

Addendum No. 1 to Agreement

between

THE NORWEGIAN MINISTRY OF FOREIGN AFFAIRS

and

**THE GOVERNMENT OF THE UNITED REPUBLIC OF
TANZANIA**

Regarding Financial Support to the Rural Energy Fund

WHEREAS the Government of the United Republic of Tanzania (Tanzania) and the Norwegian Ministry of Foreign Affairs (MFA) have entered into an agreement concerning Financial Support to the Rural Energy Fund, dated 9th April 2013 (the Agreement),

WHEREAS Tanzania in letter dated 5 July 2017 requested the Norwegian Ministry of Foreign Affairs (MFA) to extend the support period under the Agreement until June 2021, and

WHEREAS the Norwegian Ministry of Foreign Affairs (MFA) has decided to comply with the request,

NOW THEREFORE MFA and Tanzania (the Parties) have reached the following understanding which shall constitute Addendum No. 1 to, and an integral part of, the original Agreement:

1. Extension of support period

The planned period during which the Programme will be financed shall be extended to June 2021, cf. Article III, Clause 1 of the Agreement. This does not affect the size of the Grant defined in the same Clause.

2. The phased approach

1. The phased approach described in the Agreement Article III, Clause 2 shall no longer apply and the clause shall therefore be deleted.
2. The Grant will continue to be utilized in support for the agreed work programme outlined in Article VII Clause 3 of the Agreement. Projects larger than TZS 1 billion (Tanzanian Shilling one billion) included in the work plan and for which Norwegian funding is sought shall be submitted to MFA for non-objection.



3. Article VI, Clause 1, 3rd bullet point is not applicable. It will not be necessary to discuss agreed milestones for progressing to phase II in future bi-annual meetings.
4. Article X, Clause 2, is not applicable. The Performance Audit II of REA, dated September 2016, is considered as the 'external review' referred to in the Article.
5. References to a two phased approach and/or phase II in the Agreed Programme Summary shall be deleted.

3. Joint development partner's (DP's) engagement

1. The Parties agree that the term "Programme" shall be interpreted to include REA's total work programme, not only the parts financed by MFA.
2. In the following Clauses 'the Programme' shall be replaced with 'the Norwegian support to the Programme':
 - a. Article III, Clause 4;
 - b. Article V, Clause 3;
 - c. Article V, Clause 5;
3. The Parties agree that the bi-annual meetings to be held pursuant to Article VI, Clause 1 may be held jointly with other DPs supporting the Programme.
4. The following shall be invited to the bi-annual meetings by REA: Ministry of Energy and Minerals, Ministry of Finance and Planning, TANESCO, the Chair of the Rural Energy Board.
5. All work plans, budgets and reports shall cover the entire Programme and may be prepared jointly for several DPs, cf. Article VII.

4. Procurement

1. Article VIII, Clause 1, Clause 3, Clause 4, Clause 5 and Clause 6 will be replaced by the following Clause:
2. All procurement under the Programme shall be undertaken by the Tanzania and be completed in accordance with Annex A as well as any statutory requirements applicable in the jurisdiction of the Tanzania.

5. Strengthened focus on Financial Irregularities

The following new article shall be included in the Agreement:

1. "The Parties shall practise zero tolerance towards any financial irregularities within and related to the Programme. The zero tolerance policy applies to all staff members, consultants and other non-staff personnel, contractor, implementing partners and beneficiaries of the Grant.
2. Financial irregularities refers to all kinds of:

- a. *corruption, including bribery, nepotism and illegal gratuities;*
- b. *misappropriation of cash, inventory and all other kinds of assets;*



- c. financial and non-financial fraudulent statements;*
 - d. all other use of Programme funds not in accordance with the Agreement and the Programme Document, work plan and budget.*
3. The Parties are firmly committed to prevent, detect and manage financial irregularities and shall therefore:
- a. organise their operations and internal control systems in a way that financial irregularities are prevented and detected;*
 - b. cooperate fully to prevent, stop and handle financial irregularities within and related to the Programme;*
 - c. require that all staff involved in, and any consultants, suppliers and contractors financed under the Programme refrain from financial irregularities.*
4. The Parties shall immediately inform each other of any indication of financial irregularities and of the measures initiated to handle the situation.
5. The Parties shall cooperate fully in the investigations of such events, whether the investigation is led by MFA or Tanzania.
6. The Parties shall consider prosecution and/or other reasonable sanctions towards any person and/or legal entity suspected of financial irregularities within or in relation to the Programme.
7. MFA may apply any measure as referred to in Article XI Clause 1 with immediate effect, and irrespective of Article XI clause 4, if MFA determines that any financial irregularities have occurred. Any repayment claim pursuant to Article XI Clause 2 may also include interest, investment income or any other financial gain obtained as a result of the financial irregularity."

6. Strengthened focus on Transparency

The title of Article XII shall be changed to "Transparency" and the text replaced with the following:

1. "The Parties shall distribute copies of this Agreement, as well as any subsequent amendments thereof, to all individuals and institutions involved in the Programme or otherwise in need of information on its content.
2. Tanzania shall publish the following in a dedicated and easily accessible place of its internet site:
 - a) a copy of this Agreement;*
 - b) the title and value of any contracts and/or sub-agreements of more than NOK 500 000 (or the equivalent in local currency) which are to be financed by the Grant;*
 - c) names and nationalities of the respective agreement parties and, if relevant and any further sub-grantees or contractors in receipt of Programme funds;*

If internet publication is impossible, all the information mentioned above shall be published by other appropriate means. Tanzania shall give MFA precise information on where the publication is made.

Publication shall take place as soon as possible, and at the latest within six months after the contracts and/or sub-agreements were entered into.

Any deviations from this clause shall be agreed by the Parties in writing.

3. The Parties shall make other programme documentation, including the Application and all agreed reports, available to anyone upon request. Requests for disclosure may be denied if such disclosure is prohibited by national legislation, confidentiality obligations and/or if it may be detrimental to Tanzania's legitimate interests."

7. Norway's visibility

The following new article shall be included in the Agreement:

Tanzania shall acknowledge MFA's support to the Programme in all publications and other materials issued in relation to the Programme and invite MFA to Programme related events. MFA's logotype will be provided by MFA upon request. All use of MFA's logotype must be approved by MFA.

8. Financial reporting

The following shall be added to Article VII, Clause 4.

The Financial report shall cover the period from 1st July the previous calendar year up to the time of reporting.

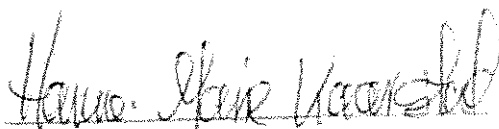
Any of the provision of the Agreement not amended by this Addendum shall remain unchanged and in force.

This Addendum shall enter into force on the date of its signature, and shall remain in force until both Parties have fulfilled all obligations arising from it. Whether these obligations shall be regarded as fulfilled shall be determined in consultation between the Parties.

IN WITNESS WHEREOF the undersigned, acting on behalf of the respective Party, have signed the Addendum in two originals in the English language.

Done in Dar Es Salaam the 8 day of November 2017

For the Norwegian Ministry of
Foreign Affairs



Hanne-Marie Kaarstad
Ambassador
Royal Norwegian Embassy

For the Government of the United
Republic of Tanzania



Doto M. James
Permanent Secretary
Ministry of Finance and Planning

ANNEX A: PROCUREMENT IN THE CONTEXT OF PROJECTS FINANCED BY THE NORWEGIAN MINISTRY OF FOREIGN AFFAIRS

The Partner applies its own procurement rules if they offer guarantees equivalent to internationally accepted standards. If the rules do not offer equivalent guarantees, or in specific cases, the MFA and the Partner will agree on the use of other procurement procedures offering such guarantees. In this case, the rules to be followed are set forth in the Grant Agreement.

Notwithstanding the above, all procurements carried out by the Partner in the context of the Project shall comply with the principles and provisions set forth in this Annex.

1 INTRODUCTION

1.1 This Annex sets out procurement rules and principles which shall be applied by the Partner when procuring goods, services or works to Projects financed by the Ministry of Foreign Affairs (MFA). Stricter rules may supplement the compulsory minimum rules set forth in this Annex.

1.2 The MFA may carry out ex post checks on the Partner's compliance with the rules set forth in this Annex.

1.3 Failure to comply with the rules set forth in this Annex shall render the Project expenditure ineligible for MFA funding and may lead to withholding funds or claim for repayment in accordance with article 20 of the Grant Agreement.

1.4 Contracts shall not be split artificially to circumvent the procurement thresholds. All monetary amounts referred to in this Annex are amounts excluding value-added tax (VAT).

1.5 The procurement provisions shall also apply to any procurements to be carried out by the Partner's cooperation partners or others. The Partner shall be responsible for compliance regardless of whether the procurement is carried out by the Partner itself or its cooperation partners or others.

2 BASIC PRINCIPLES

2.1 If a Project requires procurement by the Partner, the contract must be awarded following a tender procedure to the most economically advantageous tender (i.e. to the tenderer obtaining the best score based on price and quality), or, as appropriate, to the tenderer offering the lowest price. In doing so, the Partner shall avoid any conflict of interests and respect the following basic principles:

a) **Competition:** The procedures applied and the award of contracts shall be based on fair competition.

b) **Equal treatment and non-discrimination:** Participation in tender procedures shall be open on equal terms to all natural and legal persons. During the entire procurement and the award of contracts, the Partner shall not discriminate against candidates/tenderers or groups of candidates/tenderers.

c) **Transparency and ex-ante publicity:** As a general rule, tender procedures shall be based on prior publication. Where the Partner does not launch an open tender procedure, it shall justify the choice of tenderers that are invited to submit an offer.

d) **Objective criteria:** The Partner shall evaluate the offers received against objective criteria, which enable the Partner to measure the quality of the offers and shall take into account the price (the offer with the lowest price shall be awarded the highest score for the price criterion). The criteria shall be set out beforehand and shall be relevant to the contract in question.



e) **Notoriety:** The Partner shall keep sufficient and appropriate records and documentation with regard to the procedure, its evaluation and award.

3 ELIGIBLE TENDERERS

3.1 Tenderers must provide information on their legal form and ownership structure.

3.2 Tenderers shall be excluded from participation in a procurement procedure if:

a) they are bankrupt or being wound up, are having their affairs administered by the courts, have entered into an arrangement with creditors, have suspended business activities, are subject of proceedings concerning those matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations. However, tenderers in this situation may be eligible to participate insofar as the Partner is able to purchase supplies on particularly advantageous terms from either a supplier which is definitively winding up its business activities, or the receivers or liquidators of a bankruptcy, through an arrangement with creditors, or through a similar procedure under national law;

b) they or persons having powers of representation, decision-making or control over them have been convicted of an offence concerning their professional conduct by a final judgment;

c) they have been guilty of grave professional misconduct; proven by any means which the Partner can justify;

d) they have not fulfilled obligations relating to the payment of social security contributions or taxes in accordance with the legal provisions of the country in which they are established, or with those of the country of the Partner or those of the country where the contract is to be performed;

e) they or persons having powers of representation, decision-making or control over them have been convicted for fraud, corruption, involvement in a criminal organisation or money laundering by a final judgment;

f) they make use of child labour or forced labour and/or practise discrimination, and/or do not respect the right to freedom of association and the right to organise and engage in collective bargaining pursuant to the core conventions of the International Labour Organization (ILO).

3.3 Tenderers shall confirm in writing that they are not in any of the situations listed above. Even if such confirmation is given by a tenderer, the Partner shall investigate any of the situations listed above if it has reasonable grounds to doubt the contents of such confirmation.

3.4 Contracts shall not be awarded to tenderers which, during the procurement procedure:

a) are subject to a conflict of interests;

b) are guilty of misrepresentation in supplying the information required by the Partner as a condition of participation in the tender procedure, or fail to supply this information.

4 GENERAL PROCUREMENT RULES

4.1 The tender documents shall be drafted in accordance with best international practice. The Partner may voluntarily use the models published in the Practical Guide on the EuropeAid (EU) website.

4.2 The Partner shall take into account universal design and the potential environmental impact of any planned procurements.



4.3 All invitations to submit tenders shall state that offers will be rejected if any illegal or corrupt practises have taken place in connection with the award. All contracts concluded under the Project shall state that the Partner may terminate the contract if it finds that illegal or corrupt practises have taken place in connection with the contract award or execution.

4.4 The time-limits for receipt of tenders and requests to participate must be sufficient to allow interested parties a reasonable and appropriate period to prepare and submit their tenders.

4.5 An evaluation committee must be set up to evaluate applications and/or tenders of a value of NOK 500 000 or more on the basis of the exclusion, selection and award criteria. This committee must have an odd number of members, at least three, with all the technical and administrative capacities necessary to give an informed opinion on the tenders.

4.6 For contracts with a value exceeding NOK 100 000, the Partner shall compile a written record with documentation of all assessments and decisions during all steps of the procurement process from the planning stage until the signing of the contract. Upon request by the MFA, the Partner shall deliver its written record to the MFA and grant the MFA access to all relevant information and documentation related to the procurement procedure and practices applied.

