JUSTIFICATION AND APPROVAL FOR OTHER THAN FULL AND OPEN COMPETITION (J&A)

TO: Deborah Broderick, Agency Competition Advocate

FROM: Cesar Calmet, Deputy Director, USAID/Peru Office of Sustainable Development

SUBJECT: Justification and Approval for Other than Full and Open Competition (J&A)

1. **This document sets forth the facts and rationale justifying the use of other than full and open competition, in accordance with AIDAR 706.3:**

This document was prepared by the USAID/Peru Office of Sustainable Development (SD).

2. **The nature and/or description of the action being approved:**

This is a request to approve restricting competition to local organizations, as defined in ADS 302.3.4.5(f), for a new $10 million award to be implemented over five years.

3. **Description of the supplies or services required, including an estimated value:**

The Peruvian ***National Counternarcotics Policy (NCNP)*** serves as a crucial framework for addressing and combating the cultivation and trade of narcotics within Peru, especially in light of recent alarming trends showing a substantial increase in coca production, with the area of coca cultivation expanding by approximately 15,000 hectares in 2022 alone, and a concerning 35,000-hectare rise in just two years.

This new contract aims to enhance the Government of Peru's (GOP) ability to implement the 2020-2030 National Counternarcotics Policy (NCNP) through the acquisition of the following services:

a. Improvement of the management, administrative, and budgetary capacity of GOP agencies implementing the Counternarcotics Policy. Required services include consultancies and/or subcontracts to modernize processes or systems within DEVIDA and other GOP agencies.
b. Improvement in information systems for effective decision-making to implement the Counternarcotics Policy. This category requires highly specialized services, including software development, digital and information technology capacity strengthening, staff training, and other technical assistance.
c. Enhancement of coordination capabilities of the Peruvian national agency DEVIDA is crucial for the effective execution of the Counternarcotics Policy. This endeavor necessitates a range of technical services, contingent upon a strong commitment not

only from DEVIDA but also from various government agencies within the Peruvian government, such as the Council of Ministers, the Ministry of Economy, and the Ministry of Foreign Affairs, among others.

d. Establishment of channels for citizen oversight and accountability of the Counternarcotics Policy implementation. Required services include behavioral change, public funds surveillance, public opinion surveys, strengthening advocacy channels and systems, and related analysis and data management and dissemination.

Successful implementation of the Counternarcotics Policy is dependent in part on technical support to strengthen the capacity of all GOP agencies involved, particularly DEVIDA as the main entity in charge of implementing counternarcotics policy efforts in Peru. Although DEVIDA and other related agencies have funding from the GOP, there are several administrative and logistical bottlenecks and challenges that may benefit from technical assistance, like that provided by USAID in the past 20 years. Several improvements have been achieved, including automation of data processing for decision making, but other bureaucratic areas still need improvement.

This new contract, with a total estimated cost of $10 million, will play a vital role in supporting the U.S. Government's Counternarcotics efforts in Peru within the Integrated Country Strategy (ICS), Mission Goal 2: Peru partners with the United States to create a more secure and equitable country and region. This new activity will support Mission Objective 2.1: Strengthened bilateral partnerships and Peruvian capacity deterred transnational, regional, and internal threats and their networks and infrastructure. The next five years are going to be crucial for the implementation of the counternarcotics policy approved in 2020. During the COVID-19 pandemic, coca and cocaine production grew exponentially in Peru amidst the public health and political crises that have plagued Peru since the enactment of the Policy. To help the GOP to get back on track on its counternarcotics efforts, USAID is committed to ensuring an uninterrupted supply of technical assistance to DEVIDA and other GOP agencies involved in counternarcotics in Peru during the life of this new activity and help meet the ICS goals and objectives described above.

4. Statutory authority permitting other than full and open competition:

Pursuant to AIDAR 706.302-70(b)(3)(i), "an award for which the Assistant Administrator responsible for the project or programs makes a formal written Determination and Findings (D&F), that compliance with full and open competition procedures would impair foreign assistance objectives and would be inconsistent with the fulfillment of the foreign assistance program". AIDAR 706.302-70(c)(4) further states that the authority in 706.302-70(b)(3)(i) shall only be used when no other authority in FAR 6.302 or AIDAR 706.302 is suitable. Other

authorities were considered, and it was determined that no other authority provided in FAR 6.302 and AIDAR 706.302 is suitable.

5. A demonstration that the proposed restriction of competition to local organizations only or the nature of the acquisition requires use of the authority cited:

The primary objective of this activity is to enhance and sustain local involvement in, and ownership of, Peru's National Counternarcotics Policy. Modernizing processes and systems within DEVIDA and other GOP agencies requires detailed local knowledge of how multiple ministries function and the ability to navigate those ministries for implementation. Likewise, enhancing the coordination capabilities of DEVIDA and establishing channels for citizen oversight requires local knowledge and experience that only exists within local organizations. Moreover, a sound investment of U.S.-taxpayer funded assistance requires sustainability and inclusion. In this activity, only a local organization will be positioned to sustain the impact of the services for an extended period. Furthermore, by engaging local entities, USAID/Peru not only ensures sustained effectiveness in operationalizing the National Counternarcotics Policy, but also fosters community ownership, thereby maximizing the long-term benefits for the local population and aligning with the broader goals of U.S. foreign assistance initiatives. It is therefore essential that local actors utilize their unique understanding of the issues and institutions to define the priorities, craft the solutions and manage from top to bottom the implementation of this activity. Opening the competitive field to non-local actors risks frustrating the success of this activity as well as its underlying foreign assistance objective.

With regard to enhancing the coordination capabilities of DEVIDA, it should be noted that effective coordination among various ministries and related agencies is crucial to the effective implementation of the National Counternarcotics Policy; this is currently a weakness in Peru's public sector. Strengthening coordination demands a profound understanding of the Peruvian public sector, including its inherent limitations. Furthermore, regarding the sustainability of the outcomes and long-term impact of the activity, the capacities and the knowledge developed by a local entity supporting DEVIDA would not only serve as potential support for DEVIDA in the future, but also benefit other Peruvian public sector agencies seeking modernization and improvement in their processes and results to advance national policies. Through this activity, the generation of specific local knowledge and capabilities by a local organization would facilitate the dissemination of such knowledge throughout the Peruvian public sector (across Government of Peru agencies and ministries), ultimately benefiting the local population.

The proposed restriction of competition to local organizations requires the cited authority and aligns with USAID's Localization Policy and the Country Development Cooperation Strategy for Peru. These policy documents underscore the significance of locally led development and emphasize direct awards to local partners.

Local leadership is key to achieving greater equity, effectiveness, and sustainability in development programming. To promote this, USAID is implementing a localization initiative to expand the share of locally led programs. In these programs, local actors define priorities, design projects, implement activities, and evaluate results. USAID's Localization Policy is a comprehensive effort focused on advancing localization outcomes through four key strategies: (i) directing a larger portion of resources to local partners while ensuring accountability, (ii) adapting policies and programs to align with each country's unique conditions, (iii) empowering local actors to influence and lead, and (iv) acting as a global advocate to encourage a broader shift toward locally led development. USAID's localization policy envisions committing at least a quarter of program funds in direct awards to local partners and ensuring that at least fifty percent of programs place local communities in the lead to co-design, set priorities, drive implementation, and evaluate the impact of USAID funded programs.

In Peru, USAID through its CDCS commits to promoting locally led development by engaging with existing and emergent local organizations as partners through activity implementation. Definite targets for direct awards to local partners are part of a more comprehensive effort that will draw on local knowledge, skills, and resources, and invest in local programmatic leadership. This will require USAID-Peru to partner with national, subnational, local, and Indigenous entities. To support this priority, USAID will roll out procurement arrangements to facilitate local partners' engagement and foster evidence-based, innovative solutions to locally defined development issues.

In furtherance of this localization policy, the Peru Mission restricted eligibility for its last Annual Program Statement (APS) to local entities. Before doing so, the Mission conducted a local entities assessment to evaluate their capacity to effectively implement, manage, and account for USAID programs. The evaluation revealed the existence of many local entities operating in USAID's priority sectors as well as sufficient experience and capacity within the Mission to work with local organizations. This information was verified by technical teams with experience in previous awards, formal information requests, ongoing activity monitoring, and evaluations. The perspective of USAID/Peru's Foreign Service National colleagues, who possess institutional knowledge and a long-term outlook, was crucial in the Mission's assessment. In addition, the Mission considered its experience with two previous APSs that had unrestricted eligibility. These APSs received 105 applications, 43 of which were from local institutions, resulting in 12 assistance awards, 9 of which were granted to local institutions.

Furthermore, between 2011 and 2015, 75% of awards had objectives related to organizational capacity development, with up to 10% of the awarded budget allocated for capacity-building activities for local organizations. Over time, USAID/Peru collaborated directly and indirectly (through subcontractors or sub-grantees) with 155 local organizations in various sectors, including health, education, democracy, alternative development,

economic growth, and the environment. This extensive direct experience by USAID staff underscores the Mission's conclusion that there is ample local capacity to effectively implement, manage, and account for USAID programs in Peru.

Restricting eligibility to local entities for this proposed procurement is consistent with and helps advance the locally led development priority of the Agency and the Peru Mission.

6. **Description of the efforts made to ensure that offers are solicited from as many potential sources as practicable, including whether a notice was publicized as required by FAR 5.2 [AIDAR 705.2].**

Per AIDAR 705.202 Exceptions, advance notice per FAR 5.2 is not appropriate or reasonable for contract actions described in AIDAR 706.302-70(b)(1)-(3).

USAID/Peru released a request for information (RFI) on January 30th, 2023, which was published for 35 days on SAM.gov. USAID/Peru made efforts to identify all potential sources, as described in section 8 below.

7. **A determination by the Contracting Officer that the anticipated cost to the Government will be fair and reasonable:**

The Contracting Officer used proven, verified historical costs from successful similar projects in the last decade to ensure the fairness and reasonableness of government costs. In parallel, the planner completed a comprehensive government cost estimate, tailored to the specific requirements of the contemplated project. When combined, both historical costs and the IGCE form a solid baseline for fairness and reasonableness determination.

8. **Description of the market research conducted, and the results or a statement of the reasons market research was not conducted:**

In order to identify potentially qualified sources, USAID/Peru released a request for information (RFI) in January 2023 to determine the number of local firms with relevant expertise to achieve the results of this new institutional strengthening activity. A total of twelve (12) organizations participated in the RFI conference. From the four (4) formal responses and six stakeholder consultations, the design team identified three (3) local organizations that potentially could implement this activity, based on their responses to the RFI and past experience.

9. **Other facts supporting the use of other than full and open competition:**

Limiting competition strengthens local ownership, encourages locally led development, and ensures long term sustainability, directly advancing USG Foreign Policy goals and USAID's own vision of sustainable development. Both the GOP and local contractors will invest more

time and resources in advancing and upgrading their systems to be more dynamic while stimulating the local development community. Providing opportunities to local firms to compete under this new procurement will bring new organizations into USAID's partner pool, enrich their technical and administrative skill sets, and promote a more effective and sustainable implementation of the Counternarcotics Policy in Peru. These efforts are necessary to diversify the partner base, enhance the capacity of new, local partners, benefit from local perspectives and knowledge, and strengthen local ownership to advance Peru's journey to self-reliance.

10. Sources, if any, that expressed an interest, in writing, in the acquisition:

N/A

11. The actions the Agency may take to remove or overcome any barriers to competition before any subsequent acquisition for the supplies or services required:

In order to advance USAID's Localization Policy and the Mission's CDCS, the Mission seeks to procure certain goods and services from local entities where appropriate. In doing so, the Mission nevertheless recognizes the benefits of competition, and seeks to promote such competition among all local firms that qualify. Additionally, in the future, as the capacity of local organizations increases even further, the Mission intends to meet future requirements for goods and services through full and open competition.

12. Technical or Requirements Personnel Certification:

In accordance with FAR 6.303, I hereby certify that the technical statements included above, and which form a basis for the justification are complete and accurate.

MARK GIZZI **(Signed)** **October 25, 2023**
Mark Gizzi Date
Sustainable Development Office Director

13. Contracting Officer Certification:

In accordance with FAR 6.303, I hereby certify that the justification is accurate and complete to the best of my knowledge and belief.

_____ _____
Andre-Guy Soh Date
Regional Contracting Officer

Clearances:

1. Sergiu Troie, Resident Legal Officer Date: 10/27/2023

2. Moncel Petitto, Acting Agency Competition Advocate Date: 02/22/2024