**Standard Bidding Document**



**for**

**Procurement of Non-Consulting 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**

**Date: January 8, 2025**

**Foreword**

This Standard Bidding Document (“SBD”) for the Procurement of Non-Consulting Services has been prepared by the Millennium Challenge Corporation (“MCC”) for use by Accountable Entities and other designated Implementing Entities when procuring non-consulting 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 Employer 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. Service Requirements**

This section includes the detailed list of Non-Consulting Services, the Delivery and Completion Schedules, the Technical Specifications and the Drawings that describe the Non-Consulting 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 Employer for each procurement of Non-Consulting 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 Employer, 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: \_\_\_\_\_\_\_\_\_\_\_\_\_**

**[Employer]**

**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 Non-Consulting 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 Employer. 3. “Associate” means any entity that forms the Offeror or Service Provider. A Subcontractor is not an Associate. 4. “Association” or “Joint Venture” or “JV” means an association of entities that forms the Offeror or Service Provider, 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 Employer for the selection of the Service Provider. 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 Employer and the Service Provider, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 3 of this Bidding Document. 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. "Employer" means the entity **identified in the DS**, and the party with which the Service Provider signs the Contract for the supply of Non-Consulting Services. 13. “Final Destination” means the place(s) where the Services are to be provided , as prescribed in Section V. Schedule of Requirements. 14. “GCC” means the General Conditions of Contract. 15. “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Service Provider is required to supply to the Employer under the Contract. 16. “Government” means the Government **identified in the DS**. 17. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability. 18. “Implementing Entity” means a Government affiliate **identified in the DS** engaged by the Accountable Entity for the purposes of compact implementation. 19. “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. 20. “in writing” means communicated in written form (e.g., by paper, mail, facsimile, e-mail or other electronic means). 21. “*MCC’s AFC Policy*” has the meaning provided in ITO Clause 3. 22. “*MCC Counter-Trafficking in Persons Policy*” means the policy identified in ITO Clause 4. 23. “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government. 24. “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Compact. 25. “*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/ 26. “*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). 27. “Notice of Intent to Award” means the completed form with the heading “Notice of Intent to Award” which will be issued by the Employer in accordance with ITO Sub-clause 42.1. 28. “Offer” means an offer for the provision of the Non-Consulting Services submitted by an Offeror in response to this Bidding Document. The words “Offer” and “Bid” may be used interchangeably. 29. “Offeror” means any eligible entity or person, including any associate of such eligible entity or person that submits an Offer. The word “Offeror” may also be used to indicate the Offeror. 30. “SCC” means the Special Conditions of Contract. 31. “Schedule of Requirements” means the documents included in Part 2 of this Bidding Document that explain the technical specifications and other requirements related to the Non-Consulting Services. 32. “Services” or “Non-Consulting Services” means the work to be performed by the Service Provider under the Contract, as described in Section V. Schedule of Requirements. 33. “Service Provider” means the entity that provides the Non-Consulting Services to the Employer under the Contract. 34. Sexual harassment is defined in the *Guidance Note to MCAs on Sexual Harassment* available at www.mcc.gov. 35. “Subcontractor” means any entity to whom an Offeror intends to subcontract any part of the Non-Consulting Services. 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 Employer has issued this Bidding Document for the procurement of Non-Consulting 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 Employer. | |
| 1. Fraud and Corruption | | * 1. MCC requires that all beneficiaries of MCC Funding, including the Accountable Entity and any Offerors, Service Providers, Contractors, Subcontractors, Consultants and Sub-consultants, and non-consulting Services 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 Employer 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 Service Provider, 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 Service Provider has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in executing, such a contract. 10. Per MCC PPG, MCC and the Accountable Entity have the right to require any Offeror or Service Provider to permit the Accountable Entity, MCC, or any designee of MCC, to inspect the Offeror's or Service Provider’s, or any of the Service Provider'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, Service Provider 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 Service Provider). | |
| MCC Environmental Guidelines and IFC Performance Standards | | * 1. The Offerors and the Service Provider 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 Service Provider are also required to comply with IFC Performance Standards for the purposes of the Contract. Additional information on the IFC Performance Standards on Environmental and Social Sustainability 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 Service Providers must also satisfy the eligibility criteria contained in the MCC PPG. In the case where an Offeror or Service Provider 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. Not applicable to non-consulting services. | |
| 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 Service Provider 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 Employer requires that Offerors and the Service Provider 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 Service Provider, including all parties constituting the Offeror or Service Provider, and any subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, may be considered to have a conflict of interest and disqualified or terminated if they:  1. have at least one controlling partner in common with one or more other parties in the 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 Employer 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 Non-Consulting 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 Service Provider 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 Service Provider 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 Service Provider.   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/Service Provider 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 Employer 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 Service Provider.   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 Service Provider, all parties constituting the Offeror or Service Provider, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, will not be any person or entity under  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 Service Provider, all parties constituting the Offeror or Service Provider, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates not otherwise made ineligible for a reason described in this 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 Service Provider (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 Service Provider (including any Associates, Subcontractors and any respective affiliates) or any payments to entities in such country; or 3. such Offeror or Service Provider, any parties constituting the Offeror or Service Provider, any Subcontractor, Associate, or respective personnel or affiliates are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on MCC’s website ([www.mcc.gov](http://www.mcc.gov)). | |
|  | | * 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 Service Provider shall provide such evidence of their continued eligibility in a manner satisfactory to the Employer, as the Employer shall reasonably request. | |
| Commissions and Gratuities | | * 1. Offerors and the Service Provider 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 Non-Consulting Services to be supplied under the Contract may have their origin in any country subject to the same restrictions specified for Offerors and the Service Provider in ITO Clause 5 above. At the Employer’s request, Offerors will be required to provide evidence of the origin of Non-Consulting 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 any 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 – Service 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 Employer, the Employer 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 Employer 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 Employer in writing, at the Employer’s address **indicated in the DS**. The Employer 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 Employer 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 Employer by the date **specified in the DS**. The Employer will also post a copy of the responses and inquiry descriptions to the Employer’s website, if one exists. Should the clarification result in changes to the essential elements of this Bidding Document, the Employer 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 Employer 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 Employer’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 Employer. Any modification to this Bidding Document that may become necessary as a result of the pre-Offer conference shall be made by the Employer 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 Employer 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 Employer, and posted on the Employer’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 Employer 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 Employer 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 Employer, 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 Employer. 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 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 Employer 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 included in Section IV. Submission Forms and shall be the all-inclusive price of the Services, including transportation, insurance and all services required to deliver the Services to the locations specified in the Schedule of Requirements.   7. Prices quoted by the 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.   8. 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.   9. 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) included in Section IV. Submission Forms. |
| 1. Documents Establishing the Eligibility of the Non-Consulting Services | | | * 1. To establish the eligibility of the Non-Consulting 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 as part of the Services 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 Employer’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 Employer’s Country, the Offeror shall be (if awarded the Contract) represented by an agent in the country equipped and able to carry out the Service Provider’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 Non-Consulting Services | | | * 1. To establish the conformity of the Non-Consulting Services to the Bidding Document, the Offeror shall furnish as part of its Offer the documentary evidence that the Non-Consulting 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 Non-Consulting Services, demonstrating substantial responsiveness of the Non-Consulting 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. **If so specified in the DS,** 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 Services during the period **specified in the DS**, following commencement of the use of the Services by the Employer. 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 Employer 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 Employer’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 Employer’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 Employer. An Offer valid for a shorter period shall be rejected by the Employer as non-responsive.   2. In exceptional circumstances, prior to the expiration of the Offer validity period, the Employer 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 Employer’s country, the Bid Security must be confirmed by a correspondent financial institution located within Employer’s country, satisfactory to the Employer, 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 Employer 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 Employer's country. 3. be payable promptly upon written demand by the Employer 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 Employer as nonresponsive. The Bid Security may be forfeited, at the Employer'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 Employer, 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 Employer 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 Employer 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 Employer 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 Employer 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 Employer and the Offerors previously subject to the original deadline shall then be subject to the deadline as extended. | | | |
| 1. Late Offers | * 1. The Employer 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 Employer 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 Employer 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 Employer 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 Employer 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 Employer 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 Employer’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 Employer in the evaluation of Offers or Contract award decisions may subject the Offeror to the provisions of the Government’s, the Employer’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 Employer 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 Employer 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 Employer shall not be considered. The Employer’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 Employer 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 Employer’s request for clarification, its Offer may be rejected, and if so, its Bid Security returned. | | | |
| 1. Responsiveness of Offers | * 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 Non-Consulting Services; or   (ii) limit in any substantial way, inconsistent with this Bidding Document, the Employer’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 Employer, 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 Employer may waive any nonconformities in the Offer.   3. Provided that an Offer is substantially responsive, the Employer 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 Employer shall rectify quantifiable nonmaterial nonconformities related to the Offer Price. | | | |
| 1. Correction of Arithmetic Errors | * 1. The Employer 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 Employer 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 Employer 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 Employer 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 Employer 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 Employer 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. Employer’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 Employer’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**, Employer’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 Non-Consulting 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 Employer’s qualification of the Offeror. The Employer reserves the right to check the performance references provided by the Offeror or to use any other source at the Employer’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 Employer 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 Employer 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 Employer 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 Employer on the Offeror’s record of performance in prior contracts may be a reason for disqualification of the Offeror at the discretion of the Employer. | | | |
| 1. Price Reasonableness | * 1. The Employer 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 Employer 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 Employer 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 Employer. 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. Post-qualification of the Offeror | * 1. The Employer 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 Employer 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 Employer 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. Employer’s Right to Accept Any Offer, and to Reject Any or All Offers | * 1. The Employer 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 Employer’s expense. If all Offers are rejected, the Employer 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 Employer reserves the right to cancel the procurement if this is no longer in the interest of the Employer. | | | |
|  | Award of Contract | | | |
| 1. Award Criteria | * 1. Subject to ITO Sub-Clause 39.1, the Employer 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. Employer’s Right to Vary Quantities at Time of Award | * 1. At the time the Contract is awarded, the Employer reserves the right to increase or decrease the quantity of Non-Consulting Services originally specified in Section V. Schedule of Requirements, provided this does not exceed the percentages **indicated in the 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 Employer shall send the Notice of Intent to Award (“NOITA”) to the successful Offeror. NOITA shall include a statement that the Employer 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 Employer 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 Employer shall also notify, in writing, all other Offerors of the results of the evaluation. The Employer 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 Employer and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the Employer’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 Employer shall send the Notification of Award to the successful Offeror.   2. The Notification of Award shall specify the sum that the Employer will pay the Service Provider for the delivery of Non-Consulting Services. Until a formal Contract is prepared and executed, the Notification of Award shall constitute a binding Contract between the Employer and the Service Provider.   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 Employer of the Contract Agreement, the successful Offeror shall sign, date, and return it to the Employer, 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 Employer, 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 Employer. A foreign institution providing a Performance Security shall have a correspondent financial institution located in the Employer’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 Employer 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 Employer shall return the Bid Securities of unsuccessful Offerors and shall publish on the Employer’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 Employer’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, Service Provider or Subcontractor who partakes in procurement or subsequent contracts in which MCC Funding is involved.   2. The provisions set forth in Annex A to the Contract apply during the bidding procedures as well as throughout the performance of the Contract. | | | |
| 1. Inconsistencies with MCC Procurement Policy and Guidelines | * 1. The procurement that is the subject of this Bidding Document is being conducted in accordance with and is subject in all respects to 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 Employer 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].**  (l) “Employer” means **[full legal name of the Employer].**  (p) “Government” means the government of **[country].**  (r) “Implementing Entity” means the **[name of government affiliate],** *[if applicable or enter N/A*].  *[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 selection method is: **Competitive Bidding**  The name and identification of the procurement 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 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 Employer]**  Att.: The Procurement Agent  Address: [**insert mailing address]**  Email**: [insert email address]**  Employer’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]* |
| 1. Preparation of Offers | |
| **ITO 11.1** | The Offer shall be submitted in **[insert acceptable language]**. |
| **ITO 12.1** | Documents comprising the Offer are the following:   1. Letter of Offer including annexes (Form SF 1) 2. Bid Security (Form SF2) 3. Offeror Information (Form SF 3) 4. Party to Joint Venture or Association Information (Form SF 4) 5. Joint Venture/Association/Subcontractor Information Form (SF5) 6. Method Statement (SF6) 7. Key Personnel (SF7) 8. CVs of Key Personnel (SF8) 9. History of Contract Non-Performance and Litigation (Form SF 9) 10. Financial Situation (Form SF10) 11. Average Annual Turnover (Form SF11) 12. Financial Resources (SF12) 13. References of MCC-Funded Contracts (SF13) 14. References of Contracts not Funded by MCC (SF14) 15. Completed and certified Compliance with Sanctions Certification (Form SF15). 16. Price and Completion Schedule for Services (SF16)\*   **[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 15.7** | 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”] if goods are supplied as part of the Non-consulting Services.**  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 provider in similar size projects will be an evaluation criterion. |
| **ITO 18.3** | In case of not doing business in the Employer’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 Services by the Employer. |
| **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.  If an Offeror is bidding on multiple lots *[insert applicable requirement, e.g. "the Offeror shall submit a separate Bid Security for each lot, in the amounts provided in DS ITO 22.2 below"]* |
| **ITO 22.2 and 22.2 (a)** | The Bid Security shall be in the amount of USD **[insert amount in USD]** or Employer’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 Employer 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 Employer 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 Employer’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 35.4** | Offerors shall quote separate prices for the following lots:  **[insert details]**  OR  **[insert** “Not Applicable”**]** |
| **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 Employer 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 Employer’s Bid Challenge System is provided on the Employer’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, if applicable, e.g. where the SPN was published]** |

## Section III Qualification and Evaluation Criteria

This Section contains all the criteria that the Employer 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 Employer 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 Non-Consulting 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 Employer 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 Employer’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 Non-Consulting 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   To qualify for award of 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. performance and productivity levels;         4. the Offeror’s past performance; and/or         5. 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 Services covered under this Bidding Document shall be provided [Accountable Entity to state either "within an acceptable range of weeks specified in Section V. Schedule of Requirements" or "at the exact time(s) specified in Section V. Schedule of Requirements"]. No credit will be given to earlier deliveries, and Offers 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. |
| 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 Employer may consider the alternative payment schedule offered by the selected Offeror.  OR  The SCC stipulates the payment schedule offered by the Employer. If an Offer deviates from the schedule and if such deviation is considered acceptable to the Employer, the Offer will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the Offer as compared with those stipulated in this Bidding Document, at the rate per annum specified in DS ITO Sub-Clause 35.3. |
| 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**  Services 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 Employer will apply the indicated discounts to the Offer Price as corrected in accordance with ITO Clause 32.  The Employer 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. Post Qualification Criteria, below).  To determine the lot combinations that provides the best value, the Employer 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. Post Qualification Criteria, below. |
| **4. Price Review**  **5. Price Reasonableness Determination**  **6. Post 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 Employer 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. Post 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 Services 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 Employer reserves the right to check the performance references provided by the Offeror or to use any other source at the Employer’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 Employer 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 Employer 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 Employer 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 (d) 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 18 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 Employer, or under the laws or official regulations of the Employer’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 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:
10. 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 42.1, any challenge or protest to the process or results of this procurement may be brought only through the Employer’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. 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 Employer]**

**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 Employer’s country] **[OR]** [we are a financial institution located outside the Employer’s country but have a correspondent financial institution located in the Employer’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. 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 SF4: 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 Clause 5; * Proper authority of the signatory of the Offeror in accordance with ITO Clause 23.3;   “Tick” the boxes and attach documents to the Offer. | | |

The information filled in above by Offerors shall be used for purposes of 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 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 Clause 5; * Proper authority of the signatory of the entity named in 1 above in the same manner as contemplated for Offerors in ITO Sub-Clause 23.4;   “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. Joint Venture/Association/Subcontractor Information Form

[Each member of a Joint Venture/Association making up an Offeror and each known subcontractor, key suppliers or key supplier part of the Offeror's supply chain must fill in this form.]

|  |  |
| --- | --- |
| **Joint Venture/Association/Subcontractor Information** | |
| **Offeror’s legal name** |  |
| **Joint Venture/Association Partner’s or Subcontractor’s legal name** |  |
| **Joint Venture/Association Partner’s or Subcontractor’s country of constitution** |  |
| **Joint Venture/Association Partner’s or Subcontractor’s year of constitution** |  |
| **Joint Venture/Association Partner’s or Subcontractor’s legal address in country of constitution** |  |
| **Joint Venture/Association Partner’s or Subcontractor’s authorized representative information**  **(name, address, telephone numbers, fax numbers, e-mail address)** |  |
| **Attached are copies of the following original documents.**   * + - 1. Articles of incorporation or constitution of the legal entity named above, in accordance with ITO 5.     - 2. Authorization to represent the firm named above, in accordance with ITO 23. | |

1. Method Statement

The adequacy of the Offer to meet the Schedule or Requirements and delivery schedule is important to determine if the Offer is substantially responsive.

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

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

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

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

[Insert anything else, as may be appropriate.]

1. Key Personnel

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

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

1. CVs of Key Personnel

|  |
| --- |
| Name of Offeror |

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

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

| From | To | Company / Project / Position / Relevant technical and management experience |
| --- | --- | --- |
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1. History of Contract Non-Performance and Litigation

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

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

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

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

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

|  |  |  |  |
| --- | --- | --- | --- |
| Non-Performing Contracts in accordance with Section III, Qualification and Evaluation Criteria | | | |
| * Contract non-performance did not occur during the five years prior to the deadline for Bid submission in accordance with Section III. Qualification and Evaluation Criteria.   OR   * Contract(s) not performed during the five years prior to the deadline for Bid submission in accordance with Section III. Qualification and Evaluation Criteria | | | |
| **Year** | **Non performed portion of contract** | **Contract Identification** | **Total Contract Amount (current value, US$ equivalent)** |
| **[insert year]** | [**insert amount and percentage]** | Contract identification: [indicate complete contract name, number, and any other identification]  Name of institution: [insert full name]  Address of institution: [insert street/city/country]  Reason(s) for non-performance: [indicate main reason(s)] | [insert amount] |
| **Failure to Sign a Contract, in accordance with Section III. Qualification and Evaluation Criteria** | | | |
| * No failure to sign a contract in accordance with Section III. Qualification and Evaluation Criteria   OR   * Failure to sign a contract in accordance with Section III. Qualification and Evaluation Criteria | | | |
| Failure to Sign Contract  In the event of failure to sign a contract, clarify/explain your situation according to Section III. Qualification and Evaluation Criteria | | | |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Year** | **Claim as Percentage of Total Assets** | **Contract Identification** | | **Total Contract Amount (current value, US$ equivalent)** | |
| **[insert year]** | **[insert percentage]** | Contract identification: [  Name of **indicate complete contract name, number, and any other identification]**institution: **[insert full name]**  Address of institution: **[insert street/city/country]**  Matter in dispute**: [indicate main issues in dispute]** | | **[insert amount]** | |
| **Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes, the process or outcome of which the Employer 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**  **in accordance with Section III. Qualification and Evaluation Criteria**  (each member of a Joint Venture/Association making up an Offeror must complete this table) | | | | |
| The Offeror, or a related company or entity, is currently, or within the past five (5) years has been, involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute the process or outcome of which the Employer could reasonably interpret may impact or have the potential to impact the financial 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 OR  Yes  **If Yes, Describe:** | | | | |
| **Year:** | | **Matter in Dispute:** | **Value of Award (Actual or Potential) Against Offeror in US$ Equivalent:** | |  | |  |

1. Financial Situation

Each Offeror or member of a Joint Venture/Association making up an Offeror must fill in this form.

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

**Information from Balance Sheet**

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

**Information from Income Statement**

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

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

1. Average Annual Turnover

Each Offeror or member of a Joint Venture/Association making up an Offeror must fill in these forms.

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

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

1. Financial Resources

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

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

1. References of MCC-Funded Contracts

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

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

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 Service Provider, affiliate, associate, subsidiary, Subcontractor, or in any other role.

1. References for Contracts Not Funded by MCC

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

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

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

**[Maximum 5 pages]**

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 Service Provider initially, within 28 days of receipt of Letter of Acceptance and Contract Agreement, and subsequently thereafter on the last business day prior to the last day of each quarter (March 31, June 30, September 30, December 31) after the signature of an MCC-Funded Contract[[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 Service Provider 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 Service Provider: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

The Offeror/Service Provider 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/Service Provider 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/Service Provider 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/Service Provider 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** |
| Service Provider (the firm itself) |  |  |  |  |  |
| Staff Member #1 |  |  |  |  |  |
| Staff Member #2 |  |  |  |  |  |
| Consultant #1 |  |  |  |  |  |
| Consultant #2 |  |  |  |  |  |
| Subcontractor #1 |  |  |  |  |  |
| Subcontractor #2 |  |  |  |  |  |
| Vendor #1 |  |  |  |  |  |
| Service Provider #1 |  |  |  |  |  |
| Grantee #1 |  |  |  |  |  |

The Offeror/Service Provider 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/Service Provider 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/Service Provider itself, the Offeror/Service Provider must conduct additional research to determine whether the finding is a “false positive.” If it is a false positive, the Offeror/Service Provider 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/Service Provider’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/Service Provider to make a substitution. This determination will be made on a case by case basis and will require approval by MCC regardless of the estimated value of the proposed contract.

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

All of these documents must be retained by the Offeror/Service Provider 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.

1. Price and Completion Schedule for Services

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| **Item** | **Description of Services** | **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 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

# PART 2: SERVICE REQUIREMENTS

## Section V Schedule of Requirements (SoR)

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SR1 List of Services and Completion Schedule

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

SR2  Technical Specifications

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

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

Include (if applicable) specific sections on

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

# PART 3: CONTRACT DOCUMENTS

## Section VI General Conditions of Contract (GCC)

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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. “Applicable Law” has the meaning given the **term in the SCC**. 2. “Associate” means any entity that is a member of the Association that forms the Service Provider. A Subcontractor is not an Associate. 3. “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Service Provider, with or without a legal status distinct from that of its members. 4. “Bid” or "Offer" means the bid for the provision of the Goods and the Related Services submitted by the Service Provider and accepted by the Employer and that forms an integral part of this Contract. 5. “Bidding Document” has the meaning given the term **in the SCC.** 6. “Compact” has the meaning given the term in the recital clauses to the Contract Agreement. 7. “Completion” means the fulfillment of the Services by the Service Provider in accordance with the terms and conditions set forth in this Contract. 8. “Completion Date” means the date of completion of the Services by the Service Provider as certified by the Employer. 9. “Contract” means this agreement entered into between the Employer and the Service Provider, to provide the Non-Consulting Services and consists of the documents listed in GCC Sub-clause 2.6, as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement. 10. “Contract Price” means the price to be paid for the provision of the Non-Consulting Services, in accordance with GCC Sub-clause 15.1. 11. “day” means a calendar day. 12. “Defect” means any part of the Services not delivered according to Annex B: Description of Services and the provisions of this Contract. 13. “Defects Liability Period” means the period calculated from the Completion Date, during which the Service Provide is responsible to correct any Defect. 14. “Eligible Countries” has the meaning given such term in GCC Sub-clause 7.1. 15. “Employer” has the meaning given the term **in the SCC**. 16. "Force Majeure" has the meaning given the term in GCC Clause 29.1. 17. “GCC” means these General Conditions of Contract. 18. “Government” has the meaning given the term in the recital clauses to the Contract Agreement. 19. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability. 20. “Key Personnel” means the Personnel listed in Annex C to this Contract. 21. “Location” means the place(s) where the Services should be delivered as indicated in Annex B to this Contract. 22. “MCC” has the meaning given the term in the recital clauses to this Contract. 23. “MCC Funding” has the meaning given the term in the recital clauses to this Contract. 24. “*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. 25. “Notification of Award” means the notice sent from the Employer to the Service Provider notifying the Service Provider that it was the successful Offeror and that its Offer had been accepted and that forms an integral part of this Contract. 26. “Party” means the Employer or the Service Provider, as the case may be, and “Parties” means both of them. 27. “Personnel” means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof. 28. “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented. 29. “Services” or “Non-Consulting Services” means the work to be performed by the Service Provider under the Contract, as described in Annex B: Description of Services. 30. “Service Provider” means the entity that provides the Non-Consulting Services to the Employer under the Contract 31. “Subcontractor” means any person or entity to whom execution of any part of the Related Services is subcontracted by the Service Provider in accordance with the terms of this Contract. 32. “Tax” and “Taxes” have the meanings given the terms in the Compact or related agreement. 33. “Trafficking in Persons” has the meaning given in GCC Clause 32. 34. “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 | |
| Entire Agreement | This Contract constitutes the entire agreement between the Employer and the Service Provider and supersedes all communications, negotiations and agreements (whether written or oral) of the Parties made prior to the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract. | |
| Amendment | The following shall apply with respect to any amendment or other variation of this Contract.   1. 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. 2. The prior written consent of MCC is required in the case of any amendment or other variation of this Contract that (i) increases the original contract value of the Contract or (ii) extends the original Contract duration by amounts meeting or exceeding the thresholds provided in Attachment A. Approval Matrix of the MCC PPG. | |
| 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 Employer and the Service Provider; 2. the SCC and Annex A to this Contract; 3. the GCC; 4. the Notification of Award; 5. Annex B: Description of Services; 6. Annex C: Service Provider's Key Personnel; 7. Annex D: Price Schedule; 8. the Service Provider’s Offer; 9. any other document listed **in the SCC** as forming part of this Contract. | |
| 1. Fraud and Corruption Requirements | MCC requires that the Employer and any other beneficiaries of MCC Funding, including Offerors, Service Providers, 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 Employer, the Service Provider or any other beneficiary of the MCC Funding were engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practice during the selection process or the performance of this Contract, or another MCC-funded contract, without the Employer, the Service Provider or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation. 9. MCC and the Employer may pursue sanction of the Service Provider, including declaring the Service Provider ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Employer determines that the Service Provider has, directly or through an agent, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in performance of, this Contract or another MCC-funded contract. 10. If the Employer or MCC determines that the Service Provider, any subcontractor, any of the Service Provider’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 Employer or MCC may, by notice, immediately terminate the Service Provider’s employment under the Contract and the provisions of GCC 30 shall apply. | |
| 1. Commissions and Fees | The Service Provider shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include at the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee. | |
| 1. Law and Language Governing the Contract | 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 Service Provider is a joint venture or other association of more than one person or entity, all of the members of such joint venture or association shall be jointly and severally liable to the Employer for the fulfillment of the provisions of this Contract and designate the member **identified in the SCC** to act on their behalf in exercising all the Service Provider’s rights and obligations toward the Employer under this Contract, including without limitation the receiving of instructions and payments from the Employer. The composition or the constitution of the joint venture or other association shall not be altered without the prior consent of the Employer in writing. | |
| 1. Eligibility | The Service Provider and its Subcontractors shall at all times during the term of this Contract have the nationality of a country or territory eligible, in accordance with the Compact, the MCC PPG and Annex A to this Contract (“Eligible Countries”). The Service Provider or a Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.  The Service Provider shall submit updated Beneficial Ownership Disclosure Forms upon the addition of any Ultimate Beneficial Owner or at the Employer'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 30.1.(f).  All Non-Consulting 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 Services, the term “origin” means the place from which the 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 Employer and the Service Provider shall use their best efforts to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with this Contract.  If the Parties fail to resolve any disagreement or dispute in accordance with GCC Sub-clause 9.1 within thirty (30) days after the receipt by one Party of the other Party’s request for such resolution, either Party may submit the disagreement or dispute in accordance with the provisions **specified in the SCC**. | |
| 1. Scope of Services | The Non-Consulting Services to be supplied shall be as specified in Annex B: Description of Services. Unless otherwise stipulated in this Contract, the Services shall include all such work not specifically mentioned in this Contract but that can be reasonably inferred from this Contract as being required for attaining Completion of the Services as if such items were expressly mentioned in this Contract. | |
| 1. Standard of performance | The Service Provider shall perform the Services in accordance with Annex B: Description of Services, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods.  The projects MCC finances under a compact will be developed and implemented in a manner consistent with the environmental and social performance standards set forth in the Performance Standards on Environmental and Social Sustainability of the International Finance Corporation (IFC), as amended from time to time. The Service Provider is therefore required to comply with IFC Performance Standards for the purposes of this Contract. Additional information on the IFC Performance Standards can be found here: <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> | |
| 1. Conflict of interest | During the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services. Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:   1. during the term of this Contract, any business or professional activities in the Employer’s country which would conflict with the activities assigned to them under this Contract; 2. after the termination of this Contract, such other activities as may be **specified in the SCC.** | |
| 1. Delivery of Services | * 1. Before commencement of the Services, the Service Provider shall submit to the Employer for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.   2. The Service Provider shall start carrying out the Services within the number of days after the date of Contract signing as specified in the SCC.   3. The Delivery and Completion of the Services shall be in accordance with the Delivery and Completion Schedule specified in Annex B: Description of Services. | |
| 1. Service Provider’s Personnel | * 1. The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider’s Key Personnel are described in Annex C. The Key Personnel and Subcontractors listed by title as well as by name in Annex C are hereby approved by the Employer.   2. Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.   3. If the Employer finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Employer’s written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Employer.   4. The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.   5. The Service Provider shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Service Provider’s personnel. At a minimum, the Service Provider shall provide all Service Provider’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 Service Provider shall provide each of the Service Provider's personnel with a contract in language comprehensible to the personnel.   6. The Service Provider shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds.   7. 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 Service Provider shall set its own contract-specific targets for women’s employment and include updates in its routine reports.   8. The Service Provider shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.   9. The Service Provider shall provide a grievance mechanism for Service Provider’s personnel, including Subcontractor staff, if a separate Subcontractor grievance mechanism does not exist, to raise workplace concerns. The Service Provider shall inform its personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve review by an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution to personnel for initiating or participating in a 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.   10. Where accommodation or welfare facilities are provided to Service Provider’s personnel, the Service Provider shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities. This includes the following as regards minimum space, supply of water, adequate sewage and garbage disposal systems, appropriate protection against heat, cold, damp, noise, fire and disease carrying animals, adequate sanitary and washing facilities, 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 Service Provider’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>   11. The Service Provider may bring into the Country any foreign personnel who are necessary for the supply of Non-Consulting Services to the extent allowed by the applicable Laws. The Service Provider shall ensure that these personnel are provided with the required residence visas and work permits. The Employer will, if requested by the Service Provider, use its best endeavors in a timely and expeditious manner to assist the Service Provider in obtaining any local, state, national, or government permission required for bringing in the Service Provider's personnel.   12. The Service Provider 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 Service Provider shall similarly be responsible for making the appropriate arrangements for their return or burial. | |
| 1. Contract Price | * 1. The contract price shall be **as specified in the SCC** subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to this Contract.   2. Prices charged by the Service Provider for the Services performed under this Contract shall not vary from the prices quoted by the Service Provider in its Bid, with the exception of any price adjustments authorized in the SCC. | |
| 1. Terms of Payment | * 1. This Contract Price, including any advance payments, if applicable, shall be paid **as specified in the SCC**.   2. The Service Provider’s request for payment shall be made to the Employer in writing, accompanied by invoices describing, as appropriate, the Services performed, and upon fulfilment of all other relevant obligations stipulated in this Contract.   3. Payments shall be made promptly by, or on behalf of, the Employer, no later than thirty (30) days after receipt by the Employer of an invoice or request for payment from the Service Provider in form and substance satisfactory to the Employer.   4. The currency in which payments shall be made to the Service Provider under this Contract shall be that in which the Bid price is expressed.   5. In the event that the Employer fails to pay the Service Provider any payment by its respective due date or within the period set forth **in the SCC**, the Employer shall pay to the Service Provider interest on the amount of such delayed payment at the rate **specified in the SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award. | |
| 1. Taxes and Duties | * 1. 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 Service Provider, its Subcontractors and their respective personnel may be subject to certain Taxes on amounts payable by the Employer under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Service Provider, each Subcontractor and their respective personnel shall pay all Taxes levied under Applicable Law. In no event shall the Employer be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Service Provider, any Subcontractor or their respective personnel, the Contract Price shall not be adjusted to account for such Taxes.   2. The Service Provider, any Subcontractor and their respective personnel, and their eligible dependents, shall follow the usual customs procedures of the Employer's Country in importing property into the Employer's Country.   3. If the Service Provider, any Subcontractor or any of their respective personnel, or their eligible dependents, do not withdraw but dispose of any property in the Employer's Country upon which customs duties or other Taxes have been exempted, the Service Provider, the Subcontractor or such personnel, as the case may be, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes to the Employer if such customs duties and Taxes were paid by the Employer at the time the property in question was brought into the Employer's Country.   4. Without prejudice to the rights of the Service Provider under this clause, the Service Provider, the Subcontractors and their respective personnel will take reasonable steps as requested by the Employer or the Government with respect to the determination of the Tax status described in this GCC Clause.   5. If the Service Provider is required to pay Taxes that are exempt under the Compact or a related agreement, the Service Provider shall promptly notify the Employer (or such agent or representative designated by the Employer) of any Taxes paid, and the Service Provider shall cooperate with, and take such actions as may be requested by the Employer, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.   6. The Employer shall use reasonable efforts to ensure that the Government provides the Service Provider, the Subcontractors, and their respective personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Compact or related agreements. If the Employer fails to comply with its obligations under this paragraph, the Service Provider shall have the right to terminate this Contract in accordance with GCC Sub-clause 31.1(d). | |
| 1. Performance Security | * 1. **If so required in the SCC**, the Service Provider 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.   2. The proceeds of the performance security shall be payable to the Employer as compensation for any loss resulting from the Service Provider’s failure to complete its obligations in accordance with the terms of this Contract.   3. The performance security shall be denominated in the currency of this Contract, and shall be in the form of an unconditional bank guarantee issued by a reputable bank located in Employer’s country or in an Eligible Country and in form and substance satisfactory to the Employer, substantially in the appropriate form included in Section VIII. Contract Forms, or another type of security **specified in the SCC**.   4. The performance security shall be valid for twenty-eight (28) days beyond the date **specified in SCC**. | |
| 1. Deliverables | * 1. The Service Provider shall submit to the Employer the reports, deliverables, outputs and documents as specified in Annex B: Description of Services.   2. All deliverables, outputs, plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider under this Contract shall become and remain the property of the Employer, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Employer, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC.** | |
| 1. Confidential Information | * 1. The Employer and the Service Provider shall keep confidential and shall not, without the prior written consent of the other Party, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other Party in connection with this Contract, whether such information has been furnished prior to, during or following completion or termination of this Contract. Notwithstanding the above, the Service Provider may furnish to its Subcontractor such documents, data, and other information it receives from the Employer to the extent required for the Subcontractor to perform its work under this Contract, in which event the Service Provider shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Service Provider under this GCC Clause 20.   2. The Employer shall not use documents, data, and other information received from the Service Provider for any purposes unrelated to this Contract. Similarly, the Service Provider shall not use documents, data, and other information received from the Employer for any purpose other than the design, procurement, or other work and services required for the performance of this Contract.   3. The obligation of a Party under GCC Sub-clauses 20.1 and 20.2 above, however, shall not apply to information that:   4. the Employer or the Service Provider needs to share with MCC or other entities participating in the financing of this Contract or otherwise in accordance with the requirements of the Compact or related documents;   5. now or hereafter enters the public domain through no fault of that Party;   6. 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;   7. otherwise lawfully becomes available to that Party from a third party that has no obligation of confidentiality; or   8. is required to be shared to comply with applicable law   9. The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of this Contract. | |
| 1. Subcontracting | * 1. The Service Provider shall obtain prior approval in writing of the Employer before entering into a subcontract for the performance of any of its obligations under this Contract. The Service Provider shall notify the Employer in writing of all subcontracts awarded under this Contract if not already specified in the Bid. Subcontracting shall in no event relieve the Service Provider from any of its obligations, duties, responsibilities, or liabilities under this Contract.   2. Subcontracts shall comply with the provisions of GCC Clauses 3 and 7. | |
| 1. Specifications and Standards | * 1. The Services supplied under this Contract shall conform to the technical specifications and standards, including environmental, health and safety requirements, specified in Annex B: Description of Services and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Services’ country(ies) of origin.   2. The Service Provider shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Employer, by giving a notice of such disclaimer to the Employer.   3. Wherever references are made in this Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Annex B: Description of Services. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Employer and shall be treated in accordance with GCC Clause 28. | |
| 1. Patent indemnity | * 1. The Service Provider shall, subject to the Employer’s compliance with GCC Sub-Clause 23.2, indemnify and hold harmless the Employer 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 Employer may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademarks, copyright, or other intellectual property right registered or existing arising out of or in connection with the Service Provider’s performance of the Services.   2. If any proceedings are brought or any claim is made against the Employer arising out of the matters referred to in GCC Sub-Clause 23.1, the Employer shall promptly give the Service Provider a notice thereof, and the Service Provider may at its own expense and in the Employer’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.   3. If the Service Provider fails to notify the Employer within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Employer shall be free to conduct the same on its own behalf.   4. The Employer shall, at the Service Provider’s request, afford all reasonably available assistance to the Service Provider in conducting such proceedings or claim, and shall be reimbursed by the Service Provider for all reasonable expenses incurred in so doing.   5. The Employer shall indemnify and hold harmless the Service Provider and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Service Provider may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademarks, 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 Employer. | |
| 1. Insurance | * 1. The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors’, as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as shall be **specified in the SCC**; and (b) at the Employer’s request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums have been paid. | |
| 1. Quality Control | * 1. The Employer shall check the quality of the Services and shall inspect the Service Provider’s performance according to the relevant section(s) of Annex B: Description of Services. The Employer shall promptly give notice to the Service Provider of any Defects that are identified before the Completion Date, requesting the correction of the notified Defect within a reasonable time.   2. If the Service Provider has not corrected a Defect within the time specified in the Employer’s notice, the Employer will assess the cost of having the Defect corrected. This cost shall be deducted from the Contract Price, together with the penalty for lack of performance calculated as described in Sub-Clause 26.2.   3. The Defects Liability Period shall be as **specified in the SCC.** | |
| 1. Penalties and Liquidated Damages | * 1. Except as provided under GCC Clause 29, if the Service Provider fails to perform the Services within the period(s) specified in Annex B: Description of Services, the Employer 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 Employer may terminate this Contract pursuant to GCC Clause 30.   2. If the Service Provider has not corrected a Defect within the time specified in the Employer’s notice, the Employer may without prejudice to any and all of its other remedies under this Contract, or applicable law, deduct from this Contract Price, as penalty for lack of performance, a sum equivalent to the percentage **specified in the SCC.** | |
| 1. Limitation of Liability | * 1. Except in cases of criminal negligence or willful misconduct,  1. the Service Provider shall not be liable to the Employer, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Service Provider to pay liquidated damages to the Employer; and 2. the aggregate liability of the Service Provider to the Employer, whether under this Contract, in tort or otherwise, shall not exceed the total Contract Price. | |
| 1. Changes in Laws and Regulations | * 1. Unless otherwise specified in this Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated, or changed in the particular area of the Employer’s country (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the delivery date and/or this Contract Price, then such delivery date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Service Provider has thereby been affected in the performance of any of its obligations under this Contract. | |
| 1. Force Majeure | * 1. For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third party over whom such Party has control, including any Subcontractor), (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances.   2. The failure of a Party to fulfill any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure.   3. A Party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure.   4. A Party affected by an event of Force Majeure shall provide evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.   5. Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.   6. The Service Provider shall not be liable for forfeiture of its performance security, liquidated damages, penalties or termination for default (other than in accordance with GCC Sub-Clause 30.1(d) if and to the extent that its delay in performance or other failure to perform its obligations under this Contract is the result of an event of Force Majeure.   7. In the case of disagreement between the Parties as to the existence or extent of an event of Force Majeure, the matter shall be settled in accordance with GCC Clause 9. | |
| 1. Termination by Employer | 30.1 Termination for Default:  Without prejudice to any other remedies that may be available to it for breach of this Contract, the Employer, upon written notice to the Service Provider, may terminate this Contract, in whole or in part, in case of the occurrence of any of the events specified in sub-paragraphs (a) through (e) of this GCC Sub-Clause 30.1.  (a) If the Service Provider, in the judgment of the Employer or MCC, fails to perform its obligations relating to the use of funds set out in Annex A. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Service Provider repay any and all funds so misused within a maximum of thirty (30) days after termination.  (b) If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Employer may have subsequently approved in writing.  (c) If, as the result of an event of Force Majeure, the Service Provider is unable to perform a material portion of its obligations for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the Employer.  (d) If the Service Provider fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination or on such later date as may be specified by the Employer.  (e) If the Service Provider (or any Subcontractor or any of their respective personnel), in the judgment of the Employer, 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.  (f) If the Service Provider fails to provide evidence of continued eligibility or if the MCC makes an unfavorable eligibility determination of the Consultant, 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.   * 1. Termination for Insolvency   The Employer may at any time terminate this Contract by giving notice to the Service Provider if the Service Provider becomes insolvent or bankrupt, and/or fails to exist or is dissolved. Termination under this provision shall become effective immediately upon delivery of the notice of termination or on such other date as may be specified by the Employer in such notice of termination. In such event, termination will be without compensation to the Service Provider, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Employer.  30.3 Termination for Convenience  The Employer, by notice sent to the Service Provider, may terminate this Contract, in whole or in part, at any time in its sole discretion for its convenience. The notice of termination shall specify that termination is for the Employer’s convenience, the extent to which performance of the Service Provider under this Contract is terminated, and the date upon which such termination becomes effective.  30.4 Suspension or Termination Related to the Compact or Applicable Law  (a) The Employer, by notice sent to the Service Provider, may suspend or terminate this Contract, in whole or in part, if the Compact expires, is suspended or terminates in whole or in part in accordance with the terms of the Compact. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 30.4(a), the Service Provider has an obligation to mitigate all expenses, damages and losses to the Employer during the period of the suspension.  (b) The Employer, by notice sent to the Service Provider, may suspend or terminate this Contract, in whole or in part, if suspension or termination is permitted under Applicable Law. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 30.4(b) the Service Provider has an obligation to mitigate all expenses, damages and losses to the Employer during the period of the suspension. | |
| 1. Termination by the Service Provider | * 1. The Service Provider may terminate this Contract, by not less than thirty (30) days’ written notice to the Employer, in case of the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-Clause 31.1.   2. If the Employer fails to pay any money due to the Service Provider pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 9 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the Employer to the Service Provider within such thirty (30) days.   3. If, as the result of an event of Force Majeure, the Service Provider is unable to perform a material portion of this Contract for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.   4. If the Employer fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination.   5. If the Service Provider does not receive a reimbursement of any Taxes that are exempt under the Compact within one hundred and twenty (120) days after the Service Provider gives notice to the Employer that such reimbursement is due and owing to the Service Provider. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Service Provider within such thirty (30) days.   6. If this Contract is suspended in accordance with GCC Sub-Clauses 30.4(a) or 30.4(b) for a period of time exceeding three (3) consecutive months; provided that the Service Provider has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 30.4(a) or 30.4(b) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination. | |
| 1. Combating Trafficking in Persons | * 1. MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to trafficking in persons (“TIP”). In pursuance of this policy:   **(a) 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 Service Provider, 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) Service Provider Requirements**  i. Each Service Provider, subcontractor, Consultant or Subconsultant shall   1. 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; 2. orient Service Provider'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 Employer, in languages comprehensible to the personnel; 3. provide information and means to personnel and to affected community members so that they can report suspected instances of TIP to the Service Provider, to the to the Employer's reporting mechanism, to the Employer's staff, and, where applicable, to an independent/third party mechanism; 4. record and report the Service Provider's C-TIP compliance efforts, including its notification to personnel of the MCC C-TIP Policy and its orientation of personnel; 5. develop and implement written, survivor-centered fact-finding and response protocols for allegations that maintain the confidentiality of witnesses and potential survivors and specify their right to be protected from reprisal; and outline resources and processes to support TIP survivors, should an incident occur; 6. 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 7. 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.   ii. Each Service Provider shall:   1. 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; 2. 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 3. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.   iii. The Service Provider or subcontractor shall inform the Employer within 24 hours of:   1. 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; 2. 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 Employer will apply remedies, which could include any, all, or any combination of the following:   1. the Employer requiring the Service Provider to remove the involved personnel, Subcontractor or Subconsultant or any of its involved personnel, or any involved agent or affiliate; 2. the Employer requiring the termination of a subcontract or sub-award; 3. suspension of Contract payments until the breach is remedied to the satisfaction of the Employer; 4. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Employer determined non-compliance; 5. the Employer pursuing sanctions against the Service Provider, including declaring the Service Provider ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; 6. termination of the Contract by the Employer for default or cause in accordance with the termination clause of the Contract; 7. the Employer directing the Service Provider to provide reasonable financial support or restitution to the survivor(s) of any such incident, in each case in accordance with the Service Provider’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 Employer through its written fact-finding protocols; 8. a finding that the Service Provider'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 Service Provider's obligations under the Contract and could be grounds for the Employer to demand payment of up to the total sum of the Performance Security, if a Performance Security is required under the Contract. | |
| 1. Prohibition of Harmful Child Labor | * 1. The Service Provider 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 Service Provider will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Service Provider shall ensure that children aged below 15 are not employed to perform work under the Contract. Where Applicable Laws specify a minimum age of fifteen (15) or above, such minimum age requirement shall apply. Notwithstanding any allowances provided under applicable law to the contrary, under no circumstance shall children under the age of eighteen (18) 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. 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 Service Provider's personnel and the Employer. 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 Service Provider personnel toward other Service Provider personnel, as well the behavior of Service Provider 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 Service Provider shall prohibit all Service Provider Personnel from engaging in Sexual Harassment, Sexual Exploitation, and Sexual Abuse behaviors directed toward other Service Provider Personnel; Compact beneficiaries, community members, partners, and stakeholders; Employer employees and Consultants; and MCC personnel and consultants.  **(c) Contractor Requirements**  (i) Sexual harassment  The Service Provider shall:  (a) implement a policy prohibiting all Service Provider 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 Employer and MCC;  (b) ensure that all Service Provider 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 Service Provider (or subcontractor) shall:  (a) implement a policy prohibiting all Service Provider 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 Employer and MCC;  (b) ensure that all Service Provider 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 Service Provider (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 Service Provider, to the to the Employer's reporting mechanism, to the Employer'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 Service Provider (or subcontractor) shall inform the Employer:  (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 Employer 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 Service Provider shall fully cooperate with any investigation conducted by the Employer regarding breach of this provision. The Service Provider will ensure that any incident of sexual harassment, exploitation, or abuse is investigated by the Employer has been resolved to the Employer's and MCC’s satisfaction.  Once an incident has been confirmed and depending on the severity of each case, the Employer may apply remedies that could include any, all, or a combination of the following:  (i) the Employer requiring the Service Provider to remove the involved personnel, subcontractor or any of its involved personnel, or any involved agent or affiliate;  (ii) the Employer requiring the termination of a subcontract or sub-award;  (iii) suspension of Contract payments until the breach is remedied to the satisfaction of the Employer;  (iv) loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Employer determined non-compliance;  (v) the Employer pursuing sanctions against the Service Provider, including declaring the Service Provider ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract;  (vi) termination of the Contract by the Employer for default or cause in accordance with the termination clause of the Contract; and  (v) the Employer directing the Service Provider 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 Employer. | |
| 1. Non-Discrimination and Equal Opportunity | The Employer adheres to the principle of equal opportunity and fair treatment in its employment practices. The Employer expects that the Service Provider 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 Employer expects that the Service Provider 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. The Service Provider shall observe any additional requirements as may be **stipulated in the SCC.** | |
| 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)Subcontracts shall comply with the provisions of GCC Clauses 3 and 7. | |
| 1. Accounting, Inspection and Auditing | The Service Provider shall keep accurate and systematic accounts and records in respect of the provision of the Non-Consulting Services under this Contract, in accordance with the provisions of Annex A and internationally accepted accounting principles. | |
| 1. Use of Funds; Compliance with Environmental Guidelines | The Service Provider shall ensure that its activities do not violate provisions relating to use of funds and environmental guidelines, as set out in Annex A. | |
| 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 Employer 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 Service Provider, as permitted by the terms of this Contract, the Service Provider shall ensure the inclusion of all the provisions contained in Annex A in any agreement related to such 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 Employer may assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, to another person or entity of the Government (or another entity designated by the Government) without the consent of the Service Provider. The Employer shall use commercially reasonable efforts to notify the Service Provider as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-clause 45.1 shall be null and void.  In the event of any assignment of the Contract by the Employer in accordance with GCC Sub-clause 45.1:   1. the Service Provider 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 Employer’s assignee as beneficiary, and shall deliver this replacement Performance Security to the Employer on or before the date the assignment becomes effective at which time the Employer shall concurrently return the original Performance Security to the Service Provider; 2. in the event any advance payment guarantee is outstanding at the time of assignment, the Service Provider shall obtain a replacement advance payment guarantee 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 Employer’s assignee as beneficiary, and shall deliver this replacement advance payment guarantee to the Employer on or before the date the assignment becomes effective at which time the Employer shall concurrently return the original advance payment guarantee to the Service Provider. | |
| 1. **Contractor Past Performance Report**ing System | | The Service Provider acknowledges that during the performance of the Contract the Employer shall maintain a performance record of the Service Provider in accordance with MCC’s Contractor Past Performance Reporting System, as described on MCC’s website. The Service Provider 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 | (a) “Applicable Law” means the laws and any other instruments having the force of law in **[Country],** as they may be issued and in force from time to time.  (e) “Bidding Document” means the bidding documents for the procurement of the Non-Consulting Services **[insert reference number];** issued **[insert issue date].**  (o) "Employer" means **[insert official name of the Accountable Entity]**, as well as any successor entity designated by the Government. |
| GCC 2.6 (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 Service Provider consists of a joint venture or another association of more than one entity, the name of the entity whose address is specified in SCC 8.1 should be inserted here. If the Service Provider 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 Employer the address shall be:  **[full legal name of the Employer]**  Address: **[insert relevant address]** E-mail: **[insert relevant email address]**  For notices that are served on the Service Provider the address shall be:  **[insert relevant address]** |
| GCC 8.2 | For changes of address that are served on the Employer the address shall be:  **[full legal name of the Employer]**  Address: E-mail:  For changes of address that are served on the Service Provider the address shall be:  **[insert relevant address]** |
| GCC 9.2 | Disputes arising under this Contract that are not resolved by the Parties in accordance with GCC Sub-clause 9.1, shall be settled by arbitration in accordance with the following provisions:  **[insert arbitration provisions including location of arbitration proceedings]**  *[Note: The following provision concerning MCC’s right to be included as an observer in any arbitration proceeding is to be included in all contracts]*  **MCC Right to Observe**  MCC has the right to be an observer to any arbitration proceeding associated with this Contract, at its sole discretion, but does not have the obligation to participate in any arbitration proceeding. Whether or not MCC is an observer to any arbitration associated with this Contract, the Parties shall provide MCC with written English transcripts of any arbitration proceedings or hearings and a copy of the reasoned written award within ten (10) days after (a) each such proceeding or hearing or (b) the date on which any such award is issued. MCC may enforce its rights under this Contract in an arbitration conducted in accordance with this provision or by bringing an action in any court that has jurisdiction. The acceptance by MCC of the right to be an observer to the arbitration shall not constitute consent to the jurisdiction of the courts or any other body of any jurisdiction or to the jurisdiction of any arbitral panel. |
| GCC 12.1 (b) | **[insert any other activities as may be needed; or insert "No Applicable"]** |
| GCC 15.1 | The Contract Price is **[insert amount]** United States Dollars.  OR  The Contract Price is:  **[insert amount]** United States Dollars  and  **[insert amount] [local currency]**  OR  The Contract Price is **[insert amount] [local currency]**  **[Note: delete whichever among the above that are not appropriate]**  The accounts are:  **[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 shall not be adjustable.  OR  The prices shall be adjustable and the following method shall be used to calculate the price adjustment:  **[insert method to be used to calculate price adjustment]**  *[Note: delete whichever is not appropriate]* |
| GCC 16.1 | *[Sample provision:*  *The method and conditions of payment to be made to the Service Provider under this Contract shall be as follows:*  *(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 Employer.*  *(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 Service Provider 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 Employer.]* |
| GCC 16.5 | The payment-delay period after which the Employer shall pay interest to the Service Provider shall be **[insert number]** days.  The interest rate to be applied in the case of late payments is the Federal Funds Rate as stated on the website  <http://www.federalreserve.gov/releases/h15/current/default.htm> |
| GCC 17.1 | **[Insert link(s) to the Compact and any other Compact-related agreements that may offer tax exemptions to Service Providers]**  **[GCC Clause 17 may need to be modified to address unique tax arrangements in some countries. In situations in which a potential issue exists, the relevant MCC OGC attorney is to be consulted before adding specific tax-related provisions]** |
| GCC 18.1 | A Performance Security **[insert "shall" or "shall not"]** be required.  **[If required, add the following text]**  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; and shall be denominated in [a freely convertible currency acceptable to the Employer] OR [the currencies of payment of this Contract, in accordance with their portions of the Contract Price].**  *[Note: delete whichever is not appropriate]* |
| GCC 18.3 | The Performance Security shall be in the form of **[insert “unconditional bank guarantee” or other type]** |
| GCC 18.4 | **[If a Defects Liability Period is required under SCC 25.3, insert: “expiration of the Defects Liability Period”;**  **otherwise, insert: “Completion Date”]** |
| GCC 19.2 | **[Insert any applicable restrictions; or insert "Not Applicable"]** |
| GCC 24.1 | The risks and coverage by insurance shall be:   * Third Party motor vehicle – as per statutory requirements in the MCA country; * Third Party liability **– [insert amount, if applicable]** * Employer’s liability and workers’ compensation - **[insert amount, if applicable]** * Professional liability **- [insert amount, if applicable]** * Loss or damage to equipment and property - **[insert amount, if applicable]**   *[Note: delete whichever is not appropriate]* |
| GCC 25.3 | The Defects Liability Period shall be: **[insert number of days]**  OR  Not Applicable  *[Note: delete whichever is not appropriate]* |
| GCC 26.1 | The liquidated damage shall be **[insert number]** percent per week of the Contract Price.  The maximum amount of liquidated damages shall be **[insert number]** percent of the Contract Price. |
| GCC 35.1 | **[Insert additional requirements, if applicable]** |

## 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 Service Provider]**

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Offer Ref: XXXXXXXXXXXXXXXXX**

This is to notify you that your Offer dated **[insert date]** for execution of the above-mentioned procurement is hereby accepted by the Employer 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.

You are hereby instructed to (a) proceed with supply of the said Non-Consulting Services in accordance with the Contract, (b) sign and return the attached Contract, (c) complete and return the Compliance with Sanctions Certification Form (c) Service Provider 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 “Employer”), on the one part, and **[full legal name of Service Provider]** (the “Service Provider”), on the other part.  ***[Note: If the Service Provider consists of more than one entity, the following should be used]***  This CONTRACT AGREEMENT (this “Contract”) made as of the **[day]** of **[month],** **[year],** between **[full legal name of the Accountable Entity]** (the “Employer”), on the one part, and **[full legal name of lead Service Provider]** (the “Service Provider”) 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 Employer for all of the Service Provider’s obligations under this Contract and is deemed to be included in any reference to the term “Service Provider.”  **RECITALS**  WHEREAS,  The Millennium Challenge Corporation (“MCC”) and the Government of **[Country]** (the “Government”) have entered into a Millennium Challenge Compact for Accountable 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 Employer, 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 Employer shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding; and  The Employer invited Offers for the provision of certain goods and related services identified in this Contract and has accepted an Offer by the Service Provider 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 Employer to the Service Provider as set forth in this Contract, the Service Provider hereby covenants with the Employer to provide the Non-Consulting 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 Employer hereby covenants to pay the Service Provider in consideration of the provision of the Non-Consulting 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 Employer]**: | For **[full legal name of the Service Provider]:** | | Signature | Signature | | Name | Name | | Witnessed By | Witnessed By |   ***[Note: If the Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]***  For and on behalf of each of the Members of the Service Provider  **[Name of Member]**    **[Authorized Representative]**  **[Name of Member]**  **[Authorized Representative]** |

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: Description of Services

*[Note to Accountable Entity: Give detailed descriptions of the Services to be provided, dates for completion of various tasks, place of performance for different tasks, specific tasks to be approved by the Accountable Entity, etc. This Description of Services is to be based on the Schedule of Requirements issued with the Bidding Document and incorporates changes agreed upon during negotiations. It must be noted that this Description of Services takes precedence over the Service Provider’s Offer, so any changes recommended or requested by the Service Provider do not alter the services the Service Provider is required to perform unless agreed to during negotiations and incorporated into this Description of Services.]*

This Annex A shall incorporate by reference: the Offer dated **[insert date]** submitted by **[insert name of Offeror awarded the Contract]** in connection with the procurement for this Contract, as well as changes agreed upon during negotiations. In the event of any inconsistency between this Description of Services and the Offer, the priority of interpretation shall be given to this Description of Services.

|  |
| --- |
| Annex C: Service Provider’s Key Personnel |

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

Annex D: Price Schedule

Annex E: 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 Contractor 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 Contractor 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/Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

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

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

The Offeror/Contractor 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/Contractor 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/Contractor 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/Contractor 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/Contractor 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/Contractor 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 Consultant 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/Contractor itself, the Offeror/Contractor 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/Contractor 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/Contractor’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/Contractor 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/Contractor 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/Contractor 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 AccountableEntity 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**

The below self-certification form should be signed by the Service Provider as part of the Contract. This self-certification declares that the Service Provider 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, the Service Provider must comply with the International Finance Corporation’s *Performance Standards on Environmental and Social Sustainability* regarding labor standards and protections. In turn, the Service Provider must ensure that their Primary Service Providers, 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 Service Provider’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 Service Provider**] will ensure that all operations undertaken are done in accordance with the IFC Performance Standards, as described in the Contract.

**[Name of Service Provider**] does not and will not use forced or child labor, and provides workers with a safe and hygienic workplace.

**[Name of Service Provider]** does not and will not procure material or goods from suppliers that employ forced or child labor.

**[Name of Service Provider]** will only procure material or goods from suppliers that provide a safe and hygienic working place for all laborers.

**[Name of Service Provider]** 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 Service Provider**] has a system in place to monitor our suppliers, identify any new and emerging risks. This system also allows **[Name of Service Provider**] to effectively remedy any risks.

Where remedy is not possible for any new risks or incidents, **[Name of Service Provider]** 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 Service Provider] AND HAVE THE LEGAL AUTHORITY TO SIGN.*

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

Printed Name of Signatory:

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

Annex F: Code of Business Ethics and Conduct Certification Form

*In satisfaction of clause 3.3 of the General Conditions of Contract, this form is to be completed by the Service Provider and submitted for any MCC-Funded Contract with a value in excess of $500,000. This form is to be completed by the Service Provider and submitted together with the signed Contract Agreement.*

*If the original certification, submitted along with the signed Contract Agreement, is that the Service Provider “has adopted and implemented,” then further submissions will not be required, except as applicable for subcontracts. If the original certification is that the Service Provider “will adopt and implement,” then a subsequent submission will be required when the Service Provider “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 Service Provider’s code of business ethics and conduct.*

*If the Service Provider 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 Service Provider:

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

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

Accountable Entity with which Contract Signed:

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

As stipulated in GCC 3.3 of the Contract, the Service Provider 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 Service Provider 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 3.3 of the Contract, I certify that with respect to this contract:

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

**[Name of Service Provider]** 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 Service Provider 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 G: 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 Service Provider whenever there is a change in beneficial ownership or whenever requested by the Employer. 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 Service Provider is any natural person who ultimately owns or controls the Service Provider 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 Service Provider*

*An individual directly holds 10 percent or more of the shares of the Service Provider 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 Service Provider indirectly if the shares are held through a trust or through another corporation. Therefore the Service Provider 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 Service Provider, and disclose the identity of any natural person who cumulatively directly or indirectly holds 10 percent or more of the shares of the Service Provider. The same rules apply in determining whether an individual has 10 percent or more of the voting rights of the Service Provider 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 Service Provider's shares: Mr. and Mrs. X each hold 50 percent of Company A. Company A in turn owns 20 percent of the Service Provider. Mr. and Mrs. X each beneficially own 10 percent of the Service Provider, 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 Service Provider  (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 Service Provider

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 Service Provider 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 Service Provider

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 Service Provider 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 Service Provider 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 Service Provider**: \*[*insert complete name of the Service Provider*]

**Name of the person duly authorized to sign on behalf of the Service Provider**: \*\*[*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 Service Provider is a joint venture, each reference to “Service Provider” in the Beneficial Ownership Disclosure Form shall be read to refer to the joint venture member.

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

Annex H: Securities

Annex H1: Bank Guarantee for Performance Security

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| *[The bank, as requested by the Service Provider, shall fill in the form in accordance*  *with the instructions indicated]*  Bank’s Branch or Office: [**insert complete name and address of Guarantor]**  Beneficiary: **[insert complete name and address of the Employer]**  Date: **[insert date of issue]**  PERFORMANCE GUARANTEE No.: **[insert Performance Guarantee number]**  We have been informed that **[insert complete name of Service Provider]** (hereinafter called the “Service Provider”) has entered into Contract No. **[insert number]** dated **[insert day and month],** **[insert year]** with **[name of Accountable Entity]** (hereinafter called “the Beneficiary”), for the supply of **[description of Non-Consulting Services provided]** (hereinafter called the “Contract”).  Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.  At the request of the Service Provider, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum(s) not exceeding in total an amount of **[insert amount(s) in words and figures]** upon receipt by us of the Beneficiary’s first demand in writing, 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 Clause 18]*, and any demand for payment under it must be received by us at this office on or before that date.  [*Issuing Bank to delete whichever is not applicable*] We confirm that **[we are a financial institution legally authorized to provide this guarantee in the Beneficiary’s country] [OR] [we are a financial institution located outside the Beneficiary’s country but have a correspondent financial institution located in the Beneficiary’s country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact information is as follows: [provide name, address, phone number, and email address]].**   |  |  | | --- | --- | | For the Bank | For the Service Provider | | Signature | Signature | | In the capacity of: | In the capacity of: | | Date: | Date: | |

Annex H2: Bank Guarantee for Advance Payment Security

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

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

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

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

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

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

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

At the request of the Service Provider, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum(s) not exceeding in total an amount of **[insert amount(s) in words and figures]** upon receipt by us of the Beneficiary’s first demand 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 Service Provider on its account number **[insert number]** at [**insert name and address of Bank].**

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

[*Issuing Bank to delete whichever is not applicable*] We confirm that [**we are a financial institution legally authorized to provide this guarantee in the Employer’s country] [OR] [we are a financial institution located outside the Employer’s country but have a correspondent financial institution located in the Employer’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 Service Provider |
| Signature | Signature |
| In the capacity of: | In the capacity of: |
| Date: | Date: |

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)