

CONSULTANCY AGREEMENT

TO ALL TO WHOM THESE PRESENTS SHALL COME:

This Consultancy Agreement was made and entered into on 02 AUG 2022, in the City of Pasay by and between:

DEPARTMENT OF FOREIGN AFFAIRS (DFA or Department), with principal office address at 2330 Roxas Boulevard, Pasay City, represented herein by **MR. ANTONIO A. MORALES**, Acting Undersecretary and Head of the Procuring Entity, hereinafter referred to as the **First Party**;

And

MS. ALLEN L. ESPINO, Consultant and President of FORA Strategic Communications Consultancy Inc., with address at #33 Evangeline Padua St. BF Resort Village, Las Pinas City, hereinafter referred to as the **Second Party**;

The Department and Ms. Allen L. Espino are hereinafter referred individually as a "**Party**" and collectively, as "**Parties**".

- WITNESSETH -

WHEREAS, the **First Party**, in line with the Department's efforts to assess the effectiveness of its gender and development (GAD) activities and to develop more targeted GAD policies and programs, is in need of a highly-technical consultant who specializes in the conduct of a Participatory Gender Audit (PGA);

WHEREAS, the **First Party** requires a highly technical consultant to deliver expertise and service in the conduct of the third cycle of the Participatory Gender Audit in the Foreign Service Posts, Consular Offices, and offices in the Home Office;

WHEREAS, the **Second Party** is a consultant accredited by the Philippine Commission on Women as a Gender and Development (GAD) expert and licensed to engage in the provision of the specific services for which it is engaged herein;

WHEREAS, the **Second Party** accepted the invitation of the **First Party** to provide said required services;

WHEREAS, upon the recommendation of the Bids and Awards Committee (BAC) of the **First Party** as provided in the approved BAC Resolution No. NTC-185-22 dated 02 August 2022, a copy of which is attached herewith as ANNEX "A" and made an integral part hereof, the **First Party** awarded the Consultancy Agreement to the **Second Party**. A copy of the Notice of Award is attached herewith as ANNEX "B" and made an integral part hereof;

Allen L. Espino

NOW, THEREFORE, for and in consideration of the foregoing premises, the **Parties** hereto agree as follows:

Section 1. Purpose of the Agreement – This Agreement is entered into by and between the **Parties** to provide the basis for their joint and cooperative undertakings in connection with the conduct of the third Participatory Gender Audit (the Project), in accordance with the Terms of Reference and the provisions of this Agreement.

The following are annexed to and made an integral part of this **Agreement** and references to these documents shall be deemed to refer to the ones duly annexed:

1. Latest valid PHILGEPS Registration of the **Second Party** (Annex “C”);
2. Certificate of Availability of Funds (CAF) dated 01 August 2022 (Annex “D”),
3. Curriculum Vitae of the **Second Party** (Annex “E”).

Section 2. Obligations of the First Party – The **First Party** shall:

1. Provide administrative and logistical support for the conduct of the various activities of the **Second Party** relative to the PGA;
2. Monitor and coordinate the needs and requirements of the **Second Party** for the conduct of the PGA activities;
3. Review and validate the written PGA report and the GAD Agenda 2023-2028.

Section 3. Obligations of the Second Party – The **Second Party** shall provide the following deliverables within the timeframe agreed upon and in accordance with the the Terms of Reference:

1. Arrange a Team of co-facilitators to address the needs of the conduct of the PGA;
2. Lead and manage the overall conduct of the PGA, coordination of efforts of the Team, in consultation with the **First Party**;
3. Undertake desk review of assigned documents, and accomplish corresponding documents analysis tables and summaries;
4. Conduct key informants’ interviews and group interviews, discussions, and participatory workshops with relevant DFA personnel;
5. Develop and submit the Final PGA Report;
6. Facilitate the conduct of the Gender and Development Assembly;
7. Draft the Department’s six-year Gender and Development (GAD) Agenda 2023-2028.

The **Second Party** shall observe the Terms of Reference (TOR) provided by the **First Party** for the delivery of services, which is attached as Annex “F”, and is made as an integral part of this **Agreement**;

Section 4. Effectivity and Duration – The **Agreement** shall take effect upon signing by the **Parties** hereto and shall remain in force from 04 August 2022 until 31 December 2022, or until such time all deliverables of both parties have been fulfilled, whichever comes first. The end of the Head of the Procuring Entity's tenure shall likewise result in the **Agreement's** automatic termination, without prejudice to the signing of a new contract.

Section 5. Fees and Payment Schedule – The **First Party** shall pay the **Second Party** a total Service Fee of **Three Million Seventy-Five Thousand Two Hundred Ninety-Six Pesos (Php 3,075,296.00)** only, which amount includes and covers the following expenses for the **Project**:

1. Fees for project development such as meetings, conceptualization, brainstorming sessions, write-up, revision and finalization of the proposal and project design;
2. Professional fees and transportation costs of the service provider and the project management team members; *and*
3. Taxes and other charges due and payable by the **Second Party** in connection with this **Agreement**

Subject to the provisions of this **Agreement** and the usual government accounting and auditing rules and regulations, the payment of the abovementioned Service Fee shall be in accordance with the following schedule of tranche releases vis-à-vis the deliverables:

Deliverables	%	Amount
Submission of the final inception report and work plan, the preliminary findings report, and the final workshop design, interview guides and discussion guides	25%	Php 768,824.00
Submission of interviews, discussion, and workshops documentation	25%	Php 768,824.00
Submission of final Executive Summary, final full PGA Report and Powerpoint Presentation	35%	Php 1,076,353.60
Submission of Final GAD Agenda Strategic Framework and Plan	15%	Php 461,294.40
Total Contract Price, inclusive of applicable taxes and other lawful charges	100%	Php 3,075,296.00

The **Second Party** shall issue an official receipt for each payment made by the **First Party**. A Certificate of Acceptance shall be issued by the end-user office as supporting document for each payment made.

The payment of the final tranche should not be later than 31 December 2022, in accordance with the Cash Budgeting System (CBS) as reiterated in Department of Budget and Management (DBM) National Budget Circular No. 587, s. 2022.

Section 6. Mode of Payment – All checks shall be payable to **Ms. Allen L. Espino** given the following bank details:

Account Name: Allen L. Espino
 SA Number: 1556197721
 Bank/Branch: Landbank - Las Pinas

Allen L. Espino

Payment shall be done through the List of Due and Demandable Accounts Payable (LDDAP) arrangement within thirty (30) working days from submission of the invoices and complete documents of the expected output mentioned under Section 3 hereof.

Section 7. Intellectual Property – Each Party is and shall remain the owner of all intellectual property that it owns or controls as of the Effective Date of the **Agreement**. With regard to the documents produced by the **Second Party** and submitted as outputs during the effectivity of the **Agreement**, these are instruments of service. Originals thereof and the corresponding copyright shall remain the property of the **First Party**. The **First Party** shall have license to use copies of the documents in connection with the Project for which they are prepared, or for any other purpose/s which the First Party sees fit.

Section 8. Third-party contract. Any other contract or agreement entered into by **Second Party** and a third party for the implementation of this Agreement, shall be exclusively between such parties, to the exclusion of the **First Party**. The **Second Party** warrants that it shall hold free and harmless the **First Party** from any and all such suits, and in no event shall it be held liable to such third parties for any special, incidental, indirect, consequential, or punitive damages relating to the conduct or completion of the activity. The **Second Party** shall assume responsibility for any and all acts of such third party contractor/s engaged by the **Second Party** for the implementation of the **Agreement**, and that such third-party contractor/s shall likewise be bound by the confidentiality and data privacy provisions of this Agreement which survives the termination of the **Agreement**.

Section 9. Employer-Employee Relationship. Nothing in this **Agreement** is intended or shall be deemed to create any employment, partnership, agency or joint venture relationship between the Parties. The Parties specifically acknowledge that the **Second Party** is an independent contractor and not an employee of the **First Party**, and that the **First Party** is not an employee of the **Second Party**. Furthermore, any persons engaged by the **Second Party** for purposes of this **Agreement** shall not be deemed employees of the **First Party**, and the **Second Party** shall be solely responsible for their compensation, working conditions, and other aspects of their engagement. However, the **Second Party** shall ensure that any persons that the **Second Party** hires or engages for the services to be performed under this **Agreement** are also bound by and shall comply with its terms.

Section 10. Data Privacy and Confidentiality Agreement. The Parties shall hold the terms of this **Agreement** and all information in connection with or derived from the conduct of the services or execution of this **Agreement** strictly confidential, and shall not disclose such information to third parties unless required by Philippine law or with the written consent of the **First Party**.

The **Second Party** and its personnel are required to observe the provisions of Republic Act no. 10173 or the Data Privacy Act of 2012 in handling information obtained from the **First Party**. In addition, the **Second Party** and its personnel shall be responsible for the destruction of all the data secured from the **First Party** after the termination of this **Agreement**.

Section 11. Non-exclusive Agreement. It is understood and agreed that this Agreement does not grant to the **Second Party** any exclusive rights to do business with the **First Party** and the latter may contract with other service providers for the engagement or procurement of similar services.

Section 12. *Modifications.* If modifications under this **Agreement** should result in an increase or decrease in the services originally provided and scheduled, an equivalent adjustment on the contract price, time or both, shall subsequently be agreed upon in writing by both **Parties**.

Section 13. *Fortuitous events/force majeure.* No Party shall be liable to the other for the delay or non-performance of its obligations under this **Agreement** arising from any cause or causes beyond its reasonable control, including, without limitation, any of the following: act of God, government act, war, conflagration, inundation, explosion or civil commotion.

Section 14. *Termination.* The commission of a material breach of obligations under this **Agreement** as when any of the **Parties** fails to submit its deliverables or perform its duties under this **Agreement** or when it delays, for no justifiable reason, the performance thereof and fails to cure that breach within twenty (20) days after receiving written notice of the breach, entitles the non-erring Party to terminate this **Agreement** immediately. A written notice of termination is required from the non-erring Party to formally terminate this **Agreement**.

The **Parties** may also terminate this **Agreement** upon mutual consent.

Section 15. *Liabilities* – Neither the **First Party** nor any of its officers, employees, agents, and representatives shall be liable to the **Second Party** or any of its hired personnel for any loss, liability, damage or expense arising out of or in connection with the performance of any services contemplated by this **Agreement**, unless such loss, liability, damage or expense shall be proven to result directly from the willful misconduct of such officer, employee, agent, or representative;

Section 16. *Settlement of Disputes* – The **Parties** shall exert their best efforts to amicably resolve and settle in good faith any dispute arising out of or in relation to this **Agreement** through negotiations.

In the event that an amicable settlement cannot be achieved within thirty (30) days from the date on which either Party has served written notice thereof on the other Party, the **Parties** agree to settle the matter by submitting the same for arbitration in accordance with the Philippine Dispute Resolution Center, Inc.'s (PDRCI) rules and regulations. The arbitration proceedings, including all records, documents, pleadings, orders and judgments filed or rendered in pursuant thereto, shall be kept confidential. The seat and venue of arbitration shall be Pasay City, Metro Manila, Philippines.

Nothing in this **Agreement** shall prevent the parties from filing the appropriate case before a Philippine court of competent jurisdiction, which shall be Pasay City, Metro Manila, to the exclusion of other courts.

Section 17. *Separability* – if any part of this **Agreement** is declared unenforceable or void by a competent court, the rest of the **Agreement** shall nevertheless remain in full force and effect.

Section 18. *Waiver* – No failure, omission or delay of any of the **Parties** in exercising any of its right, privileges and remedies hereunder shall operate as a waiver thereof. No waiver or departure from the terms of this **Agreement** shall be valid unless made in writing and signed by the Party's authorized representative. Such waiver shall be effective only in the specific instance and for the purpose for which it is given.


Section 19. *Assignment* – The **Second Party** undertakes not to assign to any third party, any of its rights and obligations in this **Agreement** during the effectivity hereof without the written consent of the **First Party**.

Ann Z. W.

Section 20. Binding Effects – This Agreement shall be binding on the Parties and their respective successors-in-interest.

IN WITNESS WHEREOF, the Parties through their duly authorized representatives have hereunto affixed their signatures on 02 AUG 2022, at Pasay City, Philippines.

BY:



ANTONIO A. MORALES
Acting Undersecretary and
Head of the Procuring Entity
Department of Foreign Affairs



ALLEN L. ESPINO
Consultant

SIGNED IN THE PRESENCE OF:



CHRISTOPHER B. MONTERO
Assistant Secretary
Human Resources Management Office



LYRIE F. FULGENCIO
Chief Accountant
Office of Financial Management Services

ACKNOWLEDGMENT

Republic of the Philippines }
City of Pasay } S.S.
MANILA


BEFORE ME, a **NOTARY PUBLIC** for and in the City of Pasay, Philippines on SEP 15 2022, personally appeared **MR. ANTONIO A. MORALES**, Acting Undersecretary and Head of the Procuring Entity of the Department of Foreign Affairs and **MS. ALLEN L. ESPINO**, Consultant, known to me to be the same persons who executed the foregoing **Consultancy Agreement** consisting of seven (7) pages including the page on which this Acknowledgment is written, all pages of which have been signed by the Parties and their witnesses, and who acknowledged to me that the same is their free and voluntary act and deed.

The Philippine Passport/Philippine Government-issued Identification Documents of the Parties were exhibited to me, the same bearing:

NAME	ID NO.	DATE OF ISSUE
ANTONIO A. MORALES	M88A092	02 AUGUST 2019
ALLEN L. ESPINO	<u>Passport No. P9145851B</u>	<u>March 10, 2022</u>

IN WITNESS WHEREOF, I have hereunto affixed my signature and notarial seal on the date and in the place above written.

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Series of 2022


ATTY. HENRY D. ADASA
 NOTARY PUBLIC CITY OF MANILA
 NOTARIAL COMMISSION 2020-097/12/31/2022 MANILA
 IBP NO. 178598-01/03/2022 PASIG
 PTR NO. 0060197-01/03/2022 M.L.A.
 ROLL NO. 29679, TIN:172-528-620
 MCLE COMPL NO. VII-00001656/26/2019 VALID UNTIL APRIL 14, 2025
 URBAN DECA HOMES MANILA, B-2 UNIT 355, TONDO, MANILA

Allen L. Espino