

**Template: Procurement of Non-Consulting Services (QPBS)**

**November 29, 2018**

Foreword

This Template (“TEMPLATE”) for the Procurement of Non-Consulting Services has been prepared by the Millennium Challenge Corporation (“MCC”) for use by Millennium Challenge Account Entities (“MCA Entities”) when procuring Non-Consulting services that are financed in whole or in part by MCC. This TEMPLATE is consistent with the August 15, 2015, MCC Program Procurement Guidelines[[1]](#footnote-1) (“MCC PPG”) and subsequent amendments and interim notices and will be amended as necessary to comply with subsequent amendments or revisions to the MCC PPG.

For the purpose of MCC Program Procurement Guidelines, the term Consultant includes a wide variety of entities, including consulting firms, engineering firms, construction managers, project and program managers, management firms, Procurement Agents, Fiscal Agents, inspection agents, auditors, investment and merchant banks, universities, research institutions, nongovernmental organizations, and individuals. Consultant Services or Consulting Services covers a range of services that are of an advisory or professional nature and are provided by Consultants. These Services typically involve providing expert or strategic advice in a wide range of activities such as policy advice, institutional reforms, management, engineering services, construction supervision, feasibility studies, financial services, procurement services, training and development, and social and environmental studies.

By contrast, Non-consulting Services are services which are not Consulting Services. Non-consulting Services are normally bid and contracted on the basis of performance of measurable outputs, and for which performance standards can be clearly identified and consistently applied. Examples include: drilling, aerial photography, satellite imagery, mapping, and similar operations.

The standard Competitive Bidding (“CB”) procedures have been modified in this document to introduce a Quality and Price Based Selection (“QPBS”) procedure that is more detailed on the Bid Data Sheet and in Section III of this bidding document. This bidding document with its innovative QPBS procedure should be used for complex projects where Service Providers with strong skills and past experience in similar projects are needed to deliver on time within a fixed duration and within the contract price.

Although this TEMPLATE is based upon the World Bank’s Template – Request for Bids – Non-Consulting Services[[2]](#footnote-2), it has been adapted with numerous revisions to reflect MCC policies and procedures set out in the MCC PPG and other documents.

This TEMPLATE assumes that no prequalification has taken place before bidding.

**Summary Description**

This Template for Procurement of Non-Consulting Services (“TEMPLATE-NCS”), which modifies the Competitive Bidding (“CB”) procedures shall be used when following the Quality and Price Based Selection (“QPBS”) methodology to procure Non-Consulting Services. The Letter of Invitation for Bids (“IFB”) is included in this TEMPLATE for information purposes only. A brief description of this TemplateTEMPLATE-NCS is given below.

**Template for Procurement of Non-Consulting Services**

**PART 1 – BIDDING AND SELECTION PROCEDURES**

**Section I Instructions to Bidders (“ITB”)**

This section provides information to help prospective Bidders prepare their Bids; it also provides information on the submission, opening, and evaluation of Bids and on the award of Contracts. **The text of the clauses in this section shall not be modified**.

**Section II Bid Data Sheet (“BDS”)**

This section sets out the particular requirements for the specific procurement and supplements the information included in Section I. Instructions to Bidders.

**Section III Qualification and Evaluation Criteria**

This section describes the requirements for the qualifications of the Bidder to perform the Contract, and the process to determine the highest combined technical and financial scored Bid.

**Section IV Technical and Financial Offer Bid Forms**

This section contains the forms to be completed by the Bidders and submitted as part of their Bids.

**PART 2 – PURCHASER’S REQUIREMENTS**

**Section V Schedule of Requirements**

This section includes the detailed list of Non-Consulting Services, the Delivery and Completion Schedules, and the Technical Specifications that describe the Non-Consulting Services to be procured.

**PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

**Section VI Contract Agreement and General Conditions of Contract (“GCC”)**

This section contains the form of Contract proposed to be entered into between the MCA Entity and the Service Provider. **The text of the General Conditions of Contract clauses in this section shall not be modified.**

**Section VII Special Conditions of Contract (“SCC”) and Annex to Contract**

This section contains the form of those clauses of the Contract that supplement the GCC and that are to be completed by the MCA Entity for each procurement of Non-Consulting Services. This section also includes an Annex to the Contract (Annex A: General Provisions) that contains provisions that are a part of the Government’s and the MCA Entity’s obligations under the Compact and related documents which, under the terms of the Compact and related documents, are required to be transferred onto any Service Provider, Subcontractor or Associate who partakes in any MCC-funded procurement. **The text and clauses of Annex A to the form of contract may not be modified.**

**Section VIII Contract Forms**

This Section contains forms which, once completed, will form part of the Contract. The forms for **Performance Security** and **Advance Payment** Security, when required, shall only be completed by the successful Bidder after contract award.

**BIDDING DOCUMENT**

**Issued on: \_\_\_\_\_\_\_\_\_\_\_\_\_**

**[MCA Entity]**

**On Behalf of:**

**The Government of [Country]**

**[Millennium Challenge Account Entity]**

**Program**

**Funded by**

**THE UNITED STATES OF AMERICA**

**Through**

**THE MILLENNIUM CHALLENGE CORPORATION**

**for**

**Procurement of Non-Consulting Services**

**\*\*\***

**[TYPE OF SERVICES]**

**\*\*\***

**IFB / [Procurement Method] / [CB number]**

**Letter of Invitation for Bids**

**[City, Country]**

**[Month, Day, Year]**

**Re: [insert name and ID number of procurement]**

Dear Madam/Sir:

The United States of America, acting through the Millennium Challenge Corporation (“MCC”) and the Government of [Country] (the “Government” or “[Go\_]”) have entered into a Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in [Country] (the “Compact”) in the amount of approximately [insert amount] USD (“MCC Funding”). The Government, acting through [full legal name of the MCA Entity] (“MCA Entity” or the “Purchaser”), intends to apply a portion of the MCC Funding to eligible payments under a contract for which this Invitation for Bids (“IFB”) is issued. Any payments made by the MCA Entity under the proposed contract will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding. The Compact and its related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) and on the website of the MCA Entity at **[insert website]**.

The Compact program includes [provide the best available brief description of the general and specific goals and strategies of the Compact program, the general areas of focus and the specific projects proposed, the expected duration, and other background information that would be helpful to potential bidders].

This IFB follows the General Procurement Notice that appeared in dgMarket on **[date]**, UNDB Online on [date], the MCA Entity’s website [insert website] on [date], and local newspapers [insert names of newspapers] on [date].

The Purchaser now invites eligible entities (“Bidders”) to submit sealed Bids (containing separate sealed envelopes for the Technical Offers and the Financial Offers) for the provision of **[insert brief description of the Services required, including quantities, location, delivery period etc.]**. More details on these Non-Consulting services are provided in the Schedule of Requirements in the bidding document associated with this IFB (the “Bidding Document”).

This IFB is open to all eligible Bidders who wish to respond. Subject to restrictions noted in the Bidding Document, eligible entities may associate with other Bidders to enhance their capacity to successfully carry out the assignment.

[ADD IF REQUIRED] The Non-Consulting services, and the contract expected to be awarded, are divided into the following lots: **[insert description of lots]**

A Service Provider will be selected using Quality and Price Based Selection (“QPBS”) procedures which modify the Competitive Selection procedures as described in this Bidding Document, in accordance with the “MCC Program Procurement Guidelines”, which are provided on the MCC website ([www.mcc.gov/ppg](http://www.mcc.gov/ppg)). The selection process, as described, will include a review and verification of qualifications and past performance, including a reference check, prior to the contract award.

This Bidding Document includes the following sections:

**PART 1 – BIDDING AND SELECTION PROCEDURES**

**Section I Instructions to Bidders (“ITB”)**

This section provides information to help prospective Bidders prepare their Bids; it also provides information on the submission, opening, and evaluation of Bids and on the award of Contracts. **The text of the clauses in this section shall not be modified**.

**Section II Bid Data Sheet (“BDS”)**

This section sets out the particular requirements for the specific procurement and supplements the information included in Section I. Instructions to Bidders.

**Section III Qualification and Evaluation Criteria**

This section describes the requirements for the qualifications of the Bidder to perform the Contract, and the process to determine the highest combined technical and financial scored Bid.

**Section IV Technical and Financial Offer Bid Forms**

This section contains the forms to be completed by the Bidders and submitted as part of their Bids.

**PART 2 – PURCHASER’S REQUIREMENTS**

**Section V Schedule of Requirements**

This section includes the detailed list of Non-Consulting Services, the Delivery and Completion Schedules, and the Technical Specifications that describe the Non-Consulting Services to be procured.

**PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

**Section VI Contract Agreement and General Conditions of Contract (“GCC”)**

This section contains the form of Contract proposed to be entered into between the MCA Entity and the Service Provider. **The text of the General Conditions of Contract clauses in this section shall not be modified.**

**Section VII Special Conditions of Contract (“SCC”) and Annex to Contract**

This section contains the form of those clauses of the Contract that supplement the GCC and that are to be completed by the MCA Entity for each procurement of Non-Consulting Services. This section also includes an Annex to the Contract (Annex A: General Provisions) that contains provisions that are a part of the Government’s and the MCA Entity’s obligations under the Compact and related documents which, under the terms of the Compact and related documents, are required to be transferred onto any Service Provider, Subcontractor or Associate who partakes in any MCC-funded procurement. **The text and clauses of Annex A to the form of contract may not be modified.**

**Section VIII Contract Forms**

This Section contains forms which, once completed, will form part of the Contract. The forms for **Performance Security** and **Advance Payment** Security, when required, shall only be completed by the successful Bidder after contract award.

Please note that a Pre-Bid Conference **[insert will/will not]** be held as described in the Bid Data Sheet (“BDS”), Section II of the Bidding Document.

Bidders interested in submitting a Bid should register their interest by sending an e-mail, giving full contact details of the Bidder, to the following point of contact. This will ensure that the Bidders receive updates regarding this IFB.

**[Insert contact name and title, Procurement Agent or the MCA Entity address, telephone and fax numbers, and email address of submission location]**

Bids must be delivered in the manner specified in the BDS ITB 24, no later than **[insert** **local time and date]**.

Submissions from Bidders will be evaluated by a qualified bid review panel. The evaluation will in a first step include a technical assessment of the Bidders’ ability to carry out the assignment and in a second step to evaluate the Bidders’ Financial Offer with the proposed prices, all in accordance with Section III. Qualification and Evaluation Criteria.

Bidders should be aware that distance and customs formalities may require longer than expected delivery time. Late Bids will not be accepted under any circumstances and will be returned unopened at the written request and cost of the Bidder. All Bids must be accompanied by a bid security (as required) in the manner and amount specified in the Bid Data Sheet.

Please note that electronic Bids **[insert shall/shall not]** be accepted.

Yours sincerely,

**[Procurement Agent]**

**For [full name of MCA Entity]**

**[Address]**

**[Fax number]**

**[E-mail address]**

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**PART 1:**

**BIDDING AND SELECTION PROCEDURE**

|  |  |
| --- | --- |
| 1. Instructions to Bidders | |
| 1. General | |
| *In Part 1 (Bidding and Selection Procedures) of this Bidding Document, the following words and expressions shall have the meanings stated below. These definitions shall not apply to any words or expressions in the sections that make up Part 3 (Conditions of Contract and Contract Forms) of this Bidding Document, in which such words and expressions shall have the meanings stated in GCC Sub-Clauses 1.1 and 1.2 unless otherwise specified.* | |
|  | 1. “Addendum” or “Addenda” means a modification to this Bidding Document issued by the MCA Entity. 2. “Appendix to Financial Offer” means the completed pages of the form with the heading “Appendix to Financial Offer” included in Section IV (Technical and Financial Offer Bid Forms) which are made a part of the Bidder’s Bid. 3. “Associate” means any entity that forms the Bidder or Service Provider. A Subcontractor is not an Associate. 4. “Association”, “Joint Venture”, “JV”, or “consortium” means an association of entities that forms the Bidder or Service Provider, with or without a legal status distinct from that of its members. 5. “BDS” means the Bid Data Sheet in Section II of this Bidding Document used to reflect specific requirements and/or conditions. 6. “Bid” means a bid for the provision of the Non-Consulting Services submitted by a Bidder in response to this Bidding Document. 7. “Bid Security” means the security a Bidder may be required to furnish as part of its Bid in accordance with ITB 22. 8. “Bidder” means any eligible entity or person, including any associate of such eligible entity or person that submits a Bid. 9. “Bidding Document” means this document, including any subsequent amendments, prepared by the Purchaser for the selection of the Service Provider. 10. “Compact” means the Millennium Challenge Compact **identified in the BDS**. 11. “confirmation” means confirmation in writing. 12. “Contract” means the contract proposed to be entered into between the Purchaser and the Service Provider, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 3 of this Bidding Document. 13. “days” refers to calendar days. 14. “Financial Offer” means the financial information provided as part of the Bidder’s Bid in accordance with ITB 12.3. 15. “GCC” means the General Conditions of Contract. 16. “Government” means the Government **identified in the BDS**. 17. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability; 18. “Instructions to Bidders” or “ITB” means Section I of this Bidding Document, including any amendments, which provides Bidders with all information needed to prepare their Bids. 19. “in writing” means communicated in written form (e.g., by mail, e-mail or facsimile) delivered with proof of receipt. 20. “Letter of Financial Offer” means the completed form with the heading “Letter of Financial Offer” included in Section IV. Technical and Financial Offer Bid Forms, which are made a part of the Bidder’s Bid. 21. “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government. 22. “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Compact. 23. “MCC Program Procurement Guidelines” or “MCC PPG” means the MCC Program Procurement Guidelines and its amendments posted from time to time on the MCC website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). 24. “Pre-Bid Conference” means the pre-bid conference specified in BDS ITB 8.2, if any. 25. “Purchaser” or “MCA Entity” means the accountable entity **identified in the BDS**, and the party with which the Service Provider signs the Contract for the supply of Non-Consulting Services. 26. “SCC” means the Special Conditions of Contract. 27. “Schedule of Requirements” means the documents included in Part 2 of this Bidding Document that explain the technical specifications and other requirements related to the Non-Consulting Services. 28. “Services” or “Non-Consulting Services” means the work to be performed by the Service Provider under the Contract, as described in the Schedule of Requirements. 29. “Service Provider” means the entity that provides the Non-Consulting Services to the Purchaser under the Contract. 30. “Subcontractor” means any entity to whom a Bidder intends to subcontract any part of the Non-Consulting Services. 31. “Taxes” has the meaning given to the term in the Compact. 32. “Technical Offer” means the technical information provided as part of the Bidder’s Bid in accordance with ITB 12.2. 33. “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC Program Procurement Guidelines. |
| * + 1. **Scope of Bid** | * + - 1. The Purchaser has issued an Invitation for Bids for the procurement of Non-Consulting Services as specified in Section V. Schedule of Requirements. The winner will be determined by the selection method **specified in the BDS**,according to Quality and Cost Based Selection principles set out in the MCC Program Procurement Guidelines and in accordance with Section III. Qualification and Evaluation Criteria. The name and identification number of the Contract, and number and description of the lot(s), are **specified in the** **BDS**.       2. The Purchaser is not bound to accept any Bid, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Bidder. |
| * + 1. **Source of Funds** | * + - 1. The United States of America, acting through MCC and the Government have entered into the Compact. The Government, acting through the MCA Entity, intends to apply a portion of the proceeds of MCC Funding to eligible payments under the Contract. Any payments made under the Contract with MCC Funding will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding. The Compact and related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) or the website of the MCA Entity. |
| * + 1. **Corruption and Fraud** | * + - * 1. MCC requires that all beneficiaries of MCC Funding, including the MCA Entity and any applicants, Bidders, Service Providers, contractors, Subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the MCA Entity that they have acceptable commitments and procedures in place to address the potential for fraudulent and corrupt practices. For the purposes of these provisions, the terms set forth below are defined as follows, and sometimes referred to collectively in this document as “Fraud and Corruption”:   ***“coercion”*** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to improperly influence the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract;  ***“collusion”*** means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, raise, lower or manipulate prices or to otherwise deprive the MCA Entity of the benefits of free and open competition;  ***“corruption***” means The offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, MCA Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract.;  ***“fraud”*** means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including any act or omission designed to influence (or attempt to influence) improperly a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;  ***“obstruction of investigation into allegations of fraud or corruption”*** means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, collusion, corruption, fraud, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under a compact, threshold program agreement, or related agreements.  ***“prohibited practice”*** means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of General Provisions that will be made a part of MCC-funded contracts.   * + - * 1. The MCA Entity will reject a Bid (and MCC will deny approval of a proposed Contract award) if it determines that the Bidder recommended for award has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for the Contract.         2. MCC and the MCA Entity have the right to sanction a Bidder, including declaring the Bidder ineligible, either indefinitely or for a stated period of time, to be awarded an MCC-funded contract if at any time either MCC or the MCA Entity determines that the Service Provider has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in executing, such a contract.         3. MCC and the MCA Entity have the right to require that a provision be included in the Contract requiring the selected Service Provider to permit the MCA Entity, MCC, or any designee of MCC, to inspect the Service Provider’s or any Subcontractor’s accounts, records and other documents relating to the preparation and submission of the Bid or performance of the Contract and to have such accounts, records and other documents audited by auditors appointed by MCC or by the MCA Entity with the approval of MCC.         4. In addition, MCC has the right to cancel any portion of the MCC Funding allocated to the Contract if it determines at any time that any representative of a beneficiary of MCC Funding engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the execution of any MCC-funded Contract, without the MCA Entity having taken timely and appropriate action satisfactory to MCC to remedy the situation. |
| * + 1. **Environmental and Social Requirements** |  |
| **Trafficking in Persons** | * + - 1. MCC has a zero tolerance policy with regard to Trafficking in Persons. Trafficking in Persons (“TIP”) is the crime of using force, fraud, and/or coercion to exploit another person. Trafficking in Persons can take the form of domestic servitude, peonage, forced labor, sexual servitude, bonded labor, and the use of child soldiers. This practice deprives people of their human rights and freedoms, increases global health risks, fuels growing networks of organized crime, and can sustain levels of poverty and impede development. MCC is committed to ensuring appropriate steps are taken to prevent, mitigate, and monitor TIP risks in the projects it funds.       2. Additional information on MCC’s requirements aimed at combating trafficking in persons can be found in the MCC Counter-Trafficking in Persons Policy (“C-TIP”), available at the website **specified in the BDS**. All contracts funded by MCC are required to comply with the Policy’s Counter-TIP Minimum Compliance Requirements. Contracts for projects categorized by MCC as high-risk for TIP are required to implement a TIP Risk Management Plan (which is to be developed by the MCA Entity and implemented by the corresponding contractor). |
| **MCC Environmental Guidelines and IFC Performance Standards** | * + - 1. The projects MCC finances under a compact will be developed and implemented in a manner consistent with MCC’s Environmental Guidelines (as defined below), including the environmental and social performance standards set forth in the *Performance Standards on Environmental and Social Sustainability*of the International Finance Corporation, as amended from time to time. The Bidder shall ensure that its activities, including any activities carried out by Sub-contractors, under the Contract comply with MCC’s Environmental Guidelines (as such term is defined in the Compact or related agreement, which are available at http://www.mcc.gov), and are not ‘likely to cause a significant environmental, health, or safety hazard’ as defined in such Environmental Guidelines. The Bidders are also required to comply with IFC Performance Standards for the purposes of the Contract. Additional information on the IFC Performance Standards can be found here: <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> |
| * + 1. **Bidders’ Qualification and Eligibility** | * + - 1. The qualification and eligibility criteria set out in this Bidding Document will apply to the Bidder, including all parties constituting the Bidder.       2. Bidders must satisfy the eligibility criteria set forth in this Bidding Document and as contained in the MCC PPG governing MCC-funded procurements under the Compact. |
| **Joint Ventures; Subcontractors** | * + - 1. Any eligible entity may bid independently or in a Joint Venture. In the case where a Bidder is or proposes to be a JV (a) all members will be jointly and severally liable for the execution of the Contract; and (b) the JV will nominate a representative who will have the authority to conduct all business for and on behalf of any and all the members of the JV.       2. Subject to the restrictions set forth in this Bidding Document, any Bidder may propose to sub-contract a part of the Contract in accordance with its terms and provided that the names and details of the sub-contract are clearly stated in the Bid submitted by the Bidder.       3. Qualification requirements for the Bidder in addition to those set out in these Instructions to Bidders are specified in Section III. Qualification and Evaluation Criteria.       4. Bidders must also satisfy the eligibility criteria contained in the MCC PPG governing MCC-funded procurements under the Compact. In the case where a Bidder intends to join with an associate or sub-contract part of the Contract, then such associate or Subcontractor shall also be subject to the eligibility criteria set forth in this Bidding Document and the MCC PPG.       5. Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request. |
| **Conflict of Interest** | * + - 1. A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated and the mitigation is approved by MCC. The Purchaser requires that Bidders and the Service Provider hold the Purchaser’s interests paramount at all times, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing, a Bidder or Service Provider, including all parties constituting the Bidder or Service Provider, and any subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, may be considered to have a conflict of interest and disqualified or terminated if they:          1. have at least one controlling partner in common with one or more other parties in the process contemplated by this Bidding Document, or          2. have the same legal representative as another Bidder for purposes of this Bid; or          3. have a relationship, directly or through common third parties, that puts them in a position to have access to information about or influence over the Bid of another Bidder, or influence the decisions of the Purchaser regarding the selection process for this procurement; or          4. participate in more than one Bid in this process; participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved; however, this provision does not limit the inclusion of the same Subcontractor in more than one Bid; or          5. are themselves, or have a business or family relationship with, (i) a member of the MCA Entity’s board of directors or staff, (ii) the Procurement Agent, Fiscal Agent, or auditor (as defined in the Compact or related agreements) hired by the MCA Entity in connection with the Compact, any of whom is directly or indirectly involved in any part of (A) the preparation of this Bidding Document, (B) the selection process for this procurement, or (C) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to MCC; or          6. any of their affiliates have been or, at present, are engaged by the MCA Entity in the capacity of the Procurement Agent or Fiscal Agent under the Compact.       2. A Bidder hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods, works or non-consulting services resulting from or directly related to such consulting services for such preparation or implementation.       3. Bidders and the Service Provider have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Purchaser, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Bidder or the termination of the Contract. |
| **Ineligibility and Debarment** | * + - 1. A Bidder or Service Provider, all parties constituting the Bidder or Service Provider, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, will not be any person or entity under (a) a declaration of ineligibility for engaging in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices as contemplated by ITB Clause 3.1 above, or (b) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of MCC’s Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). This would also remove from eligibility for participation in this procurement any entity that is organized in, or has its principal place of business or a significant portion of its operations in, any country that is subject to sanctions or restrictions by law or policy of the United States. |
|  | * + - 1. A Bidder or Service Provider, all parties constituting the Bidder or Service Provider, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates not otherwise made ineligible for a reason described in this ITB Clause 5 will nonetheless be excluded if:          1. as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Bidder or Service Provider (including any Associates, Subcontractors and any respective affiliates). Those countries that are subject to sanction or restriction by law or policy of the United States as of the date of this Bidding Document are specified in the BDS; or          2. by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from the country of the Bidder or Service Provider (including any Associates, Subcontractors and any respective affiliates) or any payments to entities in such country; or          3. such Bidder or Service Provider, any parties constituting the Bidder or Service Provider, any Subcontractor, Associate, or respective personnel or affiliates are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on MCC’s website ([www.mcc.gov](http://www.mcc.gov)). |
| **Evidence of Continued Eligibility** | * + - 1. Bidders and Service Providers shall provide such evidence of their continued eligibility in a manner satisfactory to the Purchaser, as the Purchaser shall reasonably request. |
| **Commissions and Gratuities** | * + - 1. A Bidder or Service Provider will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Bid and during performance of the Contract if the Bidder is awarded the Contract, as requested in Section IV. Technical and Financial Offer Bid Forms. |
| * + 1. **Eligible Non-Consulting Services** | * + - 1. The Non-Consulting Services to be supplied under the Contract may have their origin in any country subject to the same restrictions specified for Bidders and the Service Provider in ITB Clause 5 above. At the Purchaser’s request, Bidders will be required to provide evidence of the origin of Non-Consulting Services.       2. For purposes of ITB Clause 6.1, “origin” means the place from which the Services are supplied. |
| 1. Contents of Bidding Document | |
| * + 1. **Sections of Bidding Document** | * + - 1. This Bidding Document consists of Parts 1, 2, and 3, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITB Clause 9.   **Part 1 – Bidding and Selection Procedures**  Section I. Instructions to Bidders  Section II. Bid Data Sheet  Section III. Qualification and Evaluation Criteria  Section IV. Technical and Financial Offer Bid Forms  **Part 2 – Purchaser’s Requirements**  Section V. Schedule of Requirements  **Part 3 – Contract Forms**  Section VI. Contract Agreement and General Conditions of Contract  Section VII. Special Conditions of Contract and Annex to Contract  Section VIII. Contract Forms   * + - 1. The Letter of Invitation issued by the Purchaser is not part of the Bidding Document.       2. The Purchaser is not responsible for the completeness of this Bidding Document and its Addenda if they were not obtained directly from the source stated by the MCA Entity in the Letter of Invitation.       3. The Bidder is expected to examine all instructions, forms, terms, and Schedule of Requirements in this Bidding Document. Failure to furnish all information or documentation required by this Bidding Document may result in the rejection of the Bid. |
| * + 1. **Clarification of Bidding Document** | * + - 1. A prospective Bidder requiring any clarification of this Bidding Document shall contact the MCA Entity in writing, by email or fax at the MCA Entity’s address **indicated in the BDS**. The MCA Entity will respond to any request for clarification, provided that such a request is received no later than the number of days **indicated in the BDS** prior to the deadline for submission of Bids. The MCA Entity shall send written copies of the responses, including a description of the inquiry but without identifying its source, to Bidders who have registered or obtained the Bidding Document directly from the MCA Entity by the date **specified in the BDS**. The MCA Entity will also post a copy of the responses and inquiry descriptions to the MCA Entity’s website **indicated in the BDS**. Should the clarification result in changes to the essential elements of this Bidding Document, the MCA Entity shall amend this Bidding Document following the procedure under ITB Clause 9.       2. The Bidder’s designated representative is invited to attend a Pre-Bid Conference, **if provided for in the BDS**. The purpose of the conference will be to clarify the issues and to answer questions on any matter that may be raised at that stage. Attending any Pre-Bid Conference is strongly advised, but not mandatory. Attending any Pre-Bid Conference and/or a site visit shall not be taken into account in the evaluation of Bids.       3. Minutes of the Pre-Bid Conference, including the text of the questions and answers raised at the Conference, without identifying the source of the questions, will be posted on the MCA Entity’s website as indicated in BDS ITB 8.1 and shall be transmitted in writing to all Bidders who have registered or obtained the Bidding Document directly from the MCA Entity. Any modification to this Bidding Document that may become necessary as a result of the Pre-Bid Conference shall be made by the MCA Entity exclusively through the issue of an Addendum and not through the minutes of the Pre-Bid Conference. |
| * + 1. **Amendment of Bidding Document** | * + - 1. At any time prior to the deadline for submission of Bids, the MCA Entity may amend this Bidding Document by issuing Addenda.       2. All Addenda issued shall be part of this Bidding Document, posted on the MCA Entity’s website, and shall be communicated in writing to all Bidders that have registered or obtained the Bidding Document directly from the MCA Entity.       3. To give prospective Bidders reasonable time in which to take an Addendum into account in preparing their Bids, the MCA Entity may extend the deadline for the submission of Bids at its sole discretion. |
| 1. Preparation of Bids | |
| * + 1. **Cost of Bidding** | * + - 1. The Bidder shall bear all costs associated with the preparation and submission of its Bid and Contract finalization, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| * + 1. **Language of Bid** | * + - 1. The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language **specified in the BDS.** Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern. |
| * + 1. **Documents Comprising the Bid** | * + - 1. If submitting in hard copy, the Bid shall be comprised of a single outer envelope, containing two inner sealed envelopes with the Technical Offer and Financial Offer.       2. The Technical Offer shall include the Bidder’s proposal for the delivery of the Services as stipulated in Section IV. Technical and Financial Offer Bid Forms, in sufficient detail to demonstrate the adequacy of the Bidder’s Technical Offer to meet the Purchaser’s requirements and the completion time. The Technical Offer shall not include any financial information other than the required information in Forms FIN-1, FIN-2, FIN-3 and FIN-4. A Technical Offer containing price information that is specifically required to be submitted with the Financial Offer shall be treated as non-responsive and shall be rejected.       3. The Financial Offer shall include the information as stipulated in the Section IV. Technical and Financial Offer Bid Forms, in sufficient detail to demonstrate the adequacy of the Bidder’s Financial Offer to meet the Purchaser’s requirements and the completion time.       4. The Bid submitted by the Bidder shall comprise the following:          1. All Bid forms in accordance with Section IV. Technical and Financial Offer Bid Forms, including the applicable Price Schedules, in accordance with ITB Clauses 13, 15 and 16;          2. Bid Security, in accordance with ITB Clause 22;          3. written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 23;          4. documentary evidence in accordance with ITB Clause 17 establishing the Bidder’s eligibility to Bid;          5. if **specified in the BDS**, documentary evidence in accordance with ITB Clause 18, that the Non-Consulting Services to be supplied by the Bidder are of eligible origin;          6. documentary evidence in accordance with ITB Clauses 19, that the Non-Consulting Services conform to the Bidding Document;          7. documentary evidence in accordance with ITB Clause 20 establishing the Bidder’s qualifications to perform the contract if its Bid is accepted; and          8. any other document as **specified in the** **BDS**. |
| * + 1. **Letters of Technical and Financial Offers and Price Schedules** | * + - 1. The Letter of Technical Offer, the Letter of Financial Offer Form and Price Schedules shall be prepared using the relevant forms furnished in Section IV. Technical and Financial Offer Bid Forms. These forms must be completed without any alterations to its text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested. |
| * + 1. **Alternative Bids** | * + - 1. Unless otherwise **specified in the BDS**, alternative Bids shall not be considered. |
| * + 1. **Bid Prices and Discounts** | * + - 1. The prices and discounts quoted by a Bidder in the Letter of Financial Offer and in the Price Schedules shall conform to the requirements specified below. Discounts are permitted only when bidding for multiple lots and will be considered in the evaluation process as specified in Section III. Qualification and Evaluation Criteria.       2. The Bidder shall list and price all lots and items separately in the Price Schedules. Items against which no price is entered by the Bidder will not be paid for by the Purchaser, and shall be deemed covered by the prices of other items in the Price Schedules. Lots or items not listed in the Price Schedules shall be assumed not to be included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment, as appropriate, shall be applied in accordance with ITB Clause 31.6.       3. The price to be quoted in the Letter of Financial Offer, in accordance with ITB Clause 13.1, shall be the total price of the Bid, excluding any discounts offered.       4. The Bidder shall quote any unconditional discounts and indicate the method for their application in the Letter of Financial Offer, in accordance with ITB Clause 13.1.       5. The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in Incoterms edition **specified in the BDS** published by The International Chamber of Commerce.       6. The price to be quoted in the Letter of Financial Offer, in accordance with ITB Clause 13.1, shall be the all-inclusive price of Services, including transportation, insurance and all services required to deliver the Services to the locations specified in the Schedule of Requirements ;       7. Prices quoted by the Bidder shall be fixed during a Bidder’s performance of the Contract and not subject to variation on any account, unless otherwise **specified in the** **BDS**. A Bid submitted with “adjustable prices” shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 31. However, if **in accordance with the** **BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a Bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero for the evaluation purpose.       8. If so indicated in the BDS ITB 1.1, Bids shall be invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise **indicated in the** **BDS**, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction (discount) for the award of more than one contract (lot) shall specify the applicable price reduction in accordance with ITB Clause 15.4 provided the Bids for all lots are submitted and opened at the same time.       9. Clause 15 of the General Conditions of Contract (Section VI) sets forth the tax provisions of the Contract. Bidders should review this clause carefully in preparing their Bid. |
| * + 1. **Currencies of Bid** | * + - 1. The currency(ies) of the Bid shall be as **specified in the BDS**. |
| * + 1. **Documents Establishing the Eligibility of the Bidder** | * + - 1. To establish their eligibility in accordance with ITB Clause 5, Bidders shall complete the forms included in Section IV. Technical and Financial Offer Bid Forms. |
| * + 1. **Documents Establishing the Eligibility of the Non-Consulting Services** | * + - 1. If **specified in the BDS**, Bidders shall be required to complete the country of origin declarations in the Appendix to the Financial Offer, included in Section IV. Technical and Financial Offer Bid Forms in order to establish the eligibility of the Non-Consulting Services or any associated goods in accordance with ITB Clause 5. |
| * + 1. **Documents Establishing the Conformity of the Non-Consulting Services** | * + - 1. To establish the conformity of the Non-Consulting Services to the Bidding Document, the Bidder shall furnish as part of its Bid the documentary evidence that the Services conform to the technical specifications, including all requirements and standards specified in Section V. Schedule of Requirements.       2. The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Services, demonstrating substantial responsiveness of the Services to the technical specification, including all requirements and standards, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.       3. Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. A Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to Purchaser’s satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements. |
| * + 1. **Documents Establishing the Qualifications of the Bidder** | * + - 1. The documentary evidence of the Bidder’s qualifications to perform the Contract if its Bid is accepted shall establish, to the Purchaser’s satisfaction, the criteria specified in Section III. Qualification and Evaluation Criteria. |
| * + 1. **Period of Validity of Bids** | * + - 1. Bids shall remain valid for the period **specified in the** **BDS** after the bid submission deadline date prescribed by the Purchaser. A Bid valid for a shorter period shall be rejected by the Purchaser as non-responsive.       2. In exceptional circumstances, prior to the expiration of the Bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the Bidder’s responses shall be made in writing. If required, the Bid Security shall also be extended for a period of twenty-eight (28) days beyond the deadline of the extended bid validity period. A Bidder may refuse the request without forfeiting its Bid security. A Bidder granting the request shall not be required or permitted to modify its Bid. |
| * + 1. **Bid Security** | * + - 1. **If so required in the BDS,** theBidder shall furnish, as part of its Financial Offer, a Bid Security in original form and in the amount and currency **specified in the BDS.**       2. The Bid Security shall be in the amount and currencies **specified in the** **BDS** and shall:          1. be in the form of a bank guarantee substantially in the format of Form of Bid Security (Bank Guarantee) included in Section IV. Technical and Financial Offer Bid Forms;          2. be issued by a reputable institution selected by the Bidder and located in any eligible country (as determined in accordance with ITB Clause 5); if the institution issuing the bank guarantee is located outside Purchaser’s country, it shall have a correspondent financial institution located within Purchaser’s country to make it enforceable;          3. be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause 22.2 are invoked;          4. be submitted in its original form; copies will not be accepted;          5. remain valid for a period of twenty-eight (28) days beyond the original validity period of Bids, or beyond any period of extension subsequently requested under ITB Clause 21.2.       3. Any Bid not accompanied by a substantially responsive Bid Security (if required) in accordance with ITB Clause 22, shall be rejected by the Purchaser as nonresponsive. The Bid Security may be forfeited:          1. if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Clause 21.2;          2. if a Bidder does not accept the correction of its Bid Price pursuant to ITB Clause 32.2; or          3. if the successful Bidder fails within the specified time to:   furnish the required Performance Security in accordance with GCC Clause 16 as described in ITB Clause 43; or  sign the Contract in accordance with ITB Clause 42.   * + - 1. The Bid Security of a Joint Venture must be in the name of the Joint Venture that submits the Bid. If the Joint Venture has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners, or in the name of the designated representative (partner in charge or lead member) as named in the letter of intent or similar document in connection with the formation of the Joint Venture. |
| * + 1. **Format and Signing of Bid** | * + - 1. A Bidder shall prepare ONE (1) original set of the documents comprising the Bid pursuant to ITB Clause 12 and clearly mark it “Original.” The original shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid. The person or persons signing the Bid shall initial all pages of the Bid where entries and amendments have been made.       2. In addition, the Bidder shall prepare copies of the Bid (photocopies of the signed original are acceptable), in the number **specified in the** **BDS** and clearly mark them “Copy.” In the event of discrepancy between the original and the copies, the original shall prevail.       3. The Bid shall contain no alterations or additions, except those made to comply with the instructions issued by the Purchaser, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.       4. The Bidder shall furnish information as described in Section IV. Technical and Financial Offer Bid Forms on commissions and gratuities, if any, paid or to be paid to agents relating to this Bidding Document or its Bid or to Contract execution if the Bidder is awarded the Contract. |
| 1. Submission and Opening of Bids | |
| * + 1. **Bid Submission** | * + - 1. Bidders may submit their Bids by mail or by hand. When so **specified in the** **BDS**, Bidders shall have the option of submitting their Bids electronically. Bidders submitting bids electronically, **if so permitted in** **BDS,** shall follow the electronic bid submission procedures **specified in the** **BDS**.       2. Bidders are reminded that distance and customs formalities may require longer than expected delivery times.       3. The authorized representative of the Bidder signing the “Originals” of the Technical and of the Financial Offer shall provide within the Technical Offer an authorization in the form of a written letter of authorization demonstrating that the person signing has been duly authorized to sign the “Originals” on behalf of the Bidder. The signed Technical Offers and the signed Financial Offers shall be clearly marked “Original”.       4. Copies of the Technical Offer and the Financial Offer shall be clearly marked “Copy”. It is preferred that all copies required should be made by photocopying the “Original” as appropriate. However, the Bidder should note that if copies are made by any other means and discrepancies are found between the original and any of the copies of the relevant documents, then the “Original” shall govern.       5. The “Original” and each “Copy” of the Technical Offer shall be placed in a sealed envelope/parcel clearly marked “**Technical Offer**”. Similarly, the “Original” and each “Copy” of the Financial Offer shall be placed in a separate sealed envelope/parcel clearly marked “**Financial Offer**”.       6. Each envelope/parcel shall bear the name and address of the MCA Entity **as stated in the BDS**,the name and address of the Bidder (in case they have to be returned unopened, and the Name of the Bid as stated in the BDS).       7. In addition, the envelope/parcel containing the original and copies of the Financial Offer shall be marked with a warning **“Do Not Open With the Technical Offer.”** If the Financial Offer is not submitted in a separate sealed envelope/parcel duly marked as indicated above, this will constitute grounds for declaring the Offer non-responsive.       8. The two envelopes/parcels containing the Technical Offer and the Financial Offer shall then be placed into one outer envelope or carton (as appropriate) and securely sealed to prevent premature opening. This outer envelope/carton shall bear the submission address, name and address of the Bidder, name of the assignment reference number, and be clearly marked **“Do Not Open, Except In Presence of the Official Appointed, Before [state submission time and date]” as indicated in the BDS.**       9. The MCA Entity shall not be responsible for misplacement, losing or premature opening if the outer envelope/carton is not sealed and/or marked as stipulated. This circumstance may be cause for Bid rejection. |
| * + 1. **Deadline for Submission of Bids** | * + - 1. Bids must be received by the Purchaser at the address **specified in the BDS** no later than the date and time **specified in the BDS**.       2. The Purchaser may, at its discretion, extend the deadline for the submission of Bids by issuing an amendment in accordance with ITB Clause 9, in which case all rights and obligations of the Purchaser and the Bidders previously subject to the original deadline shall then be subject to the deadline as extended. |
| * + 1. **Late Bids** | * + - 1. The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB Clause 25. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected and returned unopened at the request and cost of the Bidder. |
| * + 1. **Withdrawal, Substitution, and Modification of Bid** | * + - 1. A Bidder may withdraw, substitute, or modify its Bid prior to the deadline for the submission of Bids by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization of the person signing in accordance with ITB Clause 23.1, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be:          1. submitted in accordance with ITB Clauses 24 and 25 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” or “Modification,” and          2. received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 25. |
|  | * + - 1. Bids requested to be withdrawn in accordance with this ITB Clause shall be returned unopened to the Bidders at the request and cost of the Bidders. |
|  | * + - 1. No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Letter of Financial Offer or any extension thereof. |
| * + 1. **Bid Opening** | * + - 1. The Purchaser shall open the Bids in the presence of Bidders’ representatives as well as anyone who chooses to attend at the time and in the place **specified in the** **BDS**. Any specific opening procedures required if electronic Bidding is permitted in **accordance with the BDS**, shall be as **specified in the** **BDS**. |
|  | * + - 1. Firstly, submissions marked “Withdrawal” shall be opened and read out, while Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 27 shall not be opened. No Bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Bid opening. Next, submissions marked “Substitution” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Bid opening. Submissions marked “Modification” shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only submissions that are opened and read out at Bid opening shall be considered further. |
|  | * + - 1. All other outer envelopes/cartons shall be opened one at a time, and the official shall read aloud: the name of the Bidder and whether there is a modification. No Bid shall be rejected at Bid opening except for late Bids, pursuant to ITB Clause 26.       2. The Technical Offers and Financial Offers should be sorted as appropriate. The Technical Offers will be opened as **specified in the BDS**. In the cases when Technical Offers are not opened publicly, the envelopes with the Technical Offers shall remain sealed until the Technical Evaluation Panel (“TEP”) is ready to convene. The MCA Entity shall ensure that the Financial Offers remain sealed and securely stored until after the evaluation of the Technical Offers has been completed.       3. Substitutions and modifications submitted pursuant to ITB Clause 27 that are not opened and read out at Bid opening shall not be considered for further evaluation regardless of the circumstances. Late, withdrawn and substituted Bids shall be returned unopened at the request and cost of the Bidder. |
|  | * + - 1. The Purchaser shall prepare minutes of the Bid opening, which shall include, at a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification. A copy of the record shall be distributed to all Bidders who submitted Bids on time, and posted on the MCA Entity’s website. |
| 1. Evaluation and Comparison of Bids | |
| * + 1. **Confidentiality** | * + - 1. From the time Bids are opened to the time the Contract is awarded, Bidders may not contact the Purchaser on any matter related to its Technical Offer or Financial Offer. Information relating to the examination, clarification, evaluation, and comparison of Bids and recommendations for the award of the Contract shall not be disclosed to the Bidders or any other persons not officially concerned with such process until the intention to award to the successful Bidder has been announced pursuant to ITB Clause 40. The undue use by any Bidder of confidential information related to the process may result in the rejection of its Bid or may invalidate the entire procurement process.       2. Any attempt or effort by a Bidder to influence the Purchaser in the evaluation of Bids or Contract award decisions may subject the Bidder to the provisions of the Government’s, the Purchaser’s, and MCC’s anti-fraud and corruption policies and the application of other sanctions and remedies to the extent applicable.       3. Notwithstanding the above, from the time of Bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it may do so in writing at the address **specified in the BDS**. |
| * + 1. **Clarification of Bids** | * + - 1. To assist in the examination, evaluation, and comparison of Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a bidder that is not in response to a request by the Purchaser shall not be considered. The Purchaser’s request for clarification and the Bidder’s response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by Purchaser in the evaluation of the Bids in accordance with ITB Clause 32. |
| * + 1. **Evaluation of Technical Offers** | * + - 1. The TEP shall evaluate the Technical Offers on the basis of their responsiveness to the Purchaser’s Requirements, applying the evaluation criteria, sub-criteria, and point system specified in **Section III**. Each responsive Offer will be given a technical score (St). A Bid shall be rejected at this stage if it does not respond to important aspects of the Bidding Document, and particularly the Purchaser’s Requirements or if it fails to achieve **the minimum technical score indicated in Section III.**       2. As part of the evaluation of the Technical Offers, the TEP will also conduct a review of the qualifications requirements to determine if the Bidder satisfies the qualification requirements as described in ITB 5, 6, 17, 18, 19, 20 and Section III. Qualification and Evaluation Criteria. The determination shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder, the Bidder’s record of past performance, a review of references, and any other source at the Purchaser’s discretion. An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder, and failing to meet the required qualifications shall be considered as a non-responsive Technical Offer       3. Following completion of the evaluation of Technical Offers, and after receiving a “no objection” from MCC (if applicable), the Purchaser shall notify all Bidders who have submitted Bids of (a) those Technical Offers which were considered non-responsive, (b) the technical scores of those Technical Offers which were deemed responsive and (c) to those who achieved the minimum qualifying mark, the date, time and location for the opening of the Financial Offers.       4. The notification shall also advise those Bidders whose Technical Offers did not meet the minimum qualifying mark, or which were considered non-responsive, that their Financial Offers will be returned unopened after the Purchaser has completed the selection process. |
| * + 1. **Opening and Evaluation of Financial Offers: Arithmetical Errors** | * + - 1. Financial Offers shall be opened publicly in the presence of those Bidders’ representatives who choose to attend at the date, time and location stated in the notice issued pursuant to ITB 31.3. If so **specified in the BDS, Financial Offers will be opened electronically.** All Financial Offers will first be inspected to confirm that they have remained sealed and unopened. Only the Financial Offers of those Bidders who met the minimum qualifying mark and are also responsive to the required qualifications, following the Technical Evaluation stage will be opened. The Technical Score (St) and only the Total Bid Price, as stated in the Letter of Financial Offer shall be read out aloud and recorded. A copy of the record shall subsequently be sent to those Bidders whose Financial Offers were opened and to MCC.       2. The Financial Offer Evaluation Panel will correct as part of the Price Review any computational errors, and in cases of a discrepancy between a partial amount and the total amount, or between words and figures the former will prevail. In addition to the above corrections, activities and items described in the Technical Offer but not priced, shall be assumed to be included in the prices of other activities or items. In cases where an activity or line item is quantified differently in the Financial Offer from the Technical Offer, no corrections will be applied to the Financial Offer in this respect. If Bidders are not required to submit Financial Offers in a single currency, prices shall be converted to a single currency for evaluation purposes **using the selling rates of exchange, source and date indicated in the BDS.**       3. During the price review as per ITB 32.2, the Purchaser shall correct arithmetical errors on the following basis:          1. if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;          2. if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and          3. if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.       4. If the Bidder does not accept the correction of errors, its Bid shall be rejected and the Bid Security may be forfeited in accordance with ITB Clause 22.2(b).       5. The lowest evaluated Financial Offer (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Offers will be computed **as indicated in Section III**.Bids will be ranked according to their combined technical (St) and financial (Sf) scores, calculated with the formula: S = St x T% + Sf x P%, using the weights (T = the weight given to the Technical Offer; P = the weight given to the Financial Offer; T + P = 1) indicated in Section III.       6. The Bidder achieving the highest combined technical and financial score, and also successfully meeting the qualifications requirements, will be recommended for Contract award. |
| * + 1. **Price reasonableness** | * + - 1. If the price reasonableness analysis suggests that a Financial Offer is significantly unbalanced or front loaded, the Purchaser may require the Bidder to produce a detailed price analysis for any or all items of the Prices Schedules that demonstrates the internal consistency of prices with the construction methods and schedule proposed.       2. A negative determination of price reasonableness (either unreasonably high or unreasonably low) may be a reason for rejection of the Bid at the discretion of the Purchaser. The Bidder shall not be permitted to revise its Technical Offer or Financial Offer after this determination. |
| * + 1. **No margin of preference** | * + - 1. In accordance with the MCC PPG, a margin of preference for domestic Bidders shall not be used. |
| * + 1. **Past Performance and Reference Check** | * + - 1. In accordance with the MCC PPG, the Bidder’s performance on earlier contracts will be considered a factor in the Purchaser’s qualification of the Bidder. The Purchaser reserves the right to check the performance references provided by the Bidder or to use any other source at the Purchaser’s discretion. If the Bidder (including any of its associates or joint venture/association members) is or has been a party to an MCC-funded contract (either with MCC directly or with any Millennium Challenge Account Entity, anywhere in the world), whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role, the Bidder must identify the contract in its list of references submitted with its Bid using Bidding Form REF-1: References of MCC-Funded Contracts. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. However, the failure to list any contracts because the Bidder (including any of its associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The Purchaser will check the references, including the Bidder’s past performance reports filed in MCC’s Contractor Past Performance Reporting System (“CPPRS”). A negative determination by the Purchaser on the Bidder’s record of performance in prior contracts may be a reason for disqualification of the Bidder at the discretion of the Purchaser. |
| * + 1. **Purchaser’s Right to Accept Any Bid, and to Reject Any or All Bids** | * + - 1. The Purchaser reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to Bidders. In case of annulment, all Bids submitted and specifically Bid Securities shall be promptly returned to the Bidders at the Purchaser’s expense. If all Bids are rejected, the Purchaser shall review the causes justifying the rejection and consider making revisions to the conditions of Contract, specifications, scope of the Contract, or a combination of these, before inviting new Bids. The Purchaser reserves the right to cancel the procurement if this is no longer in the interest of the Purchaser. Rejection of all Bids and canceling the procurement requires prior approval by MCC. |
| 1. Award of Contract | |
| * + 1. **Award Criteria** | * + - 1. Subject to ITB Clause 1.2 and 36.1, the Purchaser shall award the Contract to the Bidder whose Bid has been determined to have the highest combined technical and financial score including that the Bidder is determined to be qualified to perform the Contract satisfactorily. |
| * + 1. **Purchaser’s Right to Vary Quantities at Time of Award**     2. **Notification of Intent to Award** | 38.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Non-Consulting Services originally specified in Section V. Schedule of Requirements, provided this does not exceed the percentages **indicated in the** **BDS**, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.   * + - 1. Prior to the expiration of the period of Bid validity, the Purchaser shall send the Notice of Intent to Award to the successful Bidder. The Notice of Intent to Award shall include a statement that the Purchaser shall issue a formal Notification of Award and draft Contract Agreement after expiration of the period for filing a Bid challenge and the resolution of any Bid challenges that are submitted and following the conclusion of successful negotiations. Delivery of the Notice of Intent to Award **shall not constitute the formation of a contract** between the Purchaser and the successful Bidder and no legal or equitable rights will be created through the delivery of the Notice of Intent to Award.  At the same time it issues the Notice of Intent to Award, the Purchaser shall also notify, in writing, all other Bidders of the results of the bidding. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after receiving notification of the bidding results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines, or submits a formal Bid challenge. |
| * + 1. **Negotiations** | * + - 1. Negotiations will be held at the address **indicated in the BDS**. The invited Bidder will, as a pre-requisite for attendance at the negotiations, confirm the availability of all the Key Professional Personnel listed in the Technical Offer. Failure to confirm such Personnel may result in the MCA Entity proceeding to negotiate with the next-ranked Bidder. Representatives conducting negotiations on behalf of the Bidder must have written authority to negotiate and conclude the Contract on behalf of the Bidder.       2. Negotiations will commence with a discussion of the Technical Offer, including (a) proposed technical approach and methodology, (b) workplan, (c) organization and staffing, and (d) any comments and suggestions made by the Bidder to improve the Purchaser’s Requirements. The MCA Entity and the Bidder will then finalize the Purchaser’s Requirements, staffing schedule, work schedule, outputs, and reporting. These documents will then be incorporated in the Contract under Annex B: “Description of Services.” Special attention will be paid to clearly defining the inputs and facilities required from the MCA Entity to ensure satisfactory implementation of the assignment. MCA Entity shall prepare minutes of negotiations which will be signed by the MCA Entity and the Bidder       3. It is the responsibility of the Bidder, before starting financial negotiations, to contact the local tax authorities to determine the local Tax amount to be paid by the Bidder under the Contract. In no event, shall the MCA Entity be responsible for the payment or reimbursement of any Taxes. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.       4. During Contract negotiations, the MCA Entity will not consider substitution of any Key Personnel unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity of one of the Personnel. If this is not the case and if it is established that any Key Personnel were offered in the Bid without confirming their availability, the Bidder may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate.       5. Negotiations will conclude with a review of the draft Contract and Appendices, following which the MCA Entity and the invited Bidder will initial the agreed Contract Agreement. If negotiations fail, the MCA Entity will invite the Bidder whose Bid received the second highest score to negotiate a Contract. |
| * + 1. **Bid Challenges[[3]](#footnote-3)** | * + - 1. Bidders may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the Purchaser and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the Purchaser’s website **indicated in the BDS**. |
| * + 1. **Signing of Contract** | * + - 1. Upon expiration of the period for timely filing and the resolution of any Bid challenges that are submitted, the Purchaser shall send the Notification of Award to the successful Bidder.       2. The Notification of Award shall include the Contract Forms for the review and signature of the successful Bidder.       3. Within twenty-eight (28) days of receipt of the Contract, the successful Bidder shall sign, date, and return the Contract to the Purchaser. |
| * + 1. **Performance Security** | * + - 1. Within twenty-eight (28) days of receipt of the Notification of Award from the Purchaser, the successful Bidder shall furnish a Performance Security in accordance with GCC Clause 16, using for that purpose the Performance Security Form included in Part 3. Conditions of Contract and Contract Forms.       2. Failure of the successful Bidder to submit the Performance Security or to sign the Contract in accordance with ITB Sub-Clauses 42.3 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily or call for new Bids or annul the bidding process. |
| * + 1. **Publication of Award and Return of Bid Securities** | * + - 1. Upon receipt of the signed Contract Agreement and a valid Performance Security, the Purchaser shall return the Bid Securities of unsuccessful Bidders and shall publish in UNDB Online, in dgMarket, and on the Purchaser’s website and other places as MCC may specify and in accordance with MCC’s Program Procurement Guidelines, the results identifying the Bid and the following information:  1. the name of the winning Bidder; 2. the price of the winning Bid and the price of the Contract award if different; and 3. the duration and the summary scope of the Contract awarded. |
| * + 1. **Compact Conditionalities** | * + - 1. Bidders are advised to examine and consider carefully the provisions that are set forth in Annex A to the Contract as these are a part of the Government’s and the Purchaser’s obligations under the Compact and related documents which, under the terms of the Compact and related documents, are required to be transferred onto any Bidder, Service Provider or Subcontractor who partakes in procurement or subsequent contracts in which MCC Funding is involved.       2. The provisions set forth in Annex A to the Contract apply during the bidding procedures as well as throughout the performance of the Contract. |

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| 1. Bid Data Sheet | | |
| 1. General | | |
| ITB Definitions | (j) “Compact” means the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation, and the Government, entered into on **[date]**, as may be amended from time to time.  (p) “Government” means the government of **[country]**.  (y) “Purchaser” or “MCA Entity” means **[full legal name of the MCA Entity]**. | |
| ITB 1.1 | The name and identification of the proposed Contract is:  **[insert name and identification number]**  The number and description of the lot(s) is:  **[insert number and description]** | |
| ITB 4.2 | The MCC Counter-Trafficking in Persons Policy (“C-TIP”) is available at: <https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>. | |
| ITB 5.13 (a) | As of the date of this Bidding Document, the countries that are subject to sanction or restriction by law or policy of the United States include ……..  ***[the list of countries must be confirmed and updated as necessary each time this TEMPLATE is used in a specific procurement.]***. | |
| 1. Contents of Bidding Document | | |
| ITB 8.1 | Clarifications may be requested by e-mail not later than [**insert number**] days before the deadline for submission of Bids, so that responses can be issued to all Bidders not later than [**insert number**] days prior to the deadline for submission of Bids.  The address for requesting clarifications is:  **[full legal name of the MCA Entity]**  Att.: The Procurement Agent  Address: **[insert mailing address]** Email: **[insert email address]**  MCA Entity’s Website Address: **[insert website address]** | |
| ITB 8.2 | A Pre-Bid Conference will not be held, OR  A Pre-Bid Conference will be held at **[insert time]** (local time) on **[insert date and location]**. Attendance is strongly advised for all prospective Bidders or their representatives but is not mandatory.  ***[delete whichever is not appropriate]*** | |
| ITB 11.1 | The Bid shall be submitted in English. | |
| 1. Preparation of Bids | | |
| ITB 12.4 (e) | **[include the following only if applicable, otherwise delete]**  A Bidder **shall** submit documentary evidence that the Services to be supplied are of eligible origin. | |
| ITB 12.1(h) | A Bidder shall submit with its Bid the following additional documents which will comprise a part of the Bid:  **[insert list of additional documents]**  OR  **[Insert** “Not applicable”**]**  ***[delete whichever is not appropriate]*** | |
| ITB 14.1 | Alternative bids **[shall/shall not]** be considered. | |
| ITB 15.5 | The following incoterms shall apply **{insert incoterm}** | |
| ITB 15.7 | The prices quoted by a Bidder shall be fixed for the duration of the Contract. **[MODIFY IF REQUIRED]** | |
| ITB 15.8 | Price quoted for each lot shall not be different from the requirements specified in the ITB. **[MODIFY IF REQUIRED]**. | |
| ITB 16.1 | The currency(ies) of the Bid shall be as follows: **[insert details here].** | |
| ITB 18.1 | **[include the following only if applicable, otherwise delete]**  A Bidder shall be required to complete the country of origin declarations in the Price Schedules Forms. | |
| ITB 21.1 | The Bid validity period is **[insert dates]**. | |
| ITB 22.1 | Bid Security **[is/is not]** required to be submitted with a Bid.  The Bid Security shall be in the amount of US$ **[insert amount in USD]** or Purchaser’s local currency equivalent only. | |
| ITB 23.1 | The written confirmation of authorization to sign on behalf of and bind the Bidder shall consist of: **[insert details]**. | |
| ITB 23.2 | The number of copies of the Bid submitted shall be **[insert number]**. | |
| 1. Submission and Opening of Bids | | |
| ITB 24.1 | Bids **[may/may not]** be submitted electronically.  **[include the following only if Bids are allowed to be submitted electronically, otherwise delete]**  A Bid submitted electronically shall follow the procedures as outlined in Annex 1 to this Section II. Bid Data Sheet.  Bidders who submit electronically do not need to submit hard copies.  If a Bidder submits both electronic submission and the hard copy submission, for the avoidance of doubt, Bids submitted electronically shall take precedence over the hard copies and shall be considered the ORIGINAL copy.  Under no circumstances shall both the hard and electronic copies submitted by a Consultant be opened (during the formal opening process) and evaluated.  For the avoidance of doubt, the electronic copy of the hard copy submission (submitted in a CD, DVD or flash drive) shall not be part of or have any connection with an electronic submission which is delivered via a weblink. Bidders who opt to submit their Bids electronically can make that submission online as provided for in Annex 1 to this Section II (Bid Data Sheet). The submission shall neither be made in any device (CD or flash/hard drive) nor by email.  Any Bid submitted electronically must be received at the address specified in Annex 1 to this Section II (Bid Data Sheet) before the deadline for submission of bids specified in ITB Sub-Clause 25.1. | |
| ITB 24.6 | For Submission of Bid purposes only, The Purchaser’s address is:  **[full legal name of the Purchaser]** Att.: The Procurement Agent of **[name of Purchaser]** Address:E-mail: Facsimile: | |
| ITB 25.1 | The deadline for submission of Bids is as follows:  **[insert date and time]** (local time) | |
| ITB 28.1 | For Bid opening purposes only, the Purchaser’s address is:  **[full legal name of the Purchaser]**  Att.: The Procurement Agent of **[name of Purchaser]** Address: E-mail:  **[include the following only if Bids are allowed to be submitted electronically, otherwise delete]**  For Bids submitted electronically in accordance with ITB Clause 24.1, the Bid opening procedures shall be:  **[insert description of the procedures]** | |
| ITB 28.4 | Technical Offers **[will/will not]** be opened publicly. | |
| 1. Evaluation and Comparison of Bids | | |
| ITB 29.3 | All correspondence must be addressed to the Purchaser at **[insert email address and mailing address as applicable]**. | |
| ITB 31.1 | Criteria, sub-criteria, and point system for the evaluation of Technical Offers **[to be modified on a case-by-case basis, according to the actual needs of the procurement]** | |
|  | **Criteria, sub-criteria** | **Points** |
|  | 1. **Organizational Capability and Experience of the Bidder**   (The MCA Entity reserves the right to contact the Form REF-2 References as well as other sources to check references and past performance) | |
|  | The evidence of organizational capability and relevant experience in the execution of projects of a similar nature, will be scored as follows: | |
|  | 1.1 Organizational capability | [Insert points] |
|  | 1.2 General experience in the **XXXXX** sector | [Insert points] |
|  | 1.3 Regional experience in **[insert region]** | [Insert points] |
|  | 1.4 **XXXXX** **[any other criteria should be stated here]** | [Insert points] |
|  | **Total Points for this criterion 1** | *Indicative 10-30 points*  [Insert points] |
|  | 1. **Approach, Methodology and Work Plan** | |
|  | The quality of the Bidder’s proposed approach, methodology and work plan for this project will be scored based on the following Forms submitted as part of the Bid: | |
|  | 2.1 Proposed overall approach and methodology | [Insert points] |
|  | 2.2 Proposed work plan | [Insert points] |
|  | 2.3 Proposed project organization and staffing - Extent to which the Technical Offer provides a clear, logical and appropriate staffing pattern with responsibilities among different staff positions adequately defined. | [Insert points] |
|  | 2.4 **XXXXX [any other criteria should be stated here]** | [Insert points] |
|  | **Total Points for this criterion 2** | *Indicative 20-50 points*  [Insert points] |
|  | **3. Key Personnel Qualifications** |  |
|  | 3.1 Team Leader | [Insert points] |
|  | **3.2 [Insert position or discipline as appropriate]** | [Insert points] |
|  | The number of points to be assigned to each of the above positions shall be determined considering the following three sub-criteria and relevant percentage weights: | |
|  | Sub-Criteria (a) Education and training, including knowledge of English and **[insert local language]**. | ***{Indicative 10-20%}***  **[Insert %]** |
|  | Sub-Criteria (b) Demonstrated successful experience and past performance in accomplishment of similar projects. | ***{Indicative 60-80%}* [Insert %]** |
|  | Sub-Criteria (c) Regional experience in **[insert region]**. | ***{Indicative 0-15%}* [Insert %]** |
|  | **Total Points for this criterion 3** | *Indicative 40-60 points*  [Insert points] |
|  | **Total Points** (criterion 1 + 2 +3) | **100** |
|  | **The minimum technical score St required to pass is** | [Insert points] |
| ITB 32.2 | The currency that shall be used for Bid evaluation and comparison is: **[insert details here]**.  The basis for conversion shall be: **[Specify the source for the exchange rate, such as the Central Bank rate, a published rate that is widely available, etc.]** | |
| ITB 32.5 | **The lowest evaluated Financial Offer (Fm) is given the maximum financial score (Sf) of 100.**  **The formula for determining the financial scores (Sf) of all other Offers is calculated as following:**  Sf = 100 x Fm/ F, in which “Sf” is the financial score, “Fm” is the lowest price, and “F” the price of the Offer under consideration.  *[or replace with another inversely proportional formula acceptable to MCC]*  **The weights given to the Technical (T) and Financial (P) Offers are**:  **T** = [*Insert weight*], and  **P** = [*Insert weight*]  Bids will be ranked according to their combined technical (St) and financial (Sf) scores according to the formula provided in ITB 32.5: S = St x T% + Sf x P% | |
| 1. Award of Contact | | |
| ITB 38.1 | The Purchaser reserves the right to increase or decrease the quantities of each item by up to **[insert percentage or quantity as appropriate]**. | |
| ITB 40.1 | Negotiations shall take place at: **[insert address]** | |
| ITB 41.1 | The Purchaser’s Bid Challenge System is provided on the MCA Entity’s website **[insert web address]**. | |

**Annex 1 to Section II. Bid Data Sheet**

**Procedure for Electronic Submission of Bids**

1. Each Bidder will be provided a File Request Link (via email) and shall use said link to submit its Bid.
2. The File Request Link shall expire on the proposal submission deadline, specified in ITB 25.1.
3. All submitted documents (whether as standalone files or files in folders) shall be in pdf format and password protected worksheets for the financial proposals.
4. All submitted documents shall be password-protected for access i.e. the pdf file(s) cannot be opened without the password. **BID FILES THAT ARE NOT PASSWORD PROTECTED WILL BE REJECTED.**
5. Instructions on how to password-protect pdfs in Adobe Acrobat can be accessed from: <https://helpx.adobe.com/acrobat/using/securing-pdfs-passwords.html>. (If the Bidder does not have Adobe Acrobat, it is advised that a free program like PDFMate be downloaded and installed. Instructions on how to password-protect pdfs in PDFMate can be accessed from: <http://www.pdfmate.com/feature-encrypt.html>)
6. Each submitted document shall not exceed ***[insert maximum file size supported by the e-mail server]***.
7. The password to access the Bid shall be sent by email to ***[insert e-mail address]*** no later than the deadline for the submission of proposals specified in ITB 25.1. A Bid shall not be formally opened and the entire Bid shall be rejected if the password reaches the afore-stated email after the stated date and time in ITB 25.1. It should be noted that the password is deemed submitted at the time and date when it is received at the email address, not when it is sent. Bidders are therefore encouraged to send the password latest 15 minutes before the submission deadline. A faulty password (one that fails to open the file) will lead to the Bid not being formally opened and thus rejected. Case-sensitive passwords should be sent as is, with the cases obvious.
8. Bidders are informed that the capability of their internet bandwidth will determine the speed at which their Bids are uploaded via the File Request Link. Bidders are therefore advised to commence the process of uploading their Bids via the File Request Link in good time before the bid submission deadline.
9. Bids shall be submitted via the File Request Link only. Bids submitted by email shall not be accepted.

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| 1. Qualification and Evaluation Criteria |
| This Section contains all the criteria that the Purchaser shall use to review the Technical and Financial Offers, and select the winning Bid. No other factors, methods or criteria shall be used in the evaluation of Bids. The Bidder shall provide all the information requested in the forms included in Section IV. Technical and Financial Offer Bid Forms. This review shall be based on the information provided by the Bidder in the forms plus the Bidder’s record of past performance, other references and any other sources at the Purchaser discretion to confirm and verify the Bidder’s qualifications and representations in its Bid  ***[This section will be modified by the Purchaser to meet the needs for a particular procurement.]*** |

**Technical Offer**

1. **Administrative Completeness Review**

This review is conducted to determine that the Technical Offer is complete, all required documents are included and all forms are included and are completed. The Bidder may be requested to submit additional information or documentation within a reasonable period of time and/or to correct nonmaterial nonconformities in the Bid related to Technical Offer documentation requirements. Determinations made during this review include:

* Determine if the Letter of Technical Offer is included and signed as per the requirements of ITB 23 and ITB 24;
* Determine eligibility of Bidder;
* Determine if the bid and bid security are valid as per the provisions of the bidding document;
* Determine if all other required forms are included and completed.

1. **Legal Status**

Each entity forming the Bidder shall attach to Form ELI-1 a copy of its letter of incorporation, or other such document, indicating its legal status. In the event the Bidder is an association of entities, the Bidder shall include any other document showing that it intends to associate, or it has associated with, the other entity or entities that are jointly submitting a Bid. Each member of the association that forms the Bidder must provide the information required in Form ELI-1.

1. **Financial Criteria**

The Bidder shall provide evidence showing that it has the sufficient financial capacity needed for this Contract, as required in Form FIN-1. Each member of the association that forms the Bidder must provide the information required in Form FIN-1.

1. **Litigation Criteria**

The Bidder shall provide accurate information on any current or past litigation or arbitration resulting from contracts completed, terminated, or under execution by the Bidder over the last five (5) years, as indicated in Form CON-1. A consistent history of awards against the Bidder or existence of high value dispute, which may threaten the financial standing of the Bidder, may lead to the rejection of the Bid. Each member of the association that forms the Bidder must provide the information required in Form CON-1.

1. **Qualifications Review**

This process will be conducted to determine if the Bidder continues to satisfy the qualification requirements. The determination shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder as requested in Section IV. Technical and Financial Offer Bid Forms, plus the Bidder’s record of past performance and a review of references and any other source at the Purchaser’s discretion. All qualification requirements shall be considered on a pass/fail basis. An affirmative determination of qualification shall be a prerequisite for award of the Contract to a Bidder.

1. **References and Past Performance Review**

In accordance with ITB 35, the Bidder’s performance on earlier contracts will be considered in determining if the Bidder is qualified for award of the Contract. The Purchaser reserves the right to check the performance references provided by the Bidder or to use any other source at the Purchaser’s discretion. If the Bidder (including any of its associates or joint venture/association members) is or has been a party to an MCC-funded contract (either with MCC directly or with any MCA Entity, anywhere in the world), whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role, the Bidder must identify the contract in its lists of references submitted with its Bid using Bidding Form REF-1: References of MCC-Funded Contracts. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. However, the failure to list any contracts because the Bidder (including any of its associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. That is, prior performance in connection with a MCC-funded contract is not required. The Purchaser will check the references, including the Bidder’s past performance reports filed in MCC’s Contractor Past Performance Reporting System.

1. **Technical Evaluation Criteria**

See table under ITB 31.1 in Section II. Bid Data Sheet

**Financial Offer**

1. **Administrative Completeness Review**

This review is conducted to determine that the Financial Offer is complete, all required documents are included and all forms are included and are completed. The Bidder may be requested to submit additional information or documentation within a reasonable period of time and/or to correct nonmaterial nonconformities in the Bid related to Financial Offer documentation requirements. Determinations made during this review include:

* Determine if the Letter of Financial Offer Bid Price is included and signed as per the requirements of ITB 23 and ITB 24;
* Determine if all other required forms are included and completed.

1. **Review of the Prices in the Financial Offer**

This review is conducted to determine the Evaluated Financial Offer Price of each Bid. The “Evaluated Bid Price” shall be the Bid price adjusted for correction of arithmetical errors, omissions, clarifications, etc., in accordance with ITB 32.3.

After the above adjustments and corrections are made, the Purchaser will convert the Evaluated Bid Price to a single currency in accordance with ITB 32.2.

1. **Work, services, facilities, etc., to be provided by the Purchaser**

Where bids include the undertaking of work or the provision of services or facilities by the Purchaser in excess of the provisions called for in the Bidding Document, the Purchaser shall assess the costs of such additional work, services and/or facilities during the duration of the contract. Such costs shall be added to the Financial Offer price for evaluation.

1. **Price Reasonableness Determination**

Price Review also includes a determination of price reasonableness as required in the MCC PPG. If the price reasonableness analysis suggests that a Financial Offer is significantly unbalanced or front loaded, the Purchaser may require the Bidder to produce a detailed price analysis for any or all items of the Schedule of Prices that demonstrates the internal consistency of prices with the construction methods and schedule proposed. The Purchaser reserves the right to seek clarification; however, the clarification will not be used to change the Financial Offer price. A negative determination of price reasonableness (either unreasonably high or unreasonably low) may be a reason for rejection of the Bid at the discretion of the Purchaser. The Bidder shall not be permitted to revise its Bid after this determination.

**Qualification - Documents Establishing the Qualifications of the Bidder**

The Bidder shall provide the information requested in the corresponding information sheets included in Section IV. Technical and Financial Offer Bid Forms, to establish that the Bidder meets the requirements established below.

| **ELIGIBILITY** | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Sub-Factor** | Requirement | Bidder | | | | Documentation Required |
| **Single Entity** | Joint Venture or Association | | |
| **All members combined** | Each Member | **At least one member** |
| Nationality | Nationality in accordance with ITB 5.13. | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | Form ELI–1, with attachments |
| Conflict of Interest | No conflicts of interests as described in ITB 5.8. | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | Letter of Technical Offer and Letter of Financial Offer |
| Ineligibility | Not having been declared ineligible based on any of the criteria set forth in ITB 5.11. | Must meet requirement | Existing or intended Joint Venture or other association must meet requirement | Must meet requirement | N/A | Letter of Technical Offer and Letter of Financial Offer |

| Historical Contract Non-Performance | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Sub-Factor** | Requirement | Bidder | | | | **Documentation Required** |
| **Single Entity** | Joint Venture or Association | | |
| **All members combined** | **Each member** | **At least one member** |
| **History of non-performing contracts** | Non-performance of a contract (including contracts terminated for cause) did not occur within the last five (5) years prior to the deadline for Bid submission, determined using all information on fully settled proceedings, litigation, arbitrations, actions, claims, investigations or disputes. A fully settled proceeding, litigation, arbitration, action, claim, investigation or dispute is one that has been resolved in accordance with the dispute resolution mechanism under the respective contract, and where all appeal instances available to the Bidder have been exhausted. | Must meet requirement by itself, including as member of past or existing Joint Venture or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Must meet requirement by itself or as member of past or existing Joint Venture, or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Form CON –1 |
| **Failure to Sign a Contract** | Failure to sign a contract after receiving a notice of award has not occurred in the past five years. Any deviation should be explained in the enclosed Contract Non-Performance form. | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Form CON-1 |
| Pending Litigation | All pending proceedings, litigation, arbitrations, actions, claims, investigations or disputes, in total, shall not represent more than ten percent (10%) of the Bidder’s net worth. | Must meet requirement by itself, including as member of past or existing Joint Venture or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Must meet requirement by itself or as member of past or existing Joint Venture, or other association (not mandatory if in the past was as a member of a Joint Venture or other association with less than 20% role in the contract). | N/A | Form CON-1 |

| Financial Situation[[4]](#footnote-4) | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Sub-Factor** | Requirement | Bidder | | | | **Documentation Required** |
|  | **Single Entity** | Joint Venture or Association | | |
| **All members combined** | **Each member** | **At least one member** |
| Historical Financial Performance[[5]](#footnote-5) | Submission of audited financial statements, including balance sheets, income statements and cash flow statements, or, if not required by the law of the Bidder’s country, other financial statements acceptable to the Purchaser, for the last three (3) years to demonstrate the current soundness of the Bidder’s financial position and its prospective long term profitability and to demonstrate:   1. Average coefficient of Current ratio (Current Assets / Current Liabilities) ≥ **[insert ratio]** 2. Average coefficient of Debt ratio (Total Debt / Total Assets) ≤ **[insert ratio]** | Must meet requirement | N/A | Must meet requirement | N/A | Form FIN-1 with attachments |
| Annual Average Turnover | Minimum average annual turnover of [INSERT VALUE][[6]](#footnote-6), calculated as total certified payments received for contracts in progress or completed, within the last three (3) years. Values to determine annual turnover are to be demonstrated in the audited financial statements (income statements) of the last three (3) years and are to be considered to be indicative. | Must meet requirement | Must meet requirement | Must meet  twenty-five percent (25%) of the requirement | Must meet  fifty-five percent (55%) of the requirement | Form FIN-2 |
| Financial Resources | The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:(i) the following cash-flow requirement: [INSERT VALUE], and (ii) the overall cash flow requirements for this Contract and its current commitments. | Must meet requirement | Must meet requirement | Must meet  twenty-five percent (25%) of the requirement | Must meet  fifty-five percent (55%) of the requirement | Forms FIN-3 & Form FIN-4 |

|  |
| --- |
| 1. Technical and Financial Offer Bid Forms |
|  |

Letter of Technical Offer

Invitation for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Location, Date]**

To: Mr. or Ms.   
Procurement Director **[insert full legal name of the MCA Entity]**

Address:

Email:

Dear Sirs,

**Re: [insert title of Bid]   
Bidding Document Ref: [insert reference as shown on cover page]**

We, the undersigned, offer to provide the Technical Offer for the above mentioned Bid as in accordance with your Bidding Document **[insert title]** dated **[insert date]**.

We are hereby submitting our Technical Offer in a separate and clearly marked inner envelope/inner parcel. Our Financial Offer is submitted in a separate and clearly marked inner envelope/inner parcel. Both the Technical Offer and the Financial Offer are submitted at the same time within an outer envelope / outer parcel.

We hereby declare that all the information and statements made in this Technical Offer are true and accept that any misinterpretation contained in it may lead to our disqualification.

If contract award is during the initial period of validity of the Technical Offer, we undertake to the contract on the basis of the nominated Key Personnel.

We comply with the requirements of ITB 5 of the Bidding Document, as applicable.

Any subcontractors and suppliers do or will comply with the requirements of ITB 5 of the Bidding Document, as applicable.

We are not participating, as a Bidder or as a subcontractor, in more than one Bid in this bidding process.

Our Technical Offer is binding upon us.

We understand you are not bound to accept any Technical Offer that you may receive.

Yours sincerely,

|  |  |
| --- | --- |
| **[Authorized signatory]** |  |
| **[Name and title of signatory]** |  |
| **[Name of Bidder]** |  |
| **[Address of Bidder]** |  |

Annexes:

1. Power of Attorney demonstrating that the person signing has been duly authorized to sign the Technical Offer on behalf of the Bidder;
2. Letter(s) of Incorporation (or other documents indicating legal status); and
3. Joint Venture Agreements (if applicable, but without showing any Financial Offer information).

## 

Form of Bid Security (Bank Guarantee)

*[The bank, as requested by the Bidder, shall fill in the form in accordance with the instructions indicated]*

**Bank: [Bank’s Name, and Address of Issuing Branch or Office]**

**Beneficiary: [Name and Address of Purchaser]**

**Date: [insert date]**

**Bid Reference No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Bid Guarantee No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

We have been informed that **[insert name of Bidder]**(hereinafter “the Bidder”) has submitted its bid dated **[insert day, month, year]**for the supply of **[insert name of Services]** *(*hereinafter called “the Bid”) under the Bid Reference No. stated above.

Furthermore, we understand that, according to your conditions, Bids must be supported by a Bid guarantee.

At the request of the Bidder, we **[insert name of Bank]** hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of **[insert amount in figures]** (**[insert amount in words]**) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the Bid conditions, because the Bidder:

1. has withdrawn its Bid during the period of Bid validity **[insert dates of Bid validity]**, specified by the Bidder in the Bid Submission Form, except as provided in the Instructions to Bidders, Clause 22.2; or
2. If the Bidder, having been notified that it has submitted the lowest-evaluated Bid does not accept the correction of errors in its Bid by the Purchaser, pursuant to ITB Clause 32; or
3. If the Bidder, having been notified of the acceptance of its Bid by the Purchaser, fails within the specified time to:

furnish the Performance Security, in accordance with GCC Clause 16 and as described in ITB Clause 43, or

execute the Contract, in accordance with ITB Clause 42.

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification that the successful Bidder has signed the Contract and furnished the required performance security; or (ii) twenty-eight (28) days after the expiration of the Bidder’s Bid validity period.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

**[*Issuing Bank to delete whichever is not applicable*]** We confirm that [we are a financial institution legally authorized to provide this guarantee in the Purchaser’s country] **[OR]** [we are a financial institution located outside the Purchaser’s country but have a correspondent financial institution located in the Purchaser’s country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact information is as follows: **[insert name, address, phone number, and email address]**.]

This guarantee is subject to the Uniform Rules for Demand Guarantees, 2010 Revision, ICC Publication No. 758, except as may otherwise be stated above.

|  |  |
| --- | --- |
| Signed: |  |
| In the capacity of: |  |
| **[Print Name]** |  |
| duly authorized to sign the Bid Security for and on behalf of  **[Insert name, address of financial institution]** |  |
| Dated on  **[Insert Date]** |  |

1. Bidder Information Form

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

|  |  |  |
| --- | --- | --- |
| 1. Constitution or Bidder’s legal status | | |
|  | Place of registration |  |
|  | Principal place of business |  |
| 2. Legal name of each party of the joint venture (if applicable) | | |
|  | *[insert legal name of each party in joint venture and complete Form BSF2: Party to Joint Venture Information Form below for each joint venture party]* | |
| 3. Attached are copies of: | | |
| * Articles of incorporation or registration of the Bidder named in 1 above; demonstrating the Bidder’s eligibility in accordance with ITB Clause 5; * Letter of intent to form joint venture or joint venture agreement, if applicable, in accordance with ITB Sub-Clause 5.3; * Proper authority of the signatory of the Bidder in accordance with ITB Sub-Clause 23.1;   “Tick” the boxes and attach documents to the Bid. | | |

This information shall not be incorporated into the Contract. The Bidder is to adapt and extend this form as necessary. Pertinent sections of attached documents should be translated into English.

1. Party to Joint Venture Information Form

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

|  |  |
| --- | --- |
| **1. Constitution or joint venture member’s legal status** | |
| Place of registration |  |
| Principal place of business |  |
| 2. Attached are copies of original documents of: | |
| * Articles of incorporation or registration of the entity named in 1 above; demonstrating the entity’s eligibility in accordance with ITB Clause 5; * Letter of intent to form joint venture or joint venture agreement, if applicable, in accordance with ITB Sub-Clause 5.3; * Proper authority of the signatory of the entity named in 1 above in the same manner as contemplated for Bidders in ITB Sub-Clause 23.1;   “Tick” the boxes and attach documents to the Bid. | |

The information listed above shall be provided for each member of a joint venture.

Attach the agreement among all members of the joint venture (and which is legally binding on all members), which shows that:

1. all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
2. one of the members shall be nominated as being in charge, authorized to incur liabilities and receive instructions for and on behalf of all members of the joint venture; and
3. the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.

## TECH-1: Method Statement

The adequacy of the Bidder’s Technical Offer to meet the Purchaser’s Requirements and delivery schedule is important to determine if the Bid is substantially responsive.

The Technical Offer shall, therefore, include a Method Statement for execution of the assignment, which shall demonstrate the adequacy of the Bid to meet the Purchaser’s Requirements and for achieving the Purchaser’s objective with regards to performance under the Purchaser’s Requirements.

It is necessary for Bidders to demonstrate a complete understanding of the scope, nature and resource needed for the delivery of the Services.

The Method Statement shall, therefore, include, but shall not necessarily be limited to, the following:

1. Description of the Bidder’s proposed programming and sequencing of all main activities, identifying those for which timing may be critical.
2. Description of the measures included in the Bid which will be implemented to achieve the quality of execution required under the Contract.
3. Description of arrangements which the Bidder proposes to adopt and has included in the Bid to ensure compliance with the environmental, social, gender, health and safety requirements called for in the Purchaser’s Requirements.
4. Description of arrangements which the Bidder proposes to adopt and has included in the Bid to ensure compliance with the gender requirements called for in the Purchaser’s Requirements, including Trafficking in Persons (“TIP”) prohibitions. It is understood that this type of expertise and experience may be outside of the normal experience of some Bidders, and thus call special attention to the importance of an adequately inter-disciplinary offer and staffing plan.
5. Commentary on the Purchaser’s Requirements, including status of the information available and relevant issues for the Works, detailing how the critical requirements will be achieved.
6. Proposed names of suppliers and details for all essential equipment or services, including but not limited to such items as ***[insert list as may be appropriate]***.
7. ***[Insert anything else, as may be appropriate.]***

## TECH-2: Key Personnel

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key personnel listed in Part 2 - Purchaser’s Requirements. At a minimum, CVs must be provided for the Key Personnel for the following positions, using the forms provided for that purpose:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **No.** | **Position** | **Name** | **Total Work Similar**  **Experience (years)** | **In Similar Works Experience**  **(years)** |
| 1 |  |  |  |  |
| 2 |  |  |  |  |
| 3 |  |  |  |  |
| 4 |  |  |  |  |
| 5 |  |  |  |  |
| 6 |  |  |  |  |

## CVs of Key Personnel

|  |
| --- |
| Name of Bidder |

|  |  |  |
| --- | --- | --- |
| Position | | |
| Personnel information | Name | Date of birth |
|  | Professional qualifications | |
| Present employment | Name of employer | |
|  | Address of employer | |
|  | Telephone | Contact (manager / personnel officer) |
|  | Fax | E-mail |
|  | Job title | Years with present employer |

Summarize professional experience over the last 10 years, in reverse chronological order. Indicate particular technical and managerial experience relevant to the project.

| **From** | **To** | **Company / Project / Position / Relevant technical and management experience** |
| --- | --- | --- |
|  |  |  |
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|  |  |  |

## ELI-1: JV/Association/Subcontractor/Key Suppliers/Other Key Vendors Information Sheet

Each member of a JV/Association making up a Bidder and each known subcontractor, key suppliers or key supplier part of the Bidder’s supply chain must fill in this form.

|  |  |
| --- | --- |
| **JV/Association/Subcontractor/Key Suppliers/Other Key Vendors Information** | |
| **Bidder’s legal name** |  |
| **JV Partner’s or Subcontractor’s legal name** |  |
| **JV Partner’s or Subcontractor’s/Supplier’s/Vendor’s country of constitution** |  |
| **JV Partner’s or Subcontractor’s/Supplier’s/Vendor’s year of constitution** |  |
| **JV Partner’s or Subcontractor’s/Supplier’s/Vendor’s legal address in country of constitution** |  |
| **JV Partner’s or Subcontractor’s/Supplier’s/Vendor’s authorized representative information**  **(name, address, telephone numbers, fax numbers, e-mail address)** |  |
| **Attached are copies of the following original documents.**   * 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITB 5. * 2. Authorization to represent the firm named above, in accordance with ITB 23.1. | |

## CON-1: History of Contract Non-Performance and Litigation

The following table shall be filled in for the Bidder and for each member of a joint venture or other association that is a party to the Bidder.

Bidder’s Legal Name: **[insert full name**]

Date: **[insert day, month, year]**

Bidder’s Party’s Legal Name: **[insert full name]**

Page **[insert page number]** of **[insert total number]** pages

|  |  |  |  |
| --- | --- | --- | --- |
| **Non-Performing Contracts in accordance with Section III, Qualification and Evaluation Criteria** | | | |
| * Contract non-performance did not occur during the five years prior to the deadline for Bid submission in accordance with **Section III. Qualification and Evaluation Criteria**.   **OR**   * Contract(s) not performed during the five years prior to the deadline for Bid submission in accordance with **Section III. Qualification and Evaluation Criteria** | | | |
| **Year** | **Non performed portion of contract** | **Contract Identification** | **Total Contract Amount (current value, US$ equivalent)** |
| **[insert year]** | **[insert amount and percentage]** | Contract identification: **[indicate complete contract name, number, and any other identification]**  Name of institution: **[insert full name]**  Address of institution: **[insert street/city/country]**  Reason(s) for non-performance: **[indicate main reason(s)]** | **[insert amount]** |

|  |
| --- |
| **Failure to Sign a Contract, in accordance with Section III. Qualification and Evaluation Criteria** |
| * No failure to sign a contract in accordance with **Section III. Qualification and Evaluation Criteria**   **OR**   * Failure to sign a contract in accordance with **Section III. Qualification and Evaluation Criteria** |
| Failure to Sign Contract  In the event of failure to sign a contract, clarify/explain your situation according to Section III. Qualification and Evaluation Criteria |

|  |  |  |  |
| --- | --- | --- | --- |
| **Year** | **Claim as Percentage of Total Assets** | **Contract Identification** | **Total Contract Amount (current value, US$ equivalent)** |
| **[insert year]** | **[insert percentage]** | Contract identification: **[indicate complete contract name, number, and any other identification]**  Name of institution: **[insert full name]**  Address of institution: **[insert street/city/country]**  Matter in dispute: **[indicate main issues in dispute]** | **[insert amount]** |

|  |  |  |
| --- | --- | --- |
| **Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes in accordance with Section III. Qualification and Evaluation Criteria**  (each member of a JV/association making up a Bidder must complete this table) | | |
| **Provide information on current or past proceedings, litigation, arbitration, actions, claims, investigations or disputes over the last five (5) years as shown in the form below in accordance with Section III. Qualification and Evaluation Criteria.**  The Bidder, or a related company or entity, is currently, or within the past five (5) years has been, involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute the process or outcome of which the Purchaser could reasonably interpret may impact or have the potential to impact the financial condition of the Bidder in a manner that may adversely affect the Bidder’s ability to satisfy any of its obligations under the Contract: | | |
| 🞎 No  **OR** 🞎 Yes  **If Yes, Describe:** | | |
| **Year:** | **Matter in Dispute:** | **Value of Award (Actual or Potential) Against Bidder in US$ Equivalent:** |  |  |

## FIN-1: Financial Situation

Each Bidder or member of a JV/Association making up a Bidder must fill in this form.

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Financial Data for Previous Three (3) Years [US$ Equivalent]** | | |
|  | **Year 1:** | **Year 2:** | **Year 3:** |

**Information from Balance Sheet**

|  |  |  |  |
| --- | --- | --- | --- |
| **Total Assets** |  |  |  |
| **Total Liabilities** |  |  |  |
| **Net Worth** |  |  |  |
| **Current Assets** |  |  |  |
| **Current Liabilities** |  |  |  |

**Information from Income Statement**

|  |  |  |  |
| --- | --- | --- | --- |
| **Total Revenues** |  |  |  |
| **Profits Before Taxes** |  |  |  |
| **Profits After Taxes** |  |  |  |

|  |
| --- |
| * Attached are copies of financial statements (balance sheet, income statement, and cash flow statement, including all related notes) for the last three (3) years, as indicated above, complying with the following conditions. * All such documents reflect the financial situation of the Bidder or member of a JV or other association, and not sister or parent companies. * Historic financial statements must be audited by a certified accountant. * Historic financial statements must be complete, including all notes to the financial statements. * Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted). |

**Financial Ratios**

|  |  |  |  |
| --- | --- | --- | --- |
| **Current Ratio** |  |  |  |
| **Debt Ratio** |  |  |  |

\*Bidders to fill this table. The Purchaser will verify during the review process**.**

## FIN-2: Average Annual Turnover

Each Bidder or member of a JV/Association making up a Bidder must fill in these forms.

|  |  |  |  |
| --- | --- | --- | --- |
| **Annual Turnover Data for the Last Three (3) Years (Construction only)** | | | |
| **Year** | **Amount**  **Currency** | **Exchange**  **Rate** | **US$**  **Equivalent** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Average Annual Construction Turnover** | | |  |

The information supplied should be the annual construction turnover of the Bidder or each member of a JV/Association making up a Bidder in terms of the amounts billed to clients for each year for work in progress or completed, converted to USD at the rate of exchange at the end of the period reported.

|  |  |  |  |
| --- | --- | --- | --- |
| **Annual Turnover Data for the Last Three (3) Years (Design only)** | | | |
| **Year** | **Amount**  **Currency** | **Exchange**  **Rate** | **US$**  **Equivalent** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Average Annual Design Turnover** | | |  |

The information supplied should be the annual design turnover of the Bidder or each member of a JV/Association making up a Bidder in terms of the amounts billed to clients for each year for work in progress or completed, converted to USD at the rate of exchange at the end of the period reported.

## FIN-3: Financial Resources

Each Bidder or member of a JV/Association making up a Bidder must fill in this form, specifying proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, net of current commitments, available to meet the total construction cash flow demands of the subject Contract or contracts as indicated in **Section III. Qualification and Evaluation Criteria**.

|  |  |  |
| --- | --- | --- |
| **No.** | **Source of Financing** | **Amount (USD equivalent)** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |

## FIN-4: Current Contract Commitments / Works in Progress

Each Bidder and each member of a JV/Association making up a Bidder should provide information on their current commitments on all contracts that have been awarded, or for which a letter of intent or acceptance has been received, or for contracts approaching completion, but for which an unqualified, full completion certificate has yet to be issued.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Name of Contract** | **Employer, contact address/tel/fax** | **Value of outstanding work (current USD equivalent)** | **Estimated completion date** | **Average monthly invoicing over last six months (USD/month)** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

## REF-1: References of MCC-Funded Contracts

Each Bidder or member of a JV/Association making up a Bidder must fill in this form and include information about any and all MCC-funded contracts (either with MCC directly or with any Millennium Challenge Account Entity, anywhere in the world) to which the Bidder or member of a JV/Association making up a Bidder is or has been a party whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role.

|  |  |  |  |
| --- | --- | --- | --- |
| **Contracts with MCC** | | | |
| **Contract Name and Number** | **Role in Contract** | **Total Contract Amount** | **Employer Name and Address** |
|  |  |  |  |
|  |  |  |  |
| **Contracts with an MCA Entity** | | | |
| **Contract Name and Number** | **Role in Contract** | **Total Contract Amount** | **Employer Name and Address** |
|  |  |  |  |
|  |  |  |  |

## REF-2: References for Contracts Not Funded by MCC

Each Bidder or member of a JV/Association making up a Bidder must provide contact information for at least three (3) references that can provide substantial input about:

1. The type of work performed
2. Confirm the quality of the work experience

The MCA Entity reserves the right, at its sole discretion, to contact other sources as well as to check references and past performance. For each reference, list a contact individual, their title, address, facsimile, phone and e-mail address**.**

**[Maximum 5 pages]**

# Letter of Financial Offer

Invitation for Bid No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Lot #: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To: The Purchaser/Procurement Agent

Address:

Ladies and Gentlemen:

We, the undersigned, declare and certify that:

1. We have examined and we have no reservations to the Bidding Document, including addenda thereto issued in accordance with the Instructions to Bidders.
2. In accordance with the Conditions of Contract, Purchaser’s Requirements and Price Schedules for the provisions of the above-named Services, we offer to deliver such Services and remedy any defects therein in conformity with the Conditions of Contract, Purchaser’s Requirement’s and Price Schedules for the sum of **[insert amount in numbers and words].**
3. In case we are awarded another lot in addition to this lot, we will provide a discount of **[insert amount of discount in numbers and words]** to be applied as follows:**[describe the methodology for applying the discount.]**
4. We acknowledge that the Appendix to Financial Offer forms part of our Bid.
5. We acknowledge notice of the MCC Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC AFC Policy”). We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corrupt or fraudulent practices described in ITB 3. As part of this, we certify that:
   1. The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to—
6. Those prices;
7. The intention to submit an offer; or
8. The methods or factors used to calculate the prices offered.
   1. The prices in this offer have not been and will not be knowingly disclosed by us, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
   2. No attempt has been made or will be made by us to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
9. We undertake, if our Bid is accepted, to obtain a Performance Security in accordance with the Bidding Document, and to deliver the Services comprised in the Contract within the delivery time(s) stated in the Appendix to Financial Offer.
10. Our Bid shall be valid for a period of **[insert number]** days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
11. Unless and until a formal Contract is prepared and executed, this Bid, together with your written acceptance thereof in the form of a signed Letter of Acceptance delivered by you to us, shall constitute a binding contract between us.
12. We understand that you are not bound to accept the lowest or any Bid you may receive.
13. We comply with the requirements of ITB 5 of the Bidding Document, as applicable.
14. Any subcontractors and suppliers do or will comply with the requirements of ITB 5 of the Bidding Document, as applicable.
15. Weare not participating, as a Bidder or as a subcontractor, in more than one Bid in this bidding process.
16. We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corrupt or fraudulent practices described in ITB 3.
17. Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Bid, and to Contract execution if we are awarded the Contract, are listed below:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name and address of agent |  | Amount and currency |  | Purpose of commission or gratuity |
|  |  |  |  |  |
|  |  |  |  |  |
| (if none, state “none”) | | | | |

1. We have taken steps to ensure that no person acting for us or on our behalf will engage in bribery.
2. We are not engaged in, facilitating, or allowing any of the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines (Combatting Trafficking in Persons) and will not engage in, facilitate, or allow any such prohibited activities for the duration of the Contract. Further, we hereby provide our assurance that the prohibited activities described in Part 15 of the MCC Program Procurement Guidelines will not be tolerated on the part of our employees, or any subcontractor or supplier, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
3. We understand and accept without condition that, in accordance with ITB 41 any challenge or protest to the process or results of this procurement may be brought only through the Purchaser’s Bid Challenge System (“BCS”).

Dated this day of 20

Signature In the capacity of

Duly authorized to sign Bids for and on behalf of

**[In block letters or typed]**

Address:

Witness:

Address:

Occupation:

Appendix to the Financial Offer

**Price Schedules**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  | | | | | | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Service  N° | Description of Services | Country of origin (if applicable) | Delivery Date | Quantity and physical unit | Unit price | Taxes (if applicable) | Total Price per Service  (Col. 5\*6+7) |
| *[insert number of the Service ]* | *[insert name of Services]* |  | *[insert delivery date at location per Service]* | *[insert number of units]* | *[insert unit price per unit]* |  | *[insert total price per unit]* |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  | | | | Total Bid Price | | |  |

Name of Bidder \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature of Bidder \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PART 2:**

**PURCHASER’S REQUIREMENTS**

|  |
| --- |
| 1. Schedule of Requirements |
|  |

1. List of Services and Completion Schedule

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | | | | | |
| **Service** | **Description** | **Quantity** | **Physical Unit** | **Location** | **Final Completion Date(s) of Services** |
|
| [insert Service No] | [insert description of Services] | [insert quantity of items to be supplied] | [insert physical unit for the items] | [insert name of the place where Services shall be performed] | [insert required Completion Date(s)] |
|  |  |  |  |  |  |
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| *[The objectives of this table are*  *(a) to provide sufficient information on the quantities of Services to be performed to enable Bids to be prepared efficiently and accurately; and*  *(b) when a Contract has been entered into, to provide a Priced Schedule for use in the periodic valuation of Services executed.*  *In order to attain these objectives, Services should be itemized in the above List in sufficient detail to distinguish between the different classes of Services, or between Services of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and content of this table SR1 should be as simple and brief as possible.*  *The required Completion Dates should be realistic]* | | | | | |

1. Technical Specifications

The supply of Non-Consulting Services shall comply with the following Technical Specifications and Standards:

*[The purpose of the Technical Specifications (TS), is to define the technical characteristics of the Non-Consulting Services required by the Purchaser. The Purchaser shall prepare the detailed TS take into account that the TS constitute the benchmarks against which the Purchaser will verify the technical responsiveness of Bids and subsequently evaluate the Bids. Therefore, well-defined TS will facilitate preparation of responsive Bids by Bidders, as well as examination, evaluation, and comparison of the Bids by the Purchaser.*

*Include (if applicable) specific sections on*

* *Any specific standards and codes to be used;*
* *Environmental, Health and Safety Procedures;*
* *Inspections and Testing;*
* *Delivery and Completion Schedule;*
* *Deliverables/Reporting Requirements]*

**PART 3:**

**CONDITIONS OF CONTRACT AND CONTRACT FORMS**

|  |  |
| --- | --- |
| 1. General Conditions of Contract | |
| * + 1. **Definitions** | * + - 1. Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Compact or related document. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:          1. “Applicable Law” has the meaning given the term **in the SCC**.          2. “Bid” means the bid for the provision of the Non-Consulting Services submitted by the Service Provider and accepted by the Purchaser and that forms an integral part of this Contract.          3. “Bidding Document” has the meaning given the term **in the SCC**.          4. “Compact” has the meaning given the term in the recital clauses to the Contract Agreement.          5. “Completion” means the fulfillment of the Services by the Service Provider in accordance with the terms and conditions set forth in this Contract.          6. “Completion Date” means the date of completion of the Services by the Service Provider as certified by the Purchaser.          7. “Contract” means this agreement entered into between the Purchaser and the Service Provider, to provide the Services and consists of the documents listed in GCC Sub-Clause 2.6, as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement.          8. “Contract Price” means the price to be paid for the provision of the Services, in accordance with GCC Sub-Clause 15.1.          9. “day” means a calendar day.          10. “Defect” means any part of the Services not delivered according to Annex B: Description of Services and the provisions of this Contract.          11. “Defects Liability Period” means the period calculated from the Completion Date, during which the Service Provide is responsible to correct any Defect.          12. “Eligible Countries” has the meaning given such term in GCC Sub-Clause 7.1.          13. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability.          14. “Location” means the place(s) where the Services should be delivered as indicated in Annex B: Description of Services.          15. “GCC” means these General Conditions of Contract.          16. “Government” has the meaning given the term in the recital clauses to the Contract Agreement.          17. “MCA Country” has the meaning given the term **in the SCC**.          18. “MCC” has the meaning given the term in the recital clauses to this Contract.          19. “MCC Funding” has the meaning given the term in the recital clauses to this Contract.          20. “MCC Program Procurement Guidelines” means the Millennium Challenge Corporation Program Procurement Guidelines posted on the MCC Website, as may be amended from time to time.          21. “Notification of Award” means the notice sent from the Purchaser to the Service Provider notifying the Service Provider that it was the successful bidder and that its Bid had been accepted and that forms an integral part of this Contract.          22. “Party” means the Purchaser or the Service Provider, as the case may be, and “Parties” means both of them.          23. “Personnel” means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof.          24. “Purchaser” has the meaning given the term in the **in the SCC**.          25. “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.          26. “Services” or “Non-Consulting Services” means the work to be performed by the Service Provider under the Contract, as described in Annex B: Description of Services.          27. “Service Provider” means the entity that provides the Non-Consulting Services to the Purchaser under the Contract.          28. “Subcontractor” means any person or entity to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Service Provider in accordance with the terms of this Contract.          29. “Tax” and “Taxes” have the meanings given the terms in the Compact or related agreement.          30. “Trafficking in Persons” has the meaning given in GCC Clause 32. |
| * + 1. **Interpretation and General Matters** | 1. Unless otherwise indicated, throughout this Contract:    * + - 1. “confirmation” means confirmation in writing;          2. “in writing” means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt;          3. except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;          4. the feminine means the masculine and vice versa; and          5. the headings are for reference only and shall not limit, alter or affect the meaning of this Contract. |
| **Entire Agreement** | 1. This Contract constitutes the entire agreement between the Purchaser and the Service Provider and supersedes all communications, negotiations and agreements (whether written or oral) of the Parties made prior to the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract. |
| **Amendment** | 1. The following shall apply with respect to any amendment or other modification of this Contract:    * + - 1. No amendment or other modification of this Contract shall be valid unless it is in writing, is dated, expressly refers to this Contract, and is signed by a duly authorized representative of each Party to this Contract.          2. The prior written consent of MCC is required in the case of any amendment or other variation of this Contract that (i) increases the original contract value of the Contract by more than ten percent (10%), or by three percent (3%) thereafter, or (ii) extends the original Contract duration by twenty-five percent (25%) or more. |
| **Waivers, Forbearance, Etc.** | 1. The following shall apply with respect to any waivers, forbearance, or similar action taken under this Contract:    * + - 1. Any waiver of a Party’s or MCC’s rights, powers, or remedies under this Contract must be in writing, dated, and signed by an authorized representative of the Party (or MCC) granting such waiver, and must specify the terms under which the waiver is being granted.          2. No relaxation, forbearance, delay, or indulgence by either Party or MCC, as the case may be, in enforcing any of the terms and conditions of this Contract or the granting of time by either Party or MCC to the other shall prejudice, affect, or restrict the rights of that Party or MCC under this Contract, neither shall any waiver by either Party or MCC of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract |
| **Severability** | 1. If any provision or condition of this Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of this Contract |
| **Documents Making Up This Contract** | 1. The following documents are deemed to form an integral part of this Contract and shall be interpreted in the following order of priority:    * + - 1. the Agreement consisting of the initial paragraphs, recitals and other clauses set forth immediately prior to the GCC and including the signatures of the Purchaser and the Service Provider;          2. the SCC and Annex A to this Contract;          3. the GCC;          4. the Notification of Award;          5. the Service Provider’s Bid;          6. Annex B: Description of Services;          7. Annex C: Service Provider’s Key Personnel;          8. Annex D: Price Schedule; and          9. any other document **listed in the SCC** as forming part of this Contract. |
| * + 1. **Fraud and Corruption; Measures to be Taken** | MCC requires that all beneficiaries of MCC Funding, including the Purchaser and any applicants, bidders, service providers, suppliers, contractors, subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts.  MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the Purchaser that they have acceptable commitments and procedures in place to address the potential for fraudulent and corrupt practices.  Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over $500,000 will be required to certify to the Purchaser that they will adopt and implement a code of business ethics and conduct within 90 days of contract award. Such entity will also include the substance of this clause in subcontracts that have a value in excess of $500,000. Information regarding the establishment of business ethics and conduct programs can be obtained from numerous sources, including but not limited to:  <http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>;  <http://cctrends.cipe.org/anti-corruption-compliance-guide/>  For purposes of the Contract, the terms set forth below are defined as follows:   * 1. ***“coercion”*** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to improperly influence the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract;   2. ***“collusion”*** means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, raise, lower, or manipulate prices or to otherwise deprive the Purchaser of the benefits of free and open competition;   3. ***“corruption”*** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, the Purchaser’s staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract.;   4. ***“fraud”*** means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;   5. ***“obstruction of investigation into allegations of fraud or corruption”***means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under the Compact, threshold program agreement, or related agreements.   6. ***“prohibited practice”*** means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of General Provisions to the Contract.   a. MCC may cancel any portion or all of the MCC Funding allocated to this Contract if it determines at any time that representatives of the Purchaser, the Service Provider or any other beneficiary of the MCC Funding were engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the performance of this Contract, or another MCC-funded contract, without the Purchaser, the Service Provider or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.  b. MCC and the Purchaser may pursue sanction of the Service Provider, including declaring the Service Provider ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Purchaser determines that the Service Provider has, directly or through an agent, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in performance of, this Contract or another MCC-funded contract. c. If the Purchaser or MCC determines that the Service Provider, any subcontractor, any of the Service Provider’s personnelor any agent or affiliate of any of them has, directly or indirectly,engagedincoercion,collusion, corruption,fraud,obstruction of investigation into allegations of fraud or corruption, or prohibited practicesincompetingfor,or in the performance of, thisContract or another MCC-funded contract, then the Purchaser or MCC may, by notice, immediately terminate the Service Provider’s employment under the Contract and the provisions of GCC 30 shall apply. |
| * + 1. **Commissions and Fees** | 1. The Service Provider shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include at the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee. |
| * + 1. **Law and Language Governing the Contract** | 1. This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law. 2. This Contract has been executed in the language(s) **specified in the SCC**. If the Contract is executed in both the English and anotherlanguage, the English language version shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. |
| * + 1. **Association** | 1. Where the Service Provider is a joint venture or other association of more than one person or entity, all of the members of such joint venture or association shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of this Contract and designate the member identified in the SCC to act on their behalf in exercising all the Service Provider’s rights and obligations toward the Purchaser under this Contract, including without limitation the receiving of instructions and payments from the Purchaser.  The composition or the constitution of the joint venture or other association shall not be altered without the prior consent of the Purchaser in writing. |
| * + 1. **Eligibility** | 1. The Service Provider and its Subcontractors shall at all times during the term of this Contract have the nationality of a country or territory eligible, in accordance with the Compact, the MCC Program Procurement Guidelines and Annex A to this Contract (“Eligible Countries”). The Service Provider or a Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.   7.2 All Non-Consulting Services to be supplied under this Contract and financed from the Compact shall have their origin in Eligible Countries.  7.3 For the purpose of this GCC Clause 7, “origin” means the place from which the Services are supplied. |
| * + 1. **Notices** | 1. Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address specified in the SCC, or sent by facsimile or electronic e-mail with confirmation, if sent during normal business hours of the recipient Party, unless the giving of notice is otherwise governed by Applicable Law. 2. A Party may change its address for receiving notice under this Contract by giving the other Party notice in writing of such change to the address **specified in the SCC**. |
| * + 1. **Settlement of Disputes** | 1. The Purchaser and the Service Provider shall use their best efforts to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with this Contract.   9.2 If the Parties fail to resolve any disagreement or dispute in accordance with GCC Sub-Clause 9.1 within thirty (30) days after the receipt by one Party of the other Party’s request for such resolution, either Party may submit the disagreement or dispute in accordance with the provisions **specified in the SCC**. |
| * + 1. **Scope of Services** | 10.1 The Services to be supplied shall be as specified in Annex B: Description of Services. Unless otherwise stipulated in this Contract, the Services shall include all such work not specifically mentioned in this Contract but that can be reasonably inferred from this Contract as being required for attaining Completion of the Services as if such items were expressly mentioned in this Contract. |
| * + 1. **Standard of performance** | 11.1 The Service Provider shall perform the Services in accordance with Annex B: Description of Services, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods.  11.2 The projects MCC finances under a compact will be developed and implemented in a manner consistent with the environmental and social performance standards set forth in the Performance Standards on Environmental and Social Sustainability of the International Finance Corporation (IFC), as amended from time to time. The Service Provider is therefore required to comply with IFC Performance Standards for the purposes of this Contract. Additional information on the IFC Performance Standards can be found here: <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> |
| **12. Conflict of interest** | 12.1 During the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services. Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:   * + - * 1. during the term of this Contract, any business or professional activities in the Purchaser’s country which would conflict with the activities assigned to them under this Contract;         2. after the termination of this Contract, such other activities as may be **specified in the SCC.** |
| **13. Delivery of Services** | 13.1 Before commencement of the Services, the Service Provider shall submit to the Purchaser for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.  13.2 The Service Provider shall start carrying out the Services within the number of days after the date of Contract signing **as** **specified in the SCC.**  13.3 The Delivery and Completion of the Services shall be in accordance with the Delivery and Completion Schedule specified in Annex B: Description of Services. |
| **14. Service Provider’s Personnel** | 1. 14.1 The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider’s Key Personnel are described in Annex C. The Key Personnel and Subcontractors listed by title as well as by name in Annex C are hereby approved by the Purchaser.   14.2 Except as the Purchaser may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.  14.3 The Service Provider shall provide all personnel with documented information that is clear and understandable, regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur.  14.4 If the Purchaser finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Purchaser’s written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Purchaser.  14.5 The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.  14.6 The Service Provider shall provide a grievance mechanism for Personnel, including Sub-consultant staff, if a separate Sub-consultant grievance mechanism does not exist, to raise workplace concerns. The Service Provider shall inform its Personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve review by an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution to personnel for initiating or participating in a complaint under such mechanism. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under Applicable Law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.  14.7 The Service Provider shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Personnel. At a minimum, the Service Provider shall provide all Personnel with documented information that is clear and understandable regarding their rights under all the Applicable Laws regarding labor and any applicable collective agreements, including their rights related to their employment, health, safety, welfare, immigration and emigration upon beginning the working relationship and when any material changes occur.  14.8 The Service Provider shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.  14.9 Where accommodation or welfare facilities are provided to Personnel, the Service Provider shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities (including as regards minimum space, supply of water, adequate sewage and garbage disposal systems, appropriate protection against heat, cold, damp, noise, fire and disease carrying animals, adequate sanitary and washing facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and all reasonable precautions to maintain the health and safety of the Personnel). The accommodation and welfare facilities shall be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Accommodation arrangements shall not restrict freedom of movement or of association, save that separate facilities should be provided for men and women. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-accommodation-welfare-staff-and-labor> When submitting their ESMP, the Service Provider shall include their proposed specifications related to any facilities that will be provided for staff and labor. The proposed facilities must comply with requirements of IFC Performance Standards 2.  For further guidance on standards for workers’ accommodation see: “Workers’ accommodation: processes and standards, A guidance note by IFC and the EBRD” in particular its Part II:, Subsection I. Standards for workers’ accommodation, available at: <https://www.ifc.org/wps/wcm/connect/9839db00488557d1bdfcff6a6515bb18/workers_accomodation.pdf?MOD=AJPERES&CACHEID=9839db00488557d1bdfcff6a6515bb18> |
| **15. Contract Price** | 15.1 The contract price shall be as specified in the SCC subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to this Contract.  Prices charged by the Service Provider for the Services performed under this Contract shall not vary from the prices quoted by the Service Provider in its Bid, with the exception of any price adjustments **authorized in the SCC**. |
| **16. Terms of Payment** | 16.1 This Contract Price, including any advance payments, if applicable, shall be paid as specified in the SCC.  16.2 The Service Provider’s request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Services performed, and upon fulfillment of all other relevant obligations stipulated in this Contract.  16.3 Payments shall be made promptly by, or on behalf of, the Purchaser, no later than thirty (30) days after receipt by the Purchaser of an invoice or request for payment from the Service Provider in form and substance satisfactory to the Purchaser.  16.4 The currency in which payments shall be made to the Service Provider under this Contract shall be that in which the Bid price is expressed.  16.5 In the event that the Purchaser fails to pay the Service Provider any payment by its respective due date or within the period **set forth in the SCC**, the Purchaser shall pay to the Service Provider interest on the amount of such delayed payment at the rate **specified in the SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award. |
| **17. Taxes and Duties** | 17.1 [This GCC Clause 17 may need to be modified to address unique tax arrangements in some countries. In situations in which a potential issue exists, the relevant MCC OGC attorney is to be consulted before finalizing a form of contract based on this Bidding Document] Except as may be exempted pursuant to the Compact or another agreement related to the Compact, available in English at [insert web link], the Service Provider, its Subcontractors and their respective personnel may be subject to certain Taxes on amounts payable by the Purchaser under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Service Provider, each Subcontractor and their respective personnel shall pay all Taxes levied under Applicable Law. In no event shall the Purchaser be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Service Provider, any Subcontractor or their respective personnel, the Contract Price shall not be adjusted to account for such Taxes.  17.2 The Service Provider, any Subcontractor and their respective personnel, and their eligible dependents, shall follow the usual customs procedures of the MCA Country in importing property into the MCA Country.   * 1. If the Service Provider, any Subcontractor or any of their respective personnel, or their eligible dependents, do not withdraw but dispose of any property in the MCA Country upon which customs duties or other Taxes have been exempted, the Service Provider, the Subcontractor or such personnel, as the case may be, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes tothe Purchaser if such customs duties and Taxes were paid bythe Purchaser at the time the property in question was brought into the MCA Country.   2. Without prejudice to the rights of the Service Provider under this clause, the Service Provider, the Subcontractors and their respective personnel will take reasonable steps as requested by the Purchaser or the Government with respect to the determination of the Tax status described in this GCC Clause 17.   3. If the Service Provider is required to pay Taxes that are exempt under the Compact or a related agreement, the Service Provider shall promptly notify the Purchaser (or such agent or representative designated by the Purchaser) of any Taxes paid, and the Service Provider shall cooperate with, and take such actions as may be requested by the Purchaser, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.   4. The Purchasershall use reasonable efforts to ensure that the Government provides the Service Provider, the Subcontractors, and their respective personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Compact or related agreements. If the Purchaser fails to comply with its obligations under this paragraph, the Service Provider shall have the right to terminate this Contract in accordance with GCC Sub-Clause 31.1(d). |
| **18. Performance Security** | 1. **If so required in the SCC**, the Service Provider shall, within fourteen (14) days of the notification of contract award, provide a performance security for the due performance of this Contract in the amount specified in the SCC. 2. The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Service Provider’s failure to complete its obligations in accordance with the terms of this Contract. 3. The performance security shall be denominated in the currency of this Contract, and shall be in the form of a bank guarantee issued by a reputable bank located in Purchaser’s country or in an Eligible Country and in form and substance satisfactory to the Purchaser, substantially in the appropriate form included in Section VIII. Contract Forms. 4. The performance security shall be valid for twenty-eight (28) days beyond the date **specified in SCC**. |
| **19. Deliverables** | * + - 1. The Service Provider shall submit to the Purchaser the reports, deliverables, outputs and documents as specified in Annex B: Description of Services.       2. All deliverables, outputs, plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider under this Contract shall become and remain the property of the Purchaser, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Purchaser, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC.** |
| **20. Confidential Information** | 1. The Purchaser and the Service Provider shall keep confidential and shall not, without the prior written consent of the other Party, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other Party in connection with this Contract, whether such information has been furnished prior to, during or following completion or termination of this Contract. Notwithstanding the above, the Service Provider may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under this Contract, in which event the Service Provider shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Service Provider under this GCC Clause 20. 2. The Purchaser shall not use documents, data, and other information received from the Service Provider for any purposes unrelated to this Contract. Similarly, the Service Provider shall not use documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of this Contract. 3. The obligation of a Party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:    * + - 1. the Purchaser or the Service Provider needs to share with MCC or other entities participating in the financing of this Contract or otherwise in accordance with the requirements of the Compact or related documents;          2. now or hereafter enters the public domain through no fault of that Party;          3. can be proven to have been possessed by that Party at the time of disclosure and which information was not previously obtained, directly or indirectly, from the other Party;          4. otherwise lawfully becomes available to that Party from a third party that has no obligation of confidentiality; or          5. is required to be shared to comply with applicable law.   20.4 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of this Contract. |
| **21. Subcontracting** | 1. The Service Provider shall obtain prior approval in writing of the Purchaser before entering into a subcontract for the performance of any of its obligations under this Contract. The Service Provider shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the Bid. Subcontracting shall in no event relieve the Service Provider from any of its obligations, duties, responsibilities, or liabilities under this Contract. 2. Subcontracts shall comply with the provisions of GCC Clauses 3 and 7. |
| **22. Specifications and Standards** | 1. The Services supplied under this Contract shall conform to the technical specifications and standards, including environmental, health and safety (“EHS”) requirements, specified in Annex B: Description of Services and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Services’ country(ies) of origin. 2. The Service Provider shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser. 3. Wherever references are made in this Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Annex B: Description of Services. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 28. |
| **23. Patent Indemnity** | 1. The Service Provider shall, subject to the Purchaser’s compliance with GCC Sub-Clause 23.2, indemnify and hold harmless the Purchaser and its employees, officers and directors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or existing arising out of or in connection with the Service Provider’s performance of the Services. 2. If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 23.1, the Purchaser shall promptly give the Service Provider a notice thereof, and the Service Provider may at its own expense and in the Purchaser’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. 3. If the Service Provider fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf. 4. The Purchaser shall, at the Service Provider’s request, afford all reasonably available assistance to the Service Provider in conducting such proceedings or claim, and shall be reimbursed by the Service Provider for all reasonable expenses incurred in so doing. 5. The Purchaser shall indemnify and hold harmless the Service Provider and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Service Provider may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of this Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser. |
| **24. Insurance** | 1. The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors’, as the case may be) own cost but on terms and conditions approved by the Purchaser, insurance against the risks, and for the coverage, as shall be specified in the SCC; and (b) at the Purchaser’s request, shall provide evidence to the Purchaser showing that such insurance has been taken out and maintained and that the current premiums have been paid. |
| **25. Quality Control** | 1. The Purchaser shall check the quality of the Services and shall inspect the Service Provider’s performance according to the relevant section(s) of Annex B: Description of Services. The Purchaser shall promptly give notice to the Service Provider of any Defects that are identified before the Completion Date, requesting the correction of the notified Defect within a reasonable time.   25.2 If the Service Provider has not corrected a Defect within the time specified in the Purchaser’s notice, the Purchaser will assess the cost of having the Defect corrected. This cost shall be deducted from the Contract Price, together with the penalty for lack of performance calculated as described in Sub-Clause 26.2.  25.3 The Defects Liability Period shall be **as specified in the SCC.** |
| **26. Penalties and Liquidated Damages** | 1. Except as provided under GCC Clause 29, if the Service Provider fails to perform the Services within the period(s) specified in Annex B: Description of Services, the Purchaser may without prejudice to any and all of its other remedies under this Contract, or applicable law, deduct from this Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of this Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Purchaser may terminate this Contract pursuant to GCC Clause 30.   26.2 If the Service Provider has not corrected a Defect within the time specified in the Purchaser’s notice, the Purchaser may without prejudice to any and all of its other remedies under this Contract, or applicable law, deduct from this Contract Price, as penalty for lack of performance, a sum equivalent to the percentage **specified in the SCC.** |
| **27. Limitation of Liability** | 1. Except in cases of criminal negligence or willful misconduct,    * + - 1. the Service Provider shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Service Provider to pay liquidated damages to the Purchaser; and          2. the aggregate liability of the Service Provider to the Purchaser, whether under this Contract, in tort or otherwise, shall not exceed the total Contract Price. |
| **28. Change in Laws and Regulations** | 1. Unless otherwise specified in this Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated, or changed in the particular area of the Purchaser’s country (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the delivery date and/or this Contract Price, then such delivery date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Service Provider has thereby been affected in the performance of any of its obligations under this Contract. |
| **29. Force Majeure** | 1. For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third party over whom such Party has control, including any Subcontractor), (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances. 2. The failure of a Party to fulfill any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure. 3. A Party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure. 4. A Party affected by an event of Force Majeure shall provide evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible. 5. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure. 6. The Service Provider shall not be liable for forfeiture of its performance security, liquidated damages, penalties or termination for default (other than in accordance with GCC Sub-Clause 30.1(d) if and to the extent that its delay in performance or other failure to perform its obligations under this Contract is the result of an event of Force Majeure. 7. In the case of disagreement between the Parties as to the existence or extent of an event of Force Majeure, the matter shall be settled in accordance with GCC Clause 9. |
| **30. Termination by Purchaser** | 1. Termination for Default:   Without prejudice to any other remedies that may be available to it for breach of this Contract, the Purchaser, upon written notice to the Service Provider, may terminate this Contract, in whole or in part, in case of the occurrence of any of the events specified in sub-paragraphs (a) through (e) of this GCC Sub-Clause 30.1.   * + - * 1. If the Service Provider, in the judgment of the Purchaser or MCC, fails to perform its obligations relating to the use of funds set out in Annex A. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Service Provider repay any and all funds so misused within a maximum of thirty (30) days after termination.         2. If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Purchaser may have subsequently approved in writing.         3. If, as the result of an event of Force Majeure, the Service Provider is unable to perform a material portion of its obligations for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the Purchaser.         4. If the Service Provider fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination or on such later date as may be specified by the Purchaser.         5. If the Service Provider (or any Subcontractor or any of their respective personnel), in the judgment of the Purchaser, has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive, or prohibited practices in competing for or in the performance of this Contract. Termination under this provision shall become effective immediately upon delivery of the notice of termination.  1. Termination for Insolvency   The Purchaser may at any time terminate this Contract by giving notice to the Service Provider if the Service Provider becomes insolvent or bankrupt, and/or fails to exist or is dissolved. Termination under this provision shall become effective immediately upon delivery of the notice of termination or on such other date as may be specified by the Purchaserin such notice of termination. In such event, termination will be without compensation to the Service Provider, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.   1. Termination for Convenience   The Purchaser, by notice sent to the Service Provider, may terminate this Contract, in whole or in part, at any time in its sole discretion for its convenience. The notice of termination shall specify that termination is for the Purchaser’s convenience, the extent to which performance of the Service Provider under this Contract is terminated, and the date upon which such termination becomes effective.   1. Suspension or Termination Related to the Compact or Applicable Law    * + - 1. The Purchaser, by notice sent to the Service Provider, may suspend or terminate this Contract, in whole or in part, if the Compact expires, is suspended or terminates in whole or in part in accordance with the terms of the Compact. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 30.4(a), the Service Provider has an obligation to mitigate all expenses, damages and losses to the Purchaserduring the period of the suspension.          2. The Purchaser, by notice sent to the Service Provider, may suspend or terminate this Contract, in whole or in part, if suspension or termination is permitted under Applicable Law. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 30.4(b) the Service Provider has an obligation to mitigate all expenses, damages and losses tothe Purchaser during the period of the suspension. |
| **31. Termination by the Service Provider** | 1. The Service Provider may terminate this Contract, by not less than thirty (30) days’ written notice to the Purchaser, in case of the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-Clause 31.1.    * + - 1. If the Purchaser fails to pay any money due to the Service Provider pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 9 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the Purchaserto the Service Provider within such thirty (30) days.          2. If, as the result of an event of Force Majeure, the Service Provider is unable to perform a material portion of this Contract for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.          3. If the Purchaser fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination.          4. If the Service Provider does not receive a reimbursement of any Taxes that are exempt under the Compact within one hundred and twenty (120) days after the Service Provider gives notice to the Purchaser that such reimbursement is due and owing to the Service Provider. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Service Provider within such thirty (30) days.          5. If this Contract is suspended in accordance with GCC Sub-Clauses 30.4(a) or 30.4(b) for a period of time exceeding three (3) consecutive months; provided that the Service Provider has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 30.4(a) or 30.4(b) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination. |
| **32. Combating Trafficking in Persons** | 1. MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to Trafficking in Persons (“TIP”) through its Counter-Trafficking in Persons Policy.[[7]](#footnote-7) In pursuance of this policy: 2. **Defined Terms.** For purposes of the application and interpretation of this Sub-Clause: 3. The terms “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” and “sex trafficking” have the meanings given such terms in the MCC Counter-Trafficking in Persons Policy (“MCC C-TIP Policy”) and such definitions are incorporated by reference into this Sub-Clause; and 4. “Trafficking in Persons” means (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; (B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.   **Prohibition.**  The Service Provider, any Subcontractor, or any of their respective personnel and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and Execute Orders regarding TIP, including using misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee’s identity documents.  **Service Provider Requirements.**  Each service provider, subcontractor, Consultant or Sub-Consultant shall:   * + - * 1. notify its employees of the MCC C-TIP Policy and of the actions that will be taken against Personnel for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and         2. take appropriate action, up to and including termination, against Personnel or subcontractors or Sub-Consultants that violate the prohibitions set out in this policy.  1. Each Service Provider shall: 2. certify that it is not engaged in, facilitating, or allowing any activities constituting Trafficking in Persons, or related activities also prohibited under this policy, for the duration of the Contract; 3. provide assurances that activities constituting Trafficking in Persons, or related activities also prohibited under this policy, will not be tolerated on the part of its Personnel, subcontractors or Sub-Consultants (as the case may be), or their respective employees; and 4. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract. 5. A bidder, supplier, contractor, subcontractor, Service Provider or Sub-Consultant shall inform the MCA Entity immediately of: 6. any information it receives from any source (including law enforcement) that alleges its Personnel, subcontractor, Sub-Consultant, or the employee of a subcontractor or Sub-Consultant, has engaged in conduct that violates this policy; and 7. any actions taken against any Personnel, subcontractor, subcontractor/consultant, or the employee of a subcontractor or Sub-Consultant, pursuant to these requirements. 8. **Remedies.** Once the incident has been confirmed and depending on the severity of each case, the MCA Entity will apply remedies, which could include:    1. the Purchaser requiring the Service Provider to remove the involved Service Provider’s personnel, Subcontractor, any of its involved personnel, or any involved agent or affiliate;    2. the Purchaser requiring the termination of a subcontract or sub-award;    3. suspension of Contract payments until the breach is remedied to the satisfaction of the Purchaser and MCC;    4. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Purchaser or MCC determine the breach remains unremedied;    5. the Purchaser or MCC pursing sanction of the Service Provider, including declaring the Service Provider ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and    6. Termination of the Contract by the Purchaser for default or cause in accordance with the termination clause of the Contract. |
| **33. Prohibition of Harmful Child Labor** | 1. The Service Provider shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Where Applicable Laws do not specify a minimum age or specify a minimum age below fifteen (15) for employment, the Service Provider shall ensure that children aged below 15 are not employed to perform work under the Contract. Where Applicable Laws specify a minimum age of fifteen (15) or above, such minimum age requirement shall apply. Notwithstanding any allowances provided under applicable law to the contrary, under no circumstance shall children under the age of eighteen (18) will not be employed in hazardous work. All work of persons under the age of eighteen (18) will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work. The Service Provider will identify the presence of all persons under the age of eighteen (18). |
| **34. Reimbursable Amounts** | 1. If this Contract permits re-imbursement of any costs, the re-imbursement amounts shall be limited by and made only in accordance with applicable MCC Cost Principles, which are posted at [www.mcc.gov](http://www.mcc.gov). |
| **35. Accounting, Inspection and Auditing** | 1. The Service Provider shall keep accurate and systematic accounts and records in respect of the provision of the Non-Consulting Services under this Contract, in accordance with the provisions of Annex A and internationally accepted accounting principles. |
| **36. Use of Funds; Compliance with Environmental Guidelines** | 1. The Service Provider shall ensure that its activities do not violate provisions relating to use of funds and environmental guidelines, as set out in Annex A. |
| **37. MCC Conditionalities** | 1. For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex A reflect certain requirements of the Government and the Purchaser under the terms of the Compact and related documents that are required to be transferred onto any Service Provider, Subcontractor or other associate who partakes in procurement or subsequent contracts in which MCC Funding is involved and that, as with the other clauses of this Contract, the provisions of Annex A are binding obligations under this Contract. |
| **38. Flow through Provisions** | 1. In any sub-contract or sub-award entered into by the Service Provider, as permitted by the terms of this Contract, the Service Provider shall ensure the inclusion of all the provisions contained in Annex A in any agreement related to such sub-contract or sub-award. |
| **39. Assignment** | 1. Neither party shall assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, without the consent of the other party; provided that, the Purchaser may assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, to another person or entity of the Government (or another entity designated by the Government) without the consent of the Service Provider. The Purchaser shall use commercially reasonable efforts to notify the Service Provider as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-Clause 39.1 shall be null and void. 2. In the event of any assignment of the Contract by the Purchaser in accordance with GCC Sub-Clause 39.1:    * + - 1. the Service Provider shall obtain a replacement Performance Security according to the terms of GCC Sub-Clause 18 in an amount equal to that of the then currently issued Performance Security naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement Performance Security to the Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original Performance Security to the Service Provider;          2. in the event any advance payment guarantee is outstanding at the time of assignment, the Service Provider shall obtain a replacement advance payment guarantee in an amount equal to that of the then currently issued advance payment guarantee naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement advance payment guarantee to the Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original advance payment guarantee to the Service Provider. |
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| 1. Special Conditions of Contract | |
| The following Special Conditions of Contract (“SCC”) shall supplement and/or amend the General Conditions of Contract (“GCC”). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. | |
| GCC 1.1 | (a) “Applicable Law” means the laws and any other instruments having the force of law in **[Country]**, as they may be issued and in force from time to time.  (c) “Bidding Document” means the bidding documents for the procurement of the Non-Consulting Services; Bid Ref: **[insert reference number]**; issued **[insert issue date]**.  (p) “MCA Country” means the country of **[Country]**.  (w) “Purchaser” means “MCA Country”, as well as the “MCA Country” successor entity as appointed by the Government |
| GCC 2.6 (h) | Other documents forming an integral part of this Contract are:  **[insert list of documents as applicable]** |
| GCC 5.2 | This Contract shall be executed in the English language Yes **[ ]** No **[ ]** and in the **[local language]** Yes **[ ]** No **[ ]**. |
| GCC 6.1 | The member in charge is **[insert name of member]**  ***[Note: If the Service Provider consists of a joint venture or another association of more than one entity, the name of the entity whose address is specified in SCC 7.1 should be inserted here. If the Service Provider consists only of one entity, this SCC 5.1 should be deleted from the SCC.]*** |
| GCC 8.1 | For **notices** that are served on the Purchaser the address shall be:  **[full legal name of the Purchaser]**  Att.: The Procurement Agent of **[name of Purchaser]** Address: **[insert relevant address]** E-mail: **[insert relevant email address]**  For **notices** that are served on the Service Provider the address shall be:  **[insert relevant address]** |
| GCC 8.2 | For **changes of address** that are served on the Purchaser the address shall be:  **[full legal name of the Purchaser]**  Att.: The Procurement Agent of **[name of Purchaser]** Address: E-mail:  For **changes of address** that are served on the Service Provider the address shall be:  **[insert relevant address]** |
| GCC 9.2 | Disputes arising under this Contract that are not resolved by the Parties in accordance with GCC Sub-Clause 9.1, shall be settled by arbitration in accordance with the following provisions:  **[insert arbitration provisions, , including location of arbitration proceedings]**  **]**  ***[Note: The following provision concerning MCC’s right to be included as an observer in any arbitration proceeding is to be included in all contracts]***  ***MCC Right to Observe***  MCC has the right to be an observer to any arbitration proceeding associated with this Contract, at its sole discretion, but does not have the obligation to participate in any arbitration proceeding. Whether or not MCC is an observer to any arbitration associated with this Contract, the Parties shall provide MCC with written English transcripts of any arbitration proceedings or hearings and a copy of the reasoned written award within ten (10) days after (a) each such proceeding or hearing or (b) the date on which any such award is issued. MCC may enforce its rights under this Contract in an arbitration conducted in accordance with this provision or by bringing an action in any court that has jurisdiction. The acceptance by MCC of the right to be an observer to the arbitration shall not constitute consent to the jurisdiction of the courts or any other body of any jurisdiction or to the jurisdiction of any arbitral panel. |
| GCC 12.2 (b) | **[insert activities to be restricted, if applicable]** |
| GCC 13.2 | **[insert number of days]** |
| GCC 15.1 | The Contract Price is **[insert amount]** United States Dollars.  OR  The Contract Price is:  **[insert amount]** United States Dollars  and  **[insert amount] [local currency]**  OR  The Contract Price is **[insert amount] [local currency]**  ***[Note: delete whichever among the above that are not appropriate]***  The accounts are:  For US Dollars: **[insert account number]**  For Local Currency: **[insert account number]** |
| GCC 15.2 | The prices charged for the Goods delivered and Related Services performed shall not be adjustable.  **OR**  The prices charged for the Goods delivered and the related Services performed shall be adjustable and the following method shall be used to calculate the price adjustment:  **[insert method to be used to calculate price adjustment]**  ***[Note: delete whichever is not appropriate]*** |
| GCC 16.1 | ***[Sample provision:***  The method and conditions of payment to be made to the Service Provider under this Contract shall be as follows:   * Advance for Mobilization, Materials and Supplies: \_\_\_\_\_ percent of the Contract Price shall be paid against the submission of a bank guarantee for the same amount. * Progress payments in accordance with the milestones established as follows, subject to certification by the Purchaser, that the Services have been rendered satisfactorily, pursuant to the standards and performance indicators: * \_\_\_\_\_\_\_(indicate milestone and/or percentage) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ * \_\_\_\_\_\_\_(indicate milestone and/or percentage) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ * \_\_\_\_\_\_\_(indicate milestone and/or percentage) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| GCC 16.5 | The payment-delay period after which the Purchaser shall pay interest to the Service Provider shall be **[insert number]** days.  The interest rate to be applied in the case of late payments is the Federal Funds Rate as stated on the website  <http://www.federalreserve.gov/releases/h15/current/default.htm> |
| GCC 18.1 | The amount of performance security, as a percentage of the Contract Price, shall be in the amount of **[Insert percentage – five (5) to ten (10) percent of the Contract Price would be reasonable; it should not exceed ten (10) percent in any case]**and shall be denominated in **[a freely convertible currency acceptable to the Purchaser]** OR **[the currencies of payment of this Contract, in accordance with their portions of the Contract Price]**.  ***[Note: delete whichever is not appropriate]***  **[If a Defect Liability Period is required under SCC 25.2, insert:**  After Completion Date, the performance security shall be reduced to **[insert number]** percent of the Contract Price.] |
| GCC 18.4 | **[If a Defects Liability Period is required under SCC 25.2, insert: “expiration of the Defects Liability Period”;**  **otherwise, insert: “Completion Date”]** |
| GCC 19.2 | **[insert restrictions on the future use of documents, if any; otherwise, insert: “not applicable”]** |
| GCC 24.1 | The risks and coverage by insurance shall be:   * Third Party motor vehicle – as per statutory requirements in the MCA country; * Third Party liability – [insert amount, if applicable] * Employer’s liability and workers’ compensation - [insert amount, if applicable] * Professional liability - [insert amount, if applicable] * Loss or damage to equipment and property - [insert amount, if applicable]   ***[Note: delete whichever is not appropriate]*** |
| GCC 25.3 | The Defects Liability Period shall be: **[insert number of days]**  OR  Not Applicable  ***[Note: delete whichever is not appropriate]*** |
| GCC 26.1 | The liquidated damage shall be **[insert number]** percent per week of the Contract Price.  The maximum amount of liquidated damages shall be **[insert number]** percent of the Contract Price. |
| GCC 26.2 | The penalty for lack of performance shall be **[insert number]** percent of the pro rata amount of the Defect. |

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| Annex A: Annex of General Provisions |
| The additional provisions of Contract can be found on the MCC website: <https://www.mcc.gov/resources/doc/annex-of-general-provisions> and MUST be printed out and attached to the Contract prior to signature. |

**Annex B: Description of Services**

*[Give detailed description of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by the Purchaser, etc.]*

**Annex C: Service Provider’s Key Personnel**

*[List all Key Personnel and Subcontractors to be involved in the delivery of the Services, with position, job description and minimum qualifications as per the Schedule of Requirements in the Bidding Documents]*

**Annex D: Price Schedule**

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| 1. Contract Forms |

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

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| Notice of Intent to Award |

***[The Notice of Intent to Award shall be filled in and sent to the successful Bidder in accordance with ITB Clause 41.]***

**[date]**

**THIS IS NOT A NOTICE OF AWARD OR LETTER OF ACCEPTANCE.**

**THE PURCHASER INTENDS NO CONTRACT TO BE FORMED**

**WITH THIS NOTICE.**

To: **[insert name and address of the Service Provider]**

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

As provided in the Bidding Document (ITB Clause 41) in connection with **[insert name of the Contract and identification number, as given in the Bidding Document]**, this notice is to inform you that we have selected you as the successful Bidder in the procurement associated with such Bidding Document and, following the expiration of the period for filing a bid challenge and the resolution of any bid challenges that are submitted in accordance with our bid challenge system as more fully described in the Bidding Document, we anticipate issuing to you a formal Notification of Award and Contract Agreement.

While we are providing you with this Notice of Intent to Award, it does NOT constitute the formation of a contract between you and us. You shall not acquire any legal or equitable rights and we do not extend and shall not accept any legal or equitable rights or obligations until and unless such time as you receive from us an executed Letter of Acceptance/Notification of Award, together with a form of Contract Agreement, and the requirements set forth in such Letter of Acceptance/Notification of Award have been fulfilled in a manner acceptable to us. We reserve the right to cancel this Notice of Intent to Award at any time prior to Contract award, without thereby incurring any liability.

Thank you for participating in the bidding process. For information about this notice, please contact the undersigned.

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| Signed: |
| In the capacity of: |
| **[Print Name]** |

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| Notification of Award |

***[The Notification of Award shall be the basis for formation of the Contract as described in ITB Clause 42. This form of Notification of Award shall be filled in and sent to the successful Bidder only after evaluation of Bids has been completed, subject to any review by the MCC as required.]***

**[date]**

To: **[insert name and address of the Service Provider]**

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

This is to notify you that your Bid dated **[insert date]** for execution of the above mentioned Bid Reference for the accepted contract price of **[insert amount in words and numbers] [insert name of currency]**, ascorrected and modified in accordance with the Instructions to Bidders is hereby accepted by the Purchaser.

You are hereby instructed to (a) proceed with supply of the said Non-Consulting Services in accordance with the Contract, (b) sign and return the attached Contract, and (c) forward the Performance Security pursuant to GCC Clause 16 within fourteen (14) days after receipt of this Notification of Award.

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| Signed: |
| In the capacity of: |
| **[Print Name]** |

Attachment: Contract

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| Contract Agreement |

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| This CONTRACT AGREEMENT (this “Contract”) is made as of the **[day]** of **[month]**, **[year]**, between **[full legal name of the MCA Entity]** (the “Purchaser”), on the one part, and **[full legal name of Service Provider]** (the “Service Provider”), on the other part.  ***[Note: If the Service Provider consists of more than one entity, the following should be used]***  This CONTRACT AGREEMENT (this “Contract”) made as of the **[day]** of **[month]**, **[year]**, between **[full legal name of the MCA Entity]** (the “Purchaser”), on the one part, and **[full legal name of lead Service Provider]** (the “Consultant”) in **[joint venture / consortium / association]** with **[list names of each joint venture entity]**, on the other part, each of which will be jointly and severally liable to thePurchaser for all of the Service Provider’s obligations under this Contract and is deemed to be included in any reference to the term “Service Provider.”  **RECITALS**  WHEREAS,   1. The Millennium Challenge Corporation (“MCC”) and the Government of **[Country]** (the “Government”) have entered into a Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **[Country]** on **[insert date]** (the “Compact”) in the amount of approximately [**insert amount**] (“MCC Funding”). The Government, acting through the Purchaser, intends to apply a portion of the proceeds of MCC Funding to eligible payments under this Contract. Payments made under this Contract will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use, and conditions to disbursement, of MCC Funding. No party other than the Government and the Purchasershall derive any rights from the Compact or have any claim to the proceeds of MCC Funding; and 2. The Purchaser invited bids for the provision of certain non-consulting services identified in this Contract and has accepted a bid by the Service Provider for the supply of those services on the terms and conditions set forth in this Contract.   NOW THEREFORE, the parties hereto agree as follows:   1. In consideration of the payments to be made by the Purchaser to the Service Provider as set forth in this Contract, the Service Provider hereby covenants with the Purchaser to provide the Services and to remedy defects therein in conformity in all respects with the provisions of this Contract. 2. Subject to the terms of this Contract, the Purchaser hereby covenants to pay the Service Provider in consideration of the provision of the Services and the remedying of defects therein, the Contract Price (as defined below) or such other sum as may become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.   IN WITNESS whereof the parties hereto have caused this Contract to be executed in accordance with the laws of **[country]** on the day, month and year first indicated above.   |  |  | | --- | --- | | For **[full legal name of the Purchaser]**: | For **[full legal name of the Service Provider]**: | | Signature | Signature | | Name | Name |   ***[Note: If the Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]***  For and on behalf of each of the Members of the Service Provider  **[Name of Member]**    **[Authorized Representative]**  **[Name of Member]**    **[Authorized Representative]** |

Compliance with Sanctions Certification Form

In satisfaction of clause G of the Additional Provisions at Annex A of the Contract, this form is to be completed by the Service Provider initially, within 28 days of receipt of Letter of Acceptance and Contract Agreement, and subsequently thereafter on the last business day prior to the last day of each quarter (March 31, June 30, September 30, December 31) after the signature of an MCC-Funded Contract[[8]](#footnote-8), for the duration of the contract. The form is to be submitted to the MCA Entity Procurement Agent [provide email address] with a copy to MCC at [sanctionscompliance@mcc.gov](mailto:sanctionscompliance@mcc.gov). Instructions for completing this form are provided below.

**Full Legal Name of Service Provider: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Full Name and Number of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**MCA Entity with which Contract Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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| * All eligibility verifications have been completed in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions.”** No MCC Funding[[9]](#footnote-9) has been provided to any individual, corporation, or other entity that appears in the enumerated lists, including the Service Provider itself. No MCC Funding has been provided to a country, or a firm based in or having a significant portion of its operations in a country, that is subject to sanction or restriction by law or policy of the United States, including U.S. designated State Sponsors of Terrorism.   **OR**   * All eligibility verifications have been completed in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions,”** and the following results were obtained (information to be provided for each result): * Name of individual, corporation or other entity: * Eligibility verification source(s) where listed ineligible: * Position (if individual), or goods or services provided (if corporation or other entity): * Estimated value of work performed as of certification date: |

I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed a “fraudulent practice” for purposes of the contract between the Contractor and the MCA Entity, the MCC Program Procurement Guidelines, and other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

**Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Printed Name of Signatory: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**INSTRUCTIONS FOR COMPLETING FORM:**

The Service Provider shall perform the following procedures to verify the eligibility of firms, key personnel, subcontractors, vendors, suppliers, and grantees, in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Statutes and Other Restrictions,”** provided below.

The Service Provider shall verify that any individual, corporation, or other entity that has access to or is a recipient of MCC Funding, including its staff, consultants, sub-contractors, vendors, suppliers, and grantees, is not listed on any of the following:

1. System for Award Management (SAM) - <https://www.sam.gov/portal/SAM/#1>
2. World Bank Debarred List - <http://web.worldbank.org/external/default/main?contentMDK=64069844&menuPK=116730&pagePK=64148989&piPK=64148984&querycontentMDK=64069700&theSitePK=84266>
3. US Government Consolidated Screening List - <https://2016.export.gov/ecr/eg_main_023148.asp>

Documentation of the process takes two forms. The Service Provider should prepare a table listing each staff member, consultant, sub-contractor, vendor, supplier, and grantee working on the contract, such as the form provided below.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Name | Date Checked | | | Eligible (Y/N) |
| SAM | World Bank Debarred List | US Government Consolidated Screening List |
| Service Provider (the firm itself) |  |  |  |  |
| Staff Member #1 |  |  |  |  |
| Staff Member #2 |  |  |  |  |
| Consultant #1 |  |  |  |  |
| Consultant #2 |  |  |  |  |
| Sub-Contractor #1 |  |  |  |  |
| Sub-Contractor #2 |  |  |  |  |
| Vendor #1 |  |  |  |  |
| Supplier #1 |  |  |  |  |
| Grantee #1 |  |  |  |  |

The Service Provider should list the date on which the search was conducted using each eligibility verification source, and whether the staff member, consultant, sub-contractor, vendor, supplier, or grantee was determined to be eligible – that is, did not show up on any of the eligibility verification sources.

In addition, as all three lists are searchable databases that return a positive or negative search results page upon submission of a name to be searched, in order to document the eligibility, the Service Provider should print out and retain for each staff member, consultant, sub-contractor, vendor, supplier, or grantee the search results page for each eligibility verification source, which should read, *“Has Active Exclusion? No”* (in the case of SAM), *“No Matching Records found!”* (in the case of World Bank Debarred List), or *“No result”* (in the case of the US Government Consolidated Screening List).

If an adverse record(s) has/have been found for one or more individuals or entities, including for the Service Provider itself, the Service Provider must conduct additional research to determine whether the finding is a “false positive.” If it is a false positive, the Service Provider will mark the staff member, consultant, sub-contractor, vendor, supplier, or grantee as eligible, and retain the research confirming that eligibility.

If, on the other hand, any of the Service Providers’ personnel, consultants, sub-contractors, vendors, suppliers, or grantees are found to be ineligible at this stage, the MCA Entity will determine whether it is possible under the circumstances to allow the Service Provider to make a substitution. This determination will be made on a case by case basis and will require approval by MCC regardless of the estimated value of the proposed contract.

In addition, in accordance with MCC Program Procurement Guidelines P1.A.1.9 (d), the Service Provider must ensure that MCC Funding is not used for goods or services from a country, or from a firm that is organized in or has its principal place of business or a significant portion of its operations in a country, that is subject to sanction or restriction by law or policy of the United States, including U.S. designated State Sponsors of Terrorism (<https://www.state.gov/j/ct/list/c14151.htm>).

All of these documents must be retained by the Service Provider as part of the overall record of the contract with the MCA Entity for the duration of the contract, and for the further period after the contract expiration that is required for document retention under the contract (typically five years after the expiration date of the Compact Program or Threshold Program). Access to these documents must be provided to the MCA Entity, MCC, or their designees in accordance with the access provisions of the contract.

**Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions”**

1. The Contract Party shall not provide material support or resources directly or indirectly to, or knowingly permit MCC Funding to be transferred to, any individual, corporation or other entity that such Party knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (i) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control, which list is available at [www.treas.gov/offices/enforcement/ofac](http://www.treas.gov/offices/enforcement/ofac), (ii) on the consolidated list of individuals and entities maintained by the “1267 Committee” of the United Nations Security Council, (iii) on the list maintained on [www.sam.gov](http://www.sam.gov), or (iv) on such other list as the MCA Entity may request from time to time. For purposes of this provision, “material support and resources” includes currency, monetary instruments or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
2. The Contract Party shall ensure that its activities under this Agreement comply with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. Section 1956, 18 U.S.C. Section 1957, 18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under the Contract comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time by MCC, the MCA Entity, the Fiscal Agent, or the Bank, as may be applicable. The Contract Party shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at www.mcc.gov. The Contract Party shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the MCA Entity or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the MCA Entity with a copy to MCC.
3. Other restrictions on the Contract Party shall apply as set forth in Section 5.1(b) of the Compact with respect to drug trafficking, terrorism, any misconduct injurious to MCC or the MCA Entity, any activity contrary to the national security interests of the United States or any other activity that materially and adversely affects the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of the Compact or any Supplemental Agreement or that materially and adversely affects the Program Assets or any Permitted Account.

Self-Certification Form For Consultants/Contractors/Suppliers

The below self-certification form should be signed by the Supplier as part of the Contract. This self-certification declares that the Supplier will only procure goods and materials essential for the Contract, from suppliers that are free of forced and child labor and provide their direct workers with a safe and hygienic workplace.

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As stipulated in the Contract in Sections 11.1 and 14.9, the Supplier must comply with the International Finance Corporation’s *Performance Standards on Environmental and Social Sustainability* regarding labor standards and protections. In turn, the Supplier must ensure that their primary suppliers, i.e., any person or legal entity who provides goods or materials essential for the Contract, do not use forced and child labor in the production of such goods and materials, and provide the Supplier’s direct workers with a safe and hygienic workplace.

In acknowledgement of my understanding, I certify that with respect to this contract:

* + I understand the requirements in the contract with the MCA**-[Name of Country].**
  + **[Name of Supplier]** will ensure that all operations undertaken are done in accordance with the IFC Performance Standards, as described in Sections 11.1 and 14.9 of the Contract.
  + **[Name of Supplier]** does not and will not use forced or child labor, and provides workers with a safe and hygienic workplace.
  + **[Name of Supplier]** does not and will not procure material or goods from suppliers that employ forced or child labor.
  + **[Name of Supplier]** will only procure material or goods from suppliers that provide a safe and hygienic working place for all laborers.
  + **[Name of Supplier]** has a system in place to monitor our suppliers, identify any new and emerging risks. This system also allows **[Name of Supplier]** to effectively remedy any risks.
  + Where remedy is not possible for any new risks or incidents, **[Name of Supplier]** commits to severing ties with these suppliers.

Record any exceptions to the above here:

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*I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed a “fraud” for purposes of the Contract. I CONFIRM THAT I DULY REPRESENT* ***[Name of Supplier]*** *AND HAVE THE LEGAL AUTHORITY TO SIGN.*

Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name of Signatory:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_TemplateTEMPLATE

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| Bank Guarantee for Performance Security |
| ***[The bank, as requested by the Service Provider, shall fill in the form in accordance***  ***with the instructions indicated]***  Bank’s Branch or Office: **[insert complete name and address of Guarantor]**  Beneficiary: **[insert complete name and address of the Purchaser]**  Date: **[insert date of issue]**  PERFORMANCE GUARANTEE No.: **[insert Performance Guarantee number]**  We have been informed that **[insert complete name of Service Provider]** (hereinafter called the “Service Provider”) has entered into Contract No. **[insert number]** dated **[insert day and month]**, **[insert year]** with **[name of MCA Entity]** (hereinafter called “the Beneficiary”), for the supply of **[description of Non-Consulting Services provided]** (hereinafter called the “Contract”).  Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.  At the request of the Service Provider, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum(s) not exceeding in total an amount of **[insert amount(s) in words and figures]** upon receipt by us of the Beneficiary’s first demand in writing declaring the Service Provider to be in default under the Contract, without cavil or argument, or need to prove or to show grounds or reasons for the Beneficiary’s demand of the sum specified therein.  This Guarantee shall expire no later than the **[insert number]** day of **[insert month] [insert year] *[note- expiration date to be calculated based on the provisions of GCC Sub-Clause 15.4]***, and any demand for payment under it must be received by us at this office on or before that date.  **[*Issuing Bank to delete whichever is not applicable*]** We confirm that [we are a financial institution legally authorized to provide this guarantee in the Beneficiary’s country] **[OR]** [we are a financial institution located outside the Beneficiary’s country but have a correspondent financial institution located in the Beneficiary’s country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact information is as follows: **[provide name, address, phone number, and email address]**].   |  |  | | --- | --- | | For the Bank | For the Service Provider | | Signature | Signature | | In the capacity of: | In the capacity of: | | Date: | Date: | |

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| Bank Guarantee for Advance Payment |

***[The bank, as requested by the Service Provider, shall fill in the form in accordance with the instructions indicated]***

Bank’s Branch or Office: **[insert complete name and address of Guarantor]**

Beneficiary: **[insert complete name and address of Purchaser]**

Date: **[insert date of issue]**

ADVANCE PAYMENT GUARANTEE No.: **[insert Advance Payment Guarantee number]**

We have been informed that **[insert complete name of Service Provider]** (hereinafter called "the Service Provider") has entered into Contract No. **[insert number]** dated **[insert day and month]**, **[insert year]** with **[name of MCA Entity]** (hereinafter called “the Beneficiary”), for the supply of **[description of Non-Consulting Services provided]** (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum **[insert amount(s) in words and figures]** is to be made against an advance payment guarantee.

At the request of the Service Provider, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum(s) not exceeding in total an amount of **[insert amount(s) in words and figures]** upon receipt by us of the Beneficiary’s first demand supported by the Beneficiary’s statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating:

that the Service Provider has failed to repay the advance payment, in full or in part, in accordance with the terms of the Contract, and

the amount of the advance payment the Service Provider has failed to repay.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above has been credited to the Service Provider on its account number **[insert number]** at **[insert name and address of Bank]**.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Service Provider as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that **[insert percentage]** percent of the Contract Price has been certified for payment, or on the **[insert day]** day of **[insert month]**, **[insert year]**, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

**[*Issuing Bank to delete whichever is not applicable*]** We confirm that [we are a financial institution legally authorized to provide this guarantee in the Purchaser’s country] **[OR]** [we are a financial institution located outside the Purchaser’s country but have a correspondent financial institution located in the Purchaser’s country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact information is as follows: **[provide name, address, phone number, and email address]**].

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded and as may otherwise be stated above.

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| For the Bank | For the Service Provider |
| Signature | Signature |
| In the capacity of: | In the capacity of: |
| Date: | Date: |

1. 1 The MCC Program Procurement Guidelines can be found at: http://www.mcc.gov/ppg. [↑](#footnote-ref-1)
2. WB copyright http://www.worldbank.org [↑](#footnote-ref-2)
3. For solicitation documents issued prior to the adoption (in accordance with PPG Part 5) of a Bid Challenge System, the existing text of this clause is deleted in its entirety and replaced with the full text of the Interim Bid Challenge System approved by MCC. [↑](#footnote-ref-3)
4. The financial information provided by a Bidder shall be reviewed in its entirety to allow a truly informed judgment about the capacity of the Bidder to undertake the contract, and will not be limited strictly to substantiate the financial ratios indicated here. [↑](#footnote-ref-4)
5. Unless exempted by MCC, this requirement is met by the submission of **one of the following:** 1) audited financial statements for the last three (3) years, supported by audit letters, 2) certified financial statements for the last three (3) years, supported by tax returns or 3) a copy of the Contractor’s Dun & Bradstreet Business Information Report (“BIR”).The Dun & Bradstreet report must either be notarized, or accompanied by the following statement by the Bidder: “I certify that the attached BIR has been issued by Dun & Bradstreet within thirty (30) days of the date of this certification, that report has not been altered in any way since its issuance, and that it is true and correct to the best of my knowledge.” The statement must be signed by an authorized representative of the Bidder. If the Bid is submitted by a joint venture, all parties in the joint venture are required to submit their financial statements or Dun & Bradstreet BIR. The reports should be submitted in order of the partner’s significance in the partnership, greatest to least. Failure to submit one of the three documents as evidence of financial capacity may result in the rejection of the Bid. [↑](#footnote-ref-5)
6. Reference Guidance Document for appropriate value. [↑](#footnote-ref-6)
7. <https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy> [↑](#footnote-ref-7)
8. “MCC-Funded Contract” is defined as a contract signed by an MCA Entity or Core Team, as opposed to a contract signed by MCC, under the provisions of MCC’s Program Procurement Guidelines, and using funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding. [↑](#footnote-ref-8)
9. “MCC Funding” is defined as funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding. [↑](#footnote-ref-9)