

**Standard Bidding Document**

**for**

**Procurement of Goods and Related Services**

**Competitive Bidding**

**Consistent with PPG version 1109.09  
(whose effective date is January 8, 2025)**

**Prepared by:**

**MCC Program Acquisition & Assistance Practice Group**

**Department of Compact Operations, Sector Operations Division**

**Last Updated: December 2024**

**Effective Date: January 8, 2025**

**Foreword**

This Standard Bidding Document (“SBD”) for the Procurement of Goods and Related Services has been prepared by the Millennium Challenge Corporation (“MCC”) for use by Accountable Entities and other designated Implementing Entities when procuring goods and related services that are financed in whole or in part by MCC. This document is consistent with *MCC Accountable Entity Procurement Policy and Guidelines* (“MCC PPG”) available at www.mcc.gov/ppg.

This SBD shall not be used for Quality and Price Based Selection (QPBS) procedures. This SBD assumes that no prequalification has taken place before bidding.

Although this SBD is based upon the World Bank’s SBDs[[1]](#footnote-2), it has been adapted to reflect MCC policies and procedures set out in the MCC PPG and other documents.

For the purpose of finalizing the bidding documents, **[boldface text in square brackets]** should be replaced with appropriate language while *[italicized text in square brackets]* are for the attention and information of the Purchaser and should be deleted before the document is finalized.

**Summary Description**

**PART 1 – BIDDING PROCEDURES**

**Section I. Instructions to Offerors (“ITO”)**

This section provides information to help Offerors prepare their Offers and describes the procedures for the submission, opening and evaluation of Offers and the award of Contracts. **The text of the clauses in this section shall not be modified.**

**Section II. Data Sheet (“DS”)**

This section sets out the particular requirements for the specific procurement and supplements the information included in Section I. Instructions to Offerors. **The text in this section shall be customized.**

**Section III. Qualification and Evaluation Criteria**

This section describes the criteria and requirements to be used to evaluate the Offers and select the Offeror to perform the Contract. **The text in this section shall be customized.**

**Section IV. Submission Forms**

This section provides the forms which are to be completed by the Offerors and submitted as part of their Offers. **The text in this section may be customized.**

**PART 2 – SUPPLY REQUIREMENTS**

**Section V. Schedule of Requirements**

This section includes the detailed list of Goods and Related Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Goods and Related Services to be procured.

**PART 3 – CONTRACT DOCUMENTS**

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

This section contains the General Conditions of Contract clauses. **The text of the General Conditions of Contract clauses in this section shall not be modified.**

**Section VII. Special Conditions of Contract (“SCC”)**

This section contains the form of those clauses of the Contract that supplement the GCC and that are to be completed by the Purchaser for each procurement of Goods and Related Services. **The text in this section must not be modified except in limited circumstances, and then only with the prior approval of MCC. Additional project-specific conditions may be developed by the Purchaser, with the approval of MCC, to the extent necessary.**

**Section VIII. Contract Forms and Annexes**

This section contains forms and annexes to be sent to the successful Offeror.

**[Insert Specific Procurement Notice]**

**BIDDING DOCUMENT**

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

**[Purchaser]**

**On Behalf of:**

**The Government of [Country]**

**[Accountable Entity]**

**Program**

**Funded by**

**THE UNITED STATES OF AMERICA**

**Through**

**THE MILLENNIUM CHALLENGE CORPORATION**

**for**

**Procurement of Goods and Related Services**

**\*\*\***

**[Name of the Procurement]**

**\*\*\***

**[Procurement ref number]**

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# PART 1 Bidding Procedures

## Section I Instructions to Offerors

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**Instructions to Offerors**

|  |  |  |  |
| --- | --- | --- | --- |
|  | | General | |
| Definitions | | In Part 1 (Bidding 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 (Contract Documents) 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.  Throughout this Bidding Document if the context so requires, words indicating the singular also include the plural and vice versa, and the feminine means the masculine and vice versa.   1. “Accountable Entity” means the entity designated by the Government to implement the Compact or Threshold Program, **identified in the DS.** 2. “Addendum” means a modification to this Bidding Document issued by the Purchaser. 3. “Associate” means any entity that forms the Offeror or Supplier. A Subcontractor is not an Associate. 4. “Association” or “Joint Venture” or “JV” means an association of entities that forms the Offeror or Supplier, with or without a legal status distinct from that of its members. 5. “Bid Security” means the security an Offeror may be required to furnish as part of its Offer. 6. “Bidding Document” means this document, including any subsequent amendments, prepared by the Purchaser for the selection of the Supplier. 7. “Compact” means the Millennium Challenge Compact **identified in the DS**. 8. “Compact Development Funding Agreement” or “CDF Agreement” means the Compact Development Funding Agreement **identified in the DS**. 9. “Contract” means the contract proposed to be entered into between the Purchaser and the Supplier, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 3 of this Bidding Document. 10. “Data Sheet” or “DS” means Section II of this Bidding Document used to reflect specific requirements and/or conditions. 11. “days” refers to calendar days, unless otherwise specified as “business day”. A business day is any day that is an official working day in the Accountable Entity country and excludes the official public holidays. 12. “Final Destination” means the place(s) where the Goods are to be delivered, and/or installed, as prescribed in ITO Sub-Clause 15.6. 13. “GCC” means the General Conditions of Contract. 14. “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract. 15. “Government” means the Government **identified in the DS**. 16. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability. 17. “Implementing Entity” means a Government affiliate **identified in the DS** engaged by the Accountable Entity for the purposes of compact implementation. 18. “Instructions to Offerors” or “ITO” means Section I of this Bidding Document, including any amendments, which provides Offerors with all information needed to prepare their Offers. 19. “in writing” means communicated in written form (e.g., by paper, mail, facsimile, e-mail or other electronic means). 20. “*MCC’s AFC Policy*” has the meaning provided in ITO Clause 3. 21. “*MCC Counter-Trafficking in Persons Policy*” means the policy identified in ITO Clause 4. 22. “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government. 23. “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Compact. 24. “*MCC Gender Policy*” means the MCC Gender Policy and its amendments updated from time to time on the MCC website at https://www.mcc.gov/ 25. “*MCC Procurement Policy and Guidelines*” or “MCC PPG” means the *MCC Accountable Entity Procurement Policy and Guidelines* and its amendments posted from time to time on the MCC website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). 26. “Notice of Intent to Award” means the completed form with the heading “Notice of Intent to Award” which will be issued by the Purchaser in accordance with ITO Sub-clause 42.1. 27. “Offer” means an offer for the provision of the Goods and Related Services submitted by an Offeror in response to this Bidding Document. The words “Offer” and “Bid” may be used interchangeably. 28. “Offeror” means any eligible entity or person, including any associate of such eligible entity or person that submits an Offer. The word “Bidder” may also be used to indicate the Offeror 29. “Purchaser” means the entity **identified in the DS**, and the party with which the Supplier signs the Contract for the supply of Goods and Related Services. 30. “Related Services” means the services incidental to the supply of the Goods such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract. 31. “SCC” means the Special Conditions of Contract. 32. “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 Goods and Related Services. 33. Sexual harassment is defined in the *Guidance Note to MCAs on Sexual Harassment* available at www.mcc.gov. 34. “Subcontractor” means any entity to whom an Offeror intends to subcontract any part of the Goods and Related Services. 35. “Supplier” means the entity that provides the Goods and Related Services to the Purchaser under the Contract. 36. “Taxes” has the meaning given to the term in the Compact [and CDF Agreement] [or Threshold Program Grant Agreement]. 37. “Threshold Program Grant Agreement” means the Threshold Program Grant Agreement **identified in the DS**. 38. “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC PPG. 39. “Ultimate Beneficial Owner” means an individual who (i) directly or indirectly controls more than 10% of the shares of the company; or (ii) directly or indirectly controls more than 10% of the voting rights of the company; or (iii) has the right to appoint a majority of the board of directors. | |
| 1. Scope of bidding | | * 1. The Purchaser has issued this Bidding Document for the procurement of Goods and Related Services as specified in Section V. Schedule of Requirements. The awarded Offeror will be determined according to the selection method **specified in the DS,** according to the principles set out in the MCC PPG in accordance with Section III. Qualification and Evaluation Criteria. The name and identification number of the Contract, the number and description of the lot(s), as well as the estimated budget, are **specified in the DS**. | |
| 1. Source of Funds | | * 1. The United States of America, acting through the MCC, and the Government have entered into the Compact. The Government, acting through the Accountable 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 Accountable 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 Purchaser. | |
| 1. Fraud and Corruption | | * 1. MCC requires that all beneficiaries of MCC Funding, including the Accountable Entity and any Offerors, Suppliers, Contractors, Subcontractors, Consultants and Sub-consultants, and non-consulting Service Providers 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. This Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the Accountable Entity that they have acceptable commitments and procedures in place to address the potential for fraudulent and corrupt practices.  1. 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”: 2. “***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; 3. “***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, or manipulate prices or to otherwise deprive the Accountable Entity of the benefits of free and open competition; 4. “***corruption***” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Accountable 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.; 5. “***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; 6. “***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. 7. “***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 Additional Provisions that will be made a part of MCC-funded contracts. 8. The Purchaser will reject an Offer (and MCC will deny approval of a proposed Contract award) if it determines that the Offeror 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. 9. MCC and the Accountable Entity have the right to sanction an Offeror or Supplier, including declaring the such party ineligible, either indefinitely or for a stated period of time, to be awarded an MCC-funded contract if at any time either the Accountable Entity or MCC determines that the Offeror or Supplier 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. 10. Per MCC PPG, MCC and the Accountable Entity have the right to require any Offeror or Supplier to permit the Accountable Entity, MCC, or any designee of MCC, to inspect the Offeror's or Supplier’s, or any of the Supplier's suppliers or Subcontractors on the Contract, accounts, records and other documents relating to the preparation and submission of an Offer or performance of an MCC-funded contract and to have them audited by auditors appointed by MCC or by the Accountable Entity with the approval of MCC. 11. 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 Accountable 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. The Additional Provisions (Annex A of the Contract) of this Bidding Document may set certain prohibitions, Supplier requirements, remedies and other provisions that will be made a binding part of any Contract that may be entered into. As such, those provisions, if included, should be given careful consideration.   3. 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 Policy”) that can be found on MCC’s website (<https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>). All contracts funded by MCC are required to comply with the C-TIP Policy’s 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 Accountable Entity and implemented by the corresponding Supplier). | |
| MCC Environmental Guidelines and IFC Performance Standards | | * 1. The Offerors and the Supplier shall ensure that their activities, including any activities carried out by Subcontractors, 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 Offerors and the Supplier 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. Eligible Offerors | | * 1. The eligibility criteria set forth in this Bidding Document will apply to the Offeror, including all parties constituting the Offeror, for any part of the Contract, including related services.   2. An Offeror may be a private entity, certain government-owned entities (in accordance with MCC PPG as described in ITO Sub-Clause 5.6), or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement of association in the form of a joint venture or other association | |
|  | | * 1. An Offeror, all parties constituting the Offeror, and any subcontractors and suppliers for any part of the Contract, including related services, may have the nationality of any country, subject to the nationality restrictions specified in this ITO Clause 5. An entity will be deemed to have the nationality of a country if such entity is constituted, incorporated, or registered in, and operates in conformity with, the provisions of the laws of that country.   2. Offerors and Suppliers must also satisfy the eligibility criteria contained in the MCC PPG. In the case where an Offeror or Supplier intends to join with an associate or subcontract 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.   3. No full-time key professional personnel of an Offeror currently contracted by any Accountable Entity shall be proposed to work as, or on behalf of, any Offeror. In the case where an Offeror seeks to engage such full-time key professional personnel, it should seek the written approval from the Accountable Entity for the inclusion of such a person, prior to the Offeror’s submission of its Offer. | |
| Government-Owned Enterprises | | * 1. Government-Owned Enterprises (“GOEs”) are not eligible to compete for MCC-funded contracts for goods, works or consulting services. Accordingly, GOEs (i) may not be party to any MCC-funded contract for goods (which includes contracts for the supply and installation of information systems), works or consulting services procured through an open solicitation process, limited bidding or direct contracting; and (ii) may not be prequalified or shortlisted for any MCC-funded contract for goods, works or consulting services anticipated to be procured through these means. This prohibition does not apply to Government-owned Force Account units, local public utility operators, educational institutions and research centers, or any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with the MCC PPG. All Offerors must certify their status as part of their Offer submission. | |
| Joint Venture or Association | | * 1. In the case where an Offeror is, or proposes to be, a joint venture or other association (a) all members of the joint venture or association must satisfy the legal, financial, litigation and other requirements set out in this Bidding Document; (b) all members of the joint venture or association will be jointly and severally liable for the execution of the Contract; and (c) the joint venture or association 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 joint venture or the association during the bidding process and, in the event the joint venture or association is awarded the Contract, during Contract performance. | |
| Conflict of Interest | | * 1. The Offerors and the Supplier shall not have a conflict of interest. All Offerors found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated and the mitigation is approved by the Accountable Entity after receiving a "no-objection" from MCC. The Purchaser requires that Offerors and the Supplier hold the Accountable Entity’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, an Offeror or Supplier, including all parties constituting the Offeror or Supplier, 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 procurement process contemplated by this Bidding Document, or 2. have the same legal representative as another Offeror for purposes of this Offer; 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 Offer of another Offeror, or influence the decisions of the Purchaser regarding the selection process for this procurement; or 4. participate in more than one Offer in this process; participation by an Offeror or any party constituting the Offeror in more than one Offer will result in the disqualification of all Offers in which the party is involved; however, this provision does not limit the inclusion of the same Subcontractor in more than one Offer; or 5. are, or have been associated in the past, with a person or entity, or any of their affiliates, which has been engaged to provide consulting services for the preparation of the specifications, requirements, or other documents to be used for the procurement and provision of the Goods and Related Services under the Contract; or 6. are themselves, or have a business or family relationship with, (i) a member of the Accountable Entity’s board of directors or staff, (ii) the project’s Implementing Entity’s staff, or (iii) the Procurement Agent or Fiscal Agent (as defined in the Compact or related agreements) hired by the Accountable 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 or any section thereof, (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 7. any of their affiliates have been or, at present, are engaged by the Accountable Entity in the capacity of the Implementing Entity, Procurement Agent, Fiscal Agent, or Auditor under the Compact.    1. An Offeror or a Supplier that has been engaged by the Accountable Entity to provide goods, works or non-consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, an Offeror 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.    2. Offerors and the Supplier have an obligation to disclose any situation of actual or potential conflict of interest. Failure to disclose said situations may lead to the disqualification of the Offeror or the termination of the Contract. | |
| Government Employees | | * 1. The following restrictions shall apply:   2. No member of any Accountable Entity’s board of directors or current employees of the Accountable Entity (whether part time, or full time, paid or unpaid, in leave status, etc.) shall be proposed or work as, or on behalf of, any Offeror or Supplier.   3. Except as provided in ITO Sub-Clause 5.11 (d), no current employees of the Government shall work as Personnel under their own ministries, departments or agencies.   4. Recruiting former Accountable Entity or Government employees to perform services for their former ministries, departments or agencies is acceptable provided no conflict of interest exists.   5. If an Offeror proposes any Government employee as Personnel in their Offer, such Personnel must have written certification from the Government confirming that: (i) they will be on leave without pay from the time of their official Offer submission and will remain on leave without pay until the end of their assignment with the Offeror/Supplier and they are allowed to work full-time outside of their previous official position; or (ii) they will resign or retire from Government employment on or prior to the Contract award date. Under no circumstances shall any individuals described in (i) and (ii) be responsible for approving the award of this Contract. Such certification shall be provided to the Purchaser by the Offeror as part of its Offer.   6. No employee of any MCC-funded Accountable entity in any other country that is responsible for managing or administering any contract, grant, or other agreement between the Offeror and such other MCC-funded Accountable entity shall be proposed or work as, or on behalf of, any Offeror or Supplier.   7. In the case where an Offeror seeks to engage the services of any person falling under ITC Sub-clauses 5.11(a) – 5.11(e), who may have left the Accountable Entity (or such other MCC-funded Accountable entity, as the case may be) within a period of less than twelve (12) months of the date of this Bidding Document, it must obtain a “no-objection” from the Accountable Entity for the inclusion of such a person, prior to the Offeror’s submission of its Offer. The Accountable Entity must also obtain a “no-objection’ from MCC before replying the Offeror on any related correspondence. | |
| Ineligibility and Debarment | | * 1. An Offeror or Supplier, all parties constituting the Offeror or Supplier, 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  1. a declaration of ineligibility for engaging in coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices as contemplated by ITO Sub-Clause 3.1 above, or 2. that has been declared ineligible for participation in a procurement in accordance with the procedures set out in the MCC PPG 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. Offerors or the Supplier, all parties constituting the Offeror or Supplier, 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 ITO 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 Offeror or Supplier (including any Associates, Subcontractors and any respective affiliates); 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 Offeror or Supplier (including any Associates, Subcontractors and any respective affiliates) or any payments to entities in such country; or 3. such Offeror or Supplier, any parties constituting the Offeror or Supplier, 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)). | |
|  | | * 1. For all procurements with an estimated value of USD 750,000 and above, the Accountable Entity may use the information on the Offerors' Ultimate Beneficial Owners (UBO) or corporate ownership structure to review if any UBOs are sanctioned or present a conflict of interest. Offerors are required to complete and submit the relevant Beneficial Ownership Disclosure Form using for this purpose the form included in Section IV. Offerors who fail to complete the form may have their Offers rejected. Offerors who fail to submit supporting documents at the request of the Accountable Entity will have their Offers rejected. | |
| Evidence of Continued Eligibility | | * 1. Offerors and the Supplier 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. Offerors and the Supplier will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Offer and during performance of the Contract if the Offeror is awarded the Contract, as requested in this Bidding Document. | |
| 1. Eligible Goods, Materials, Equipment and Services | | * 1. The origin of materials, equipment, and services is distinct from the nationality of the Offeror.   2. The Goods and Related Services to be supplied under the Contract may have their origin in any country subject to the same restrictions specified for Offerors and the Supplier in ITO Clause 5 above. At the Purchaser’s request, Offerors will be required to provide evidence of the origin of Goods and Related Services.   3. For purposes of ITO Sub-Clause 6.2, “origin” means the place where the Goods are mined, grown, cultivated, produced, manufactured or processed and from where the services are provided. Goods are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized article results that differs substantially in its basic characteristics, purposes or utility from its underlying components. With respect to Related Services, “origin” means the place from which the Related Services are supplied. | |
|  | | 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 ITO Clause 9.   **Part 1 – Bidding Procedures**   * Section I. Instructions to Offerors * Section II. Data Sheet * Section III. Qualification and Evaluation Criteria * Section IV. Submission Forms   **Part 2 – Supply Requirements**   * Section V. Schedule of Requirements   **Part 3 – Contract Documents**   * Section VI. General Conditions of Contract * Section VII. Special Conditions of Contract * Section VIII. Contract Forms and Annexes   1. Unless obtained directly from the Purchaser, the Purchaser is not responsible for the completeness of the Bidding Document, responses to requests for clarification, the Minutes of the pre-Offer conference (if any), or Addenda to the Bidding Document. In case of any contradiction, documents obtained directly from the Purchaser shall prevail.   2. The Offeror 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 Offer. | |
| 1. Clarification of Bidding Document | | | * 1. A prospective Offeror requiring any clarification of this Bidding Document shall contact the Purchaser in writing, at the Purchaser’s address **indicated in the DS**. The Purchaser will respond in writing to any request for clarification, provided that such a request is received no later than the date **indicated in the** DS prior to the deadline for submission of Offers. The Purchaser shall send written copies of the responses, including a description of the inquiry but without identifying its source, to Offerors who have registered or obtained the Bidding Document directly from the Purchaser by the date **specified in the DS**. The Purchaser will also post a copy of the responses and inquiry descriptions to the Purchaser’s website, if one exists. Should the clarification result in changes to the essential elements of this Bidding Document, the Purchaser shall amend this Bidding Document following the procedure under ITO Clause 9 and Sub-Clause 25.2.   2. The Offerors’ designated representatives are invited to attend a pre-Offer conference, **if provided for in the DS**. 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-Offer conference is strongly advised, but not mandatory. Attending any pre-Offer conference and/or a site visit shall not be taken into account in the evaluation of Offers. The cost of attending the pre-Offer conference and/or Site Visit shall be at the Offeror’s own expense.   3. The Offeror is requested, as far as possible, to submit any questions in writing, to reach the Purchaser no later than the number of days before the pre-Offer conference as specified in the DS.   4. Minutes of the pre-Offer conference, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the conference, will be posted on the Purchaser’s website if one exists, and shall be transmitted in writing to all Offerors who have registered or obtained the Bidding Document directly from the Purchaser. Any modification to this Bidding Document that may become necessary as a result of the pre-Offer conference shall be made by the Purchaser exclusively through the issue of an Addendum and not through the minutes of the pre-Offer Conference. |
| 1. Amendment of Bidding Document | | | * 1. At any time prior to the deadline for submission of Offers, the Purchaser may amend this Bidding Document by issuing Addenda.   2. All Addenda issued shall be part of this Bidding Document shall be communicated in writing to all Offerors that have registered or obtained the Bidding Document directly from the Purchaser, and posted on the Purchaser’s website, if one exists.   3. To give prospective Offerors reasonable time in which to take an Addendum into account in preparing their Offers, the Purchaser may extend the deadline for the submission of Offers at its sole discretion. |
|  | | | Preparation of Offers |
| 1. Cost of Bidding | | | * 1. The Offeror shall bear all costs associated with the preparation and submission of its Offer 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 Offer | | | * 1. The Offer, as well as all correspondence and documents relating to the Offer exchanged by the Offeror and the Purchaser, shall be written in the language **specified in the DS.** Supporting documents and printed literature that are part of the Offer may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language **specified in the DS**, in which case, for purposes of interpretation of the Offer, such translation shall govern. |
| 1. Documents Comprising the Offer | | | * 1. The Offer shall comprise the duly filled Submission Forms and any other document **required in the DS**.   2. In addition to the requirements above, Offers submitted by a joint venture or other association shall include a copy of the joint venture/Association agreement entered into by all members. Alternatively, a letter of intent to execute a joint venture/Association agreement shall be signed by all members and submitted with the Offer, together with a copy of the proposed agreement.   3. If there is a change in the legal structure of the Offeror after the Offer submission, the Offeror is required to immediately inform the Purchaser. However, any change of legal structure shall not be used to satisfy a qualification requirement that was not satisfied as of the deadline of Offer submission. |
| 1. Submission Forms | | | * 1. The Letter of Offer, the Price Schedules and all other forms and schedules specified in the DS ITO Clause 12.1 shall be prepared using the relevant forms furnished in Section IV. Submission 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 Offers | | | * 1. Unless otherwise **specified in the DS**, alternative Offers shall not be considered. |
| 1. Offer Prices and Discounts | | | * 1. The prices and discounts quoted by an Offeror in the Letter of 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 Offeror shall list and price all lots and items separately in the Price Schedules. Omitted items and items against which no price is entered by the Offeror will not be paid for by the Purchaser and shall be deemed covered by the prices of other items in the Price Schedules.   3. Offerors are required to quote the price for the commercial, contractual and technical obligations outlined in the Bidding Document. The price to be quoted in the Letter of Offer, in accordance with ITO Sub-Clause 15.1, shall be the total price of the Offer, including any discounts offered.   4. The Offeror shall quote any unconditional discounts and indicate the method for their application in the Letter of Offer.   5. The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in Incoterms edition **specified in the DS** published by The International Chamber of Commerce.   6. Prices shall be quoted as specified in each Price Schedule for Goods included in Section IV. Submission Forms and shall be entered in the following manner:   (a) The all-inclusive price of Goods quoted DDP, including transportation, insurance and all services required to deliver the Goods to their Final Destination **specified in the DS**;  (b) The price for each item comprising the Related Services as specified in the Schedule of Requirements (other than transportation, insurance and other services required to deliver the Goods to their Final Destination).   * 1. Prices quoted by the Offeror shall be fixed during an Offeror’s performance of the Contract and not subject to variation on any account, unless otherwise **specified in the DS**. An Offer submitted with “adjustable prices” shall be treated as non-responsive and shall be rejected. However, if in accordance with the DS, prices quoted by the Offeror shall be subject to adjustment during the performance of the Contract, an Offer submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero for the evaluation purpose.   2. If so **indicated in the DS** ITO Sub-Clause 1.1, Offers shall be invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise **indicated in the DS**, 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. Offerors 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 ITO Sub-Clause 15.4 provided the Offers for all lots are submitted and opened at the same time.   3. The General Conditions of Contract (Section VI) sets forth the tax provisions of the Contract. Offerors should review this clause carefully in preparing their Offer. |
| 1. Currencies of Offer and Payment | | | * 1. The currency(ies) of the Offer and payment shall be as **specified in the DS**. |
| 1. Documents Establishing the Eligibility of the Offeror | | | * 1. To establish their eligibility in accordance with ITO Clause 5, Offerors shall complete the Offer Submission Form (SF1) and the Government-Owned Enterprise Certification Form (SF1.1), included in Section IV. Submission Forms. |
| 1. Documents Establishing the Eligibility of the Goods and Related Services | | | * 1. To establish the eligibility of the Goods and Related Services in accordance with ITO Clause 5, Offerors shall complete the country of origin declarations in the Price Schedule for Goods Forms (SF8, SF9), included in Section IV. Submission Forms.   2. If so **indicated in the DS**, an Offeror that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer’s Authorization using the form included in Section IV. Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser’s Country. Alternatively, if so **indicated in the DS**, the Offeror must be an Original Equipment Manufacturer (OEM) and manufacture or produce the Goods it offers to supply.   3. If so **indicated in the DS**, in case of an Offeror not doing business within the Purchaser’s Country, the Offeror shall be (if awarded the Contract) represented by an agent in the country equipped and able to carry out the Supplier’s maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and this agent shall meet the qualification criteria related to the post-delivery period specified in Section III. Evaluation and Qualification Criteria, if any. |
| 1. Documents Establishing the Conformity of the Goods and Related Services | | | * 1. To establish the conformity of the Goods and Related Services to the Bidding Document, the Offeror shall furnish as part of its Offer the documentary evidence that the Goods and Related 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 Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related 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. An Offeror shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the DS**, following commencement of the use of the Goods by the Purchaser. Unless specified otherwise in the DS and Section III. Qualification and Evaluation Criteria, these prices shall not be included in the Offer evaluation.   4. 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. An Offeror 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 Offeror | | | * 1. The documentary evidence of the Offeror’s qualifications to perform the Contract if its Offer is accepted shall establish, to the Purchaser’s satisfaction, the criteria specified in Section III. Qualification and Evaluation Criteria. |
| 1. Period of Validity of Offers | | | * 1. Offers shall remain valid for the period **specified in the DS** after the Offer submission deadline date prescribed by the Purchaser. An Offer valid for a shorter period shall be rejected by the Purchaser as non-responsive.   2. In exceptional circumstances, prior to the expiration of the Offer validity period, the Purchaser may request Offerors to extend the period of validity of their Offers. The request and the Offeror’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 Offer validity period. An Offeror may refuse the request without forfeiting its Bid security. An Offeror granting the request shall not be required or permitted to modify its Offer.   3. If the award is delayed by a period exceeding eighty-four (84 days) beyond the expiry of the initial Offer validity, the following conditions shall apply:  1. Rates quoted by Offerors in their Price Schedules shall be adjusted by the factor **specified in the DS**; and 2. Offer evaluation shall be based on the Offer price without taking into consideration any adjustment applied pursuant to paragraph (a) above. |
| 1. Bid Security | | | * 1. **If so required in the DS**, the Offeror shall furnish, as part of its Offer, a Bid Security in original form. If an Offeror is bidding on multiple lots, the Bid Security required shall be as **specified in the DS**.   2. The Bid Security shall be in the amount and currencies **specified in the DS** and shall:  1. at the Offeror’s option, be in the form of either an unconditional bank guarantee substantially in the format of Form of Bid Security (Bank Guarantee) included in Section IV. Submission Forms, or another type of security **specified in the DS;** 2. be issued by a reputable institution selected by the Offeror and located in any eligible country (as determined in accordance with ITO Clause 5). If the Bid Security is issued by a financial institution located outside the Purchaser’s country, the Bid Security must be confirmed by a correspondent financial institution located within Purchaser’s country, satisfactory to the Purchaser, to make it enforceable. In the case of a bank guarantee, the Bid Security shall be submitted either using the Bid Security Form included in Section IV. Submission Forms, or another substantially similar format approved by the Purchaser prior to Offer submission. In either case, the form must include the complete name of the Offeror and identify the correspondent financial institution if the issuing financial institution is located outside the Purchaser's country. 3. be payable promptly upon written demand by the Purchaser in case the conditions listed in ITO Sub-Clause 22.3 are invoked; 4. be submitted in its original form; copies will not be accepted; and 5. remain valid for a period of twenty-eight (28) days beyond the original validity period of Offers, or beyond any period of extension subsequently requested under ITO Sub-Clause 21.2.    1. Any Offer not accompanied by a substantially responsive Bid Security (if required) in accordance with ITO Clause 22, shall be rejected by the Purchaser as nonresponsive. The Bid Security may be forfeited, at the Purchaser's sole discretion: 6. if an Offeror withdraws its Offer during the period of Offer validity specified by the Offeror in the Letter of Offer, except as provided in ITO Sub-Clause 21.2 in case of Offer submission extension; or 7. if the successful Offeror fails within the specified time to: 8. furnish the required Performance Security in accordance with GCC Clause 16 as described in ITO Clause 42; or 9. sign the Contract in accordance with ITO Clause 41.    1. The Bid Security of a Joint Venture or Association must be in the name of the association that submits the Offer. If the association 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 or Association.    2. The procedure for the submission of the Bid Security is provided for in ITO Sub-Clause 24.3. |
| 1. Format and Signing of Offer | | | * 1. Only one copy of the Offer shall be submitted. In all instances, this copy shall be construed to be the original. The signatures may be written or electronically signed using any applicable software.   2. The Offer 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 Offeror, in which case such corrections shall be initialed by the person or persons signing the Offer.   3. The Offer shall be typed and shall be signed by a person duly authorized to sign on behalf of the Offeror. A letter of authorization shall consist of a written confirmation **as specified in the DS** and shall be attached to the Offer. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Offer where entries or amendments have been made shall be signed or initialed by the person(s) signing the Offer.   4. An Offer submitted by a Joint Venture or other association shall comply with the following requirements:  1. be signed so as to be legally binding on all partners; and 2. include the Offeror's representatives’ authorization and be signed by those legally authorized to sign on behalf of the Joint Venture or association. |
|  | | | Submission and Opening of Offers |
| 1. Offer Submission | | | * 1. Offerors shall submit their Offers via electronic means, as provided below. |
|  | 1. The Offer submission forms should be in the form and format shown in Section IV. Submission Forms. 2. If required in ITO Sub-Clause 23.3, the authorized representative of the Offerors signing the Offers shall provide within the Offer an authorization in the form of a written power of attorney demonstrating that the person signing has been duly authorized to sign on behalf of the Offeror, and its Associates, as applicable. 3. Offerors shall be provided with a File Request Link (FRL) **specified in the DS** upon requesting the Bidding Document which shall be used to submit their Offers and all other Offer-related documents. 4. Submissions either by hard copy or by email are not acceptable and shall result in Offer rejection. The Purchaser shall not be responsible for misplaced or mis-sent Offers submitted not using the FRL. This circumstance may be cause for Offer rejection. 5. The FRL shall expire on the Offer submission deadline specified in ITO Sub-Clause 25.1. The Offer and other related documents shall be submitted solely via the FRL, which can be used more than once to submit additional documents. 6. All submitted documents (whether as standalone files or files in folders) shall be in Microsoft Office or PDF format. The documents comprising the Offer may be submitted in separate files, each of which not exceeding 10GB. Compressed files or folders are discouraged, thus the Purchaser assumes no responsibility for the partial or complete damage or failure to open or access documents submitted in any archived and/or compressed format (compressed by WinZip - including any application of the zip family-, WinRAR, 7z, 7zX, or any other similar formats). 7. Offers are not required to be password-protected, but may be protected at the Offeror’s discretion. Offerors who choose to password-protect their Offers can do so to protect against inadvertent untimely opening of their Offer, but at their own responsibility for providing the correct password as **specified in the DS**. If an Offeror fails to provide the correct password that opens the files so its relevant contents can be announced by the deadline provided in the DS, their Offer shall be rejected. Offerors should send this password to the email address **indicated in the** DS; the password cannot be sent via the File Request Link. 8. Offerors should use the following filename format for Offers:   [Offeror’s Name] – Offer Title - Ref# [insert Bidding Document reference]   1. Offerors are informed that the capability of their internet bandwidth will determine the speed in which their Offers are uploaded via the FRL. Offerors are therefore advised to commence the process of uploading their Offers via the FRL in good time before the Offer submission deadline. As noted above, this link shall expire at the Offer submission deadline, and cannot be reopened except under the provision of ITO Sub-Clause 9.3 and ITO Sub-Clause 25.2. 2. The scanned copy of the Bid Security must be submitted by the deadline for submission of Offers in ITO Sub-Clause 25.1. The hard copy of the Bid Security shall be submitted by the date **specified in the DS**. Failure to submit the hard copy by that date shall result in rejection of the Offer. | | | |
| 1. Deadline for Submission of Offers | * 1. Offers must be received by the Purchaser no later than the date and time **specified in the DS**, or any extension of this date in accordance with ITO Sub-Clause 25.2.   2. The Purchaser may, at its discretion, extend the deadline for the submission of Offers by issuing an amendment in accordance with ITO Clause 9, in which case all rights and obligations of the Purchaser and the Offerors previously subject to the original deadline shall then be subject to the deadline as extended. | | | |
| 1. Late Offers | * 1. The Purchaser shall not consider any Offer that arrives after the deadline for submission of Offers, in accordance with ITO Clause 25. Any Offer received by the Purchaser after the deadline for submission of Offers shall be declared late and rejected. | | | |
| 1. Withdrawal, Substitution, and Modification of Offers | * 1. An Offeror may withdraw, substitute, or modify its Offer prior to the deadline for the submission of Offers by sending a written notice - through the File Request Link indicated in ITO Sub-Clause 24.1 c) - duly signed by an authorized representative, and shall include a copy of the authorization of the person signing in accordance with ITO Sub-Clause 23.3. The corresponding substitution or modification of the Offer must accompany the respective written notice. All notices must be:  1. submitted in accordance with ITO Clauses 24 and 25, and in addition, the respective submissions shall be clearly marked “Withdrawal,” “Substitution,” or “Modification,” and 2. received by the Purchaser prior to the deadline prescribed for submission of Offers, in accordance with ITO Clause 25.    1. Offers requested to be withdrawn in accordance with this ITO Clause shall not be opened.    2. No Offer may be withdrawn, substituted, or modified in the interval between the deadline for submission of Offers and the expiration of the period of Offer validity specified by the Offeror in the Letter of Offer or any extension thereof. | | | |
| 1. Offer Opening | * 1. The Purchaser shall open the Offers in a public opening that will include Offerors’ representatives as well as anyone who chooses to attend at the time and in the **place specified in the DS**. Any specific opening procedures required shall be as **specified in the DS.** | | | |
|  | * 1. Firstly, submissions marked “Withdrawal” shall be opened and the name of the Offeror read out, while Offers for which an acceptable notice of withdrawal has been submitted pursuant to ITO Clause 27 shall not be opened. No Offer withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Offer opening. Next, submissions marked “Substitution” shall be opened and read out and exchanged with the corresponding Offer being substituted, and the substituted Offer shall not be opened. No Offer substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Offer opening. Submissions marked “Modification” shall then be opened and read out with the corresponding Offer. Offer modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Offer opening. Only submissions that are opened and read out at Offer opening shall be considered further. | | | |
|  | * 1. All other submissions shall be opened one at a time, reading out: the Offerors’ names, the total amount of each Offer and of any alternative Offer (if requested or permitted in DS), any discounts, substitutions, or modifications, the presence or absence of Bid Security and such other details as the Purchaser may consider appropriate. No Offer shall be rejected at Offer opening except for the late Offers pursuant to ITO Clause 26. Substitutions and modifications submitted pursuant to ITO Clause 27 that are not opened and read out at Offer opening shall not be considered for further evaluation regardless of the circumstances. | | | |
|  | * 1. The Purchaser shall prepare minutes of the Offer opening, which shall include, at a minimum: the name of the Offeror, the existence of a signed Letter of Offer, the Offer price, whether there is a withdrawal, substitution, or modification, and the presence or absence of a Bid Security, if one was required. A copy of the record shall be distributed to all Offerors who submitted Offers on time, and posted on the Purchaser’s website, if one exists. | | | |
|  | Evaluation of Offers | | | |
| 1. Confidentiality | * 1. Information relating to the examination, clarification, evaluation, and comparison of Offers and recommendations for the award of the Contract shall not be disclosed to the Offerors or any other persons not officially concerned with such process until notification of the evaluation results has been issued pursuant to ITO Clause 39. The undue use by any Offeror of confidential information related to the process may result in the rejection of its Offer or may invalidate the entire procurement process.   2. Any attempt or effort by an Offeror to influence the Purchaser in the evaluation of Offers or Contract award decisions may subject the Offeror 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 Offer opening to the time of Contract award, if any Offeror 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 DS**. | | | |
| 1. Clarification of Offers | * 1. To assist in the examination and evaluation of Offers, the Purchaser may, at its discretion, ask any Offeror for a clarification of its Offer. Any clarification submitted by an Offeror that is not in response to a request by the Purchaser shall not be considered. The Purchaser’s request for clarification and the Offeror’s response shall be in writing. No change in the prices or substance of the Offer shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by Purchaser in the evaluation of the Offers in accordance with ITO Clause 32.   2. If an Offeror does not provide clarification of its Offer by the date and time set in the Purchaser’s request for clarification, its Offer may be rejected, and if so, its Bid Security returned. | | | |
| 1. Responsiveness of Offers   Nonconformities | * 1. During the evaluation of Offers, the following definitions apply:  1. “*deviation*” is a departure from the requirements specified in the Bidding Documents; 2. “*reservation*” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and 3. “*omission*” is the failure to submit part or all of the information or documentation required in the Bidding Documents.    1. A substantially responsive Offer is one that conforms to all the terms, conditions, and specifications of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:       * + 1. if accepted, would:           2. affect in any substantial way the scope, quality, or performance of the Goods and Related Services; or   (ii) limit in any substantial way, inconsistent with this Bidding Document, the Purchaser’s rights or the Offeror’s obligations under the proposed Contract; or  (b) if rectified, would unfairly affect the competitive position of other Offerors presenting substantially responsive Offers.   * 1. If an Offer is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Purchaser, and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.   2. Provided that an Offer is substantially responsive, the Purchaser may waive any nonconformities in the Offer.   3. Provided that an Offer is substantially responsive, the Purchaser may request that the Offeror submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Offer related to documentation requirements. Such omission shall not be related to any aspect of the price of the Offer. Failure of the Offeror to comply with the request may result in the rejection of its Offer.   4. Provided that an Offer is substantially responsive, the Purchaser shall rectify quantifiable nonmaterial nonconformities related to the Offer Price. | | | |
| 1. Correction of Arithmetic Errors | * 1. 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.    1. If an Offeror does not accept the correction of errors, its Offer shall be rejected, and its Bid Security returned as described in ITO Sub-Clause 46.1. | | | |
| 1. Examination of Terms and Conditions, Technical Evaluation | * 1. The Purchaser shall examine the Offer to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Offeror without any material deviation or reservation.   2. The Purchaser shall evaluate the technical aspects of the Offer, to confirm that all requirements specified in the Schedule of Requirements of the Bidding Document have been met without any material deviation or reservation.   3. If, after the examination of the terms and conditions and the technical evaluation, the Purchaser determines that the Offer is not substantially responsive in accordance with ITO Clause 31, it shall reject the Offer. | | | |
| 1. Conversion to Single Currency | * 1. For evaluation and comparison purposes, the currency(ies) of the Offers shall be converted into a single currency **as specified in the DS**. | | | |
| 1. Offer Evaluation | * 1. The Purchaser shall use the criteria and methodologies listed in this Clause, as complemented by the provisions of Section III. Qualification and Evaluation Criteria. No other evaluation criteria or methodologies shall be permitted.   2. Purchaser’s evaluation of an Offer will exclude and not take into account:      + - 1. any Taxes other than Taxes already paid in connection with the importation of Goods manufactured outside of the Purchaser’s country that are already imported;          2. any allowance for price adjustment during the period of execution of the contract, if provided in the Offer; and          3. any other factors specified as being excluded in Section III. Qualification and Evaluation Criteria.   3. **If so indicated in the DS**, Purchaser’s price evaluation of an Offer may require the consideration of other factors, in addition to the Offer price quoted in accordance with ITO Clause 15. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of Offers, unless otherwise specified in Section III. Qualification and Evaluation Criteria.   4. In accordance with the MCC PPG, the Offeror’s performance on earlier contracts will be considered a factor in the Purchaser’s qualification of the Offeror. The Purchaser reserves the right to check the performance references provided by the Offeror or to use any other source at the Purchaser’s discretion. If the Offeror (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 Accountable Entity, anywhere in the world), whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role, the Offeror must identify the contract in its list of references submitted with its Offer using Bidding Form SF7: References of Past Contracts. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Offeror’s record of performance in prior contracts. However, the failure to list any contracts because the Offeror (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 Offeror’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 Offeror’s past performance reports filed in MCC’s Contractor Past Performance Reporting System (“CPPRS”). A negative determination by the Purchaser on the Offeror’s record of performance in prior contracts may be a reason for disqualification of the Offeror at the discretion of the Purchaser. | | | |
| 1. Price Reasonableness | * 1. The Purchaser shall make a determination of price reasonableness as required in the MCC PPG. If the price reasonableness analysis suggests that an Offer is significantly unbalanced or front loaded, the Purchaser may require the Offeror to produce a detailed price analysis for any or all items of the Price Schedules that demonstrates the internal consistency of prices with the implementation methods and schedule proposed.   2. After the evaluation of the information and detailed price analysis presented by the Offeror, the Purchaser may as appropriate:  1. accept the Offer; or 2. require that the total amount of the Performance Security be increased at the expenses of the Offeror to a level not exceeding the percentage **specified in the DS**; or 3. reject the Offer.    1. A negative determination of price reasonableness (either unreasonably high or unreasonably low) may be a reason for rejection of the Offer at the discretion of the Purchaser. The Offeror shall not be permitted to revise its Offer after this determination.    2. If the Offeror declines to increase the Performance Security as required in ITO Sub-Clause 36.2(b), its Offer will be rejected and its Bid Security returned as described in ITO Sub-Clause 46.1. | | | |
| 1. No Margin of Preference | * 1. In accordance with the MCC PPG, a margin of preference for domestic Offerors or any other nationality shall not be used. | | | |
| 1. Qualification of the Offeror | * 1. The Purchaser shall determine to its satisfaction whether the Offeror that is selected as having submitted the Offer that provides the best value for money and is considered substantially responsive to this bidding documents is qualified to perform the Contract satisfactorily.   2. The determination shall be based upon an examination of the documentary evidence of an Offeror’s qualifications submitted by an Offeror and the qualification criteria indicated in Section III. Qualification and Evaluation Criteria.   3. The Purchaser reserves the right to request additional information with which to conduct a risk assessment of legal, technical and financial capacity of the Offeror that is selected for Contract award. The selected Offeror if requested shall demonstrate that:  1. is not involved in any litigation in respect of its bankruptcy, readjustment or liquidation; 2. has a record of successful completion of similar contracts; and 3. has an average annual turnover, or other evidence of financial strength reasonably sufficient to perform a contract in the amount of the Offer.    1. An affirmative determination shall be a prerequisite for award of the Contract to an Offeror. A negative determination shall result in disqualification of the Offer, in which event the Purchaser shall proceed to the next Offer which provides the best value for money to make a similar determination of that Offeror’s capabilities to perform satisfactorily. | | | |
| 1. Purchaser’s Right to Accept Any Offer, and to Reject Any or All Offers | * 1. The Purchaser reserves the right to accept or reject any Offer, or to cancel the bidding process or to reject all Offers at any time prior to Contract award, without thereby incurring any liability to Offerors. In case of annulment, all Bid Securities shall be promptly returned to the Offerors at the Offeror’s request but at the Purchaser’s expense. If all Offers 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 Offers. The Purchaser reserves the right to cancel the procurement if this is no longer in the interest of the Purchaser. | | | |
|  | Award of Contract | | | |
| 1. Award Criteria | * 1. Subject to ITO Sub-Clause 39.1, the Purchaser shall award the Contract to the Offeror whose Offer provides the best value for money and is considered substantially responsive to this Bidding Document, provided that the Offeror is determined to be qualified to perform the Contract satisfactorily. | | | |
| 1. Purchaser’s Right to Vary Quantities at Time of Award | * 1. At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section V. Schedule of Requirements, provided this does not exceed the percentages **indicated in the DS**, and without any change in the unit prices or other terms and conditions of the Offer and the Bidding Document. | | | |
| 1. Notification of Evaluation Results | * 1. Prior to the expiration of the period of Offer validity, the Purchaser shall send the Notice of Intent to Award (“NOITA”) to the successful Offeror. NOITA 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. Delivery of the NOITA shall not constitute the formation of a contract between the Purchaser and the successful Offeror and no legal or equitable rights will be created through the delivery of the Notice of Intent to Award.   2. At the same time it issues the NOITA the Purchaser shall also notify, in writing, all other Offerors of the results of the evaluation. The Purchaser shall promptly respond in writing to any unsuccessful Offeror who, after receiving notification of the bidding results, makes a written request for a debriefing as provided in the MCC PPG, or submits a formal Bid challenge. | | | |
| 1. Bid Challenges | * 1. Offerors 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 DS**. | | | |
| 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 Offeror.   2. The Notification of Award shall specify the sum that the Purchaser will pay the Supplier for the delivery of Goods and Related Services. Until a formal Contract is prepared and executed, the Notification of Award shall constitute a binding Contract between the Purchaser and the Supplier.   3. The Notification of Award shall include the Contract Agreement for the review and signature of the successful Offeror.   4. Within twenty-eight (28) days of issuance from the Purchaser of the Contract Agreement, the successful Offeror shall sign, date, and return it to the Purchaser, along with a Performance Security as per ITO Clause 45, the completed Compliance with Sanctions Certification Form and PS-2 Self-Certification Form for Contractors included in Section VIII. Contract Forms and Annexes. | | | |
| 1. Performance Security | * 1. Within twenty-eight (28) days of receipt of the Notification of Award from the Purchaser, the successful Offeror shall furnish a Performance Security in accordance with GCC Clause 16, using for that purpose the Performance Security Form included in Section VIII. Contract Forms and Annexes, or another form acceptable to the Purchaser. A foreign institution providing a Performance Security shall have a correspondent financial institution located in the Purchaser’s country.   2. Failure of the successful Offeror to submit the Performance Security or to sign the Contract in accordance with ITO Clause 44 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 second ranked Offeror that is qualified to perform the Contract satisfactorily. | | | |
| 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 Offerors and shall publish on the Purchaser’s website (if one exists) and in any other places as may be **specified in the DS**, the results identifying the Offer and the following information:  1. the name of the winning Offeror; 2. the price of the winning Offer 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. Offerors are advised to examine and consider carefully the provisions that are set forth in Annex A (Additional Provisions) 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 Offeror, Supplier 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. | | | |
| 1. Inconsistencies with the MCC PPG | * 1. The procurement that is the subject of this Bidding Document is being conducted in accordance with and is subject in all respects to the MCC PPG. In the event of any conflict between any section or provision of this Bidding Document (including any Addenda that may be issued to this Bidding Document) and the MCC PPG, the terms and requirements of the MCC PPG shall prevail, unless MCC has granted a waiver of the guidelines. | | | |
| 1. Contractor Past Performance Reporting System Requirements | * 1. During the performance of the Contract, the Purchaser shall maintain a performance record of the Contractor in accordance with MCC’s Contractor Past Performance Reporting System as described on MCC’s website. | | | |

## Section II Data Sheet

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| 1. General | |
| **ITO Definitions** | (a) “Accountable Entity” means **[full legal name of the Accountable Entity].**  (o) “Government” means the government of **[country].**  (q) “Implementing Entity” means the **[name of government affiliate],** *[if applicable or enter N/A*].  (cc) “Purchaser” means **[full legal name of the Purchaser].**  *[Note: Insert the applicable definition from the list below and change the rest to "Not Applicable"*  (g) “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.  (h)“Compact Development Funding Agreement” or “CDF Agreement” means [the Compact Development Funding Agreement between MCC and the Government on **[date],** as may be amended from time to time.  (kk) “Threshold Program Grant Agreement” means the Threshold Program Grant Agreement 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.] |
| **ITO 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]**  The estimated budget for this procurement is:  **[insert estimated budget (per lots, if applicable)]** |
| 1. Contents of Bidding Document | |
| **ITO 8.1** | Clarifications may be requested by e-mail not later than **[insert time and date],** so that responses can be issued to all Offerors not later than **[insert date].**  The address for requesting clarifications is:  **[full legal name of the Purchaser]**  Att.: The Procurement Agent  Address: [**insert mailing address]**  Email**: [insert email address]**  Purchaser’s Website Address: **[insert website address]** |
| **ITO 8.2** | A pre-Offer conference will not be held  OR  A pre-Offer conference will be held at **[insert time]** (local time) on **[insert date and location].** Attendance is strongly advised for all prospective Offerors or their representatives but is not mandatory.  OR  A pre-Offer conference will be held at **[insert time]** (local time) on [insert date and location] via webinar through the following links. *[delete whichever is not appropriate]* |
| **ITO 11.1** | The Offer shall be submitted in **[insert acceptable language]**. |
| 1. Preparation of Offers | |
| **ITO 12.1** | Documents comprising the Offer are the following:   1. Letter of Offer (Form SF 1) 2. Government-Owned Enterprise Certification (Form SF 2) 3. Price Schedule for Goods (Form SF 3)\* 4. Price and Completion Schedule for Related Services (Form SF 4)\* 5. Offeror Information (Form SF 5) 6. Party to Joint Venture/Association Information (Form SF 6) 7. Bid Security (Form SF 7) 8. Environmental, Social, Health and Safety Information (Form SF 8) 9. Manufacturer's Authorization (Form SF 9) 10. Financial Capacity (Form SF 10) 11. Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes (Form SF 11) 12. References of Past Contracts (Form SF 12) 13. Completed and certified Compliance with Sanctions Certification (Form SF 13).   **[insert list of additional documents required with the Offer, if applicable]**  **Documents marked with an asterisk \* shall also be submitted in MS Excel format for the ease of review during the evaluation process; in case of inconsistencies, the PDF/signed version will govern** |
| **ITO 14.1** | Alternative Offers **[shall/shall not]** be considered. |
| **ITO 15.5** | The Incoterms edition is **[insert “Incoterms 2010” or insert year of applicable edition]** |
| **ITO 15.6** | The Final Destination of Goods and Related Services is:  **[insert Final Destination]** |
| **ITO 15.7** | The prices quoted by an Offeror shall be fixed for the duration of the Contract. **[MODIFY IF REQUIRED]** |
| **ITO 15.8** | *[if prices quoted are allowed to correspond to less than 100% of the items specified for each lot, or to less than 100% of the quantities specified for each item of a lot, please insert here the allowed percentages; otherwise, insert "Not Applicable"]* |
| **ITO 16.1** | The currency(ies) of the Offer and payment shall be as follows: [**insert currency(ies)]** |
| **ITO 18.2** | Manufacturer’s authorization is: **[insert “required” or “not required”]**  The Offeror: **[insert “must be the Original Equipment Manufacturer (OEM)” or “is not required to be the Original Equipment Manufacturer (OEM)”].**  If an Offeror is not an OEM, it is mandatory that the Offeror is an authorized distributor of the manufacturer. The number of years for this authorization and past references of successful supplier in similar size projects will be an evaluation criterion. |
| **ITO 18.3** | In case of not doing business in the Purchaser’s Country, the Offeror **[shall/shall not]** be represented by an Agent in the Country. |
| **ITO 19.3** | The list of spare parts, special tools, etc., shall cover a period of **[insert number]** years from the date of acceptance of the Goods by the Purchaser. |
| **ITO 21.1** | Offers shall remain valid until **[insert validity end date].** |
| **ITO 22.1** | Bid Security **[is/is not]** required to be submitted with an Offer. |
| **ITO 22.2 and 22.2 (a)** | The Bid Security shall be in the amount of USD **[insert amount in USD]** or Purchaser’s local currency equivalent only.  The Bid Security shall be in the form of an unconditional bank guarantee or **[insert other form or type of applicable Bid Security]**  *[if a Bid Security is not required, replace the text with “No Applicable”]* |
| **ITO 23.3** | The written confirmation of authorization to sign on behalf of and bind the Offeror shall consist of: **[insert details].** |
| 1. Submission and Opening of Offers | |
| **ITO 24.1 c)** | The File Request Link (FRL) to submit Offers is: **[insert link]** |
| **ITO 24.1 f)** | All submissions shall be in Microsoft Office or PDF format. The Technical Offer and the Financial Offer shall be submitted in separate files, each of which shall not exceed 10GB. Compressed files or folders are discouraged, thus the Purchaser assumes no responsibility for the partial or complete damage or failure to open or access documents submitted in any archived and/or compressed format (compressed by WinZip - including any application of the zip family-, WinRAR, 7z, 7zX, or any other similar formats). File size should not exceed 10GB per file. |
| **ITO 24.1 g)** | If an Offeror submits an Offer with password protection, the password for the Offer should be sent no later than **[insert time]** local time on **[insert date]** to the following email address: **[insert PA’s email address].** |
| **ITO 24.1 j)** | The hard copy of the Bid Security shall be submitted by **[insert date and time not more than 2 working days after deadline in 25.1 below]** |
| **ITO 25.1** | The deadline for submission of Offers is as follows:  **[insert date and local time]** |
| 1. Evaluation and Comparison of Offers | |
| **ITO 28.1** | **[insert description of the procedures]** |
| **ITO 29.3** | All correspondence must be addressed to the Purchaser at [**insert email address and mailing address as applicable].** |
| **ITO 34.1** | The currency that shall be used for Offer 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.]** |
| **ITO 35.3** | **[If other factors other than the Offer Price will be used in evaluation, insert the following text and insert the applicable adjustment factors from the list below. Otherwise, insert “Not applicable”]**  The adjustments shall be determined using the following criteria, from amongst those set out in Section III. Qualification and Evaluation Criteria:   * + - * 1. deviation in delivery schedule: **[insert the adjustment per week, as % of the Offer Price]**.         2. the cost of major replacement components, mandatory spare parts, and service: **[insert the adjustment cost]**         3. the availability in the Purchaser’s country of spare parts and after-sales services for the equipment offered in the Offer: **[insert the adjustment factor].**         4. Life cycle costs (the costs during the life of the goods or equipment) **[insert the adjustment cost]**         5. the performance and productivity of the equipment offered: **[insert the adjustment factor].** |
| **ITO 36.2 (b)** | The total amount of the Performance Security may be increased to a level not exceeding **[insert a percentage up to 20%]** of the Contract Price. |
| 1. Award of Contact | |
| **ITO 41.1** | The Purchaser reserves the right to increase or decrease the quantities of each item by up to **[insert percentage or quantity as appropriate].** |
| **ITO 43.1** | The Purchaser’s Bid Challenge System is provided on the Purchaser’s website **[insert web address]**  *[For solicitation documents issued prior to the adoption of a Bid Challenge System, insert here the full text of the Interim Bid Challenge System approved by MCC]*  The Protest Fee is **[insert amount between zero and 0.5% of the estimated budget]**  The Appeal Fee is **[insert $1,000 or 1% of the estimated budget, whichever is higher]** |
| **ITO 46.1** | **[insert “Not Applicable” or indicate other places of publication, if applicable, e.g. where the SPN was published]** |

## Section III Qualification and Evaluation Criteria

This Section contains all the criteria that the Purchaser may use to evaluate an Offer and determine whether an Offeror is qualified.

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| --- | --- |
| * + 1. **Qualification Information** | The information required for qualification of an Offeror shall be as shown below. Any Offeror failing to provide all the documentation requested, or providing documentation subsequently found to be false or untrue during the evaluation process, shall have that Offer rejected and it shall no longer be considered during the evaluation process. The information required is:   * + - * 1. demonstration to the satisfaction of the Purchaser that the Offeror has in place sufficient safety policy documents and safety awareness to be able to perform in a safe and workmanlike manner; such information includes a narrative that the Offeror possess a high level of health and safety (“H&S”) management expertise and can successfully manage the H&S risks related to the delivery of the Goods and Related Services and is capable of abiding by H&S procedures similar to those provided in Section V. Schedule of Requirements.         2. demonstration to the satisfaction of the Purchaser that the Offeror has in place sufficient environmental and social policy documents and awareness to be able to perform in accordance with MCC Environmental Guidelines and the Purchaser’s country’s environmental legislation; such information includes a narrative that the Offeror possess a high level of environmental and social (“E&S”) management expertise and can successfully manage the E&S risks associated with the delivery of the Goods and Related Services and is capable of abiding by E&S management plans similar to those provided in Section V. Schedule of Requirements.         3. XXXX         4. XXXX   qualify for award if the Contract, Offerors shall meet the following minimum criteria:   * + - * 1. XXXXX   (b) XXXXX |
| * + 1. **Evaluation Criteria** | The evaluation of an Offer will take into account, in addition to the Offer price quoted in accordance with ITO Sub-Clause 15.6, one or more of the following factors as specified in the ITO Clause 35, and quantified below:   * + - * 1. delivery schedule offered in the Offer;         2. deviations in payment schedule from that specified in the SCC;         3. the price of components, mandatory spare parts, and service;         4. the availability in Purchaser’s country of spare parts and after-sales services for the equipment offered in the Offer;         5. the life cycle costs during the life of the equipment;         6. the performance and productivity of the equipment offered;         7. the Offeror’s past performance; and/or         8. other specific criteria indicated in the technical specifications, including E&S and H&S requirements, set forth in the Schedule of Requirements. |
|  | For factors retained above, one or more of the following quantification methods will be applied, as specified in ITO Clause 35:  *Delivery schedule.*  The Goods covered under this Bidding Document shall be delivered (shipped) within an acceptable range of weeks specified in Section V. Schedule of Requirements. No credit will be given to earlier deliveries, and Offer offering delivery beyond this range will be treated as non-responsive. Within this acceptable range, an adjustment per week, as specified in DS ITO Sub-Clause 35.3, will be added for evaluation to the Offer price of Offers offering deliveries later than the earliest delivery period specified in the Schedule of Requirements.  **OR**  The Purchaser requires that the Goods covered under this Bidding Document shall be delivered (shipped) at the time specified in Section V. Schedule of Requirements. The estimated time of arrival of the goods at the Final Destination named in the DS ITO Sub-Clause 15.6 will be calculated for each Offer after allowing for reasonable international and inland transportation time. Treating the Offer resulting in the earliest time of arrival as the base, a delivery “adjustment” will be calculated for other Offers by applying a percentage, specified in DS ITO Sub-Clause 35.3, of the price for each week of delay beyond the base, and this will be added to the Offer price for evaluation. No credit shall be given to early delivery.  **OR**  The Goods covered under this Bidding Document shall be delivered (shipped) in partial shipments, as specified in Section V. Schedule of Requirements. Offers offering deliveries earlier or later than the specified deliveries will be adjusted in the evaluation by adding to the Offer price a factor equal to a percentage, specified in DS ITO Sub-Clause 35.3, of the price per week of variation from the specified delivery schedule. |
| Deviation in Payment Schedule | Offerors shall state their Offer price for the payment schedule outlined in the SCC. Offers will be evaluated on the basis of this base price. Offerors are, however, permitted to state an alternative payment schedule and indicate the reduction in Offer price they wish to offer for such alternative payment schedule. The Purchaser may consider the alternative payment schedule offered by the selected Offeror.  OR  The SCC stipulates the payment schedule offered by the Purchaser. If an Offer deviates from the schedule and if such deviation is considered acceptable to the Purchaser, the Offer as compared with those stipulated in this Bidding Document, at the rate per annum specified in DS ITO Sub-Clause 35.3. |
| Price of Spare Parts | The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in DS ITO Sub-Clause 35.3, is annexed to the technical specifications set forth in Section V. Schedule of Requirements. The total price of these items, at the unit prices quoted in each Offer, will be added to the Offer price.  OR  The Purchaser shall draw up a list of high-usage and high-value items of components and spare parts, along with estimated quantities of usage in the initial period of operation specified in DS ITO Sub-Clause 35.3. The total price of these items and quantities will be computed from spare parts unit prices submitted by an Offeror and added to the Offer price.  OR  The Purchaser shall estimate the price of spare parts usage in the initial period of operation specified in DS ITO Sub-Clause 35.3, based on information furnished by each Offeror, as well as on past experience of the Purchaser or other purchasers in similar situations. Such prices shall be added to the Offer price for evaluation. |
| Spare Parts and After Sales Service Facilities in Purchaser’s Country  Life-Cycle Costs | The price to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in DS ITO Sub-Clause 35.3 or elsewhere in the Bidding Document, if quoted separately, shall be added to the Offer price.  If specified in DS ITO Sub-Clause 35.3, an adjustment to take into account the additional life cycle costs for the period specified below, such as the operating and maintenance costs of the Goods, will be added to the Offer price, for evaluation purposes only. The adjustment will be evaluated in accordance with the methodology specified below and the following information:   * + - 1. number of years for life cycle cost determination *[insert the number of years]*;       2. the discount rate to be applied to determine the net present value of future operation and maintenance costs (recurrent costs) is *[insert the discount rate]*;       3. the annual operating and maintenance costs (recurrent costs) shall be determined on the basis of the methodologyprovided in the technical specifications set forth in Section V. Schedule of Requirements;       4. the end-of-life decommissioning and disposal costs shall be determined on the basis of the methodologyprovided in the technical specifications set forth in Section V. Schedule of Requirements;       5. Post-warranty costs for the duration of the life cycle unless the duration is specified in SCC 1.1 (ee) shall be determined on the basis of the methodologyprovided in the technical specifications set forth in Section V. Schedule of Requirements;   and the following information is required from Offerors *[insert any information required from Offerors, including prices]*. |
| Performance and Productivity of the Equipment | Offerors shall state the guaranteed performance or efficiency in response to the technical specification set forth in Section V. Schedule of Requirements. For each drop in the performance or efficiency below the norm of 100, an adjustment for an amount specified in DS ITO Sub-Clause 35.3 will be added to the Offer price, representing the capitalized cost of additional operating costs over the life of the plant, using the methodology specified in the technical specifications set forth in Section V. Schedule of Requirements.  **OR**  Goods offered shall have a minimum productivity specified under the relevant provision in the technical specifications set forth in Section V. Schedule of Requirements to be considered responsive. Evaluation shall be based on the cost per unit of the actual productivity of goods offered in the Offer, and adjustment will be added to the Offer price using the methodology specified in the technical specifications set forth in Section V. Schedule of Requirements. |
| **3. Specific Additional Criteria (as applicable)** | Other specific additional criteria to be considered in the evaluation and the evaluation method shall be conducted in accordance with ITO Clause 35 and/or the technical specifications, including E&S and H&S requirements, set forth in Section V. Schedule of Requirements. |
| Multiple Lots/ Contracts | Offerors may offer discounts if awarded more than one lot. Discounts can be expressed either in monetary terms in the currency of the Offer, or as a percentage of the Offer Price. In either case, the Purchaser will apply the indicated discounts to the Offer Price as corrected in accordance with ITO Clause 32.  The Purchaser may award one or more Contract(s) to the Offeror(s) that offer(s) the best value lot combination of Offers and meets the post-qualification criteria (4. Qualification Criteria, below).  To determine the lot combinations that provides the best value, the Purchaser will:   * + - * 1. evaluate only Offers that include at least the required percentages of items per lot and quantity per item as indicated in accordance with ITO Sub-Clause 15.8;         2. take into account:     1. the Offer that provides the best value for each lot;     2. the discounts and the methodology for their application as offered by an Offeror in its Offer; and   consider the Contract award sequence that provides the most optimum economic combination taking into account any limitations due to constraints in supply or execution capacity determined in accordance with the post-qualification criteria, as described in ITO Clause 38 and 4. Qualification Criteria, below. |
| **4. Price Review**  **5. Price Reasonableness Determination**  **6. Qualification Criteria** | Lowest price after meeting all preliminary and technical criteria and requirements.  Price Review also includes a determination of price reasonableness as required in ITO Clause 36.  After determining the Offer that provides the best value for money in accordance with ITO Clause 35 and Sub-Clause 36.1, the Purchaser will carry out the post-qualification of the Offeror in accordance with ITO Clause 38, using only the factors, methods and criteria specified in ITO Clause 38 and those listed below. Factors not included in ITO Clause 38 and this Section (4. Qualification Criteria) shall not be used in the evaluation of an Offeror’s post-qualification.   * + - * 1. Financial Capability: The Offeror shall furnish documentary evidence that it meets the following financial requirement(s): **[list the requirement(s)]**         2. Experience and Technical Capacity: The Offeror shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s): **[list the requirement(s)]**         3. Nonperforming Contracts and Litigation: The Offeror shall furnish documentary evidence to demonstrate that non-performance of a contract did not occur within the last five (5) years prior to the deadline for submission of Offers, based on all information on fully settled disputes or litigation. All pending litigation shall in total not exceed 10% of the Offeror’s net worth.         4. Usage Requirements: The Offeror shall furnish documentary evidence to demonstrate that the Goods it offers meet the following usage requirement: **[list the requirement(s)]**   References and Past Performance: In accordance with ITO Clause 35, the Offeror’s performance on earlier contracts will be considered in determining if the Offeror is qualified for award of the Contract. The Purchaser reserves the right to check the performance references provided by the Offeror or to use any other source at the Purchaser’s discretion. If the Offeror (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 Accountable Entity, anywhere in the world), whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role, the Offeror must identify the contract in its lists of references submitted with its Offer using Offer Submission Form SF11: References of Past Contracts. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Offeror’s record of performance in prior contracts. However, the failure to list any contracts because the Offeror (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 Offeror’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 Offeror’s past performance reports filed in MCC’s Contractor Past Performance Reporting System. |

## Section IV Submission Forms

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1. Letter of Offer

*[The Offeror shall complete this form in accordance with the instructions indicated. No alterations to its format shall be permitted and no substitutions shall be accepted.]*

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

We, the undersigned, declare that:

1. We have examined and have no reservations to the Bidding Document, including Addenda thereto issued in accordance with the Instructions to Offerors*.*
2. We offer to supply in conformity with the Bidding Document and in accordance with the Delivery Schedules specified in Section V. Schedule of Requirements referenced above.
3. The total price of our Offer, excluding any discounts offered in item 4. below is: [*insert the total Offer price in words and figures, including the various amounts and respective currencies*].
4. The discounts offered and the methodology for their application are:

**Discounts**: If our Offer is accepted, the following discounts shall apply. [*Specify in detail each discount offered and the specific item of Section V. Schedule of Requirements to which it applies.*]

Methodology of Application of the Discounts: The discounts shall be applied using the following: *[Specify in detail the method that shall be used to apply the discount.]*

1. Our Offer shall be valid from the date fixed for the Offer submission deadline in accordance with ITO Sub-Clause 25.1 through the period of time established in accordance with ITO Sub-Clause 21.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
2. If our Offer is accepted, we commit to obtain a Performance Security in accordance with GCC Clause 16 and as described in ITO Clause 45 for the due performance of the Contract.
3. We, including any Subcontractors or sub-suppliers for any part of the Contract, have nationalities from eligible countries *[Insert the nationality of the Offeror, including that of all parties that comprise the Offeror, if the Offeror is a Joint Venture or Association, and the nationality of each Subcontractor and supplier].*
4. We have no conflict of interest in accordance with ITO Clause 5. *[Insert, if needed: “*, other than listed below.*”]* *[If listing one or more conflicts of interest, insert: “*We propose the following mitigations for our conflicts of interest: *[Insert description of conflict of interest, and proposed mitigations.*”*]*
5. Our firm, its associates, including any Subcontractors or suppliers for any part of the Contract, has not been declared ineligible by the Purchaser, or under the laws or official regulations of the Purchaser’s country, in accordance with ITO Clause 5.
6. We are not participating, as an Offeror or as a subcontractor, in more than one Offer in this bidding process.
7. Our Offer shall be valid for a period of **[insert number]** days from the date fixed for the Offer 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.
8. We are aware of, and will comply with, the rules on prohibited activities, restricted parties and eligibility requirements of prohibited source provisions in accordance with applicable US law, regulations and policy and as summarized in Annex A to the Contract included in Section VII. Special Conditions of Contract and Annex to Contract.
9. We have certified and signed *SF 2 Government-Owned Enterprise Certification*.
10. 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 ITO Clause 3. As part of this, we certify that:
11. 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:

those prices;

the intention to submit an offer; or

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 Offer 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.
3. The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[Insert complete name of each recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity.]*

|  |  |  |  |
| --- | --- | --- | --- |
| Name of Recipient | Address | Reason | Amount |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

(If none has been paid or is to be paid, indicate “none.”)

1. We understand that this Offer, together with your written acceptance thereof included in your Notification of Award, shall constitute a binding contract between us, until a formal Contract is prepared and executed.
2. We understand that you are not bound to accept the lowest evaluated Offer or any other Offer that you may receive.
3. We have taken steps to ensure that no person acting for us or on our behalf will engage in bribery.
4. We have not required our employees, subrecipients, or contractors to sign or comply with internal confidentiality agreements or statements that prohibit or otherwise restrict employees, subrecipients, or contractors from lawfully reporting waste, fraud, or abuse related to the performance of the Contract to a designated investigative or law enforcement representative of MCC (for example, the Agency Office of the Inspector General).
5. We have notified and will immediately notify, as applicable, current employees and subrecipients that prohibitions and restrictions of any preexisting internal confidentiality agreements or statements covered by this provision, to the extent that such prohibitions and restrictions are inconsistent with the prohibitions of this provision, are no longer in effect.
6. We shall include the substance of this provision, including this paragraph, in subawards and contracts under such awards.
7. We agree and acknowledge that if MCC (or its designated investigative or law enforcement representative) determines that we are not in compliance with this requirement, MCC (or its designated investigative or law enforcement representative) may seek remedies under this Contract, including disallowing otherwise allowable costs.
8. We hereby certify that we are not engaged in, facilitating, or allowing any of the prohibited activities described the MCC Counter-Trafficking in Persons Policy 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 the MCC Counter-Trafficking in Persons Policy will not be tolerated on the part of our employees, or any Subcontractor or sub-suppliers, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
9. We understand and accept without condition that, in accordance with ITO Sub-Clause 43.1, any challenge or protest to the process or results of this procurement may be brought only through the Purchaser’s Bid Challenge System (BCS).
10. We acknowledge that our digital/digitized signature is valid and legally binding.

|  |  |
| --- | --- |
| Signed: |  |
| **[Print Name]** |  |
| In the capacity of: |  |
| Duly authorized to sign on behalf of: |  |

Annexes:

1. Beneficial Ownership Disclosure Form
2. **[Other Documents Required in DS]**

Beneficial Ownership Disclosure Form (BODF)

*INSTRUCTIONS TO OFFERORS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM*

*This Beneficial Ownership Disclosure Form (“Form”) is to be completed by each Offeror. In case of joint venture, the Offeror must submit a separate Form for each member. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of an Offeror is any natural person who ultimately owns or controls the Offeror by meeting one or more of the following conditions:*

* *directly or indirectly holding 10% or more of the shares*
* *directly or indirectly holding 10% or more of the voting rights*
* *directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Offeror*

*An individual directly holds 10 percent or more of the shares of an Offeror if the shares are registered in his or her name or, in the case of bearer shares, if the shares are in his or her possession. An individual owns 10 percent or more of the shares of an Offeror indirectly if the shares are held through a trust or through another corporation. Therefore each Offeror must know the identities of the natural persons who directly or indirectly hold the shares of any corporate entity or trust that owns part or all of the Offeror, and disclose the identity of any natural person who cumulatively directly or indirectly holds 10 percent or more of the shares of the Offeror. The same rules apply in determining whether an individual has 10 percent or more of the voting rights of the Offeror or the right to appoint a majority of the board of directors or equivalent governing body.*

*An example of indirectly holding 10 percent of an Offeror’s shares: Mr. and Mrs. X each hold 50 percent of Company A. Company A in turn owns 20 percent of the Offeror. Mr. and Mrs. X each beneficially own 10 percent of the Offeror, and the names of each must be reported on the form.*

**Procurement reference No.:** [*insert procurement reference number*]

To: **[*insert complete name of Accountable Entity*]**

In response to your above-referenced procurement: *[select one option as applicable and delete the options that are not applicable]*

(i) we hereby provide the following beneficial ownership information.

Details of beneficial ownership

|  |  |  |  |
| --- | --- | --- | --- |
| Identity of Beneficial Owner | Directly or indirectly holding 10% or more of the shares  (Yes / No) | Directly or indirectly holding 10 % or more of the Voting Rights  (Yes / No) | Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Offeror  (Yes / No) |
| *[include full name (last, middle, first), citizenship(s), current home and business address, email address]* |  |  |  |

***OR***

*(ii) we declare that there is no individual meeting one or more of the following conditions:*

* + directly or indirectly holding 10% or more of the shares
  + directly or indirectly holding 10% or more of the voting rights
  + directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Offeror

OR

1. *we declare that we are unable to identify any individual meeting one or more of the following conditions. [If this option is selected, the Offeror shall provide explanation on why it is unable to identify any Beneficial Owner]*
   * directly or indirectly holding 10% or more of the shares
   * directly or indirectly holding 10% or more of the voting rights
   * directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Offeror

OR

(iv) we declare that we are a publicly held company listed on the New York, American, NASDAQ, London, Tokyo, or Euronext Stock Exchanges, with the following ticker symbol: [Insert ticket symbol].

**In addition, we attach a graphic depicting the corporate ownership structure, including ownership percentages, if any entities or legal arrangements – such as companies, trusts, foundations, etc. – exist between the Offeror and the Beneficial Owners in the corporate ownership structure.**

**We acknowledge and agree that, should we be informed through a Notification of Intent to Award that we are selected as the successful Offeror for this procurement, we will, within three business days of receipt of the Notification of Intent to Award, email to the Procurement Agent encrypted Microsoft Office or Adobe Acrobat files containing for each of the above-named Beneficial Owners (if there are any) a copy of an identification document (ID) which includes a photograph, with passwords to the files sent in separate email messages for security. Acceptable forms of ID are passports, national IDs, and official drivers’ licenses. These documents will remain encrypted when transferred to the Accountable Entity or MCC for review, and will be kept encrypted and in a secure location by the Procurement Agent, the Accountable Entity, and MCC.**

We acknowledge that the Accountable Entity may use this information to review if any Beneficial Owners are sanctioned by the United States Government or by the International Financial Institutions[[2]](#footnote-3), and to review if any Beneficial Owners present a conflict of interest as described in MCC’s Procurement Policy and Guidelines. We acknowledge that failure to provide this form, or providing false information on this form, can be grounds for disqualifying a proposal during the procurement process or for terminating a contract that is awarded as a result of this procurement. We also acknowledge that we will be required to provide the Accountable Entity with a new BODF upon any changes regarding beneficial ownership during the life of any contract awarded as a result of this procurement. We acknowledge that the Accountable Entity will reserve the right to request an updated BODF, or documentation to provide proof of beneficial ownership, at any time during the life of the contract. We also acknowledge that the Accountable Entity will reserve the right to terminate the any contract awarded as a result of this procurement if the Accountable Entity decides that a Beneficial Owner is unacceptable due to sanctions or an unmitigable conflict of interest.

Data Privacy Protection Waiver: The information and documents provided will be used by the Accountable Entity, the Procurement Agent for the Accountable Entity, and MCC for the reasons described above. The information and documents may be shared with the Office of Inspector General (OIG) for the U.S. Agency for International Development (USAID), which serves as the OIG for MCC, or with other law enforcement agencies if requested through appropriate protocols. The Offeror consents to the collection, storage, access, use, processing, and transfer of this data by and among these entities, and voluntarily waives any provision of any local, national, or supranational law, such as, without limitation, the European Union’s General Data Protection Regulation (GDPR) and national laws enacted in response thereto, or laws of similar effect in other jurisdictions, which would prohibit or otherwise regulate such access, processing, and transfer.

**Name of the Offeror**: \*[*insert complete name of the Offeror*]

**Name of the person duly authorized to sign the Offer on behalf of the Offeror**: \*\*[*insert complete name of person duly authorized to sign the Offer*]

**Title of the person signing the Offer**: [*insert complete title of the person signing the Offer*]

**Signature of the person named above**: [*insert signature of person whose name and capacity are shown above*]

**Date signed** [*insert date of signing*] **day of** [*insert month*], [*insert year*]

\* In the case of the Offer submitted by a Joint Venture specify the name of the Joint Venture as Offeror. In the event that the Offeror is a joint venture, each reference to “Offeror” in the Beneficial Ownership Disclosure Form shall be read to refer to the joint venture member.

\*\* Person signing the Offer shall have the power of attorney given by the Offeror. The power of attorney shall be attached.

1. Government-Owned Enterprise Certification Form

Government-Owned Enterprises are not eligible to compete for MCC-funded contracts for goods, works or consulting services. Accordingly, GOEs (i) may not be party to any MCC-funded contract for goods (which includes contracts for the supply and installation of information systems), works or consulting services procured through an open solicitation process, limited bidding or direct contracting; and (ii) may not be pre-qualified or shortlisted for any MCC-funded contract for goods or works anticipated to be procured through these means.

This prohibition does not apply to Government-owned Force Account units, local public utility operators, educational institutions and research centers, or any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with MCC PPG.

The full policy is available for your review on the MCC Website ([www.mcc.gov/ppg](http://www.mcc.gov/ppg)). As part of the eligibility verification for this procurement, **please fill in the form below to indicate the status of your entity.** The Certification Form shall be furnished with the Offer REGARDLESS OF THE STATUS OF YOUR ENTITY.

For purposes of this form, the term “Government” means one or more governments, including any agency, instrumentality, subdivision or other unit of government at any level of jurisdiction (national or subnational).

**CERTIFICATION**

**Full Legal Name of Offeror**:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Full Legal Name of Offeror in Language and Script of Country of Formation** (if different from above):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Address of Principal Place of Business or Chief Executive Office of Offeror**:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Full Name of Three (3) Highest Ranking Officials of Offeror** (for any Offeror that is an entity):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Full Legal Name(s) of Parent Entity or Entities of Offeror** (if applicable; if Offeror has no parent, please so state):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Full Legal Name(s) of Parent Entity or Entities of Offeror in Language and Script of Country of Formation** (if applicable and if different from above):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Address(es) of Principal Place of Business or Chief Executive Office of Parent Entity or Entities of Offeror** (if applicable):

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Does a Government own a majority or controlling interest (whether by value or voting interest) of your shares or other ownership interest (whether directly or indirectly and whether through fiduciaries, agents or other means)?

Yes 🞏 No 🞏

1. If your answer to question 1 was yes, are you a Government-owned:
   1. Force Account unit Yes 🞏 No 🞏
   2. Local public utility operator Yes 🞏 No 🞏
   3. Educational institution Yes 🞏 No 🞏
   4. Research center Yes 🞏 No 🞏
   5. Statistical entity Yes 🞏 No 🞏
   6. Mapping entity Yes 🞏 No 🞏
   7. Other technical entities not formed primarily for a commercial or business purpose Yes 🞏 No 🞏
2. Regardless of how you answered question 1, please answer the following:
   1. Do you receive any subsidy or payment (including any form of subsidized credit) or any other form of assistance (financial or otherwise) from a Government? Yes 🞏 No 🞏

If yes, describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. Has a Government granted to you any special or exclusive legal or economic rights or benefits that may alter the competitiveness of your goods, works or services or otherwise influence your business decisions? Yes 🞏 No 🞏

If yes, describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. Does a Government have the ability to direct or decide any of the following with respect to you?

1. any reorganization, merger, or dissolution of you or the formation or acquisition of any subsidiary or other affiliate by you Yes 🞏 No 🞏
2. any sale, lease, mortgage, pledge, or other transfer of any of your principal assets, whether tangible or intangible and whether or not in the ordinary course of business Yes 🞏 No 🞏
3. the closing, relocation, or substantial alteration of the production, operational, or other material activities of your business Yes 🞏 No 🞏
4. your execution, termination, or non-fulfillment of material contracts Yes 🞏 No 🞏
5. the appointment or dismissal of your managers, directors, officers or senior personnel or otherwise participate in the management or control of your business Yes 🞏 No 🞏
6. Have you ever been Government-owned or controlled? Yes 🞏 No 🞏
7. If your answer to question 4 was yes, please answer the following questions
   1. How long were you Government-owned? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   2. When were you privatized? \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
   3. Do you receive any subsidy or payment (including any form of subsidized credit) or any other form of assistance (financial or otherwise) from a Government? Yes 🞏 No 🞏

If yes, describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. Even though not majority or controlling, does a Government continue to hold any ownership interest or decision-making authority in you or your affairs?

Yes 🞏 No 🞏

If yes, describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

* 1. Do you send any funds to a Government other than taxes and fees in the ordinary course of your business in percentages and amounts equivalent to other non-Government-owned enterprises in your country that are engaged in the same sector or industry? Yes 🞏 No 🞏

If yes, describe: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Participants are advised that:

* + - 1. Prior to announcing the winning offeror or any list of pre-qualified offerors for this procurement, the Purchaser will verify the eligibility of such offeror(s) with MCC. MCC will maintain a database (internally, through subscription services, or both) of known GOEs and each winning or pre-qualified offeror subject to this provision will be compared against the database and subject to such further due diligence as MCC may determine necessary under the circumstances.
      2. Any misrepresentation by any entity submitting an offer for this procurement may be deemed “fraud” for purposes of the *MCC Procurement Policy and Guidelines* and any other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.
      3. Any entity that is determined by MCC to have organized itself, subcontracted any part of its MCC-funded contract, or otherwise associated itself with any other entity for the purpose of, or with the actual or potential effect of, avoiding or otherwise subverting the GOE provisions of the *MCC Procurement Policy and Guidelines* may be deemed to be a GOE for all purposes of those Guidelines.
      4. Any credible accusation that any entity submitting an Offer for this procurement is a GOE ineligible to submit an Offer in accordance with the *MCC Procurement Policy and Guidelines* will be subject to review in a Bid challenge in accordance with those Guidelines and the Accountable Entity’s Bid Challenge System.

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 “fraud” for purposes of the *MCC Procurement Policy and 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

1. Price Schedule for Goods

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| Item  N° | Description of Goods | Country of origin | Quantity and physical unit | Unit price | Total price per item  (col. 4×5) | Price per item for inland transportation and other services required in the Purchaser’s country to convey the goods to their Final Destination | Total price of item  (col. 6+7) |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  | | | | | Total Offer Price | |  |

Name of Offeror \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Signature of Offeror \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Price and Completion Schedule for Related Services

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Item | Description of Related Services (excludes inland transportation and other services required in the Purchaser’s country to convey the Goods to their Final Destination) | Country of origin | Delivery Date at Final Destination | Quantity and physical unit | Unit price | Total Price of item  (col. 5 x 6) |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  | | | | Total Offer Price | |  |

Name of Offeror \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature of Offeror \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

1. Offeror Information Form

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

|  |  |  |
| --- | --- | --- |
| 1. Constitution or Offeror’s legal status | | |
|  | Place of registration |  |
|  | Principal place of business |  |
| 2. Legal name of each party of the joint venture/association (if applicable) | | |
|  | *[insert legal name of each party in joint venture and complete Form SF5: Party to Joint Venture/Association Information Form below for each joint venture/association party]* | |
| 3. Attached are copies of: | | |
| * Articles of incorporation or registration of the Offeror named in 1 above; demonstrating the Offeror’s eligibility in accordance with ITO Clause 5; * Letter of intent to form joint venture or association or joint venture/association agreement, if applicable, in accordance with ITO Sub-Clause 5.3; * Proper authority of the signatory of the Offeror in accordance with ITO Sub-Clause 23.1; * Government-Owned Enterprise Certification Form [SF 2]   “Tick” the boxes and attach documents to the Offer. | | |

The information filled in above by Offerors shall be used for purposes of post qualification as provided for in ITO Clause 38. This information shall not be incorporated into the Contract. The Offeror is to adapt and extend this form SF 5 as necessary. Pertinent sections of attached documents should be translated into English.

1. Party to Joint Venture or Association Information Form

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

|  |  |
| --- | --- |
| **1. Constitution or Joint Venture or Association 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 ITO Clause 5; * Letter of intent to form joint venture or association or joint venture/association agreement, if applicable, in accordance with ITO Sub-Clause 5.3; * Proper authority of the signatory of the entity named in 1 above in the same manner as contemplated for Offerors in ITO Sub-Clause 24.1; * Government-Owned Enterprise Certification Form [SF 2]   “Tick” the boxes and attach documents to the Offer. | |

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

Attach the agreement among all members of the joint venture/association (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/association; and
3. the execution of the entire Contract, including payment, shall be done exclusively with the member in charge.
4. Form of Bid Security (Bank Guarantee)

*[The bank, as requested by the Offeror, 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]**

**Offer Reference No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

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

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

At the request of the Offeror, 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, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee will expire: (a) if the Offeror is the successful Offeror, upon our receipt of copies of the Contract signed by the Offeror and the performance security issued to you upon the instruction of the Offeror; or (b) if the Offeror is not the successful Offeror, upon the earlier of (i) our receipt of a copy of your notification that the successful Offeror has signed the Contract and furnished the required performance security; or (ii) twenty-eight (28) days after the expiration of the Offer 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. Environmental, Social, Health and Safety Forms

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

We, the undersigned, declare that:

1. The attached health and safety (“H&S”) data sheets, licenses, permits or other documents as listed below and required by Section V. Schedule of Requirements are current and valid; and,
2. the attached environmental and social permits, licenses or other documents as listed below and required by Section V. Schedule of Requirements are current and valid.

|  |  |
| --- | --- |
| Signed: |  |
| In the capacity of: |  |
| **[Print Name]** |  |
| duly authorized to sign for and on behalf of the Offeror |  |
| Dated on  **[Insert Date]** |  |

1. Manufacturer’s Authorization

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

*[This letter of authorization should be on the letterhead of the manufacturer of the Goods and should be signed by a person with the proper authority to sign documents that are binding on such manufacturer. An Offeror shall include this letter of authorization in its Offer, if so indicated in the DS].*

WHEREAS

We, *[insert name of manufacturer]* are reputable manufacturers of *[insert type of goods manufactured]* having factories at *[insert location(s) of factories].*

THEREFORE, we do hereby

1. Authorize *[insert name of Offeror]* to submit an Offer in response to the procurement process indicated above. The purpose of such Offer is to provide the following Goods: *[insert description of Goods]* manufactured by us, and to subsequently negotiate and sign the Contract for the supply of such Goods.

AND

1. Extend our full guarantee and warranty in accordance with Clause 26 of the General Conditions of Contract, with respect to the Goods offered in the Offer.

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

1. Financial Capacity of the Offeror

*[The Offeror’s financial capacity to supply the required Goods is imperative. The Offeror is required to provide information on its financial status. This requirement can be met by submission of one of the following: audited financial statements for the last three (3) years, supported by audit letters, OR certified financial statements for the last three (3) years, supported by tax returns.*

*Failure to submit either of the documents as evidence of financial capacity will result in the rejection of the Offer.*

*If the Offer is submitted by a joint venture or association, all parties of the joint venture/association are required to submit their financial statements. The reports should be submitted in the order of the Associate’s significance in the joint venture/association, greatest to least.*

*The Purchaser reserves the right to request additional information about the financial capacity of the Offeror. An Offeror that fails to demonstrate through its financial records that it has the financial capacity to supply the required Goods may be disqualified.]*

1. Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Offeror

The Offeror, or a related company or entity or affiliate, has been involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute within the past five (5) years the process or outcome of which the Purchaser could reasonably interpret may impact or have the potential to impact the financial or operational condition of the Offeror in a manner that may adversely affect the Offeror’s ability to satisfy any of its obligations under the Contract: No:\_\_\_\_ Yes:\_\_\_\_\_\_ (If Yes, see below)

|  |  |  |
| --- | --- | --- |
| **Current or Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations, or Disputes Within the Last Five (5) Years (per the criteria above)** | | |
| Year | Matter in Dispute | Value of Award Against Offeror in US$ Equivalent |

1. References of Past Contracts

|  |  |  |  |
| --- | --- | --- | --- |
| **Contracts, other than with MCC or Accountable-Entities** | | | |
| **Contract Name and Number** | **Role in Contract** | **Total Contract Amount** | **Purchaser Name and Address** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Contracts with MCC** | | | |
| **Contract Name and Number** | **Role in Contract** | **Total Contract Amount** | **Purchaser Name and Address** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **Contracts with an Accountable Entity** | | | |
| **Contract Name and Number** | **Role in Contract** | **Total Contract Amount** | **Purchaser Name and Address** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

Each Offeror or member of a Joint Venture/Association making up an Offeror must fill in this form and include information about relevant past contracts, and any and all MCC-funded contracts (either with MCC directly or with any Accountable Entity, anywhere in the world) to which the Offeror or member of a Joint Venture/Association making up an Offeror is or has been a party whether as a Supplier, affiliate, associate, subsidiary, Subcontractor, or in any other role.

1. 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 Offeror upon submission of the Offer and, if selected, by the Supplier 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[[3]](#footnote-4), for the duration of the Contract.

The form is to be submitted to the Accountable Entity Procurement Agent at the time of Offer submission, and to the Accountable Entity Fiscal Agent thereafter **[*email addresses for Accountable Entity Procurement and Fiscal Agents to be inserted here*]** with a copy to MCC at [sanctionscompliance@mcc.gov](mailto:sanctionscompliance@mcc.gov).

For the avoidance of doubt, reporting the provision of material support or resources (as defined below) to an individual or entity on the enumerated lists will not necessarily result in the disqualification of an Offeror or cancellation of the Contract. However, **failure** to report such provision, or any similar material misrepresentation, whether intentional or without due diligence, would be grounds for disqualifying the Offeror or canceling the Contract, and such Offeror or Supplier may also be subject to potential criminal, civil, or administrative remedies as appropriate under U.S. law.

**Instructions for completing this form are provided below.**

**Full Legal Name of Supplier: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

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

|  |
| --- |
| All eligibility verifications have been completed in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions”,** including (without limiting the scope of paragraph G):  The Offeror or Supplier, to the best of its current knowledge, has not provided, at any time within the previous ten years or currently, any material support or resources (including without limitation, any MCC Funding[[4]](#footnote-5)), directly or indirectly to, or knowingly permitted any funding (including without limitation any MCC Funding) to be transferred to, any individual, corporation or other entity that the Offeror or Supplier knew, or had 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 on the enumerated lists described below (including the Offeror or Supplier itself).  **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 to be “fraud” for purposes of the ITO or Contract, the *MCC Procurement Policy and 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 Offeror/Supplier 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 Legislation and Other Restrictions,**” provided below.

The Offeror/Supplier shall verify that any individual, corporation, or other entity that has access to or is (or would be) a recipient of MCC Funding, including Offeror/Supplier staff, consultants, subcontractors, vendors, suppliers, and grantees, is not listed on any of the following (or, in the case of #4 below, is not a national of, or associated in, any country appearing on such list):

1. System for Award Management (SAM) - <https://sam.gov/content/entity-information>
2. World Bank Debarred List -  <https://www.worldbank.org/debarr>
3. US Government Consolidated Screening List - <https://2016.export.gov/ecr/eg_main_023148.asp>
4. US State Sponsors of Terrorism List - <https://www.state.gov/j/ct/list/c14151.htm>

In addition to these lists, before providing any material support or resources to an individual or entity, the Offeror/Supplier will also consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.

Documentation of the process takes two forms. The Offeror/Supplier should prepare a table listing each staff member, consultant, subcontractor, 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** | **US State Sponsors of Terrorism List** |
| Supplier (the firm itself) |  |  |  |  |  |
| Staff Member #1 |  |  |  |  |  |
| Staff Member #2 |  |  |  |  |  |
| Consultant #1 |  |  |  |  |  |
| Consultant #2 |  |  |  |  |  |
| Subcontractor #1 |  |  |  |  |  |
| Subcontractor #2 |  |  |  |  |  |
| Vendor #1 |  |  |  |  |  |
| Supplier #1 |  |  |  |  |  |
| Grantee #1 |  |  |  |  |  |

The Offeror/Supplier should list the date on which the search was conducted using each eligibility verification source, and whether the staff member, consultant, subcontractor, 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 Offeror/Supplier should print out and retain for each staff member, consultant, subcontractor, 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 Offeror/Supplier itself, the Offeror/Supplier must conduct additional research to determine whether the finding is a “false positive.” If it is a false positive, the Offeror/Supplier will mark the staff member, consultant, subcontractor, vendor, supplier, or grantee as eligible, and retain the research confirming that eligibility.

If, on the other hand, any of the Offeror’s/Supplier’s personnel, consultants, subcontractors, vendors, suppliers, or grantees are found to be ineligible at this stage, the Accountable Entity will determine whether it is possible under the circumstances to allow the Offeror/Supplier 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 Procurement Policy and Guidelines*, the Offeror/Supplier 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 Offeror/Supplier as part of the overall record of the Contract 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 Accountable Entity, MCC, or their designees in accordance with the access provisions of the Contract.

# PART 2: SUPPLY REQUIREMENTS

## Section V Schedule of Requirements (SoR)

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SR1 List of Goods and Delivery Schedule

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| *[Purchaser to fill in this table, with the exception of the column “Offeror’s offered Delivery date” to be filled by the Offeror]* | | | | | | | |
| **Line Item**  **N°** | **Description of Goods** | **Quantity** | **Physical unit** | **Final Destination as specified in DS ITO 15.6** | **Purchaser’s Required Delivery Date (as per Incoterms)** | | **Offeror’s offered Delivery date** |
| **Earliest Delivery Date** | **Latest Delivery Date** |  |
| **[insert item No]** | **[insert description of Goods]** | **[insert quantity of item to be supplied]** | **[insert physical unit for the quantity]** | **[insert place of Delivery]** | **[insert the number of days following the date of effectiveness this Contract]** | **[insert the number of days following the date of effectiveness this Contract]** | **[insert the number of days following the date of effectiveness this Contract]** |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

SR2 List of Related Services and Completion Schedule

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| *[The Required Completion Dates should be realistic, and consistent with the required Goods Delivery Dates (as per Incoterms)]* | | | | | |
| **Service** | **Description** | **Quantity1** | **Physical Unit** | **Place where Services shall be performed** | **Final Completion Date(s) of Services** |
|
| **[insert Service No]** | **[insert description of Related Services]** | **[insert quantity of items to be supplied]** | **[insert physical unit for the items]** | **[insert name of the Place]** | **[insert required Completion Date(s)]** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
| 1. If applicable | | | | | |

SR3 Technical Specifications

The supply of Goods and Related Services shall comply with the following Technical Specifications and Standards:

SR4 Drawings

This Bidding Document includes the following drawings:

|  |  |  |
| --- | --- | --- |
| **List of Drawings** | | |
| **Drawing No.** | **Drawing Name** | **Purpose** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

SR5 Inspections and Tests

The following inspections and tests shall be performed on the Goods:

Prior to shipment

**[insert list of inspections and tests]**

At the delivery point:

**[insert list of inspections and tests]**

SR6 Environmental, Health and Safety Procedures

The Supplier shall abide by the following environmental, health and safety requirements:

*[Insert list of requirements ensuring compliance with MCC’s Guidelines for Environment and Social Assessment]*

# PART 3: CONTRACT DOCUMENTS

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| 1. Definitions | 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. “Acceptance” means the acceptance by the Purchaser of the Goods and Related Services (or any portion of the Goods where the Contract provides for acceptance of the Goods in parts), in accordance with GCC Clause 42. 2. “Applicable Law” has the meaning given the **term in the SCC**. 3. “Associate” means any entity that is a member of the Association that forms the Supplier. A Subcontractor is not an Associate. 4. “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Supplier, with or without a legal status distinct from that of its members. 5. “Bid” or "Offer" means the bid for the provision of the Goods and the Related Services submitted by the Supplier and accepted by the Purchaser and that forms an integral part of this Contract. 6. “Bidding Document” has the meaning given the term **in the SCC.** 7. “Compact” has the meaning given the term in the recital clauses to the Contract Agreement. 8. “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in this Contract. 9. “Contract” means this agreement entered into between the Purchaser and the Supplier, to provide the Goods and Related Services and consists of the documents listed in GCC Sub-clause 2.7, as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement. 10. “Contract Price” means the price to be paid for the provision of the Goods and Related Services, in accordance with GCC Sub-clause 13.1. 11. “day” means a calendar day. 12. “Delivery” means the transfer of ownership of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in this Contract. 13. “EHS” has the meaning given the term in GCC Sub-clause 20.1 14. “Eligible Countries” has the meaning given such term in GCC Sub-clause 7.1. 15. “Final Destination” has the meaning given the term **in the SCC**. 16. "Force Majeure" has the meaning given the term in GCC Clause 33.1. 17. “GCC” means these General Conditions of Contract. 18. “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under this Contract. 19. “Government” has the meaning given the term in the recital clauses to the Contract Agreement. 20. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability. 21. “MCC” has the meaning given the term in the recital clauses to this Contract. 22. “MCC Funding” has the meaning given the term in the recital clauses to this Contract. 23. “*MCC Procurement Policy and Guidelines*” or “MCC PPG” means the *Millennium Challenge Corporation Accountable Entity Procurement Policy and Guidelines* posted on the MCC Website, as may be amended from time to time. 24. “Notification of Award” means the notice sent from the Purchaser to the Supplier notifying the Supplier that it was the successful Offeror and that its Offer had been accepted and that forms an integral part of this Contract. 25. “Party” means the Purchaser or the Supplier, as the case may be, and “Parties” means both of them. 26. ‘Primary Suppliers’ means any person or legal entity who provides goods or materials essential for the contract 27. “Purchaser” or "Accountable Entity" has the meaning given the term **in the SCC.** 28. "Purchaser's Country" has the meaning given the term **in the SCC.** 29. “Related Services” means the services incidental to the supply of the Goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under this Contract. 30. “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented. 31. “Schedule of Requirements” means the Schedule of Requirements (including the technical requirements) set forth in Section V of the Bidding Document. 32. “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 Supplier in accordance with the terms of this Contract. 33. “Supplier” has the meaning given the term in the initial paragraph to this Contract. 34. “Tax” and “Taxes” have the meanings given the terms in the Compact or related agreement. 35. “Trafficking in Persons” has the meaning given in GCC Clause 35. 36. “Ultimate Beneficial Owner” means an individual who (i) directly or indirectly controls more than 10% of the shares of the company; or (ii) directly or indirectly controls more than 10% of the voting rights of the company; or (iii) has the right to appoint a majority of the board of directors. |
| 1. Interpretation and General Matters | 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 |
| Incoterms | Unless inconsistent with any provision of this Contract, the meaning of any trade term and the rights and obligations of the Parties thereunder shall be as prescribed by the current edition of Incoterms as **specified in the SCC.** Incoterms are the international rules for interpreting trade terms published by the International Chamber of Commerce, 38 Cours Albert 1er, 75008 Paris, France. |
| Entire Agreement | This Contract constitutes the entire agreement between the Purchaser and the Supplier 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 | The following shall apply with respect to any amendment or other variation of this Contract.  No amendment or other variation 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.  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. | 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 | 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 | 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 Supplier; 2. the SCC and Annex A to this Contract; 3. the GCC; 4. the Notification of Award; 5. the Supplier’s Offer; 6. the Specifications; 7. the Drawings; 8. the Schedule of Requirements; and 9. any other document listed **in the SCC** as forming part of this Contract. |
| 1. Fraud and Corruption Requirements | MCC requires that the Purchaser and any other beneficiaries of MCC Funding, including Offerors, Suppliers, contractors and Subcontractors 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 Accountable Entity 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 Accountable Entity 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>;  <https://www.cipe.org/resources/anti-corruption-compliance-guide-mid-sized-companies-emerging-markets/>   1. For purposes of the Contract, the terms set forth below are defined as follows: 2. “***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. 3. “***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, or manipulate prices or to otherwise deprive the Accountable Entity of the benefits of free and open competition. 4. “***corruption***” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Accountable 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. 5. “***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. 6. “***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 a Compact, Threshold Program agreement, or related agreements. “ 7. “**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 A (Additional Provisions) attached to this the Contract. 8. 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 Supplier 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 practice during the selection process or the performance of this Contract, or another MCC-funded contract, without the Purchaser, the Supplier or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation. 9. MCC and the Purchaser may pursue sanction of the Supplier, including declaring the Supplier 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 Supplier 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. 10. If the Purchaser or MCC determines that the Supplier, any subcontractor, any of the Supplier’s personnel or any agent or affiliate of any of them has, directly or indirectly, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in the performance of, this Contract or another MCC-funded contract, then the Purchaser or MCC may, by notice, immediately terminate the Supplier’s employment under the Contract and the provisions of GCC 35 shall apply. |
| 1. Commissions and Fees | The Supplier 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 | This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.  This Contract has been executed in the language(s) **specified in the SCC**. If the Contract is executed in both the English and another language, 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 | Where the Supplier 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 Supplier’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 | The Supplier 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 PPG and Annex A to this Contract (“Eligible Countries”). The Supplier 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.  The Supplier shall submit updated Beneficial Ownership Disclosure Forms upon the addition of any Ultimate Beneficial Owner or at the Purchaser's request at any time during Contract performance. Failure to provide information as required may lead to the termination of the Contract in accordance with GCC Sub-Clause 36.1. (g).  All Goods and Related Services to be supplied under this Contract and financed from the Compact shall have their origin in Eligible Countries.  For the purpose of this GCC Clause 7, “origin” means the place where the Goods have been mined, grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics, purposes or utility from its underlying components. With respect to the Related Services, the term “origin” means the place from which the Related Services are supplied. |
| 1. Notices | 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.  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 | The Purchaser and the Supplier 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.  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 Supply | The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.  Unless otherwise stipulated in this Contract, the Goods shall include all such items not specifically mentioned in this Contract but that can be reasonably inferred from this Contract as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in this Contract. |
| 1. Delivery and Documents | The Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are **specified in the SCC.** |
| 1. Supplier’s Responsibilities | The Supplier shall supply all the Goods and Related Services included in the scope of supply in accordance with GCC Clause 10, and the Delivery and Completion Schedule, as per GCC Clause 11. |
| 1. Contract Price | The contract price shall be as **specified in the SCC** (the “Contract Price”) subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to this Contract.  Prices charged by the Supplier for the Goods delivered and the Related Services performed under this Contract shall not vary from the prices quoted by the Supplier in its Offer, with the exception of any price adjustments authorized in the SCC. |
| 1. Terms of Payment | This Contract Price, including any advance payments, if applicable, shall be paid as **specified in the SCC**.  The Supplier’s request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 11 and upon fulfillment of all other relevant obligations stipulated in this Contract.  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 Supplier in form and substance satisfactory to the Purchaser.  The currency in which payments shall be made to the Supplier under this Contract shall be those in which the Offer price is expressed.  In the event that the Purchaser fails to pay the Supplier any payment by its respective due date or within the period set forth **in the SCC,** the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown **in the SCC,** for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award. |
| 1. Taxes and Duties | Unless otherwise **specified in the SCC** andas may be exempted pursuant to the Compact or another agreement related to the Compact, available in English at the web address **stated in the SCC,** the Supplier, 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 Supplier, 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 Supplier, any Subcontractor or their respective personnel, the Contract Price shall not be adjusted to account for such Taxes.  The Supplier, any Subcontractor and their respective personnel, and their eligible dependents, shall follow the usual customs procedures of the Purchaser's Country in importing property into the Purchaser's Country.  If the Supplier, any Subcontractor or any of their respective personnel, or their eligible dependents, do not withdraw but dispose of any property in the Purchaser's Country upon which customs duties or other Taxes have been exempted, the Supplier, 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 to the Purchaser if such customs duties and Taxes were paid by the Purchaser at the time the property in question was brought into the Purchaser's Country.  Without prejudice to the rights of the Supplier under this clause, the Supplier, 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 15.  If the Supplier is required to pay Taxes that are exempt under the Compact or a related agreement, the Supplier shall promptly notify the Purchaser (or such agent or representative designated by the Purchaser) of any Taxes paid, and the Supplier 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.  The Purchaser shall use reasonable efforts to ensure that the Government provides the Supplier, 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 Supplier shall have the right to terminate this Contract in accordance with GCC Sub-clause 36.1(d). |
| 1. Performance Security | The Supplier shall, within fourteen (28) 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**.  The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier’s failure to complete its obligations in accordance with the terms of this Contract.  The performance security shall be denominated in the currency of this Contract, and shall be in the form of an unconditional 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, or another type of security **specified in the SCC.**  The performance security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of completion of the Supplier’s performance obligations under this Contract, including any warranty obligations. |
| 1. Copyright | The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party. |
| 1. Confidential Information | The Purchaser and the Supplier 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 Supplier 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 Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under this GCC Clause 18.  The Purchaser shall not use documents, data, and other information received from the Supplier for any purposes unrelated to this Contract. Similarly, the Supplier 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.  The obligation of a Party under GCC Sub-clauses 18.1 and 18.2 above, however, shall not apply to information that:   * 1. the Purchaser or the Supplier 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   The provisions of GCC Clause 18 shall survive completion or termination, for whatever reason, of this Contract. |
| 1. Engagement of Staff and Labor | The Supplier shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Supplier’s personnel. At a minimum, the Supplier shall provide all Supplier’s personnel with documented information that is clear and understandable to the personnel 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. The Supplier shall provide each of the Supplier's personnel with a contract in language comprehensible to the personnel.  The Supplier shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds.  MCC sets a non-binding target for suppliers to employ women at 30 percent of its contracted and subcontracted personnel, in each broad category of managers/professional staff, administrative staff, and both skilled and unskilled labor. The Supplier shall set its own contract-specific targets for women’s employment and include updates in its routine reports.  The Supplier shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.  The Supplier shall provide a grievance mechanism for Supplier’s personnel, including Subcontractor staff, if a separate Subcontractor grievance mechanism does not exist, to raise workplace concerns. The Supplier 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 compliant under such a 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 the Applicable Law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.  Where accommodation or welfare facilities are provided to Supplier’s personnel, the Supplier shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities. This includes the following: 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, separate breastfeeding/pumping facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and all reasonable precautions to maintain the health and safety of the Supplier’s 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. Sanitary and washing facilities should be provided in a manner that allow individuals’ privacy and safety. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-accommodation-welfare-staff-and-labor>  The Supplier may bring into the Country any foreign personnel who are necessary for the supply of Goods and Related Services to the extent allowed by the applicable Laws. The Supplier shall ensure that these personnel are provided with the required residence visas and work permits. The Purchaser will, if requested by the Supplier, use its best endeavors in a timely and expeditious manner to assist the Supplier in obtaining any local, state, national, or government permission required for bringing in the Supplier's personnel.  The Supplier shall be responsible for the return of these personnel to the place where they were recruited or to their domicile. In the event of the death in the Country of any of these personnel or members of their families, the Supplier shall similarly be responsible for making the appropriate arrangements for their return or burial. |
| 1. Prohibition of Sexual Harassment and Sexual Exploitation and Abuse | MCC has adopted a series of mutually reinforcing policy and guidance to prevent and prohibit sexual misconduct, including harassment, exploitation, and abuse of any kind among Supplier's personnel and the Purchaser. These include some forms of trafficking in persons (TIP), sexual harassment (SH), and sexual exploitation and abuse (SEA).  **(a) Defined Terms**: For purposes of the application and interpretation of this clause:  (i) “Sexual Harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Examples of sexual harassment include, but are not limited to, the following behaviors: unwelcome sexual advances; requests for sexual favors; verbal or physical harassment of a sexual nature; or offensive remarks about a person’s sex, sexual orientation or non-conformity with gender stereotypes.  (ii) “Sexual Exploitation” means actual or attempted abuse of a position of vulnerability, power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially, or politically from the sexual exploitation of another.  (iii) “Sexual Abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.  (iv) Sexual exploitation and abuse (SEA) are referred to under the umbrella term ‘SEA.’ SEA also includes sexual relations with any person under the age of eighteen (18) in any context. SEA may involve behavior of Supplier personnel toward other Supplier personnel, as well the behavior of Supplier personnel toward third parties, such as Compact beneficiaries and community members. Several forms of SEA are also covered by MCC’s TIP Policy.  (v) “Survivor-centered” means aiming to put the rights of each survivor of a violation including SH and SEA at the forefront of all actions. People reporting SH and SEA should have their safety protected, their reports addressed confidentially, and their concerns addressed in a manner that maintains their dignity while also respecting their rights to withdraw from or decline procedures related to their reports.  **(b) Prohibitions:**  The Supplier shall prohibit all Supplier Personnel from engaging in Sexual Harassment, Sexual Exploitation, and Sexual Abuse behaviors directed toward other Supplier Personnel; Compact beneficiaries, community members, partners, and stakeholders; Purchaser employees and Consultants; and MCC personnel and consultants.  **(c) Contractor Requirements**  (i) Sexual harassment  The Supplier shall:  (a) implement a policy prohibiting all Supplier personnel from engaging in sexual harassment and put in place an incident referral and reporting plan with respect to the provision of services to support a safe and respectful work environment, in form and substance satisfactory to the Purchaser and MCC;  (b) ensure that all Supplier and subcontractor personnel understand and operate in accordance the requirements of this Clause in order to assure a safe, respectful, and harassment free work environment and harassment-free behavior in communities surrounding worksites;  (ii) Sexual exploitation and abuse  The Supplier (or subcontractor) shall:  (a) implement a policy prohibiting all Supplier personnel from engaging in sexual exploitation and abuse in all its forms and put in place survivor-centered incident reporting and service referral protocols, in form and substance satisfactory to the Purchaser and MCC;  (b) ensure that all Supplier Personnel understand and operate in accordance the requirements of this Clause, including by providing training on the Clause and any related codes of conduct;  (iii) The Supplier (or subcontractor) shall:  (a) notify personnel that actions that will be taken for violations. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment;  (b) provide information and means to personnel and to affected community members so that they can report suspected instances of SH and SEA to the Supplier, to the to the Purchaser's reporting mechanism, to the Purchaser's staff, and, where applicable, to an independent/third party mechanism;  (c) have in place a dedicated person or a contract with a dedicated person or consulting organization with appropriate skills, experience, and training to receive and review allegations or concerns of SH and SEA;  (d) develop and implement fact-finding protocols for SH and SEA allegations that maintain the confidentiality of witnesses and potential survivors and specify their right to be protected from reprisal; and  (e) take appropriate action, up to and including termination, against personnel or subcontractors that violate the prohibitions set out in this clause;  (iv) The Supplier (or subcontractor) shall inform the Purchaser:  (a) Within 24 hours of information it receives from any source (including law enforcement) that alleges its personnel, subcontractor, or the personnel of a subcontractor, has engaged in conduct that violates this clause;  (b) Of any active investigations; and  (c) Of any actions taken against any personnel, subcontractor, or the personnel of a subcontractor, pursuant to these requirements.  **(d) Remedies**  The Purchaser may investigate (either directly or through a third party) allegations of sexual harassment, exploitation, and abuse as it determines appropriate, in accordance with its written fact-finding protocols. The Supplier shall fully cooperate with any investigation conducted by the Purchaser regarding breach of this provision. The Supplier will ensure that any incident of sexual harassment, exploitation, or abuse is investigated by the Purchaser has been resolved to the Purchaser's and MCC’s satisfaction.  Once an incident has been confirmed and depending on the severity of each case, the Purchaser may apply remedies that could include any, all, or a combination of the following:  (i) the Purchaser requiring the Supplier to remove the involved personnel, subcontractor or any of its involved personnel, or any involved agent or affiliate;  (ii) the Purchaser requiring the termination of a subcontract or sub-award;  (iii) suspension of Contract payments until the breach is remedied to the satisfaction of the Purchaser;  (iv) loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Purchaser determined non-compliance;  (v) the Purchaser pursuing sanctions against the Supplier, including declaring the Supplier ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract;  (vi) termination of the Contract by the Purchaser for default or cause in accordance with the termination clause of the Contract; and  (vii) the Purchaser directing the Supplier to provide reasonable financial support or restitution to the survivor(s) of any such incident, based on a final judicial or administrative determination issued pursuant to Applicable Law or the findings of an investigation conducted (directly or through a third party) by the Purchaser. |
| 1. Non-Discrimination and Equal Opportunity | The Purchaser adheres to the principle of equal opportunity and fair treatment in its employment practices. The Purchaser expects that the Supplier shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, sexual orientation, and gender identity. The Purchaser expects that the Supplier shall base its employment decisions on the principle of equal opportunity and fair treatment and that they shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination. |
| 1. Subcontracting | The Supplier 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 Supplier shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the Offer. Subcontracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liabilities under this Contract.  Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.  The Supplier shall be responsible for monitoring compliance of Subcontractors and Primary Suppliers to the labor and working conditions outlined in the IFC Performance Standards in force from time to time.  The Supplier shall monitor its Primary Suppliers on an ongoing basis and, where there is a high risk of significant life-threatening situations related to the Primary Suppliers’ workers, the Supplier will introduce procedures and mitigation measures to ensure that Primary Suppliers are taking steps to prevent or to correct such life-threatening situations. Where a remedy is not possible, the Supplier shall shift its Primary Suppliers from which it obtains supplies for this contract. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-on-supply-chains> |
| 1. Specifications and Standards | The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards, including environmental, health and safety (“EHS”) requirements, specified in the Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods’ and Related Services’ country(ies) of origin.  The Supplier 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.  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 Schedule of Requirements. 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 32. |
| 1. Packing and Documents | The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their Final Destination. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods’ Final Destination and the absence of heavy handling facilities at all points in transit.  The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in this Contract, including additional requirements, if any, **specified in the SCC**, and in any other instructions ordered by the Purchaser. |
| 1. Insurance | Unless otherwise **specified in the SCC**, the Goods supplied under this Contract shall be fully insured, in a freely convertible currency from an Eligible Country, against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms. |
| 1. Transportation | Unless otherwise **specified in the SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the Incoterms and as specified in the Schedule of Requirements. |
| 1. Inspections and Tests | The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the Schedule of Requirements.  The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods’ Final Destination, or in another place in Purchaser’s country as **specified in the SCC**. Subject to GCC Sub-clause 27.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.  The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-clause 272, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.  Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.  The Purchaser may require the Supplier to carry out any test and/or inspection not required by this Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under this Contract, provided that the Supplier’s reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to this Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier’s performance of its other obligations under this Contract, due allowance will be made in respect of the delivery dates and completion dates and the other obligations so affected.  The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.  The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications, including EHS requirements. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-clause 27.4.  The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-clause 27.6, shall release the Supplier from any warranties or other obligations under this Contract. |
| 1. Liquidated Damages | Except as provided under GCC Clause 30, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in this Contract, 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 36. |
| 1. Warranty | The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in this Contract.  Subject to GCC Sub-clause 23.2, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, or workmanship that may develop under normal use in the conditions prevailing in the Purchaser’s country.  Unless otherwise s**pecified in the SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the Final Destination, or for eighteen (18) months after the date of shipment from or loading in the country of origin, whichever period concludes earlier. The warranty period for Goods that were repaired or replaced during the warranty period shall be twelve (12) months from the date on which such Goods were repaired or replaced.  The Purchaser shall give notice to the Supplier stating the nature of any defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.  Upon receipt of such notice, the Supplier shall, within the period **specified in the SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.  If having been notified, the Supplier fails to remedy the defect within the period specified in SCC 26.5; the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier’s risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under this Contract or applicable law. |
| 1. Patent Indemnity | The Supplier shall, subject to the Purchaser’s compliance with GCC Sub-clause 30.2, 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 by reason of:   * 1. the installation of the Goods by the Supplier or the use of the Goods in the Purchaser’s country; and   2. the sale in any country of the products produced by the Goods.   Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from this Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to this Contract.  If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-clause 30.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier 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.  If the Supplier 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.  The Purchaser shall, at the Supplier’s request, afford all reasonably available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.  The Purchaser shall indemnify and hold harmless the Supplier 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 Supplier 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. |
| 1. Limitation of Liability | Except in cases of criminal negligence or willful misconduct,   1. the Supplier 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 Supplier to pay liquidated damages to the Purchaser; and 2. the aggregate liability of the Supplier to the Purchaser, whether under this Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the Purchaser in accordance with GCC Clause 30. |
| 1. Change in Laws and Regulations | 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 where the Final Destination is located (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 Supplier has thereby been affected in the performance of any of its obligations under this Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 13.  Notwithstanding the provisions of GCC Sub-clause 32.1, if, after the date of this Contract, there is any change in the Applicable Law with respect to Taxes that increases or decreases the cost incurred by the Supplier in performing its obligations under this Contract, payments to the Supplier shall not be adjusted. However, the provisions of GCC Clause 15 shall be applicable in such a situation. |
| 1. Force Majeure | 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.  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.  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.  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.  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.  The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default (other than in accordance with GCC Sub-clause 36.1(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.  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. |
| 1. Change Orders and Contract Amendments | The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of this Contract in any one or more of the following:   1. drawings, designs, or specifications, where Goods to be furnished under this Contract are to be specifically manufactured for the Purchaser; 2. the method of shipment or packing; 3. the place of delivery; and 4. the Related Services to be provided by the Supplier.   If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier’s performance of any provisions under this Contract, an equitable adjustment shall be made in this Contract Price or in the delivery/completion schedule, or both, and this Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier’s receipt of the Purchaser’s change order. All claims for adjustment submitted by the Supplier pursuant to this clause shall include a reasonably detailed explanation of the increased costs and/or time, including reasons for such increases.  Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in this Contract shall be agreed upon in advance by the Parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services |
| 1. Extensions of Time | If at any time during performance of this Contract, the Supplier or its Subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 11, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier’s notice, the Purchaser shall evaluate the situation and may at its sole discretion extend the Supplier’s time for performance (with or without liquidated damages as determined by the Purchaser in its sole discretion), in which case the extension shall be ratified by the Parties by amendment of this Contract.  Except in case of Force Majeure, as provided under GCC Clause 33, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 27, unless an extension of time is agreed upon, pursuant to GCC Sub-clause 35.1. |
| 1. Termination by Purchaser | 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 Supplier, 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 (f) of this GCC Sub-clause 36.1.   1. If the Supplier, 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 Supplier repay any and all funds so misused within a maximum of thirty (30) days after termination. 2. If the Supplier fails to deliver or perform any or all of the Goods or Related Services within the period specified in this Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Sub-clause 35.1. Termination under this provision shall become effective immediately upon the expiration of thirty (30) days after delivery of the notice of termination or such later date as may be specified by the Purchaser. In the event the Purchaser terminates this Contract in whole or in part, pursuant to this sub-paragraph, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of this Contract to the extent not terminated. 3. If the Supplier does not remedy a failure to perform any of its other obligation under this Contract (other than a failure contemplated by sub-paragraphs (a) or (b) immediately preceding this sub-paragraph) within thirty (30) days after delivery of the notice of termination or within any further period of time approved in writing by the Purchaser. Termination under this provision shall become effective immediately upon the expiration of the thirty (30) days or such later date as may be specified by the Purchaser. 4. If, as the result of an event of Force Majeure, the Supplier 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. 5. If the Supplier 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. 6. If the Supplier (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. 7. If the Supplier fails to provide evidence of continued eligibility or if the MCC makes an unfavorable eligibility determination of the Supplier, including in relation with any changes of Ultimate Beneficial Owners during Contract performance. Termination under this provision shall become effective immediately upon delivery of the notice of termination.   Termination for Insolvency  The Purchaser may at any time terminate this Contract by giving notice to the Supplier if the Supplier 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 Purchaser in such notice of termination. In such event, termination will be without compensation to the Supplier, 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.  Termination for Convenience   1. The Purchaser, by notice sent to the Supplier, 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 Supplier under this Contract is terminated, and the date upon which such termination becomes effective. 2. In the case of any termination in accordance with this GCC Sub-clause 36.3, the Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier’s receipt of notice of termination shall be accepted by the Purchaser at this Contract terms and prices. For the remaining Goods, the Purchaser may elect:    1. to have any portion completed and delivered at the terms and prices set forth in this Contract; and/or    2. to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.   Suspension or Termination Related to the Compact or Applicable Law   1. The Purchaser, by notice sent to the Supplier, 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 36.4(a), the Supplier has an obligation to mitigate all expenses, damages and losses to the Purchaser during the period of the suspension. 2. The Purchaser, by notice sent to the Supplier, 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 36.4(b) the Supplier has an obligation to mitigate all expenses, damages and losses to the Purchaser during the period of the suspension. |
| 1. Termination by the Supplier | The Supplier 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 37.1.   1. If the Purchaser fails to pay any money due to the Supplier 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 Supplier 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 Purchaser to the Supplier within such thirty (30) days. 2. If, as the result of an event of Force Majeure, the Supplier 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 8. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination. 4. If the Supplier does not receive a reimbursement of any Taxes that are exempt under the Compact within one hundred and twenty (120) days after the Supplier gives notice to the Purchaser that such reimbursement is due and owing to the Supplier. 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 Supplier within such thirty (30) days. 5. If this Contract is suspended in accordance with GCC Sub-clauses 36.4(a) or 36.4(b) for a period of time exceeding three (3) consecutive months; provided that the Supplier has complied with its obligation to mitigate in accordance with GCC Sub-clauses 36.4(a) or 36.4(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. |
| 1. Combating Trafficking in Persons | MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to trafficking in persons (“TIP”). In pursuance of this policy:   1. **Defined Terms.** For purposes of the application and interpretation of this Sub-clause:    * 1. 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* (“C-TIP Policy”) and such definitions are incorporated by reference into this Sub-clause;      2. “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; and      3. “Survivor-centered” means aiming to put the rights of each survivor of a TIP violation at the forefront of all actions. People reporting TIP should have their safety protected, their reports addressed confidentially, and their concerns addressed in a manner that maintains their dignity while also respecting their rights to withdraw from or decline procedures related to their reports.   **(b) Prohibition.**  The Supplier, any subcontractor, 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 Executive 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  **(c) Supplier Requirements.**   1. Each Supplier, subcontractor, Consultant or Subconsultant shall: 2. notify its personnel of the MCC C-TIP Policy in writing 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; 3. orient Supplier's personnel with respect to both the MCC definition of TIP and any country-specific legal definition of TIP, to examples of what might constitute TIP, and to the C-TIP obligations of the relevant contract with the Purchaser, in languages comprehensible to the personnel; 4. provide information and means to personnel and to affected community members so that they can report suspected instances of TIP to the Supplier, to the Purchaser's reporting mechanism, to the Purchaser's staff, and, where applicable, to an independent/third party mechanism; 5. record and report the Supplier's C-TIP compliance efforts, including its notification to personnel of the MCC C-TIP Policy and its orientation of personnel; 6. develop and implement written, survivor-centered fact-finding and response protocols for allegations that maintain the confidentiality of witnesses and potential survivors; specify their right to be protected from reprisal; and outline resources and processes to support TIP survivors, should an incident occur; 7. have in place a dedicated person or a contract with a person or consulting organization with appropriate skills, experience, and training to receive and review allegations or concerns of TIP; and 8. take appropriate action, up to and including termination, against Personnel or subcontractors or Subconsultants that violate the prohibitions set out in this clause and MCC C-TIP Policy. 9. Each Supplier shall: 10. 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; 11. 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 Subconsultants (as the case may be), or their respective personnel; and 12. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract. 13. The Supplier or subcontractor shall inform the Purchaser within 24 hours of: 14. any information it receives from any source (including law enforcement) that alleges its personnel, subcontractor, Subconsultant, or the personnel of a subcontractor or Subconsultant, has engaged in conduct that violates this policy; 15. and any actions taken against any personnel, subcontractor, subcontractor/consultant, or the personnel of a subcontractor or Subconsultant, pursuant to these requirements.   **(d) Remedies.**  Once a TIP incident has been confirmed and depending on the severity of each case, the Purchaser will apply remedies, which could include any, all, or any combination of the following:   1. the Purchaser requiring the Supplier to remove the involved personnel, Subcontractor or Subconsultant or 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; 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 determined non-compliance; 5. the Purchaser pursuing sanctions against the Supplier, including declaring the Supplier ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; 6. termination of the Contract by the Purchaser for default or cause in accordance with the termination clause of the Contract; 7. the Purchaser directing the Supplier to provide reasonable financial support or restitution to the survivor(s) of any such incident, in each case in accordance with the Supplier’s applicable TIP risk management plan, and/or based on a final judicial or administrative determination issued pursuant to Applicable Law or the findings of an investigation conducted (directly or through a third party) by the Purchaser through its written fact-finding protocols; 8. a finding that the Supplier's personnel, subcontractor, or the personnel of a subcontractor has engaged in conduct that violates the MCC C-TIP Policy or the requirements of this clause constitutes a breach of the Supplier's obligations under the Contract and could be grounds for the Purchaser to demand payment of up to the total sum of the Performance Guarantee. |
| 1. Prohibition of Harmful Child Labor | The Supplier shall not employ any child to perform any work that is economically exploitative; is likely to be hazardous to, or to interfere with the child’s education; or is likely to be harmful to the child’s health or physical, mental, spiritual, moral or social development. The Supplier will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Supplier 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) 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. |
| 1. Reimbursable Amounts | 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). |
| 1. Accounting, Inspection and Auditing | The Supplier shall keep accurate and systematic accounts and records in respect of the provision of the Goods and Related Services under this Contract, in accordance with the provisions of Annex A and internationally accepted accounting principles. |
| 1. Use of Funds; Compliance with Environmental Guidelines | The Supplier shall ensure that its activities do not violate provisions relating to use of funds and environmental guidelines, as set out in Annex A. |
| 1. MCC Conditionalities | 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 supplier, 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. |
| 1. Flow through Provisions | In any subcontract or sub-award entered into by the Supplier, as permitted by the terms of this Contract, the Supplier shall ensure the inclusion of all the provisions contained in Annex A in any agreement related to such subcontract or sub-award. |
| 1. Assignment | 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 Supplier. The Purchaser shall use commercially reasonable efforts to notify the Supplier as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-clause 45.1 shall be null and void.  In the event of any assignment of the Contract by the Purchaser in accordance with GCC Sub-clause 45.1:   1. the Supplier shall obtain a replacement Performance Security according to the terms of GCC Sub-clause 15.3 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 Supplier; 2. in the event any advance payment guarantee is outstanding at the time of assignment, the Supplier shall obtain a replacement advance payment guarantee according to the terms of GCC Sub-clause 13.1 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 Supplier. |
| 1. Acceptance | Acceptance shall occur in respect of the Goods and Related Services, when   1. the Inspections and Tests, as specified in SR5 of Section V. Schedule of Requirements, and/or PCC have been successfully completed; or 2. the Inspections and Tests as specified in SR5 of Section V. have not been successfully completed or have not been carried out for reasons that are attributable to the Purchaser within the period from the date of Final Completion or any other agreed-upon period as specified in Section V. Schedule of Requirements; or 3. the Purchaser has put the Goods into use for sixty (60) consecutive days. If the Goods are put into use in this manner, the Supplier shall notify the Purchaser and document such use.   At any time after any of the events set out in GCC Sub-clause 46.1 have occurred, the Supplier may give a notice to the Purchaser requesting the issue of an Acceptance Certificate, as provided in Section VIII. Contract Forms.  After consultation with the Purchaser, and within fourteen (14) days after receipt of the Supplier’s notice, the Purchaser shall:   1. issue an Acceptance Certificate; or 2. notify the Supplier in writing of any defect or deficiencies or other reason for the failure of the Inspections and Tests; or 3. issue the Acceptance Certificate, if the situation covered by GCC Sub-clause 46.1 (b) arises.   The Supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Inspections and Tests that the Purchaser has notified the Supplier of. Once such remedies have been made by the Supplier, the Supplier shall notify the Purchaser, and the Purchaser, with the full cooperation of the Supplier, shall use all reasonable endeavors to promptly carry out retesting of the Goods. Upon the successful conclusion of the Inspections and Tests, the Supplier shall notify the Purchaser of its request for Acceptance Certification, in accordance with GCC Sub-clause 46.3. The Purchaser shall then issue to the Supplier the Acceptance Certification in accordance with GCC Sub-clause 46.3(a), or shall notify the Supplier of further defects, deficiencies, or other reasons for the failure of the Inspections and Tests. The procedure set out in this GCC Sub-clause 46.4 shall be repeated, as necessary, until an Acceptance Certificate is issued.  If the Goods fail to pass the Inspections and Tests in accordance with SR5 of Section V. Schedule of Requirements, then either:   1. the Purchaser may terminate the Contract, pursuant to GCC Sub-clause 35.1(b); or 2. if the failure to achieve Acceptance within the specified time period is a result of the failure of the Purchaser to fulfill its obligations under the Contract, then the Supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the Contract.   If within fourteen (14) days after receipt of the Supplier’s notice the Purchaser fails to issue the Acceptance Certificate or fails to inform the Supplier in writing of the justifiable reasons why the Purchaser has not issued the Acceptance Certificate, the Supplier shall send a notification to the Purchaser informing that the fourteen (14) day period has expired. If the Purchaser fails to take action as set forth above in this GCC Sub-clause 46.6 within three (3) days from the receipt of such notice, the Goods shall be deemed to have been accepted as of the date of the Supplier’s said notice. |
| 1. **Contractor Past Performance Report**ing System | The Supplier acknowledges that during the performance of the Contract the Purchaser shall maintain a performance record of the Supplier in accordance with MCC’s Contractor Past Performance Reporting System, as described on MCC’s website. The Supplier shall provide timely information or input to, and otherwise respond to requests for input or information |

## Section VII Special Conditions of Contract

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| 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 | (b) “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.  (f) “Bidding Document” means the bidding documents for the procurement of the Goods and Related Services **[insert reference number];** issued **[insert issue date].**  (o) “Final Destination” is: **[insert Final Destination for delivery of Goods].**  (aa) "Purchaser" or “Accountable Entity” means **[insert official name of the Accountable Entity]**, as well as any successor entity designated by the Government.  (bb) "Purchaser's Country" means **[insert Country].** |
| GCC 2.2 | The Incoterms edition is **[insert “Incoterms 2010” or insert year of applicable edition]** |
| GCC 2.7(i) | 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 Supplier consists of a joint venture or another association of more than one entity, the name of the entity whose address is specified in SCC 8.1 should be inserted here. If the Supplier consists only of one entity, this SCC 6.1 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 Supplier 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 Supplier 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 11.1 | Delivery and Documents  For Goods supplied from outside Purchaser’s country:  **[Note: The following provisions are by way of an example of acceptable provisions. The Purchaser may also propose alternative provisions]**  (CIF terms)  Upon shipment, the Supplier shall notify the Purchaser and the insurance company in writing of the full details of the shipment, including contract number, description of Goods being shipped, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall fax or e-mail and send by courier the following documents to the Purchaser, with a copy to the insurance company:   1. copies of the Supplier’s invoice showing the shipped Goods’ description, quantity, unit price, and total amount; 2. original and three (3) copies of the negotiable, clean, on-board bill of lading marked “freight prepaid” and three (3) copies of nonnegotiable bill of lading; 3. three (3) copies of the packing list identifying contents of each package; 4. insurance certificate, showing the Purchaser as the beneficiary; 5. Manufacturer’s or Supplier’s warranty certificate; 6. inspection certificate, issued by the nominated inspection agency, and the Supplier’s factory inspection report; 7. certificate of origin; and 8. any other procurement-specific document required for delivery or payment purposes.   **[Other similar documents should be listed, depending on the Incoterms required.]**  The above documents shall be received by the Purchaser at least one week before arrival of the Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses. |
| GCC 13.1 | 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:  **[insert account number(s)]**  **[If Contract Price is payable in USD and in local currency, add the following language: "Payment of the US Dollar and local currency portions shall be made in the respective currencies"]** |
| GCC 13.2 | 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 14.1 | *[Sample provision:*  *The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:*  *(i) Advance Payment: Ten (10) percent of the Contract Price shall be paid within thirty (30) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in the bidding documents or another form acceptable to the Purchaser.*  *(ii) On Shipment: Eighty (80) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 11.*  *(iii) On Acceptance: Ten (10) percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the Acceptance Certificate issued by the Purchaser.]* |
| GCC 14.5 | The payment-delay period after which the Purchaser shall pay interest to the Supplier 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 15.1 | **[Insert link(s) to the Compact and any other Compact-related agreements that may offer tax exemptions to Suppliers]**  **[GCC Clause 15 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 adding specific tax-related provisions]** |
| GCC 16.1 | 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, except as provided for by DS 33.2] 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]* |
| GCC 16.3 | The Performance Security shall be in the form of **[insert “unconditional bank guarantee” or other type]** |
| GCC 21.2 | The packing, marking and documentation within and outside the packages shall be:  **[insert in detail the type of packing required, the markings in the packing and all documentation required]**  Packaging shall be in the form that shall ensure the maximum safety of all the items |
| GCC 24.2 | The packing, marking, and documentation within and outside the packages shall be: **[insert requirements]** |
| GCC 25.1 | The insurance coverage shall be as specified in the Incoterms.  OR  The insurance coverage shall be as follows:  [insert specific insurance provisions agreed upon, including coverage, currency an amount. The following is an example]  The Insurance shall be in an amount equal to [**insert number (110% is CIF/CIP standard)]** percent of the CIF or CIP value of the Goods from “warehouse” to “warehouse” on “All Risks” basis, including War Risks and Strikes.  *[Note: delete whichever is not appropriate]* |
| GCC 26.1 | Responsibility for transportation of the Goods shall be as specified in the Incoterms. |
| GCC 27.2 | The inspections and tests shall be:  **[insert nature, frequency, procedures for carrying out the inspections and tests]** |
| GCC 28.1 | 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 29.3 | **[The following provision should be used in the case of Goods having warranty obligations.]**  After delivery and acceptance of the Goods, the performance security shall be reduced to **[insert number]** percent of the Contract Price to cover the Supplier’s warranty obligations in accordance with Clause GCC 29.3. |
| GCC 29.5 | The Supplier shall repair or replace the defective Goods or parts thereof within **[insert number]** days |

## Section VIII Contract Forms and Annexes

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Notification of Award

***[The Notification of Award shall be the basis for formation of the Contract as described in ITO Clause 43. This form of Notification of Award shall be filled in and sent to the successful Offeror only after evaluation of Offers has been completed, subject to any review by the MCC as required.]***

**[date]**

To: **[insert name and address of the Supplier]**

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

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

You are hereby instructed to (a) proceed with supply of the said Goods and Related Services in accordance with the Contract, (b) sign and return the attached Contract, (c) complete and return the Compliance with Sanctions Certification Form (c) Supplier Self-Certification Form and (d) forward the Performance Security pursuant to GCC Clause 16 within 28 days after receipt of this Notification of Award.

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

Attachment: Contract

Contract Agreement

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| This CONTRACT AGREEMENT (this “Contract”) is made as of the **[day]** of **[month**], **[year],** between **[full legal name of the Accountable Entity]** (the “Purchaser”), on the one part, and **[full legal name of Supplier]** (the “Supplier”), on the other part.  ***[Note: If the Supplier 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 Accountable Entity]** (the “Purchaser”), on the one part, and **[full legal name of lead Supplier]** (the “Supplier”) in **[joint venture / association]** with **[list names of each joint venture/association entity],** on the other part, each of which will be jointly and severally liable to the Purchaser for all of the Supplier’s obligations under this Contract and is deemed to be included in any reference to the term “Supplier.”  **RECITALS**  WHEREAS,  The Millennium Challenge Corporation (“MCC”) and the Government of **[Country]** (the “Government”) have entered into a Millennium Challenge Compact for 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 Purchaser shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding; and  The Purchaser invited Offers for the provision of certain goods and related services identified in this Contract and has accepted an Offer by the Supplier for the supply of those goods and related services on the terms and conditions set forth in this Contract.  NOW THEREFORE, the parties hereto agree as follows:  In consideration of the payments to be made by the Purchaser to the Supplier as set forth in this Contract, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of this Contract.  Subject to the terms of this Contract, the Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Related 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 Supplier]:** | | Signature | Signature | | Name | Name | | Witnessed By | Witnessed By |   ***[Note: If the Supplier 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 Supplier  **[Name of Member]**    **[Authorized Representative]**  **[Name of Member]**  **[Authorized Representative]** |

Annex A: Annex of Additional Provisions

The additional provisions of Contract can be found on the MCC website: [**https://www.mcc.gov/resources/doc/annex-of-general-provisions**](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: 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 Offeror upon submission of the Offer and, if selected, by the Supplier 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[[5]](#footnote-6), for the duration of the Contract.

The form is to be submitted to the Accountable Entity Procurement Agent at the time of Offer submission, and to the Fiscal Agent thereafter [*email addresses for Accountable* *Entity Procurement and Fiscal Agents to be inserted here*] with a copy to MCC at [sanctionscompliance@mcc.gov](mailto:sanctionscompliance@mcc.gov).

For the avoidance of doubt, reporting the provision of material support or resources (as defined below) to an individual or entity on the enumerated lists will not necessarily result in the disqualification of an Offeror or cancellation of the Contract. However, **failure** to report such provision, or any similar material misrepresentation, whether intentional or without due diligence, would be grounds for disqualifying the Offeror or canceling the Contract, and may subject such Offeror or Supplier to criminal, civil, or administrative remedies as appropriate under U.S. law.

**Instructions for completing this form are provided below.**

**Full Legal Name of Offeror/Supplier: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

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

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| ALL OFFERORS/SUPPLIERS TO CHECK THE APPLICABLE BOX BELOW:   * 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 Offeror/Supplier hereby certifies as follows:   + No adverse or negative results were obtained from such eligibility verifications; and   + To the best of its current knowledge, the Offeror/Supplier has not provided, at any time within the previous ten years or currently, any material support or resources (including without limitation, any MCC Funding[[6]](#footnote-7)), directly or indirectly to, or knowingly permitted any funding (including without limitation any MCC Funding) to be transferred to, any individual, corporation or other entity that the Offeror or Supplier knew, or had 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 on the enumerated lists described below (including the Offeror or Supplier itself).   **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 Offeror/Supplier hereby certifies that the following adverse or negative results were obtained from such eligibility verification (information to be provided for each result in accordance with the instructions included with this form): * 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: * A description of, and the circumstances under which such support was provided: |

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 to be “fraud” for purposes of the ITO or Contract, the *MCC Procurement Policy and 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 THE COMPLIANCE WITH SANCTIONS CERTIFICATION FORM:**

The Offeror/Supplier 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 Legislation and Other Restrictions,”** which is copied below for convenience.

Based on the results of these eligibility verifications, the Offeror/Supplier shall provide the applicable certification in the attached certification form. Note that for the purposes of this certification, Offerors/Supplier are only required to submit detailed back-up documentation about the eligibility verifications together with their certification form if the Offeror/Supplier identifies adverse or negative results. If not, Offerors/Suppliers are free to mark the certification form accordingly and submit it to the appropriate recipient (although the Offeror/Supplier must maintain records per the instructions below).

The Offeror/Supplier shall verify that any individual, corporation, or other entity that has access to or is (or would be) a recipient of MCC Funding, including Offeror/Supplier staff, consultants, Subcontractors, vendors, suppliers, and grantees, is not listed on any of the following (or, in the case of #8 below, is not a national of, or associated in, any country appearing on such list):

1. System for Award Management (SAM) Excluded Parties List -  <https://sam.gov/content/entity-information>
2. World Bank Debarred List - <https://www.worldbank.org/debarr>
3. US Treasury, Office of Foreign Assets Control, Specially Designated Nationals (SDN) List - <https://sanctionssearch.ofac.treas.gov/>
4. US Department of Commerce, Bureau of Industry and Security, Denied Persons List - <https://www.bis.doc.gov/index.php/the-denied-persons-list>
5. US State Department, Directorate of Defense Trade Controls, AECA Debarred List - <https://www.pmddtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=c22d1833dbb8d300d0a370131f9619f0>
6. US State Department, Foreign Terrorist Organizations (FTO) List - <https://www.state.gov/foreign-terrorist-organizations/>
7. US State Department, Executive Order 13224 - <https://www.state.gov/executive-order-13224/>
8. US State Sponsors of Terrorism List - <https://www.state.gov/state-sponsors-of-terrorism/>

In addition to these lists, before providing any material support or resources to an individual or entity, the Offeror/Supplier will also consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.

Documentation of the process takes two forms. The Offeror/Supplier should prepare a table listing each staff member, consultant, subcontractor, vendor, supplier, and grantee working on the contract, such as the form provided below.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Date Checked | | | | | | | |  |
| Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | Eligible (Y/N) |
| SAM Excluded Parties List | World Bank Debarred List | SDN List | Denied Persons List | AECA Debarred List | FTO List | Executive Order 13224 | US State Sponsors of Terrorism List |
| Offeror/Supplier (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 Offeror/Supplier should list the date on which the search was conducted using each eligibility verification source, and whether the staff member, consultant, subcontractor, vendor, supplier, or grantee was determined to be eligible – that is, did not show up on any of the eligibility verification sources.

In addition, 1. SAM Excluded Parties List, 3. SDN List, and 5. AECA Debarred List 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 Offeror/Supplier should print out and retain for each staff member, consultant, subcontractor, vendor, supplier, or grantee the search results page for each eligibility verification source, which should read, *“Has Active Exclusion? No”* or *“No records found.”* (in the case of SAM Excluded Parties List), *“Your search has not returned any results.”* (in the case of SDN List), or *“No records in Statutorily Debarred Parties using that filter”* or *“No records in Admin Debarred Parties using that filter”* (in the case of AECA Debarred List). In the case of 2. World Bank Debarred List, Table 1: Debarred & Cross-Debarred Firms & Individuals will display a blank field that indicates no matching records have been found. For 4. Denied Persons List, 6. FTO List, and 7 Executive Order 13224, there is no searchable database provided so the Offeror/Supplier will review each static list and confirm it does not name the firms or individuals identified in the table above.

If an adverse record(s) has/have been found for one or more individuals or entities, including for the Offeror/Supplier itself, the Offeror/Supplier must conduct additional research to determine whether the finding is a “false positive” (such as an individual whose name matches the name of an individual listed on a sanctions list, but is a different person). If it is a false positive, the Offeror/Supplier will mark the staff member, consultant, subcontractor, vendor, supplier, or grantee as eligible, and retain the research confirming that eligibility.

If any of the Offeror’s/Supplier’s personnel, consultants, subcontractors, vendors, suppliers, or grantees are found to be ineligible at this stage, the Accountable Entity will determine whether it is possible under the circumstances to allow the Offeror/Supplier 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 Procurement Policy and Guidelines*, the Offeror/Supplier 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 country-based sanctions or other restrictions under the law of the United States, including U.S. designated State Sponsors of Terrorism (<https://www.state.gov/state-sponsors-of-terrorism/>).

All of these documents must be retained by the Offeror/Supplier as part of the overall record of the Contract 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 Accountable Entity, MCC, or their designees in accordance with the access provisions of the Contract, And to the USAID Office of Inspector General (responsible for oversight of MCC operations), upon request.

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

1. The Contract Party, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide material support or resources (as defined below) directly or indirectly to, or knowingly permit any funding (including without limitation 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 Accountable Entity may request from time to time.

For purposes of this provision:

* 1. “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. “Training" means instruction or teaching designed to impart a specific skill, as opposed to general knowledge.
  3. “Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge

1. 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 Accountable 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 the MCC Procurement Policy and Guidelines 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 Accountable Entity or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the Accountable Entity with a copy to MCC.
2. Other restrictions on the Contract Party shall apply as set forth in Section 5.4(b) of the Compact with respect to drug trafficking, terrorism, sex trafficking, prostitution, fraud, felony, any misconduct injurious to MCC or the Accountable 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.

Annex C: PS-2 Self-Certification Form

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.

-----------------------------------------------------------------------------------------------------------

As stipulated in the Contract in Sections 19.3 and 22.3, 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 Accountable Entity**.**

**[Name of Supplier**] will ensure that all operations undertaken are done in accordance with the IFC Performance Standards, as described in Sections 19.3 and 22.3 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]** is committed to equal opportunity and non-discrimination in workplace practices, and to a respectful workplace that is free from trafficking in persons, sexual-harassment, and sexual exploitation and abuse.

[**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:

|  |
| --- |
|  |

*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:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Annex D: Code of Business Ethics and Conduct Certification Form

*In satisfaction of clause 3.1 of the General Conditions of Contract, this form is to be completed by the Supplier and submitted for any MCC-Funded Contract with a value in excess of $500,000. This form is to be completed by the Supplier and submitted together with the signed Contract Agreement.*

*If the original certification, submitted along with the signed Contract Agreement, is that the Supplier “has adopted and implemented,” then further submissions will not be required, except as applicable for subcontracts. If the original certification is that the Supplier “will adopt and implement,” then a subsequent submission will be required when the Supplier “has adopted and implemented.”*

*The form is to be submitted to the Accountable Entity Procurement Agent [email address for Accountable Entity Procurement Agent to be inserted here], together with a copy of the Supplier’s code of business ethics and conduct.*

*If the Supplier is a joint venture or association, each Member of the joint venture or association must complete and submit this form, together with their respective code of business ethics and conduct.*

Code of Business Ethics and Conduct Certification Form

Full Legal Name of Supplier: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

Accountable Entity with which Contract Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

As stipulated in GCC 3.1 of the Contract, the Supplier must certify to the Accountable Account Entity that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. The Supplier must also include the substance of this clause in subcontracts that have a value in excess of $500,000.

In satisfaction of this requirement, pursuant to GCC 3.1 of the Contract, I certify that with respect to this contract:

**[Name of Supplier]** has adopted and implemented a code of business ethics and conduct, a copy of which is hereby submitted together with this certification form.

OR

**[Name of Supplier]** will adopt and implement a code of business ethics and conduct within ninety (90) days after the date of Contract signature. **[Name of Supplier]** will resubmit this certification, together with a copy of the Supplier’s code of business ethics and conduct, when such code has been adopted and implemented.

**[Name of Supplier]** will include the substance of this requirement in all subcontracts having a value in excess of $500,000 and will forward all resulting certifications to [Name of Accountable Entity].

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 “fraud” for purposes of the Contract between the Supplier and the Accountable Entity, the *MCC Procurement Policy and 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:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Annex E: Beneficial Ownership Disclosure Form (BODF)

*DELETE THIS BOX ONCE YOU HAVE COMPLETED THE FORM*

*This Beneficial Ownership Disclosure Form (“Form”) is to be completed by the Supplier whenever there is a change in beneficial ownership or whenever requested by the Purchaser. The beneficial ownership information to be submitted in this Form shall be current as of the date of its submission.*

*For the purposes of this Form, a Beneficial Owner of a Supplier is any natural person who ultimately owns or controls the Supplier by meeting one or more of the following conditions:*

* *directly or indirectly holding 10% or more of the shares*
* *directly or indirectly holding 10% or more of the voting rights*
* *directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Supplier*

*An individual directly holds 10 percent or more of the shares of the Supplier if the shares are registered in his or her name or, in the case of bearer shares, if the shares are in his or her possession. An individual owns 10 percent or more of the shares of the Supplier indirectly if the shares are held through a trust or through another corporation. Therefore the Supplier must know the identities of the natural persons who directly or indirectly hold the shares of any corporate entity or trust that owns part or all of the Supplier, and disclose the identity of any natural person who cumulatively directly or indirectly holds 10 percent or more of the shares of the Supplier. The same rules apply in determining whether an individual has 10 percent or more of the voting rights of the Supplier or the right to appoint a majority of the board of directors or equivalent governing body.*

*An example of indirectly holding 10 percent of the Supplier's shares: Mr. and Mrs. X each hold 50 percent of Company A. Company A in turn owns 20 percent of the Supplier. Mr. and Mrs. X each beneficially own 10 percent of the Supplier, and the names of each must be reported on the form.*

**Contract Ref. No.:** [*insert Contract reference number*]

To: **[*insert complete name of Accountable Entity*]**

*[select one option as applicable and delete the options that are not applicable]*

(i) we hereby provide the following beneficial ownership information.

Details of beneficial ownership

|  |  |  |  |
| --- | --- | --- | --- |
| Identity of Beneficial Owner | Directly or indirectly holding 10% or more of the shares  (Yes / No) | Directly or indirectly holding 10 % or more of the Voting Rights  (Yes / No) | Directly or indirectly having the right to appoint a majority of the board of the directors or an equivalent governing body of the Supplier  (Yes / No) |
| *[include full name (last, middle, first), citizenship(s), current home and business address, email address]* |  |  |  |

***OR***

*(ii) we declare that there is no individual meeting one or more of the following conditions:*

* + directly or indirectly holding 10% or more of the shares
  + directly or indirectly holding 10% or more of the voting rights
  + directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Supplier

OR

1. *we declare that we are unable to identify any individual meeting one or more of the following conditions. [If this option is selected, the Supplier shall provide explanation on why it is unable to identify any Beneficial Owner]*
   * directly or indirectly holding 10% or more of the shares
   * directly or indirectly holding 10% or more of the voting rights
   * directly or indirectly having the right to appoint a majority of the board of directors or equivalent governing body of the Supplier

OR

(iv) we declare that we are a publicly held company listed on the New York, American, NASDAQ, London, Tokyo, or Euronext Stock Exchanges, with the following ticker symbol: [Insert ticket symbol].

**In addition, we attach a graphic depicting the corporate ownership structure, including ownership percentages, if any entities or legal arrangements – such as companies, trusts, foundations, etc. – exist between the Supplier and the Beneficial Owners in the corporate ownership structure.**

We acknowledge that the Accountable Entity may use this information to review if any Beneficial Owners are sanctioned by the United States Government or by the International Financial Institutions[[7]](#footnote-8), and to review if any Beneficial Owners present a conflict of interest as described in MCC’s Procurement Policy and Guidelines. We acknowledge that failure to provide this form, or providing false information on this form, can be grounds for terminating the Contract. We also acknowledge that we will be required to provide the Accountable Entity with a new BODF upon any changes regarding beneficial ownership during the life of the Contract. We acknowledge that the Accountable Entity will reserve the right to request an updated BODF, or documentation to provide proof of beneficial ownership, at any time during the life of the Contract. We also acknowledge that the Accountable Entity will reserve the right to terminate the Contract if the Accountable Entity decides that a Beneficial Owner is unacceptable due to sanctions or an unmitigable conflict of interest.

Data Privacy Protection Waiver: The information and documents provided will be used by the Accountable Entity, the Procurement Agent for the Accountable Entity, and MCC for the reasons described above. The information and documents may be shared with the Office of Inspector General (OIG) for the U.S. Agency for International Development (USAID), which serves as the OIG for MCC, or with other law enforcement agencies if requested through appropriate protocols. The Supplier consents to the collection, storage, access, use, processing, and transfer of this data by and among these entities, and voluntarily waives any provision of any local, national, or supranational law, such as, without limitation, the European Union’s General Data Protection Regulation (GDPR) and national laws enacted in response thereto, or laws of similar effect in other jurisdictions, which would prohibit or otherwise regulate such access, processing, and transfer.

**Name of the Supplier**: \*[*insert complete name of the Supplier*]

**Name of the person duly authorized to sign on behalf of the Supplier**: \*\*[*insert complete name of person duly authorized to sign*]

**Title of the person signing**: [*insert complete title of the person signing*]

**Signature of the person named above**: [*insert signature of person whose name and capacity are shown above*]

**Date signed** [*insert date of signing*] **day of** [*insert month*], [*insert year*]

\* In the event that the Supplier is a joint venture, each reference to “Supplier” in the Beneficial Ownership Disclosure Form shall be read to refer to the joint venture member.

\*\* The power of attorney shall be attached.

Annex F: Securities

Annex F1: Bank Guarantee for Performance Security

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *[The bank, as requested by the Supplier, 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 Supplier]** (hereinafter called the “Supplier”) has entered into Contract No. **[insert number]** dated **[insert day and month],** **[insert year]** with **[name of Accountable Entity]** (hereinafter called “the Beneficiary”), for the supply of **[description of Goods and Related 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 Supplier, 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, without your needing 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 Supplier | | Signature | Signature | | In the capacity of: | In the capacity of: | | Date: | Date: | |

Annex F2: Bank Guarantee for Advance Payment Security

*[The bank, as requested by the Supplier, 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 Supplier]** (hereinafter called "the Supplier") has entered into Contract No. **[insert number]** dated **[insert day and month], [insert year]** with **[name of Accountable Entity]** (hereinafter called “the Beneficiary”), for the supply of **[description of Goods and Related 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 Supplier, 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, without your needing to prove or to show grounds or reasons for the Beneficiary’s demand of the sum specified therein.

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 Supplier 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 Supplier 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.

|  |  |
| --- | --- |
| For the Bank | For the Supplier |
| Signature | Signature |
| In the capacity of: | In the capacity of: |
| Date: | Date: |

Annex G: Acceptance Certificate

Date: **[insert date]**

CB No: **[insert CB number]**

Contract: **[insert name of and number of Contract]**

To: **[insert name and address of Supplier]**

Dear Sir or Madam:

Pursuant to GCC Clause 46 (Acceptance) of the Contract entered into between yourselves and the **[insert name of Purchaser]** (hereinafter the “Purchaser”) dated **[insert date of Contract],** relating to the **[insert brief description of the Goods and Related Services],** we hereby notify you the Goods (identified below) successfully completed the Inspections and Tests specified in the Contract. In accordance with the terms of the Contract, the Purchaser hereby takes over the Goods (identified below), together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

1. Description of the Goods: **[insert description]**

2. Date of Acceptance: **[insert date]**

This letter shall not relieve you of your remaining performance obligations under the Contract nor of your obligations during the Warranty Period.

For and on behalf of the Purchaser

Signed:

Date:

in the capacity of: **[state “Project Manager” or higher level authority in the Purchaser’s organization]**

1. World Bank copyright <http://www.worldbank.org> [↑](#footnote-ref-2)
2. World Bank, African Development Bank, Asian Development Bank, Inter-American Development Bank, and European Bank of Reconstruction and Development. [↑](#footnote-ref-3)
3. “MCC-Funded Contract” is defined as a contract signed by an Accountable Entity or Core Team, as opposed to a contract signed by MCC, under the provisions of MCC’s Procurement Policy and Guidelines, and using funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding. [↑](#footnote-ref-4)
4. “MCC Funding” is defined as funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding [↑](#footnote-ref-5)
5. “MCC-Funded Contract” is defined as a contract signed by an Accountable Entity or Core Team, as opposed to a contract signed by MCC, under the provisions of MCC’s Procurement Policy and Guidelines, and using funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding. [↑](#footnote-ref-6)
6. “MCC Funding” is defined as funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding [↑](#footnote-ref-7)
7. World Bank, African Development Bank, Asian Development Bank, Inter-American Development Bank, and European Bank of Reconstruction and Development. [↑](#footnote-ref-8)