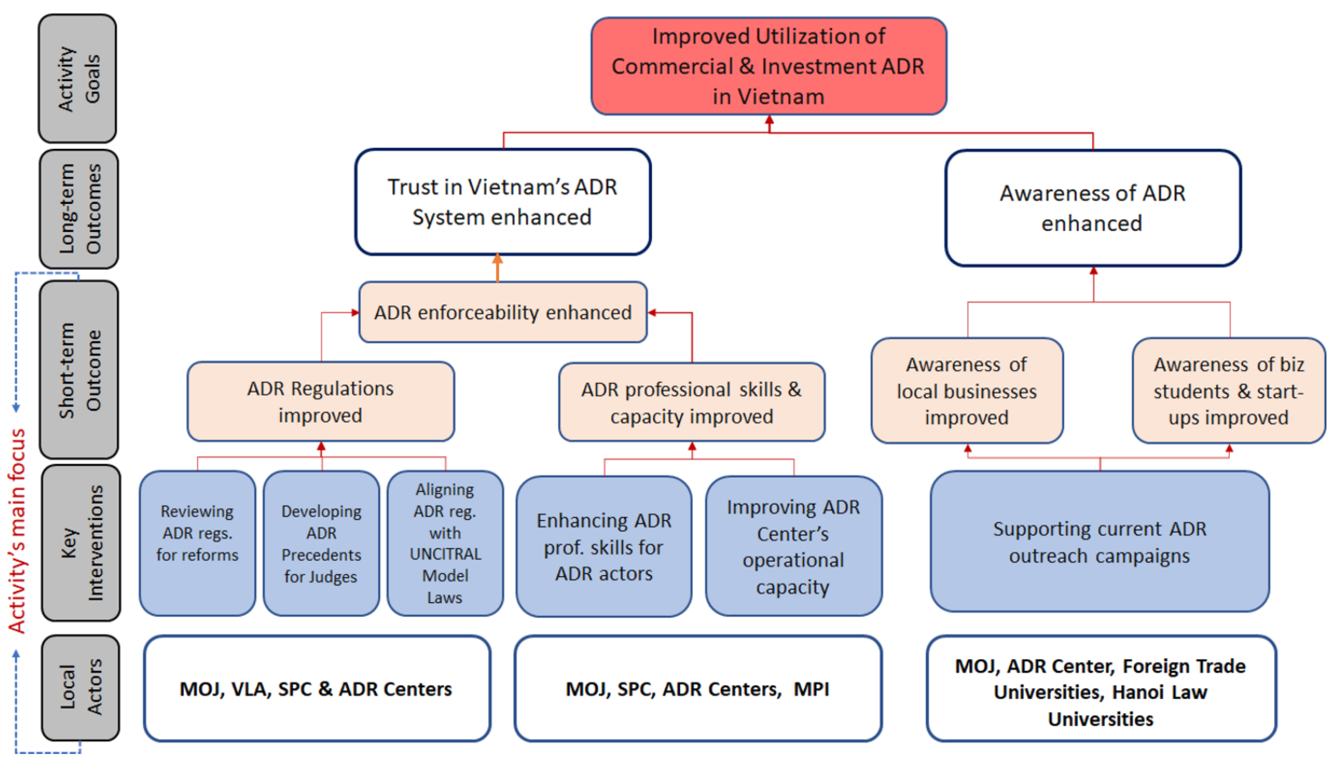
(2) Enhancing capacity for ADR stakeholders to improve ADR service quality, efficiency and enforceability. The need for capacity building for all ADR stakeholders is enormous given the early stage of its development and the need for building trust in Vietnam's ADR system. The activity will be designed to (1) enhance ADR professional skills for ADR actors and (2) support the adoption of international good governance and best practices in the operation of local ADR centers. A group of key ADR trainers will be formed and trained to build the capacity of targeted groups (e.g. mediators, arbitrators, judges, and civil enforcement bodies, etc.) at both provincial and central levels. Those interventions are expected to improve the skills and knowledge of ADR professionals in helping to avoid inconsistent interpretation of the laws and contribute to enhancing civil judgement enforcement.

(3) Improving the awareness of ADR for businesses, especially local enterprises. The poor understanding of ADR's benefits and availability among businesses, especially local ones, is a major hurdle for the expansion of ADR in Vietnam. The MOJ, ADR centers, notably VIAC, and Vietnam International Commercial Mediation Center (VICMC) have worked hard to raise the awareness of ADR in Vietnam. In 2020, the MOJ and VIAC co-organized the Commercial ADR week with the participation of more than 20 international and local partners to review 10 years of implementing the Law on Commercial Arbitration (LCA). Additionally, VIAC, as a key ADR advocate, organized a weekly virtual roundtable discussion of different ADR topics. VICMC partnered with Vietnam's major universities including Hanoi Law University and Foreign Trade University to organize roundtable discussions with students on different ADR subjects. However, the above efforts are still scattered, and lots of outreach efforts are still needed to enhance awareness about ADR to expand the market for ADR in Vietnam. Through this activity, USAID will support relevant stakeholders to conduct ADR outreach campaigns, focusing on the local enterprises, to enhance the awareness of ADR for businesses.

USAID believes that this approach will be successful as it was developed based on close consultation with the stakeholders during the Rapid Assessment process in July - August 2021. This three-pronged approach is also validated through feedback from interested partners during the Request for Information process in September 2021. USAID assumes that the high level of commitment from the Ministry of Justice (MOJ) as well as other key ADR stakeholders and the approach of "building on the existing efforts," will ensure the successful implementation and sustainability of the proposed interventions.

As Vietnam further integrates into the world's economy, an effective ADR ecosystem will be crucial for Vietnam's future economic growth. USAID believes that the outcomes from the activity will greatly contribute to the development of ADR in Vietnam especially in commercial and investment activities to improve rule of law, support judicial reform and enhance the enabling environment for both local and international businesses.

Logical Framework:



Assumptions:

- High level of commitments from MOJ and other stakeholders will ensure reforms and sustainability
- Interventions built on the current efforts of MOJ and other stakeholders will be sustained and scaled up after the project ends

A.4. Guiding Principles

The success and sustainability of this activity is dependent upon the following important principles:

- **Partnership with the GVN:** As with all work in Vietnam, the success of this Activity will rest on a strong partnership and collaboration with the GVN, especially the Ministry of Justice (MOJ) at the national and other relevant agencies at local levels.
- **Intensive understanding of international and local ADR context and stakeholder dynamics:** The Recipient must develop a strong understanding of the local context of Vietnam's commercial and investment ADR ecosystem as well as international standards and best practices. A strong understanding of power dynamics, relationships, and prevailing incentives/interests of different actors is also required. The Recipient should be committed to updating their analyses at regular intervals in order to ensure that their understanding remains current to inform ongoing efforts, and to document how linkages among local actors are changing over time.
- **Collaborating, Learning & Adapting (CLA)** - The Recipient must present a vision and strategy for management that intentionally plans for consideration and adaptation of approaches based on program learning, experience, and inputs from both internal and external researchers and evaluators.
- **Private sector engagement:** The Recipient is required to collaborate closely with local and international business associations/communities, ADR centers, professional associations to ensure efficiency and sustainability of the activity.
- **Innovation and technology**: The activity should utilize available innovative tools to improve the capacities of relevant stakeholders (government authorities, ADR centers etc.) in dispute resolution processes, training programs and in awareness raising and behavior change campaigns.
- **Gender integration:** the Recipient is required to integrate gender into their work plans, including ensuring that all training events will engage both men- and women-led businesses as well as male and female participants. Possible gender integration include:
  - Raise gender awareness and responsiveness in the ADR community by integrating gender bias elimination and sensitivity training into ADR-related training.
  - Promote gender equality in the ADR system by developing mechanisms to increase gender balance in the arbitrator and mediator pools.
  - Promote commercial ADR in resolving disputes by raising awareness among businesswomen about how ADR can save time and be more confidential and informal, helping women overcome time poverty and confidence gap.
- **Governance cross-cutting:** the Recipient is expected to demonstrate and promote rule of law and good governance principles of transparency, accountability, inclusion and participation in all the works in this activity
- **Sustainability:** ADR is an important component of Vietnam's efforts to reform the judicial system and enhance the business environment. Ensuring an effective ADR system to meet the economic development need in Vietnam is the long term goal. The Recipient will work with USAID, MOJ and other stakeholders to ensure the sustainability of the interventions. In addition, the Recipient is required to develop a sustainability plan to maintain the long-term impact of USAID's interventions.

A.5. Strategic Approaches

As part of the activity design process and in consultation with stakeholders, USAID identified strategic approaches that represent opportunities to achieve activity objectives. USAID has identified three potential strategic approaches as follow:

Component 1: Support Vietnam's ADR legislation reforms to remove legislation and enforcement challenges

This component will support Vietnam's efforts to improve commercial and investment ADR related legislations including the Law on Commercial Arbitration 2010 (LCA 2010) and other related ADR legislation to remove legislation and enforcement challenges and promote the adoption of international standards and best practices. In addition, this component will assist the Government of Vietnam's capacity in studying international experience and reviewing laws and regulations related to international investment dispute settlement; providing technical assistance to MOJ for their effective discussion and participation in UNCITRAL's working group III on Investor- State Dispute Settlement Reform and possibly support the implementation of the agreement after the negotiation ends.

Component 2. Enhance ADR professional skills and capacity of local ADR actors to improve enforceability and thus gaining more trust to the system

Under this component, the Recipient is expected to enhance the capacity of local ADR stakeholders in providing high quality ADR services and enforceability by supporting the relevant local stakeholders to update current ADR training programs (including gender equity and inclusion training); enhancing the operational capacity of Vietnamese key local ADR centers; and improving the capacity of provincial government officials on preventing international investment disputes. The interventions under this component can include technical assistance in the following areas:

a. Cooperating with the Ministry of Justice (MOJ) and other related stakeholders to update current ADR training programs, localize international training curricula and conduct Train the Trainer (TOT) ADR training for arbitrators, mediators, and judges
b. Enhance the operational capacity of Vietnamese key local ADR centers by cooperating with international ADR centers of excellence
c. Enhance the capacity of provincial government officials on preventing international investment disputes (investor-state disputes)

Component 3. Enhance awareness about ADR among current and future businesses especially local enterprises

Under this component the Recipient is expected to support relevant stakeholders to conduct outreach campaigns on ADR. The campaign is to improve awareness of the business community, especially local enterprises (including enterprises owned by marginalized populations) about ADR benefits, availability, and accessibility. The interventions under this component can include technical assistance in the following areas:

- Support MOJ, VIAC and other key stakeholders' outreach campaign/programs (i.e. the ADR week organized by MOJ and VIAC) to improve awareness related to the benefits of ADR in major economic hubs; and
- Update ADR training curriculums for business students in key universities i.e. Foreign Trade University, Vietnam Law University, etc.

Collaborating, Learning & Adapting

The Recipient is expected to contribute to the Vietnam mission's commitment to a multifaceted Collaborating, Learning & Adapting (CLA) approach to development. As stated in guiding principle number 3, the CLA approach is based on the understanding that development efforts yield more effective results if they are coordinated and collaborative; test promising, new approaches in a continuous yet also rapid, targeted search for generating improvements and efficiencies; and build on what works and eliminate what doesn't. It is also understood that CLA takes into account programmatic learning and shifts generated by the activity (outward-generating) as well as those adopted by the activity from external learning sources. USAID also anticipates that a strong focus on adaptive management techniques as expressed through staffing skills, structure and culture, business processes, and stakeholder engagement will be particularly important in the implementation of this activity, in order to track and adjust to the opportunities to operationally integrate with other activities working in related efforts. Thus, USAID anticipates a CLA approach that tailors CLA to the needs and opportunities of this activity, while leaving open options for future evolution in its interpretation and application.
Given the importance of Thinking and Working Politically (TWP) to the success of the activity, the Recipient is expected to integrate CLA / TWP approaches in the following ways:

- **Collaborating:**
    - Engage in active collaboration with local stakeholders, particularly Ministry of Justice and other government ministries, departments, and provincial authorities; professional and private sector associations to share knowledge around any assessments, emerging research, lessons learned, and evaluations, and jointly develop action plans for integrating learning resulting from these activities into improved program implementation.
- **Learning:**
    - Identify learning questions to guide the gathering of information, including an integration of any relevant qualitative approaches, to better understand or challenge key programmatic assumptions.
    - Regularly revisit the activity's theory of change and its programmatic assumptions through formal and informal pause & reflect sessions with stakeholders to identify promising practices, work collaboratively to overcome implementation obstacles, and address changing conditions (e.g., update the activity's theory of change, strategic approaches, and interventions). Results should be used to inform upcoming year work plans and activity design across multiple stakeholders, and captured and shared broadly. Specifically define how innovative and dynamic learning agendas will be developed and implemented with the teams and the Mission as a whole.
- **Adapting:**
    - Recognize behaviors and incentives necessary to create change informed by knowledge gained through learning activities mentioned above. The knowledge will influence decision making, resource allocation, and adaptation to contextual shifts. Application of new knowledge to implementation decisions will be reflected in the Annual work plan, and the Activity Monitoring, Evaluation, and Learning Plan (Activity MEL Plan).
- **Enabling Conditions:** The CLA Framework also discusses the enabling conditions

necessary for collaborating, learning & adapting throughout the Program Cycle.
  - The Recipient is expected to create a learning-oriented culture, and organizational processes that enables adaptive management.
  - The Recipient is expected to adequately resource TWP and CLA approaches and its practices throughout implementation and recruit and build the capacity of staff to implement in this way.
  - USAID will also provide flexibility to the implementer to adapt when learning indicates adjustments are necessary.

Performance & Context Monitoring

The Recipient should have sufficient knowledge of issues facing commercial and investment ADR in Vietnam to be able to design effective interventions, set out-year targets for selected indicators, and track performance progress.
The Recipient will be required to track progress using performance indicators. A final list of indicators will be finalized in close consultation with USAID (and GVN counterpart if relevant).

The Recipient will report on the following indicators including:
- Number of laws, policies, regulations, or standards formally proposed, adopted, or implemented as supported by USG assistance (USAID/Vietnam Performance Management Plan - PMP/P.5.1.4)
- Number of judicial personnel trained with USG assistance (Rule of Law Indicator – DR. 1.3-1)
- Percent of USG assisted organizations with improved performance (Percent of USG assisted organizations with improved performance (Capacity Building # 9) CBLD-9) (the Recipient can recommend other relevant indicators to replace CBLD-9 if needed)

The Recipient should consider to report on, but not limited to, the following indicators:
- Number of practitioners trained or certified with USG assistance
- Number of vacated arbitral awards (reduced by the end of the activity)
- Number of government officials trained by USG assistance with improved knowledge about ADR
- Number of outreach events with USG assistance
- Number of businesses/individuals with improved awareness of ADR supported by USG assistance

The Recipient will articulate custom outcome indicators and means by which it will track performance progress towards the activity's objective(s).

Additional standard governance and rule of law indicators will be incorporated, as applicable, into the Activity MEL Plan based on interventions.

The Recipient is expected to employ qualitative approaches to monitoring suitable non-linear change pathways. Illustrative methodologies include outcome mapping, network analysis, and/or most significant change.

As part of its monitoring effort, the Recipient is expected to apply an intentional approach to context monitoring, which involves monitoring key assumptions and risks to the activity's theory of change.

A.6. Sub-Awards:

The Recipient is encouraged to make sub-awards to local based entities to implement selected components. The Recipient is encouraged to use co-creation approaches to identify sub-awardees. In addition, sub-awards can be provided to organizations which have extensive experience in Commercial and Investment Alternative Dispute Resolution in Vietnam. The Recipient will carry out risk assessments of sub-awardees; develop objectives, tasks, and performance standards with the sub awardees; and monitor performance.

A.7. Program Linkages:

This activity will contribute to the Administration's priorities of fostering economic growth, improving trade and competitiveness, and strengthening the institutional integrity of public systems, and the Mission's CDCS Intermediate Result 1 under the Development Objective 1 of improving Vietnam's business enabling environment and the principles that foster participatory, inclusive, transparent, and accountable efforts to advance internationally compliant governance and rule of law. Additionally, the activity promotes the country's resilience, strengthens the rule of law and bolsters the capacity of Vietnam, a critical partner in the Indo-Pacific Region.

[END OF SECTION A]

SECTION B: FEDERAL AWARD INFORMATION

B.1 ESTIMATED AMOUNT OF FUNDS AVAILABLE AND NUMBER OF AWARDS CONTEMPLATED

Subject to funding availability, USAID intends to provide up to $2,500,000 in total USAID funding.

USAID intends to award one (1) Cooperative Agreement pursuant to this NOFO. USAID reserves the right to fund any one or none of the applications submitted.

B.2 PERIOD OF PERFORMANCE

The period of performance anticipated herein is three years, starting from [actual date to be filled in at the time of award].

B.3 SUBSTANTIAL INVOLVEMENT

Consistent with ADS 303.3.11, USAID/Vietnam anticipates a close working partnership with the successful Applicant for this activity to assist in achieving the objectives. The specific areas of USAID involvement will include, but are not limited to:

1. Approval of the Recipient's Annual Implementation Plans during performance by the designated Agreement Officer Representative (AOR);

2. Approval of selection of Recipient Key Personnel: Key Personnel positions will be identified and stated in the award. The Recipient shall request prior approval from the USAID Agreement Officer (AO) for the replacement of key personnel or changes in the key personnel positions;

3. Agency and Recipient Collaboration or Joint Participation: The Recipient must request prior review and written concurrence from the AOR and obtain review and written approval from the AO before entering into any sub-awards under the performance of this agreement;

4. Approval of the Recipient's Monitoring, Evaluation and Learning (MEL) Plan by the AO; and

5. Technical Participation and Consultations: USAID may monitor and participate to permit specific directions or redirections in technical discussions with the Recipient and provide technical guidance during the development of technical materials/documents and/or the provision of technical interventions. USAID will review and approve final versions of all print or electronic publications before release for publication. USAID may engage in discussion with the Recipient and/or provide technical guidance to the Recipient to ensure the quality of the activity and that the activity is aligned with the policies and strategies of the USAID and the US Government.

B.4 AUTHORIZED GEOGRAPHIC CODE

The geographic code for the procurement of commodities and services under this program is 937.

B.5 NATURE OF THE RELATIONSHIP BETWEEN USAID AND THE RECIPIENT

The principal purpose of the relationship with the Recipient and under the subject program is to transfer funds to accomplish a public purpose of support or stimulation of the Vietnam ADR which is authorized by Federal statute. The successful Recipient will be responsible for ensuring the achievement of the program objectives and the efficient and effective administration of the award through the application of sound management practices. The Recipient will assume responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

[END OF SECTION B]

SECTION C: ELIGIBILITY INFORMATION

C.1 ELIGIBLE APPLICANTS

Eligibility for this NOFO is not restricted.

While for-profit firms may participate, pursuant to 2 CFR 200.400(g), it is USAID policy not to award profit to prime recipients and subrecipients under assistance instruments. However, while profit is not allowed for sub-awards, the prohibition does not apply when the recipient acquires goods and services in accordance with 2 CFR 200.317 -326, "Procurement Standards." Forgone profit does not qualify as cost-share.

Each applicant must be found to be a responsible entity before receiving an award. The Agreement Officer (AO) may determine that a pre-award survey is required in accordance with ADS 303.3.9.1 to determine whether the applicant has the necessary organization, experience, accounting and operational controls, and technical skills – or ability to obtain them – in order to achieve the objectives of the program and comply with established U.S. Government standards, laws, and regulations. Applicants who do not currently meet all USAID requirements for systems and controls may still be eligible under special award considerations and should not be discouraged from applying. USAID welcomes applications from organizations that have not previously received financial assistance from USAID. The prime recipient is encouraged to promote involvement of "underutilized" partners and local organizations in the implementation of this activity.

C.2 COST SHARING OR MATCHING

USAID has established a minimum required cost share of 10% of the total estimated cost for this activity, which is approximately US$ [exact amount to be inserted by the time of award] to be contributed throughout the life of the activity. Such funds may be mobilized from the recipient; other multilateral, bilateral, and foundation donors; host governments; and local organizations, communities and private businesses that contribute financially and in-kind to implementation of activities at the country level, but not from other USG funding sources. This may include contribution of staff level of effort, office space or other facilities or equipment which may be used for the activity, provided by the partner. For guidance on cost sharing in grants and cooperative agreements, please see the ADS 303.3.10 and 2 CFR 200.306 for U.S. NGOs. For non-US NGOs, all cost sharing would be subject to the Required as Applicable Provision "Cost Sharing" in the Mandatory Reference for ADS Chapter 303, Standard Provisions for Non-U.S. Nongovernmental Organizations.

C.3 ELIGIBILITY OF GOODS AND SERVICES FOR USAID FINANCING

- **Applicable Rules**

The recipient must comply with USAID's *Rules for Procurement of Commodities and Services Financed by USAID* in 22 CFR 228 in the procurement and long-term lease (as defined in 22 CFR 228.01) of goods and services with USAID funds. These rules govern the *source* of USAID-financed commodities and the *nationality* of suppliers of USAID-financed commodities and services, which must be in a country that is included in the authorized geographic code. These rules apply to the recipient's procurement contracts (as defined in 2 CFR 200) with vendors and to subcontracts at all tiers under the recipient's procurement contracts.

- **Sub-Awards**

These rules do not apply to sub-awards (as defined in 2 CFR 200.92) but do apply to the procurement and long-term lease of goods and services by sub-recipients (as defined in 2 CFR 200.93) at all tiers, and to those sub-recipients' procurement contracts and subcontracts with vendors at all tiers. These rules do not apply to procurement or long-term lease of goods and services with cost-sharing or program income funds.

- **Restricted Commodities**

"Restricted Commodities" are certain agricultural commodities, motor vehicles (excluding driver service), pharmaceuticals, condoms and contraceptives, pesticides, used equipment, and non-local purchase of fertilizer. Special rules apply to restricted commodities and are described in ADS 312.3.3.

C.4 ELIGIBILITY OF ACTIVITIES UNDER USAID'S ENVIRONMENTAL REGULATIONS

The Foreign Assistance Act of 1961, as amended, Section 117 requires that the impact of USAID's activities on the environment be considered and that USAID include environmental sustainability as a central consideration in designing and carrying out its development programs. This mandate is codified in Federal Regulations (22 CFR 216) and in USAID's Automated Directives System (ADS) Parts 201.5.10g and 204 (http://www.usaid.gov/policy/ADS/200), which, in part, require that the potential environmental impacts of USAID-financed activities are identified prior to a final decision to proceed and that appropriate environmental safeguards are adopted for all activities. Recipient environmental compliance obligations under these regulations and procedures are specified in the following paragraphs of this NOFO.

In addition, the Recipient must comply with host country environmental regulations unless otherwise directed in writing by USAID. In case of conflict between host country and USAID regulations, the latter shall govern.

No activity funded under this CA will be implemented unless an environmental threshold determination, as defined by 22 CFR 216, has been reached for that activity, as documented in a Request for Categorical Exclusion (RCE), Initial Environmental Examination (IEE), or Environmental Assessment (EA) duly signed by the Bureau Environmental Officer (BEO). (Hereinafter, such documents are described as "approved Regulation 216 environmental documentation.").

An Initial Environmental Examination (IEE) Asia 22-009 (Attachment H) has been approved for Strengthening Vietnam's Commercial and Investment Alternative Dispute Resolution Ecosystem activity, which covers activities expected to be implemented under this agreement. USAID has determined that these do not have an effect on the natural or physical environment.

As part of its initial Work Plan, and all Annual Work Plans thereafter, the recipient, in collaboration with the USAID Cognizant Technical Officer and Mission Environmental Officer or Bureau Environmental Officer, as appropriate, shall review all ongoing and planned activities under this CA to determine if they are within the scope of the approved Regulation 216 environmental documentation.

If the recipient plans any new activities outside the scope of the approved Regulation 216 environmental documentation, it shall prepare an amendment to the documentation for USAID review and approval. No such new activities shall be undertaken prior to receiving written USAID approval of environmental documentation amendments.

Any ongoing activities found to be outside the scope of the approved Regulation 216 environmental documentation shall be halted until an amendment to the documentation is submitted and written approval is received from USAID.

C.5 LIMITATIONS ON SUBMISSIONS

Each applicant is limited to one application submission under this NOFO as the prime Applicant. There is no limitation on being included as a potential sub-awardee across multiple applications. The use of exclusive teaming arrangements is discouraged.

[END OF SECTION C]

SECTION D: APPLICATION AND SUBMISSION INFORMATION

D.1 AGENCY POINT OF CONTACT

Only the Agreement Officer is authorized to make commitments on behalf of USAID. The Agreement Officer is listed below:

Ms. Suzanne H. Johnson
Agreement Officer
USAID/Vietnam
15/F Tung Shing Square, 2 Ngo Quyen
Hanoi, Vietnam
Email: sjohnson@usaid.gov

The point of contact for information about this NOFO is:

Ms. Van Trinh
Acquisition and Assistance Specialist
USAID/Vietnam
15/F Tung Shing Square, 2 Ngo Quyen
Hanoi, Vietnam
Email: vantrinh@usaid.gov

The above contact information is only for informational purposes. The NOFO itself and any subsequent amendments can be found at www.grants.gov. All applications must be submitted according to instructions contained in this NOFO.

In order to maintain a fair and transparent funding opportunity, USAID maintains strict guidelines on who within USAID may be contacted regarding applications or questions about the opportunity. Applicants may only contact USAID via the email address provided above in this NOFO. Failure to comply with the USAID points of contact guidance mandated in the NOFO may disqualify the Applicant(s).

D.2 QUESTIONS AND ANSWERS

Questions and requests for clarification regarding this NOFO should be submitted via email to the Agency Points of Contact above no later than the date and time indicated on the cover page.

Any information given to a prospective Applicant concerning this NOFO will be furnished promptly to all other prospective Applicants as an amendment to this NOFO on www.grants.gov, if that information is necessary in submitting applications or if the lack of it would be prejudicial to any other prospective Applicant. Please check www.grants.gov for any amendments.

D.3 SUBMISSION DATE AND TIME

Applications must be submitted by email to points of contact stated in Section D.1 before the respective due dates and times on the cover page. Applicants must ensure that the applications are received at USAID/Vietnam in their entirety. No additions or modifications to submitted applications will be accepted after the closing date and time. Late applications will be considered only if the Agreement Officer determines it is in the Government's interest. Each email submission may not exceed 15 MB in size.

Hard copies, whether hand delivered or by postal mail, will not be accepted.

If you do not receive an email confirmation for receipt of applications, please contact the point of contact at the email address noted above.

D.4 APPLICANTS RESPONSIVENESS

All applications received by the closing date and time will be reviewed for responsiveness to the specifications outlined in these guidelines and the application format. Section E: Application Review Information addresses technical evaluation application criteria. **Applicants must review, understand, and comply with all aspects of this NOFO. Failure to do so may lead to the disqualification of an application.** It is the Applicant's responsibility to ensure that all necessary documentation is complete and received on time.

D.5 APPLICATION PROCESS

a. Summary Applications: USAID/Vietnam requests the submittal of Summary Applications (See D.6 below). The highest rated application will be invited to participate in the process described hereunder.

b. Joint Program Description Development:

   USAID/Vietnam will engage in a co-creation process with the most highly rated Applicant and other stakeholders within and outside of USAID. The co-creation process is an integral part of this process to develop the most effective, holistic approach to achieve program objectives. USAID expects the co-creation to be a participatory approach with an emphasis on a shared vision, responsibility, decision-making and ownership over the ultimate program. It will involve collaborating with resource partners, potential implementing partners, end users and other stakeholders toward a range of outcomes, such as a richer understanding of the problem, a shared strategy for action, ideas or specific solutions, or lessons and insights as well as to ensure a results-orientated activity. During the co-creation participants will design approaches to achieve a high degree of measurable, sustainable impact. Through co-creation, USAID goes beyond knowledge sharing or learning from various stakeholders and moves toward interactive and ongoing engagement with those who are affected by or hold influence over an issue.

   Only the apparently successful Applicant will be invited to the co-creation. The competitive portion of the process is concluded at this point and USAID and the Applicant may freely exchange information and collaborate to finalize the program description and award documentation. USAID expects that the co-creation process may include a (virtual or in-person) workshop, stakeholder engagements and consultations, and other meetings and consultations, as necessary. USAID discourages exclusivity agreements between partners at this stage. USAID wishes to maintain a high level of flexibility in terms of creating a coalition of partners due to potential changes in the Applicant's approach as a result of co-creation. Consequently, only the prime Applicant will be engaged in the initial consultations. These consultations will inform the following stages where any modifications in the teaming can be proposed by the Applicant as a result of the collaborative work with USAID and potential stakeholders.

Any expenses incurred by Applicants during this time are solely the responsibility of the Applicants. If at any point during the course of the co-creation process, the Agreement Officer determines that the apparently successful Applicant is unable to provide satisfactory Technical and Business Applications, or did not meet deadlines for submissions, or the Applicant and USAID cannot come to agreement on the terms and conditions of the final award, then the Agreement Officer may designate the next highest-evaluated Applicant from the Summary Application stage as the apparently successful Applicant.

The duration of this process is expected to be approximately two (2) weeks. Thereafter, the selected Applicant(s) will have additional time (approx. two (2) additional weeks) to prepare a final technical and cost application (the Full Application) for USAID consideration. See more specific dates below in ATTACHMENT E: PLANNED PRE-AWARD SCHEDULE.

Further details on the co-development process will be shared with the apparently successful Applicant. USAID reserves the right to invite more than one Applicant, if deemed appropriate, or to not conduct a co-development meeting.

c. Full Application Submission

USAID will accept a Full Application by invitation ONLY. The Full Application will expand upon the Summary Application to provide details about the planned activities and results to be achieved, incorporating ideas, adjustments, feedback, etc. that arose during co-creation. Additional information regarding the Full Application will be provided at the time of its request, including additional guidance for a detailed budget submission, if any. A request for Full Application via a Request for Application (RFA) should not be interpreted as a commitment to funding or guaranteed issuance of an award. If a Full Application is successful and an award is issued, the Agreement Officer (AO) will appoint an Agreement Officer's Representative (AOR) at that time.

D.6 SUMMARY APPLICATION SUBMISSION PROCEDURES

Submission of Summary Applications

a. The subject line of application submissions must reference the NOFO No. 72044022RFA00001 and the title of the activity: Vietnam ADR. The applicant must indicate in the subject line of the email if multiple emails are sent (e.g. "1 of 4").

b. Applications in response to this NOFO must be in English, and in U.S. dollars.

Restriction on Disclosure and Use of Data

a. Applicants that include in their applications data that they do not want disclosed to the public for any purpose, or used by the Government except for evaluation purposes shall:

   i. Mark the title page with the following legend: "This application includes data that shall not be disclosed outside the Government and shall not be duplicated, used, or disclosed - in whole or in part - for any purpose other than to evaluate this application. If, however, a grant or cooperative agreement is awarded to this Applicant as a result of - or in connection with - the submission of this data, the Government shall have the right to duplicate, use, or disclose the data to the extent provided in the resulting award. This restriction does not limit the Government's right to use information contained in this data if it is obtained from another source without restriction. The data subject to this restriction are contained in sheets [*insert numbers or other identification of sheets*]"; and

   ii. Mark each page containing restricted data with the following legend: "Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this application."

b. Applicants are advised that it is anticipated that the successful program narrative, submitted as part of the technical application, will become the Program Description of the cooperative agreement awarded as a result of this NOFO. Pursuant to the Freedom of Information Act of 1981, the public is entitled to request information from Agency award files. As a general rule, information will be disclosed except:

   i. Information submitted in response to this NOFO, prior to award of the grant, or modifications or revisions thereto.
   ii. Information properly classified or administratively controlled by USAID.
   iii. Information specifically exempted from disclosure under the Freedom of Information Act.

c. Upon award of the cooperative agreement resulting from this NOFO, USAID will disclose, use, or duplicate any information submitted in response to this NOFO to the extent provided in the award, and as required by the Freedom of Information Act.

Pre-Award Audits/Surveys and Discussions

USAID reserves the right to perform a pre-award audit/survey which may include, but is not limited to: (1) interviews with individuals to establish their ability to perform award duties under project conditions; (2) a review of the Applicant's financial condition, business and personnel policies and procedures, etc.; and (3) site visits to the Applicant's institution. However, it must be understood that USAID undertakes no obligation to perform any of the foregoing elements. Accordingly, Applicants should submit their best and most complete application initially.

Authority to Commit USAID

The Agreement Officer is the only individual who may legally commit USAID to the expenditure of public funds. No costs allocable to the proposed award will be reimbursed by USAID before receipt of either a fully executed grant or cooperative agreement, or a specific written authorization from the Agreement Officer.

D.7 SUMMARY TECHNICAL APPLICATION

(a) General

Applicants must organize the application to follow the technical evaluation criteria specified in Section E. The page length for the application shall not exceed seventeen (17) pages. Within these pages, the executive summary shall not exceed one (1) page. The only annexes to be evaluated are listed hereunder and are not subject to the page limitation.

Technical application must be organized in the following manner:

I. Executive Summary – not to exceed one (01) page
II. Technical Solution
IV. Institutional Experience
V. Key personnel and Staffing Plan
V. Annexes - See below

Annex A: Theory of Change Diagram and Illustrative Activity Approach and Timeline
Annex B: Activity Monitoring and Collaborating, Learning, and Adapting (CLA) Approach
Annex C: Staffing Pattern/ Organizational Chart, including title and position description of proposed key personnel positions.
Annex D: Resumes and Letters of Commitment of the key personnel
Annex E: Partner Letters of Commitment, if any
Annex F: History of Performance

(b) Limitations

USAID will not evaluate information submitted in excess of the above stated page limits. The Technical Application shall be written in Time New Roman Font, 12-point size. The 12-point size requirement does not apply to text boxes, footnotes, tables, graphs and charts, though these should be used sparingly and not in place of basic text. Applicants shall use only 8.5 inch by 11-inch (210mm by 297mm) paper, with margins no less than one inch on each border. Number each page consecutively.

Note: A page in the Technical Application that contains a table, chart, graph, etc., not otherwise explicitly excluded per the instruction, is subject to the page limitation.

Not included in this page limitation are the following:

- Cover Page – the Applicant must provide with the following information on the Cover Page:

a. Name of the organization submitting the application;
b. Identification and signature of the primary contact person (by name, title, organization, mailing address, telephone number and email address) and the identification of the alternate contact person (by name, title, organization, mailing address, telephone number and email address);
c. Activity Title;
d. Notice of Funding Opportunity number;
e. Name of any proposed sub-recipients or partnerships (identify if any of the organizations are local organizations, per USAID's definition of 'local entity' under ADS 303.6).
f. DUNS number

- Table of Contents
- Acronym List
- Annexes (as specified in D.7(a) above)

Information from annexes should be summarized in the narrative of the Technical Application, as appropriate for the context of the narrative.

(c) Content of the Technical Application

Technical applications should include the sections and content below and should be directed at the program as described in Section A. Funding Opportunity Description. The technical application will be the critical item of consideration in selection of an Applicant for an award. The information provided in the technical application must be specific, complete, and presented concisely. The technical application must demonstrate the Applicant's capabilities and expertise with respect to achieving the goals of this program and specify the specific results to be achieved. The merit review criteria set forth in Section E. Application Review Information of this NOFO indicate the relative importance of each criterion so that Applicants will know which areas require emphasis in the preparation of the technical application. Applicants are advised that lack of completeness or superficiality of the application may constitute grounds for excluding it from consideration.

The Technical Application includes the information set forth below:

1. **Executive Summary (maximum 1 page)**

   A succinct summary of the Applicant's overall implementation approach.

2. **Technical Solution [See Section E.2.1]**

The Technical Solution should convincingly articulate the Applicant's proposed activities to accomplish the objectives presented in the Funding Opportunity Description, focusing on what is technically and politically feasible within the three years of the Program. The Applicant should not merely repeat what is already described in the Program Description but should convincingly describe how the Applicant proposes to achieve the Activity Objectives (See A2) and Strategic Approaches (See A5), detailing the results to be achieved and methodology employed. The

Applicant should articulate why the approach proposed is the most effective means to realize the Activity Objectives and how the Guiding Principles (See A4) will be leveraged to achieve sustainable results. The Applicant should describe how they will identify possible interventions, and apply the thinking and working political approach and methods to ensure learning and adapting during implementation to maximize activity impact.

The Applicant must ground its approach in an initial theory of change to illustrate its understanding of Vietnam's commercial and investment ADR ecosystem, context and possible entry and leverage points for change. The theory of change should clarify assumptions, underlying logic, and knowledge gaps that need further exploration during start-up. Applicants are also encouraged to offer innovative ideas about how to achieve the objectives of the activity that demonstrate a solid understanding of Vietnam's commercial and investment ADR context and are encouraged to identify entry points that USAID may have overlooked in this solicitation.

The Applicant should describe how they will leverage the expertise of local organizations, and provide illustrative examples of organizations with whom the Applicant may partner with to successfully accomplish the activity objectives.

3. **Institutional Experience [See Section E.2]**

The prime Applicant must demonstrate experience in providing consultation services or technical assistance in ADR or Rule of Law related matters. The prime Applicant and its major subgrantee(s)*, if any, combined must demonstrate experience in (i), (ii), and (iii) below; additional experience in (iv) and (v) is preferable.

* For the purpose of this section, the term "major subgrantee" includes only those subgrantee(s) budgeted in excess of $500,000 in the cost proposal over the entirety of the performance period as reflected in the Cost Application.

In providing examples of work as outlined in (i), (ii), (iii), (iv) and (v) below, the Applicant must precisely describe its (or major subgrantees') specific role(s) in implementing the experiences described and the development impact of the intervention. Also, the Applicant must articulate how the described institutional experience, and the results achieved through them, will enhance the likelihood of successful implementation of this activity.

i. Experience in implementing policy advocacy associated with ADR, Rule of Law or Relevant subject matters. This includes:

- Working with stakeholders, ministries, and business communities in removing legislation obstacles to the development of ADR
- Engaging and developing political and local champions to promote ADR best practices and international standards
- Conducting policy advocacy work focused on national and local levels of leadership

- Reviewing local and international laws and regulations to provide recommendations for legal reform
- Extensive experience in promoting the adoption of ADR international best practices and standards especially dispute resolutions in Free Trade Agreements, UNCITRAL and other UN/international principles

ii. Experience in implementing communication campaigns related to ADR and/or Rule of law and/or relevant subject matters. This includes:

- Working with universities, the private sector and associations to raise awareness about the benefit and availability of commercial and investment ADR or other relevant subject matters.
- Designing, implementing, and leading behavior change campaigns, including experience with social media campaigns, strategic communications, and/or behavior change communications.

iii. Experience providing training and other types of capacity strengthening services to ADR actors. This includes:

- Developing and implementing training curriculums and strategies for targeted ADR actors
- Developing and implementing capacity strengthening packages to ADR centers

iv. Experience in Thinking and Working Politically and Collaborating, Learning and Adapting approaches. This includes:

- Conducting formal or informal stakeholder analyses, understanding motivations/interests, incentives that shape the behaviors and outcomes observed, and use information collected to inform strategic engagement with stakeholders
- Identifying and working with critical champions for reform within and outside the government
- Setting up systems and/or approaches for continuous learning and improvement
- Working with the private sector actors to implement initiatives to improve the ADR environment in commercial and investment areas.

v. Experience in implementing technical assistance programs in Vietnam. This includes:

- Working with competent government agencies to obtain necessary approval to implement technical assistance in Vietnam;
- Successfully working with local partners in implementing technical assistance in Vietnam

4. Key Personnel and Staffing Plan [See Section E.2]

a. Key Personnel:

USAID/Vietnam determined that two (2) key personnel positions for this award, including the Chief of Party. For this RFA, the Applicant needs to identify both key personnel by name. No other individual should be identified nor will be evaluated, but the positions will be included in the overall staffing plan as described below. The Recipient's key personnel should have experience in the ADR and/or Rule of Law related fields. Staff must be politically savvy, adaptable and flexible, and able to create a supportive, adaptive learning-oriented culture. Key personnel should have a solid understanding of the ADR context and challenges in Vietnam.

USAID expects relevant staff to have the appropriate qualifications and experience to work as a team to manage a complex U.S. Government Program, especially the ability to bring in regional and international best practices in ADR and to work effectively at every level of governance necessary.

The COP should have 10 years of relevant working experience, at least half of which should be international in Asia or developing and emerging countries. The experience must be in rule of law and/or ADR and/or investment promotion related matters. At least 5 years of experience must be in institutional capacity development. The COP should have sound political savvy, excellent management and organizational skills, experience leading teams, effective oral and written communication skills, and proven leadership abilities within a multi-partner initiative, and experience representing projects at high levels of policy engagement. The COP should also have a proven track record of success working with host governments to affect policy reforms and experience representing projects at high levels of policy engagement.

The second key personnel (other than COP) must be Vietnamese and have at least 7 years of experience in ADR and/or Rule of Law or other relevant subject matters.

The following skills and expertise are required for the Key Personnel:

- Experience and expertise in facilitating multi-stakeholder collaboration
- Experience and expertise in ADR and/or Rule of Law and/or relevant subject matters

The following experience should also be collectively found within the Key Personnel:

- Experience and familiarity working in local capacity development in Vietnam.
- Connections to and familiarity with ADR stakeholders in Vietnam and government actors in the ADR ecosystem at the central and provincial levels
- Knowledge of and experience with policy reform with GVN leaders at the central and provincial level and non-governmental actors

b. Staffing Plan:

Applicants must propose a staffing plan that convincingly demonstrates the Applicant's ability to successfully implement the Activity. The Applicant must describe how the proposed Staffing Plan (including proposed COP) will ensure successful implementation and the approach by which local Vietnamese labor and expertise will be maximized. If more than one full-time expatriate is proposed, the Applicant must justify using more than one expatriate, as opposed to local Vietnamese professions.

The Applicant must describe the division of roles and responsibilities between the applicant, subawardees and other resource organizations, if any, in implementing the activity. The Applicant shall describe staffing roles for any proposed sub-awardees with defined lines of management, supervisory authority, and technical responsibility. The staffing plan shall clearly and logically address how consultants will be used to complement full-time project staff and whether they will be local or expatriate staff.

5. Annexes

The Annexes should be labeled as noted below and do not count towards the Technical Application page limit.

5.1 Annex A – Theory of Change and Illustrative Activity Approach and Timeline (not to exceed 2 pages)

The Applicant must submit a Theory of Change Diagram; the diagram should not exceed one (1) page and must be in PDF format.

5.2 Annex B – Activity Collaborating, Learning, and Adapting (CLA) Approach (not to exceed 3 pages)

The Applicant should submit a short, concise CLA approach based on their theory of change. The CLA approach should lay out the Applicant's approach to adaptive management, and discuss how the activity will answer identified learning questions and use information to inform program management.

5.3 Annex C – Staffing Pattern/ Organizational Chart

The Applicant must provide an organizational chart depicting its staffing plan including the chain of command among staff. The chart must specify which personnel, if any, are employed by a sub-awardee, if any.

The title and position description of each of the two (2) key personnel positions proposed (including the Chief of Party) must be included in this Annex.

5.4 Annex D - Resume and Letter of Commitment of the key personnel

Each submitted resume must include a minimum of five references with current email and telephone number contact information. It should be noted that USAID reserves the right to solicit references beyond those submitted. Each resume may not exceed five pages and must, at a minimum, identify the start year and month and end year and month for each former/current employment listed. Also, a signed letter of commitment must be submitted for the Key Personnel proposed, indicating (a) his/her intention to serve for a stated term of the service [state the period in the letter], and (b) agreement to the compensation level which corresponds to the levels set forth in the cost application.

5.5 <u>Annex E – Partner Letters of Commitment</u>

Applicants who intend to establish a consortium or partnerships must include Letters of Commitment for all proposed entities/organizations in their application, indicating their anticipated roles in the activity. In addition, these partners should indicate their relevant experience and how their engagement will enhance the capacity of the Recipient to lead a successful collective impact approach.

5.6 Annex F – History of Performance (not to exceed 3 pages)

The Applicant must provide information regarding its recent history of performance for all its contracts, grants, or cooperative agreements involving similar or related programs, in the last four years, as follows:

- Name of the Awarding Organization;
- Activity Title;
- A brief description of the activity;
- Period of Performance;
- Award Amount; and
- Name of at least two (2) professional contacts who most directly observed the work at the organization for which the service was performed with complete current contact information including telephone number, and e-mail address for each proposed individual.

If the Applicant encountered problems on any of the referenced Awards, it may provide a short explanation and the corrective action taken. The applicant should not provide general information on its performance. USAID reserves the right to obtain information from relevant source concerning an Applicant’s history of performance and may consider such information in its review of the Applicant’s performance risk.

D.8 SUMMARY BUDGET

As part of the Summary Application, Applicants will be required to submit a Summary Budget (ATTACHMENT B: SUMMARY BUDGET TEMPLATE). No budget narrative is required as part of the Summary Budget submission. A detailed budget will not be requested until an Applicant moves forward to the Full Application stage and submits the budget information described in ATTACHMENT C: FULL APPLICATION FORMAT.

D.9 FUNDING RESTRICTIONS

Profit is not allowable for recipients or subrecipients under this award. See 2 CFR 200.330 for assistance in determining whether a sub-tier entity is a subrecipient or contractor.

Construction will not be authorized under this award.

Except as may be specifically approved in advance by the AO, all commodities and services that will be reimbursed by USAID under this award must be from the authorized geographic code specified in Section B.4 of this NOFO and must meet the source and nationality requirements set forth in 22 CFR 228.

D.10 UNIQUE ENTITY IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT

USAID may not award to an applicant unless the applicant has complied with all applicable unique entity identifier (DUNS number) and System for Award Management (SAM) requirements. Each applicant (unless the applicant is an individual or Federal awarding agency that is exempted from requirements under 2 CFR 25.110(b) or (c), or has an exception approved by the Federal awarding agency under 2 CFR 25.110(d)) is required to:

i. Be registered in the System for Award Management (SAM) before submitting its application. SAM is streamlining processes, eliminating the need to enter the same data multiple times, and consolidating hosting to make the process of doing business with the government more efficient (www.sam.gov);
ii. Provide a valid DUNS number in its application for the applicant and all proposed sub-recipients and subcontractors;
iii. Continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency.

The registration process may take many weeks to complete. Therefore, Applicants are encouraged to register early to be eligible to apply for this NOFO. If an Applicant has not fully complied with the requirements by the time USAID is ready to make an award, USAID may determine that the applicant is not qualified to receive an award and use that determination as a basis for making an award to another applicant.

DUNS number: http://www.dnb.com/get-a-duns-number.html

SAM registration: http://www.sam.gov

Non-U.S. applicants can find additional resources for registering in SAM, including a Quick Start Guide and a video on how to obtain an NCAGE code, on www.sam.gov, navigate to Help, then to International Registrants.

Applicants must set forth full, accurate, and complete information as required by this NOFO. The penalty for making false statements to the U.S. Government is prescribed in 18 U.S.C. 1001.

See Attachment G: Instructions for Registration in DUNS and sam.gov.

D.11 PRE-AWARD COSTS

In accordance with 2 CFR 200.458 - Pre-award costs, Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the

Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency. Pre-Award costs may be authorized at the discretion of the Agreement Officer.

D.12 CONFLICT OF INTEREST PRE-AWARD TERM (AUGUST 2018)

a. Personal Conflict of Interest

1. An actual or appearance of a conflict of interest exists when an applicant organization or an employee of the organization has a relationship with an Agency official involved in the competitive award decision-making process that could affect that Agency official's impartiality. The term "conflict of interest" includes situations in which financial or other personal considerations may compromise, or have the appearance of compromising, the obligations and duties of a USAID employee or recipient employee.
2. The applicant must provide conflict of interest disclosures when it submits the applications. Should the applicant discover a previously undisclosed conflict of interest after submitting the application, the applicant must disclose the conflict of interest to the AO no later than ten (10) calendar days following discovery.

b. Organizational Conflict of Interest

The applicant must notify USAID of any actual or potential conflict of interest that they are aware of that may provide the applicant with an unfair competitive advantage in competing for this financial assistance award. Examples of an unfair competitive advantage include but are not limited to situations in which an applicant or the applicant's employee gained access to non-public information regarding a federal assistance funding opportunity, or an applicant or applicant's employee was substantially involved in the preparation of a federal assistance funding opportunity. USAID will promptly take appropriate action upon receiving any such notification from the applicant.

D.13 PRE-AWARD RESPONSIBILITY DETERMINATION AND RISK ASSESSMENT

Upon consideration of award or during the discussions leading to an award, the selected Applicant may be required to submit additional documentation deemed necessary for the Agreement Officer to make an affirmative determination of responsibility.

IMPORTANT NOTE

Applicants should not submit the information below with their Applications. The information in this section is provided so that Applicants may become familiar with additional documentation that may be requested by the AO before award in order to make the responsibility determination:

These documents may include, but are not limited to:

1. Audited financial statements for the past three (3) years that have been audited by a certified public accountant or other auditor satisfactory to USAID;

2. Bylaws, constitution, and articles of incorporation, if applicable;

3. Copies of organizational travel, procurement, financial management, accounting manual and personnel policies and procedures, especially regarding salary, promotion, leave, differentials, etc., and indicate whether such policies and procedures have been reviewed and approved by any agency of the Federal Government. If so, provide the name, address, and phone number of the cognizant reviewing official;

4. Other documentation, as required by the Agreement Officer, to substantiate that the Applicant:

- Has adequate financial resources or the ability to obtain such resources as required during the performance of the Cooperative Agreement;
- Has the ability to comply with the award's terms and conditions, taking into account all existing and currently prospective commitments of the Applicant, non-governmental and governmental;
- Has a satisfactory record of performance. Past relevant unsatisfactory performance is ordinarily sufficient to justify a finding of non-responsibility, unless there is clear evidence of subsequent satisfactory performance;
- Has a satisfactory record of integrity and business ethics;
- Is otherwise qualified and eligible to receive a Cooperative Agreement/Grant under applicable laws and regulations (e.g., Equal Employment Opportunity Laws).

An award may be made only by the Agreement Officer after making a positive responsibility determination that the Applicant possesses, or has the ability to obtain, the necessary management competence in planning and carrying out assistance programs, specifically the proposed Activity; and that it will practice mutually agreed upon methods of accountability for funds and other assets provided by USAID.

For organizations that are new to working with USAID or for organizations with outstanding audit findings, or otherwise at USAID's discretion, USAID may perform a pre-award survey to assess the Applicant's management and financial capabilities. If notified by USAID that a pre-award survey is necessary, Applicants must prepare, in advance, the required information and documents. See ADS 303.3.9.1 at https://www.usaid.gov/ads/policy/300/303 for more information on pre-award surveys. Please note that a pre-award survey does not commit USAID to make any award.

[END OF SECTION D]

SECTION E: APPLICATION REVIEW INFORMATION

E.1 CRITERIA

The merit review criteria prescribed herein are tailored to the requirements of this NOFO. Applicants should note that these criteria serve to: (a) identify the significant matters which the Applicants should address in their applications, and (b) set the standard against which all applications will be evaluated.

As outlined in Section C.2, there is a minimum required cost share for this activity. Applications that do not meet the minimum cost share requirement may not be eligible for award consideration. While it is a minimum requirement for eligibility, cost share will not be considered in the merit review criteria.

E.2 TECHNICAL EVALUATION FACTORS

Technical applications will be evaluated by a technical evaluation committee using the criteria shown in this Section. The criteria below are presented by major categories and in **descending order of importance** so that the Applicants know which areas require emphasis in the preparation of the applications.

E.2.1 **Technical Solution** (See Section D.7)

The extent to which the proposed technical solution demonstrates a clear understanding of the activity objectives, strategic approaches, and provides convincing approaches to achieve expected outcomes; and a sound plan for the lasting sustainability of activity outcomes.

E.2.2 **Institutional Experience** (See Section D.7)

The extent to which the Prime Applicant convincingly demonstrates relevant experience enhancing the likelihood of successful activity implementation.

E.2.3 **Staffing Plan & Key Personnel** (See Section D.7)

The extent to which the proposed staffing plan and proposed key personnel convincingly demonstrate the ability to effectively manage and implement the proposed activity adaptively and successfully.

E.3 COST/BUSINESS APPLICATION EVALUATION

If an Applicant proceeds to the Full Application stage their proposed full budget will be evaluated. This review will determine whether the costs are allowable in accordance with the cost principles found in 2 CFR 200 Subpart E. USAID will also consider (1) the extent of the Applicant’s understanding of the financial aspects of the program and the Applicant’s ability to perform the activities within the amount requested; (2) whether the Applicant’s plans will achieve the program objectives with reasonable economy and efficiency; and (3) whether any special conditions relating to costs should be included in the award.

Proposed cost share will be reviewed for compliance with the standards set forth in 2 CFR 200.306, 2 CFR 700.10, and the Standard Provision "Cost Sharing (Matching)" for U.S. entities, or the Standard Provision "Cost Share" for non-U.S. entities.

The AO will perform a risk assessment (2 CFR 200.205). The AO may determine that a pre-award survey is required to inform the risk assessment in determining whether the prospective recipient has the necessary organizational, experience, accounting and operational controls, financial resources, and technical skills – or ability to obtain them – in order to achieve the objectives of the program and comply with the terms and conditions of the award. Depending on the result of the risk assessment, the AO will decide to execute the award, not execute the award, or award with "specific conditions" (2 CFR 200.207).

E.4 DETERMINATION OF AWARD

The submitted technical information will be evaluated by a technical evaluation committee using the criteria shown above. The cost/business application will be reviewed by the Agreement Officer/Agreement Specialist. As a result of this process, USAID intends to select the apparently successful recipient based upon the initial application submission. Once the selection is made, the Government may address any concerns to the selected recipient for resolution. However, the Government reserves the right to negotiate with all applicants prior to selection of the successful recipient if in the best interest of the Government.

If USAID and the apparently successful Applicant cannot come to a mutual understanding during the course of discussions, or if the apparently successful Applicant is unable to provide satisfactory Technical and Cost Applications, or does not meet deadlines for submissions, or presents an unacceptable risk as a result of the risk assessment, then the Agreement Officer may designate the next highest-evaluated Applicant as the apparently successful Applicant. This decision is at the sole discretion of the Agreement Officer. The Agreement Officer's decision regarding funding of an award is final and not subject to review.

[END OF SECTION E]

SECTION F: FEDERAL AWARD ADMINISTRATION INFORMATION

F.1 FEDERAL AWARD NOTICES

Award of the agreement contemplated by this NOFO cannot be made until funds have been appropriated, allocated and committed through internal USAID procedures. While USAID anticipates that these procedures will be successfully completed, potential Applicant is hereby notified of these requirements and conditions for the award. The Agreement Officer is the only individual who may legally commit the Government to the expenditure of public funds. No costs chargeable to the proposed Agreement may be incurred before receipt of either a fully executed Agreement or a specific, written authorization from the Agreement Officer.

F.2 ADMINISTRATION

Awards will be made under relevant federal regulations and agency policy. For U.S non-governmental organizations, awards must be administered according to 2 CFR 200 and 2 CFR 700, and USAID Standard Provisions will apply (https://www.usaid.gov/ads/policy/300/303maa). For non U.S. non- governmental organizations, USAID provisions for non U.S. non-government organizations will apply (https://www.usaid.gov/ads/policy/300/303mab).

F.3 PAYMENT AND FINANCIAL REPORTING

Financial reporting requirements will depend on the method of payment. Recipients will comply with the financial reporting requirements set forth in the USAID standard provisions. If advance payments are provided, reporting periods are calendar quarters or parts thereof. Quarterly financial reports are due not later than 30 days after the end of each calendar quarter. If payment is on a reimbursement basis, financial reports may be submitted monthly, but not less frequently than 30 days after the end of each calendar quarter. Regardless of whether payments are on an advance or reimbursement basis, the final financial report is due not later than 90 days after the estimated completion date of the award. The Recipient shall also comply with the USAID standard provision entitled "Reporting Host Government Taxes."

F.4 REPORTING REQUIREMENTS

Program Reports shall be in accordance with applicable USAID Standard Provisions.

All written documentation must be submitted in professional-level English. The reports listed below are the initial reports required by the recipient. Based on the evolving nature of the agreement, USAID may provide modified reporting requirements.

Note: USAID's fiscal year starts on October 1 and ends on September 30. Four fiscal quarterly periods begin on October 1, January 1, April 1, and July 1.

Reports and Deliverables	Due Dates	Delivery
1. Project Approval	Immediately following the award, the Recipient shall initiate the process to obtain the project approval from GVN to fully implement the activity in Vietnam.	Project Approval
2. Annual Work Plan	First work plan will be submitted within 60 calendar days after the award. Subsequent annual work plans due September 1 of each subsequent Agreement year	Electronically AOR
3. Activity Monitoring, Evaluation and Learning (MEL) Plan	30 days after the finalization of the first year work plan.	Electronically AOR
4. Quarterly Progress Reports	By March 31st, June 30th, September 15th and December 31st of each year	Electronically AOR Financial Analyst Team
5. Bi-annual Pause and Reflect Sessions	Due dates for the bi-annual pause-and-reflect sessions and reports will be finalized in consultation with USAID, with the first session expected after completing the first six months of the activity.	Workshop with USAID and relevant partners
6. Annual Pause and Reflect Sessions	Planned and facilitated as a key input to the annual work plan and annual performance report.	Workshop with USAID and relevant partners
7. Annual Performance Report	October 30th of each year	Electronically AOR
8. Ad Hoc reports by USAID	Ad-hoc reports periodically per USAID's request	Electronically AOR
9. Final Report	30 calendar days prior to the end of the Agreement	Electronically AOR
10. Financial reports	Quarterly financial report: 30 calendar days after the end of each USG fiscal quarter	Electronically COR Financial Analyst Team

Reports and Deliverables	Due Dates	Delivery
	Final financial report: 90 days following the expiration of the award	

1. **Project approval - -** In order to fully implement the activity, the Recipient is required to comply with Vietnamese requirements for project approval to fully implement this Activity in Vietnam. Project approval is expected to take approximately six (06) months, as such the Recipient is requested to initiate the process immediately following award. While seeking project approval, in close consultation with the AOR, the Recipient shall consider staffing and related consequence impacting implementation to ensure an efficient use of resources.

2. **Annual Work Plan -** The annual work plan details how the Recipient will use the work plan year effectively to achieve the activity objectives and strategic approaches. The work plan serves as a guide to program implementation and, once approved, represents an agreement as to the objectives and timing of specific tasks and interventions. The work plan is intended to be an annual roadmap for USAID and the Recipient. It should be closely aligned to the theory of change agreed upon during the start-up, and clearly explain how the actions and outputs will lead to the expected outcomes identified in the theory of change. More details on the format of the work plan will be provided after award.

3. **Activity Monitoring and Evaluation Plan (MEL)** - In accordance with USAID policy, the Recipient is required to submit an Activity Monitoring, Evaluation and Learning Plan (MEL) within 30 days after the finalization of the first-year work plan. The MEL reflects the award progress over the life of the Activity and is a critical tool for planning, managing, documenting, evaluating performance and learning. The MEL plan should demonstrate the activity's monitoring approach and relevant performance indicators of activity's expected results; plans for collaborating on external evaluations; proposed internal evaluations and learning activities; and the Recipient's proposed roles for MEL actions. The MEL plan should be framed by, and closely aligned with, the agreed-upon activity theory of change. Findings from the MEL should be reviewed and validated in annual pause-and reflect-sessions with USAID staff (and relevant stakeholders), and revised when appropriate in consultation with the AOR. More details and additional support on the MEL plan development, review, and approval will be provided after award.

4. **Quarterly Performance Reports -** The Recipient will submit quarterly performance reports to reflect progress, the activities of the preceding three months and lessons learned. The report must describe the tasks completed in the last three months relative to what was anticipated in the approved work plan, and will assess the overall activity impact to date relative to the performance indicator targets and results defined in the activity theory of change. More details on the format of the quarterly performance reports will be provided after award.

5. **Bi-annual Pause-and-Reflect (BPR) Sessions -** the Recipient will be expected to hold bi-annual pause and reflect sessions that include USAID and, when relevant, local actors and

partners. The Recipient will be responsible for designing and facilitating sessions and will consult with USAID in the design.

6. **Annual Pause-and-Reflect Sessions (APR)** - Annual pause and reflect (APR) sessions should precede and inform the development of the annual work plan and annual performance report. These will form the basis for a management review conducted by USAID and program staff to assess: program directions, priorities, achievements, and prior year implementation results; management and implementation impediments; and recommendations for adaptive management actions. The format, participation and final output of the APR will be defined through consultation with the AOR. The APR may be used to suggest refinements or updates to the activity theory of change, MEL plan, and subsequent annual work plans.

7. **Annual Performance Report** - Annual performance reports will summarize actions, progress and results during the year in relation to the approved work plan and the activity theory of change it supports. The report should include lessons learned, proposed adaptive management shifts, and proposed updates to the theory of change. The annual performance report will be used by USAID to assess the status of activity implementation. Each annual performance report will include an assessment as to whether the activity's strategic approaches and actions are leading to the activity objectives. The annual performance report will cover all of the items included in the quarterly performance report, with a focus on the Activity results over the entire year. More details on the format of the annual performance report will be provided after award.

8. **Ad-hoc Reports:** USAID ad-hoc requests may include periodical updates or other reporting taskers per USAID's request.

9. **Final Report -** The Final Report must discuss all strategic approaches and results from the start of the award through its completion. More details on the format of the final report will be provided after award.

10. **Financial Reports:** Financial Reports shall be in accordance with applicable USAID Standard Provisions.

    <u>Quarterly Financial Report:</u> Quarterly Financial Reports shall be due within 30 days following the end of each quarter corresponding to USAID's fiscal year from October 1 through September 30.

    <u>Final Financial Report</u>

    The Final Financial Report shall be due within 90 days following the expiration of the award. Financial Reports shall be in accordance with 2 CFR 700. USAID requires recipients to use the Standard Form 425 or Standard Form 425a, Federal Financial Report, or such other forms authorized for obtaining financial information as may be approved by OMB.

    Financial reports shall be submitted as follows: Financial Analyst, Office of Financial Management (email: hanoiusaidfa@usaid.gov) and the AOR.

F.5 SUBMISSION OF DEVELOPMENTAL EXPERIENCE DOCUMENTATION

USAID recipients must submit one electronic copy of development experience documentation to the Development Experience Clearinghouse. Development experience documentation may be submitted online: http://dec.usaid.gov. Or by mail (for pouch delivery):

USAID Development Experience Clearinghouse
M/CIO/ITSD/KM/DEC
RRB M.01-010
Washington, DC 20523-6100
Phone: (202) 712-0579
Email: docsubmit@usaid.gov

In addition, the recipient must submit one electronic copy of development experience documentation to the AOR for the award.

F.6 PROGRAM INCOME

Program Income earned under the resultant award will be added to the Total Estimated Amount (exclusive of cost share) in accordance with 2 CFR 200.307(e)(2).

[END OF SECTION F]

ATTACHMENT A: REFERENCES

1. USAID/Vietnam CDCS:
2. Inclusive Governance Assessment for Vietnam
3. USAID/Vietnam Private Sector Landscape Assessment
4. USAID ALTERNATIVE DISPUTE RESOLUTION PRACTITIONERS GUIDE
5. UNCITRAL's Reference materials
6. ADS 201, ADS 205

[END OF ATTACHMENT A]

ATTACHMENT B: SUMMARY BUDGET TEMPLATE

NOFO No. 72044022RFA00001
Vietnam ADR

Line Item	**Year 1**	**Year 2**	**Year 3**	**Total Amount (USD)**
Salary and Allowances				
Fringe Benefits				
Travel and Transportation				
Equipment & Supplies				
Subawards				
Other Direct Costs				
Total Direct Charges				
Indirect Charges, if any				
Total Costs				
Cost Share				
Total Costs plus Cost Share				
Leveraged funds, if any				
Total Activity Costs Plus Leveraged funds				

[END OF ATTACHMENT B]

ATTACHMENT C: FULL APPLICATION FORMAT

NOTE: USAID IS NOT REQUESTING THIS INFORMATION AT THIS TIME. THE MOST HIGHLY RATED APPLICANT(S) WILL BE REQUESTED BY USAID TO SUBMIT A FULL APPLICATION FOLLOWING THE EVALUATION OF SUMMARY APPLICATIONS.

Following the evaluation of Summary Applications, the most highly rated Applicant(s) shall be requested to submit a Full Application to provide greater detail of the proposed activity. This Attachment provides an overview of the Full Application Format to provide interested organizations with a preview of what information may be requested by USAID as part of the Full Application stage, but note that this list is subject to change. Full Applications must address the comments and instructions provided by USAID in the Full Application Request Letter.

Full Applications will have the following sections, which expand on the information provided in the Summary Applications.

- Technical Application
  - Cover Page (See Section D.7 above for requirements)
  - Program Description;
  - Management Plan;
- Cost Application
  - Cover Page (See Section D.7 above for requirements)
  - SF 424 Form(s)
  - Budget and Budget Narrative;
  - Certifications and Representations;
  - Branding and Marking Plan;

A.1. TECHNICAL APPLICATION

Additional information might be provided at the time of the request for Full Application. It is anticipated that a portion of the successful application will become the Program Description for the award resulting from this NOFO.

i. **Program Description*:*** A detailed description of how the Applicant intends on achieving the objectives described in this solicitation.

ii. **Management Plan:** Applicants will clearly present the management and administrative arrangements to oversee execution of the proposed activities; organizational structure; logistical support; functions and responsibilities of key personnel and other staff, including any sub-awards; and management of USAID award compliance.

A.2. COST APPLICATION - BUDGET AND BUDGET NARRATIVE FORMAT

Prior to award, Applicants may be required to submit additional documentation deemed necessary for the Agreement Officer to assess the Applicant’s risk in accordance with 2 CFR 200.205

1. Cover Page

The Cost Application Cover Page must contain the same information as the Technical Application Cover Page.

2. SF 424 Form(s)

The applicant must sign and submit the cost application using the SF-424 series. Standard Forms can be accessed electronically at www.grants.gov or using the following links:

Instructions for SF-424	https://www.grants.gov/web/grants/forms/sf-424-family.html
Application for Federal Assistance (SF-424)	https://www.grants.gov/web/grants/forms/sf424-fid.html?formId=713
Instructions for SF-424A	https://www.grants.gov/web/grants/forms/sf-424-family.html
Budget Information (SF-424A)	https://www.grants.gov/web/grants/forms/sf424-fid.html?formId=241
Instructions for SF-424B	https://www.grants.gov/web/grants/forms/sf-424-family.html
Assurances (SF-424B)	https://www.grants.gov/web/grants/forms/sf424-fid.html?formId=240

Failure to accurately complete these forms could result in the rejection of the application.

3. Budget and Budget Narrative

While there is no page limit for this portion, Applicants are encouraged to be as clear and concise as possible, but still provide the necessary detail to address the following:

- The budget to be presented under Cost/Business Application should relate to results specified in Section A. Funding Opportunity Description, and delineate the cost inputs or each result.
- The proposed budget should provide cost estimates for the management of the program (including program monitoring, baseline assessments and assessments for environmental compliance). Applicant should minimize their administrative and support costs for managing the project to maximize the funds available for project activities.
- The breakdown of all costs associated with the program according to costs of, if applicable, headquarters, regional, country, and/or local offices.
- The breakdown of all costs according to each partner organization or subcontractor/ subgrantee involved in the program.
- The costs associated with external, expatriate technical assistance and those associated with local in-country technical assistance.

- The breakdown of the financial and in-kind (cost share) contributions of all organizations involved in implementing this Activity.

- Potential contributions of non-USAID or private commercial donors to this agreement.
- A procurement plan for commodities.

The Budget must include the following worksheets or tabs, and contents, at a minimum (all formulas must be displayed, and the budget must not be locked):

i. Summary Budget, inclusive of all program costs (federal and non-federal), broken out by major budget category and by year for activities implemented by the Applicant and any potential sub-applicants for the entire period of the activity(ies).
ii. Detailed Budget, including a breakdown by year, sufficient to allow the Agency to determine that the costs represent a realistic and efficient use of funding to implement the applicant's activity(ies) and are allowable in accordance with the cost principles found in 2 CFR 200 Subpart E.
iii. Detailed Budgets for each sub-recipient, for all federal funding and cost share, broken out by budget category and by year, for the entire implementation period of the Activity.

The Detailed Budget must contain the following budget categories and information, at a minimum:

1) Salary and Allowances– Direct salaries and wages must be proposed in accordance with the applicant's personnel policies and must include position title, salary rate, level of effort, and salary escalation factors. Allowances, when proposed, should be broken down by specific type and by person. Allowances should be in accordance with the applicant's policies and the applicable regulations and policies. Explain assumptions in the Budget Narrative. If the organization has standing policies across all projects for annual salary escalations that exceed current inflation rates, those policies and the effective date of those policies must be provided with the application. The Applicant must also confirm that the policy applies to all staff across all projects.

2) Fringe Benefits – (if applicable) If the Applicant has a fringe benefit rate approved by an agency of the U.S. Government, the Applicant must use such rate and provide evidence of its approval. If an Applicant does not have a fringe benefit rate approved, the Applicant must propose a rate and explain how the Applicant determined the rate. In this case, the Budget Narrative must include a detailed breakdown comprised of all items of fringe benefits (e.g., superannuation, gratuity, etc.) and the costs of each, expressed in U.S. dollars and as a percentage of salaries.

3) Travel and Transportation –Provide details to explain the purpose of the trips, the number of trips, the origin and destination, the number of individuals traveling, and the duration of the trips. Per Diem and associated travel costs must be based on the applicant's normal travel policies. When appropriate please provide supporting documentation as an attachment, such as company travel policy, and explain assumptions in the Budget Narrative.

4) Procurement or Rental of Goods (Equipment & Supplies), Services, and Real Property – must include information on estimated types of equipment, models, supplies and the cost per unit and

quantity. The Budget Narrative must include the purpose of the equipment and supplies and the basis for the estimates. The Budget Narrative must support the necessity of any rental costs and reasonableness in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased.

5) Subawards – Specify the budget for the portion of the activity to be passed through to any subrecipients. See 2 CFR 200.330 for assistance in determining whether the sub-tier entity is a sub-recipient or contractor. The subrecipient budgets must align with the same requirements as the Applicant's budget, including those related to fringe and indirect costs.

6) Cost Sharing – The applicant should estimate the amount of cost-sharing resources to be provided over the life of the agreement and specify the sources of such resources, and the basis of calculation in the budget narrative. Applicants should also provide a breakdown of the cost share (financial and in-kind contributions) of all organizations involved in implementing the resulting award.

7) Other Direct Costs – This may include other costs not elsewhere specified, such as report preparation costs, passports and visas fees, medical exams and inoculations, as well as any other miscellaneous costs which directly benefit the activity proposed by the applicant. The applicant should indicate the subject, venue and duration of any proposed conferences and seminars, and their relationship to the objectives of the activity, along with estimates of costs. Otherwise, the narrative should be minimal.

   Note: Foreign Government Delegations to International Conferences: Funds in this agreement may not be used to finance the travel, per diem, hotel expenses, meals, conference fees or other conference costs for any member of a foreign government's delegation to an international conference sponsored by a public international organization.

8) Indirect Costs – Applicants must indicate whether they are proposing indirect costs or will charge all costs directly. The application must identify which approach they are requesting and provide the applicable supporting information:

Method	**Eligibility**	**Initial application requirements**
Direct Charge Only	Any applicant	See above on direct costs
Existing Negotiated Indirect Cost Rate Agreement (NICRA)	Any applicant with an approved NICRA	Submit your approved NICRA and the associated disclosed practices.
De minimis rate of 10% of modified total	Any applicant that has never received a NICRA	Costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such

direct costs (MTDC)		time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time. The applicant must describe which cost elements it charges indirectly vs. directly.
Indirect Costs Charged As A Fixed Amount	Certain U.S. educational institutions & non U.S. non-profit organizations may request, but approval is at the discretion of the AO	Provide the proposed fixed amount and a worksheet that includes the following (For Education institutions, see 2 CFR 200 App III): ● Total costs incurred by the organization for previous fiscal year and estimates for the current year ● Indirect costs (common costs that benefit the day-to-day operations of the organization, including categories such as salaries and expenses of executive officers, personnel administration, and accounting, or that benefit and are identifiable to more than one program or activity(ies), such as depreciation, rental costs, operations and maintenance of facilities, and telephone expenses) for the previous fiscal year and estimates for the current year ● Proposed method for prorating the indirect costs equitably and consistently across all programs and activities of using a base that measures the benefits of that particular cost to each program or activity(ies) to which the cost applies.
No current NICRA, but applicant has an indirect rate other than the de minimis	Any applicant may request but approval is at the discretion of the Agency	A NICRA may be negotiated after award at the discretion of the Agency. Provisional rates may be set forth in the contract subject to audit and finalization. The applicant must identify the indirect cost rate and base it is proposing. See USAID's Indirect Cost Rate Guide for Non Profit Organizations for further guidance.

The Applicant must submit a Negotiated Indirect Cost Rate Agreement NICRA if the organization has such an agreement with an agency or department of the U.S. Government. If no NICRA the Applicant should submit the following:

- Reviewed Financial Statements Report: a report issued by a Certified Public Accountant (CPA) documenting the review of the financial statements was performed in accordance with Statements on Standards for Accounting and Review Services; that management is responsible for the preparation and fair presentation of the financial statements in accordance with the applicable financial reporting framework and for designing, implementing and maintaining internal control relevant to the preparation. The account must also state the he or she is not aware of any material modifications that should be made to the financial statements; or
- Audited Financial Statements Report: An auditor issues a report documenting the audit was conducted in accordance with Generally Accepted Auditing Standards (GAAS), the financial statements are the responsibility of management, provides an opinion that the financial statements present fairly in all material respects the financial position of the company and the results of operations are in conformity with the applicable financial

reporting framework (or issues a qualified opinion if the financial statements are not in conformity with the applicable financial reporting framework).

4. Certifications and Representations

The Applicant must complete the following documents and submit a signed copy with their application.

a. The Applicant shall complete the required certifications and sign and date in the signature space provided. http://www.usaid.gov/sites/default/files/documents/1868/303mav.pdf
b. Assurances for Non-Construction Programs (SF-424B)
c. Certificate of Compliance: Please submit a copy of your Certificate of Compliance if your organization's systems have been certified by USAID/Washington's Office of Acquisition and Assistance (M/OAA).

5. Branding Strategy & Marking Plan

The apparently successful applicant will be asked to provide a Branding Strategy and Marking Plan to be evaluated and approved by the Agreement Officer and incorporated into any resulting award
Branding Strategy – Assistance (June 2012)

a. Applicants recommended for an assistance award must submit and negotiate a "Branding Strategy," describing how the program, project, or activity is named and positioned, and how it is promoted and communicated to beneficiaries and host country citizens.

b. The request for a Branding Strategy, by the Agreement Officer from the applicant, confers no rights to the applicant and constitutes no USAID commitment to an award.

c. Failure to submit and negotiate a Branding Strategy within the time frame specified by the Agreement Officer will make the applicant ineligible for an award.

d. The applicant must include all estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth, in the budget portion of the application. These costs are subject to the revision and negotiation with the Agreement Officer and will be incorporated into the Total Estimated Amount of the grant, cooperative agreement or other assistance instrument.

e. The Branding Strategy must include, at a minimum, all of the following:

(1) All estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth.

(2) The intended name of the program, project, or activity.

(i) USAID requires the applicant to use the "USAID Identity," comprised of the USAID logo and brandmark, with the tagline "from the American people" as found on the USAID Web site at **http://www.usaid.gov/branding**, unless Section VI of the RFA or APS states that the USAID Administrator has approved the use of an additional or substitute logo, seal, or tagline.

(ii) USAID prefers local language translations of the phrase "made possible by (or with) the generous support of the American People" next to the USAID Identity when acknowledging contributions.

(iii) It is acceptable to cobrand the title with the USAID Identity and the applicant's identity.

(iv) If branding in the above manner is inappropriate or not possible, the applicant must explain how USAID's involvement will be showcased during publicity for the program or project.

(v) USAID prefers to fund projects that do not have a separate logo or identity that competes with the USAID Identity. If there is a plan to develop a separate logo to consistently identify this program, the applicant must attach a copy of the proposed logos. Section VI of the RFA or APS will state if an Administrator approved the use of an additional or substitute logo, seal, or tagline.

(3) The intended primary and secondary audiences for this project or program, including direct beneficiaries and any special target segments.

(4) Planned communication or program materials used to explain or market the program to beneficiaries.

(i) Describe the main program message.

(ii) Provide plans for training materials, posters, pamphlets, public service announcement, billboards, Web sites, and so forth, as appropriate.

(iii) Provide any plans to announce and promote publicly this program or project to host country citizens, such as media releases, press conferences, public events, and so forth. Applicant must incorporate the USAID Identity and the message, "USAID is from the American People."

(iv) Provide any additional ideas to increase awareness that the American people support this project or program.

(5) Information on any direct involvement from host-country government or ministry, including any planned acknowledgement of the host-country government.

(6) Any other groups whose logo or identity the applicant will use on program materials and related materials. Indicate if they are a donor or why they will be visibly acknowledged, and if they will receive the same prominence as USAID.

f. The Agreement Officer will review the Branding Strategy to ensure the above information is adequately included and consistent with the stated objectives of the award, the applicant's cost data submissions, and the performance plan.

g. If the applicant receives an assistance award, the Branding Strategy will be included in and made part of the resulting grant or cooperative agreement.

Marking Plan – Assistance (June 2012)

a. Applicants recommended for an assistance award must submit and negotiate a "Marking Plan," detailing the public communications, commodities, and program materials, and other items that will visibly bear the "USAID Identity," which comprises of the USAID logo and brandmark, with the tagline "from the American people." The USAID Identity is the official marking for the Agency, and is found on the USAID Web site at http://www.usaid.gov/branding. Section VI of the RFA or APS will state if an Administrator approved the use of an additional or substitute logo, seal, or tagline.

b. The request for a Marking Plan, by the Agreement Officer from the applicant, confers no rights to the applicant and constitutes no USAID commitment to an award.

c. Failure to submit and negotiate a Marking Plan within the time frame specified by the Agreement Officer will make the applicant ineligible for an award.

d. The applicant must include all estimated costs associated with branding and marking USAID programs, such as plaques, stickers, banners, press events, materials, and so forth, in the budget portion of the application. These costs are subject to the revision and negotiation with the Agreement Officer and will be incorporated into the Total Estimated Amount of the grant, cooperative agreement or other assistance instrument.

e. The Marking Plan must include all of the following:

(1) A description of the public communications, commodities, and program materials that the applicant plans to produce and which will bear the USAID Identity as part of the award, including:

(i) Program, project, or activity sites funded by USAID, including visible infrastructure projects or other sites physical in nature;
(ii) Technical assistance, studies, reports, papers, publications, audio- visual productions, public service announcements, Web sites/Internet activities, promotional, informational, media, or communications products funded by USAID;
(iii) Commodities, equipment, supplies, and other materials funded by USAID, including commodities or equipment provided under humanitarian assistance or disaster relief programs; and
(iv) It is acceptable to cobrand the title with the USAID Identity and the applicant's identity.
(v) Events financed by USAID, such as training courses, conferences, seminars, exhibitions, fairs, workshops, press conferences and other public activities. If the USAID Identity cannot be displayed, the recipient is encouraged to otherwise acknowledge USAID and the support of the American people.

(2) A table on the program deliverables with the following details:

(i) The program deliverables that the applicant plans to mark with the USAID Identity;

(ii) The type of marking and what materials the applicant will use to mark the program deliverables;
(iii) When in the performance period the applicant will mark the program deliverables, and where the applicant will place the marking;
(iv) What program deliverables the applicant does not plan to mark with the USAID Identity, and
(v) The rationale for not marking program deliverables.

(3) Any requests for an exemption from USAID marking requirements, and an explanation of why the exemption would apply. The applicant may request an exemption if USAID marking requirements would:

(i) Compromise the intrinsic independence or neutrality of a program or materials where independence or neutrality is an inherent aspect of the program and materials. The applicant must identify the USAID Development Objective, Interim Result, or program goal furthered by an appearance of neutrality, or state why an aspect of the award is presumptively neutral. Identify by category or deliverable item, examples of material for which an exemption is sought.
(ii) Diminish the credibility of audits, reports, analyses, studies, or policy recommendations whose data or findings must be seen as independent. The applicant must explain why each particular deliverable must be seen as credible.
(iii) Undercut host-country government "ownership" of constitutions, laws, regulations, policies, studies, assessments, reports, publications, surveys or audits, public service announcements, or other communications. The applicant must explain why each particular item or product is better positioned as host-country government item or product.
(iv) Impair the functionality of an item. The applicant must explain how marking the item or commodity would impair its functionality.
(v) Incur substantial costs or be impractical. The applicant must explain why marking would not be cost beneficial or practical.
(vi) Offend local cultural or social norms, or be considered inappropriate. The applicant must identify the relevant norm, and explain why marking would violate that norm or otherwise be inappropriate.
(vii) Conflict with international law. The applicant must identify the applicable international law violated by the marking.

f. The Agreement Officer will consider the Marking Plan's adequacy and reasonableness and will approve or disapprove any exemption requests. The Marking Plan will be reviewed to ensure the above information is adequately included and consistent with the stated objectives of the award, the applicant's cost data submissions, and the performance plan.

g. If the applicant receives an assistance award, the Marking Plan, including any approved exemptions, will be included in and made part of the resulting grant or cooperative agreement, and will apply for the term of the award unless provided otherwise.

6. Prior Approvals in accordance with 2 CFR 200.407

Inclusion of an item of cost in the detailed application budget does not satisfy any requirements for prior approval by the Agency. If the applicant would like the award to reflect approval of any cost elements for which prior written approval is specifically required for allowability, the applicant must specify and justify that cost. See 2 CFR 200.407 for information regarding which cost elements require prior written approval.

7. Approval of Subawards

The applicant must submit information for all subawards that it wishes to have approved at the time of award. For each proposed subaward the applicant must provide the following:

- Name of organization
- DUNS Number
- Confirmation that the subrecipient does not appear on the Treasury Department's Office of Foreign Assets Control (OFAC) list
- Confirmation that the subrecipient does not have active exclusions in the System for Award Management (SAM)
- Confirmation that the subrecipient is not listed in the United Nations Security designation list
- Confirmation that the subrecipient is not suspended or debarred
- Confirmation that the applicant has completed a risk assessment of the subrecipient, in accordance with 2 CFR 200.332(b)
- Any negative findings as a result of the risk assessment and the applicant's plan for mitigation.

[END OF ATTACHMENT C]

ATTACHMENT D: FULL APPLICATION BUDGET TEMPLATE

The budget is the financial expression of the Activity. The following template represents an example of what USAID anticipates receiving in an Activity budget with Application submission.

NOFO No. 72044022RFA00001
Vietnam ADR

	Year 1				Year 2				Year 3				Total 3 years	
Cost Element	Unit	Amt (US$)	USAID	Cost Share	Unit	Amt US$	USAID	Cost Share	…	…	…	…	USAID	Cost Share
Total Direct Labor														
1. Headquarter														
a) Salary/Wages														
b) Fringe Benefits														
2. Country Office(s)														
a) Salary/Wages														
b) Fringe Benefits														
Consultants														
Travel, Transportation and Per Diem														
Equipment and Supplies														
Training/Conference														
Subawards														
Subawardee A														
Subawardee B														
Other Direct Costs														
Indirect Costs														
Total Costs														
Cost Share														
Total Estimated Costs Plus Cost Share														

[END OF ATTACHMENT D]

ATTACHMENT E: PLANNED PRE-AWARD SCHEDULE

Pre-Award Milestone	**Anticipated Date**
RFA Posted on grants.gov	January 21, 2022
Due date for Receipt of Q&A	February 8, 2022
Due Date for Summary Applications	February 28, 2022
USAID Reviews Summary Applications	March 01, 2022
Co-Creation with Selected Applicants	April 11 – April 29, 2022
USAID Requests Full Application	April 29, 2022
Due date for receipt of Full Application	May 25, 2022
Discussions with Finalist completed	June 15, 2022
Anticipated Award Date	July 15, 2022

[END OF ATTACHMENT E]

ATTACHMENT F: STANDARD PROVISIONS

(Note: the full text of these provisions may be found at: https://www.usaid.gov/ads/policy/300/303maa and https://www.usaid.gov/ads/policy/300/303mab). The actual Standard Provisions included in the award will be dependent on the organization that is selected. The award will include the latest Mandatory Provisions for either U.S. or non-U.S. Nongovernmental organizations**.** The award will also contain the following "required as applicable" Standard Provisions:

Please note that the resulting award will include all standard provisions (both mandatory and required as applicable) in full text.

REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR U.S. NONGOVERNMENTAL ORGANIZATIONS

Required	Not Required	Standard Provision
TBD		RAA1. NEGOTIATED INDIRECT COST RATES - PREDETERMINED (NOVEMBER 2020)
		RAA2. NEGOTIATED INDIRECT COST RATES - PROVISIONAL (Nonprofit) (NOVEMBER 2020)
		RAA3. NEGOTIATED INDIRECT COST RATE - PROVISIONAL (Profit) (DECEMBER 2014)
		RAA4. INDIRECT COSTS – DE MINIMIS RATE (NOVEMBER 2020)
x		RAA5. EXCHANGE VISITORS AND PARTICIPANT TRAINING (JUNE 2012)
	x	RAA6. VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)
	x	RAA7. PROTECTION OF THE INDIVIDUAL AS A RESEARCH SUBJECT (APRIL 1998)
	x	RAA8. CARE OF LABORATORY ANIMALS (MARCH 2004)
	x	RAA9. TITLE TO AND CARE OF PROPERTY (COOPERATING COUNTRY TITLE) (NOVEMBER 1985)
x		RAA10. COST SHARING (MATCHING) (FEBRUARY 2012)
x		RAA11. PROHIBITION OF ASSISTANCE TO DRUG TRAFFICKERS (JUNE 1999)
	x	RAA12. INVESTMENT PROMOTION (NOVEMBER 2003)
x		RAA13. REPORTING HOST GOVERNMENT TAXES (DECEMBER 2014)
x		RAA14. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)
	x	RAA15. CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE) (FEBRUARY 2012)
	x	RAA16. CONDOMS (ASSISTANCE) (SEPTEMBER 2014)
	x	RAA17. PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING (ASSISTANCE) (SEPTEMBER 2014)
x		RAA18. USAID DISABILITY POLICY - ASSISTANCE (DECEMBER 2004)

	x	RAA19. STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID ASSISTANCE AWARDS INVOLVING CONSTRUCTION (SEPTEMBER 2004)
	x	RAA20. STATEMENT FOR IMPLEMENTERS OF ANTI-TRAFFICKING ACTIVITIES ON LACK OF SUPPORT FOR PROSTITUTION (JUNE 2012)
	x	RAA21. ELIGIBILITY OF SUBRECIPIENTS OF ANTI-TRAFFICKING FUNDS (JUNE 2012)
	x	RAA22. PROHIBITION ON THE USE OF ANTI-TRAFFICKING FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION (JUNE 2012)
x		RAA23. UNIVERSAL IDENTIFIER AND SYSTEM FOR AWARD MANAGEMENT (NOVEMBER 2020)
x		RAA24. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (NOVEMBER 2020)
x		RAA25. PATENT REPORTING PROCEDURES (NOVEMBER 2020)
	x	RAA26. ACCESS TO USAID FACILITIES AND USAID'S INFORMATION SYSTEMS (AUGUST 2013)
x		RAA27. CONTRACT PROVISION FOR DBA INSURANCE UNDER RECIPIENT PROCUREMENTS (DECEMBER 2014)
x		RAA28. AWARD TERM AND CONDITION FOR RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (April 2016)
	x	RAA29. RESERVED
x		RAA30. PROGRAM INCOME (AUGUST 2020)
	x	RAA31. NEVER CONTRACT WITH THE ENEMY (NOVEMBER 2020)

REQUIRED AS APPLICABLE STANDARD PROVISIONS FOR NON-U.S. NONGOVERNMENTAL ORGANIZATIONS

Require d	Not Required	Standard Provision
TBD		RAA1. ADVANCE PAYMENT AND REFUNDS (NOVEMBER 2020)
		RAA2. REIMBURSEMENT PAYMENT AND REFUNDS (DECEMBER 2014)
TBD		RAA3. INDIRECT COSTS – NEGOTIATED INDIRECT COST RATE AGREEMENT (NICRA) (NOVEMBER 2020)
		RAA4. INDIRECT COSTS – CHARGED AS A FIXED AMOUNT (NONPROFIT) (JUNE 2012)
		RAA5. INDIRECT COSTS – DE MINIMIS RATE (NOVEMBER 2020)
x		RAA6. UNIVERSAL IDENTIFIER AND SYSTEM OF AWARD MANAGEMENT (NOVEMBER 2020)
x		RAA7. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION (NOVEMBER 2020)
x		RAA8. SUBAWARDS (DECEMBER 2014)
x		RAA9. TRAVEL AND INTERNATIONAL AIR TRANSPORTATION (DECEMBER 2014)
x		RAA10. OCEAN SHIPMENT OF GOODS (JUNE 2012)
x		RAA11. REPORTING HOST GOVERNMENT TAXES (JUNE 2012)
x		RAA12. PATENT RIGHTS (JUNE 2012)
x		RAA13. EXCHANGE VISITORS AND PARTICIPANT TRAINING (JUNE 2012)
	x	RAA14. INVESTMENT PROMOTION (NOVEMBER 2003)

x		RAA 15. COST SHARE (JUNE 2012)
x		RAA16. PROGRAM INCOME (AUGUST 2020)
x		RAA17. FOREIGN GOVERNMENT DELEGATIONS TO INTERNATIONAL CONFERENCES (JUNE 2012)
	x	RAA18. STANDARDS FOR ACCESSIBILITY FOR THE DISABLED IN USAID ASSISTANCE AWARDS INVOLVING CONSTRUCTION (SEPTEMBER 2004)
	x	RAA19. PROTECTION OF HUMAN RESEARCH SUBJECTS (JUNE 2012)
	x	RAA20. STATEMENT FOR IMPLEMENTERS OF ANTI-TRAFFICKING ACTIVITIES ON LACK OF SUPPORT FOR PROSTITUTION (JUNE 2012)
	x	RAA21. ELIGIBILITY OF SUBRECIPIENTS OF ANTI-TRAFFICKING FUNDS (JUNE 2012)
	x	RAA22. PROHIBITION ON THE USE OF ANTI-TRAFFICKING FUNDS TO PROMOTE, SUPPORT, OR ADVOCATE FOR THE LEGALIZATION OR PRACTICE OF PROSTITUTION (JUNE 2012)
	x	RAA23. VOLUNTARY POPULATION PLANNING ACTIVITIES – SUPPLEMENTAL REQUIREMENTS (JANUARY 2009)
	x	RAA24. CONSCIENCE CLAUSE IMPLEMENTATION (ASSISTANCE) (FEBRUARY 2012)
	x	RAA25. CONDOMS (ASSISTANCE) (SEPTEMBER 2014)
	x	RAA26. PROHIBITION ON THE PROMOTION OR ADVOCACY OF THE LEGALIZATION OR PRACTICE OF PROSTITUTION OR SEX TRAFFICKING(ASSISTANCE) (SEPTEMBER 2014)
	x	RAA27. LIMITATION ON SUBAWARDS TO NON-LOCAL ENTITIES (JULY 2014)
x		RAA28. CONTRACT PROVISION FOR DBA INSURANCE UNDER RECIPIENT PROCUREMENTS (DECEMBER 2014)
x		RAA29. CONTRACT AWARD TERM AND CONDITION FOR RECIPIENT INTEGRITY AND PERFORMANCE MATTERS (April 2016)
	x	RAA30. RESERVED
	x	RAA31. NEVER CONTRACT WITH THE ENEMY (NOVEMBER 2020)

[END OF ATTACHMENT F]

ATTACHMENT G: INSTRUCTIONS FOR REGISTRATION IN DUNS AND SAM.GOV

D-U-N-S Numbers

The Data Universal Number System (DUNS) number is a unique nine-character number that identifies your organization. It is a tool of the federal government to track how federal money is distributed. If your organization does not know its DUNS number or needs to register for one, visit Dun & Bradstreet website: http://fedgov.dnb.com/webform/displayHomePage.do.

How long should it take?

If requested over the phone, DUNS is provided immediately. Web form requests take 1 to 2 business days. List of Information you will need to obtain a DUNS number (if your organization does not already have one):

- Name of organization
- Organization address
- Name of the CEO/organization owner
- Legal structure of the organization (corporation, partnership, proprietorship)
- Year the organization started
- Primary type of business
- Total number of employees (full and part time)

If your organization does not have a DUNS number, use the Dun & Bradstreet (D&B) online registration to receive one free of charge.

How do I get my D-U-N-S Number?
Visit D-U-N-S Request Service to obtain more detailed instructions on applying for your DUNS Number. Also, visit the System for Award Management (SAM).

SAM

The System for Award Management (SAM) is combining federal procurement systems and the Catalog of Federal Domestic Assistance into one new system

Register/Update Entity
You can register your Entity (business, individual, or government agency) to do business with the Federal Government. If you are interested in registering or updating your Entity, you must first create a user account. Visit https://www.sam.gov for registration.

[END OF ATTACHMENT G]

ATTACHMENT H: INNITIAL ENVIRONMENTAL EXAMINATION (IEE)

[The document is inserted in the following pages]

Asia 22-009

REQUEST FOR CATEGORICAL EXCLUSION

ACTIVITY DATA

Activity Name:	Strengthening Vietnam's Commercial and Investment Alternative Dispute Resolution Ecosystem (Vietnam ADR)
Geographic Location(s) (Country/Region):	Vietnam
Amendment (Yes/No), if Yes indicate # (1, 2...):	No
Implementation Start/End Dates (FY or M/D/Y):	09/30/2022 – 09/30/2026
If Amended, specify New End Date:	
Solicitation/Contract/Award Number(s):	N/A
Implementing Partner(s):	N/A
Bureau Tracking ID:	
Tracking ID of Related RCE/IEE (if any):	
Tracking ID of Other, Related Analyses:	

ORGANIZATIONAL/ADMINISTRATIVE DATA

Implementing Operating Unit(s): (e.g. Mission or Bureau or Office)	USAID/Vietnam
Other Affected Operating Unit(s):	
Lead BEO Bureau:	
Funding Operating Unit(s): (e.g. Mission or Bureau or Office)	USAID/Vietnam
Funding Account(s) (if available):	ES, DV
Original Funding Amount:	$2,500,000
If Amended, specify funding amount:	
If Amended, specify new funding total:	
Prepared by:	Hanh Nguyen
Date Prepared:	11/29/2021

ENVIRONMENTAL COMPLIANCE REVIEW DATA

Analysis Type:	☒Request for Categorical Exclusion ☐Deferral
Environmental Determination(s):	☒Categorical Exclusion(s) ☐Deferred (per 22 CFR 216.3(a)(7)(iv))
RCE Expiration Date (if applicable):	30/09/2026
Additional Analyses/Reporting Required:	
Climate Risks Identified (#):	Low __X__ Moderate ____ High ____
Climate Risks Addressed (#):	Low __X__ Moderate ____ High ____

THRESHOLD DETERMINATION AND SUMMARY OF FINDINGS

ACTIVITY SUMMARY

Vietnam ADR will help Vietnam to provide ADR training to arbitrators, mediators and judges, improve the awareness of local businesses especially small and medium-sized enterprises in ADR benefits, introduce international standards and best practices in ADR to accelerate reform efforts, improve interagency coordination, enhance transparency, and reduce corruption and informal fees.

ENVIRONMENTAL DETERMINATIONS

Upon approval of this document, the determinations become affirmed, per Agency regulations (22 CFR 216).

TABLE 1: ENVIRONMENTAL DETERMINATIONS

Activity	Categorical Exclusion Citation (if applicable)	Deferral[1]
Activity: Strengthening Vietnam's Commercial and Investment Alternative Dispute Resolution Ecosystem (Vietnam ADR)	Categorical Exclusion	☐
		☐

CLIMATE RISK MANAGEMENT

Please see the Summary Table in Annex 1

BEO SPECIFIED CONDITIONS OF APPROVAL

N/A

IMPLEMENTATION

In accordance with 22 CFR 216 and Agency policy, the conditions and requirements of this document become mandatory upon approval. This includes the relevant limitations, conditions and requirements in this document as stated in Section 3 of this RCE and any BEO Specified Conditions of Approval.

[1] Deferrals must be cleared through an Amendment to this RCE prior to implementation of any deferred activities.

USAID APPROVAL OF INITIAL ENVIRONMENTAL EXAMINATION

ACTIVITY NAME: Strengthening Vietnam's Commercial and Investment Alternative Dispute Resolution Ecosystem (Vietnam ADR)

Bureau Tracking ID: ______________________

Approval:	Ann Marie Yastishock, USAID/Vietnam Mission Director Ann Marie Yastishock	12/9/2021 Date
Clearance:	Gregory Leon, Director, Office of Governance and Economic Growth Cleared by email	Date December 6, 2021
Clearance:	Nguyen Ngoc Thang, Mission Environmental Officer, USAID/Vietnam Cleared by email	Date December 5, 2021
Clearance:	Shamenna Gall, Regional Environmental Advisor Cleared by email	Date December 9, 2021
Clearance:	Jenevieve Discar, Acting Regional Legal Officer Cleared by email	Date December 8, 2021
Clearance:	Chad Conlin, Acting Program Development Director, USAID/Vietnam Cleared by email	Date December 6, 2021
Concurrence:	William Gibson, Asia Bureau Environmental Officer William L Gibson	Date Digitally signed by William L Gibson Date: 2021.12.10 09:24:41 -05'00'

1.0 ACTIVITY DESCRIPTION

1.1 PURPOSE OF THE RCE

The purpose of this document is to establish that all proposed activity belongs to classes of actions eligible for Categorical Exclusions as set out in Agency regulations (22 CFR 216.2(c)) and that there are no foreseeable significant direct or indirect impacts that would preclude them from receiving a Categorical Exclusion. Upon approval of this document, the Categorical Exclusions are affirmed for the project/activity. This analysis also documents the results of the project/activity level Climate Risk Management process in accordance with USAID policy (specifically, ADS 201 mandatory reference 201mal).

This RCE is a critical element of USAID's mandatory environmental review and compliance process meant to achieve environmentally sound activity design and implementation.

1.2 ACTIVITY OVERVIEW

Alternative Dispute Resolution (ADR) in commercial and investment activities is an exercise through which contract related disputes are resolved by facilitated negotiation, conciliation/mediation, and arbitration. These mechanisms often replace formal court proceedings and may help reduce the pressure on the court system. In Vietnam, ADR formally consists of commercial arbitration and mediation.

In recent years, especially after the issuance of the 2010 Law on Commercial Arbitration, ADR in Vietnam has gained momentum and is becoming an increasingly attractive method of resolving disputes for both domestic and foreign investors. When faced with lengthy civil litigation procedures and a court system with limited bandwidth in economic hubs like Hanoi and Ho Chi Minh City, ADR proceedings have advantages over traditional methods. ADR procedures are often quicker than court proceedings, which is of benefit to both businesses. The total cost of ADR is normally less than litigation, and procedures are often completed in private and conducted confidentially, avoiding the risk of adverse publicity and reputational damage that could arise from a court case.

1.3 ACTIVITY DESCRIPTION

Component 1: Support Vietnam's ADR legislation reforms

This component will support Vietnam's efforts to revise the Law on Commercial Arbitration 2010 (LCA 2010) and other related ADR legislation to remove legislation and enforcement challenges and promote the adoption of international standards and best practices.

Key Illustrative Activities:

- Support MOJ to review domestic laws and regulations, recommend for improvements in alignment with international standards and best practices;
- Support Vietnam's efforts in revising the Law on Commercial Arbitration (LCA);
- Reviewing the implementation of a Decree on Commercial Mediation;
- Support MOJ in researching the possibility of Vietnam to join the Singapore Convention on Mediation; and
- Support the Supreme People's Court (SPC) in developing binding judicial precedent.

Component 2. Enhance ADR professional skills and capacity of local ADR actors to improve enforceability and thus gaining more trust to the system

Under this component, the activity will enhance the capacity of local ADR stakeholders in providing high quality ADR services and enforceability by supporting the relevant local stakeholders to update current ARD training programs; enhancing the operational capacity of Vietnamese's key local ADR centers; and improving the capacity of provincial government officials on preventing international investment disputes.

2.1 Cooperating with the Ministry of Justice (MOJ) and other related stakeholders to update current ADR training programs, localize international training curricula and conduct Train the Trainer (TOT) ADR training for arbitrators, mediators, and judges

Key Illustrative activities:

- Support MOJ and SPC to improve the current ADR training programs;
- Organize TOT Bootcamps (in person or online, considering gender equality); and
- Support MOJ to develop a manual on the enforcement mechanism of the Arbitral Awards.

2.2 Enhance the operational capacity of Vietnamese's key local ADR centers by cooperating with international ADR centers of excellence

Key Illustrative Activities:

- In partnership with international ADR centers, conduct assessment on key arbitration centers and provide recommendations for improvement;
- Organize training to guide the implementation of the recommendations.

2.3 Enhance the capacity of provincial government officials on preventing international investment disputes (investor-state disputes)

Key Illustrative Activities:

- Cooperate with MOJ and Ministry of Planning and Investment (MPI) to develop manuals and provide training to government officials.

Component 3. Enhance awareness about ADR among current and future businesses especially local enterprises

This component will support relevant stakeholders to conduct outreach campaigns on ADR. The campaign is to improve awareness of the business community, especially local enterprises (including enterprises owned by marginalized populations) about ADR benefits, availability, and accessibility.

Key Illustrative Activities:

- Support MOJ, VIAC and other key stakeholders's outreach campaign/programs on ADR
- Update ADR training curriculums in key universities i.e. Foreign Trade University, Vietnam Law University, etc.

TABLE 2: DEFINED OR ILLUSTRATIVE PROJECTS/ACTIVITIES AND SUB-ACTIVITIES

Sub-activity 1 (Component 1) Support Vietnam's ADR legislation reforms
Sub-activity 2 (Component 2) Enhance ADR professional skills and capacity of local ADR actors to improve enforceability and thus gaining more trust to the system
Sub-activity 3 (Component 3) Enhance awareness about ADR among current and future businesses especially local enterprises

2.0 ENVIRONMENTAL ANALYSIS

2.1 JUSTIFICATION FOR CATEGORICAL EXCLUSION

The activities under the Strengthening Vietnam's Commercial and Investment Alternative Dispute Resolution Ecosystem (Vietnam ADR) are among the classes of actions listed in 22 CFR 216.2(c)(2) and have no foreseeable significant direct or indirect adverse effect on the environment. Therefore, under 22 CFR 216.2(c)(1), neither an IEE nor an EA will be required for these activities. Instead, a Categorical Exclusion is recommended for the projects/activities described above in Section 1.3 as follows:

TABLE 3: RECOMMENDED DETERMINATION FOR CATEGORICAL EXCLUSION

Activity and Sub-Activity #	Recommended Determination for Categorical Exclusion
Sub-activities 1, 2, 3	§216.2(c)(2)(i) Education, technical assistance, or training programs except to the extent such programs include activities directly affecting the environment (such as construction of facilities, etc.)
	§216.2(c)(2)(iii) Analyses, studies, academic or research workshops and meetings
	§216.2(c)(2)(v) Document and information transfers

2.2 CLIMATE RISK MANAGEMENT

This section summarizes the methodology used and findings of the CRM Screening (see Annex 1). The project design team, in consultation with the CIL, considered the potential effect of climate risks/stressors on the sustainability of the project (changing precipitation patterns, rising temperature, floods, droughts, fires, landslides, etc.) in addition to the impact of project activities on the climate (increased greenhouse gas emissions, land use changes, etc.).

3.0 LIMITATIONS OF THE CATEGORICAL EXCLUSION

The categorical exclusions recommended in this document apply only to projects/activities and sub-activities described herein.

Other projects/activities that may arise must be subject to an environmental analysis and the appropriate documentation prepared and approved, whether it be a new Request for Categorical Exclusion, an amendment, or other type of 22 CFR 216 document.

It is confirmed that the projects/activities described herein do not involve actions normally having a significant effect on the environment, including those described in 22 CFR 216.2(d).

3.1 MANDATORY INCLUSION OF ENVIRONMENTAL COMPLIANCE REQUIREMENTS IN SOLICITATIONS, AWARDS, BUDGETS, AND WORK PLANS

USAID will ensure the environmental compliance requirements are incorporated into solicitations, awards, budgets, and work plans, including relevant limitations of Section 3 above. In addition, climate risk management requirements will also be incorporated.

3.2 GENERAL IMPLEMENTATION & MONITORING REQUIREMENTS (IF APPLICABLE)

USAID will ensure that the following requirements are met:

- Provide briefings for Implementing Partner (IP) on environmental compliance responsibilities
- Ensure integration of compliance responsibilities in prime and sub-awards and grant agreements;
- Ensure compliance with applicable partner country requirements
- Annual review of project activities to ensure that scope is still covered by Categorical Exclusion

ATTACHMENTS:

Annex 1: Climate Risk Management Summary Table for Activity (use for Activity level RCE) (note: preparers have the option to use the Climate Risk Screening and Management Tool for Projects/Activity Design if they choose).

ANNEX 1. ACTIVITY CLIMATE RISK MANAGEMENT SUMMARY TABLE

Tasks/Defined or Illustrative Interventions	Climate Risks[2]	Risk Rating[3]	How Risks are Addressed[4]	Opportunities to Strengthen Climate Resilience[5]
1- Support Vietnam's ADR legislation reforms: review relevant laws and regulations, and to promote the alignment with UNCITRAL Model Law on International Arbitration and international best practices	N/A	Low	No risks identified. No action needed to address.	N/A
2. Enhance ADR professional skills and capacity of local ADR actors to improve enforceability and thus gaining more trust to the system: Improve the ADR training programs and manuals	N/A	Low	No risks identified. No action needed to address.	N/A
3. Enhance awareness about ADR among current and future businesses especially local enterprises: organize outreach campaigns.	N/A	Low	No risks identified. No action needed to address.	N/A

[2] List key risks related to the defined/illustrative interventions identified in the screening and additional assessment.
[3] Low/Moderate/ High
[4] Describe how risks have been addressed in activity design and/or additional steps that will be taken in implementation. If you chose to accept the risk, briefly explain why.
[5] Describe opportunities to achieve multiple development objectives by integrating climate resilience or mitigation measures