

**Standard Bidding Document: Procurement of Non-Consulting Services**

**June 1, 2020**

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 Millennium Challenge Account Entities (“MCA Entities”) when procuring Non-Consulting services that are financed in whole or in part by MCC. This SBD is consistent with the April 2, 2020, MCC Program Procurement Guidelines[[1]](#footnote-1) (“MCC PPG”) and subsequent amendments and interim notices and will be amended as necessary to comply with subsequent amendments or revisions to the MCC PPG.

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

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

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

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

**Summary Description**

This Standard Bidding Document for Procurement of Non-Consulting Services shall be used when following competitive selection procedures to procure Non-Consulting Services. The Letter of Invitation for Bids (“IFB”) is included in this SBD for information purposes only. A brief description of this Standard Bidding Document is given below.

**Standard Bidding Document for Procurement of Non-Consulting Services**

**PART 1 – BIDDING AND SELECTION PROCEDURES**

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

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

**Section II Bid Data Sheet (“BDS”)**

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

**Section III Qualification and Evaluation Criteria**

This section describes the criteria used to evaluate the Bids and select the Bidder to perform the Contract.

**Section IV Bid Forms**

This section contains the Bid Submission Form, Price Schedules, Bid Security and other forms to be completed by the Bidders and submitted as part of their Bids.

**PART 2 – PURCHASER’S REQUIREMENTS**

**Section V Schedule of Requirements**

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

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

**Section VI Contract Notices and Agreement**

This section contains the notices to be sent to the Service Provider and the agreement to be entered into between MCA Entity and the Service Provider.

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

**Section IX Contract Annexes**

This Section contains annexes and forms that will be completed after award of Contract to the successful Bidder.

**BIDDING DOCUMENT**

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

**[MCA Entity]**

**On Behalf of:**

**The Government of [Country]**

**[Millennium Challenge Account Entity]**

**Program**

**Funded by**

**THE UNITED STATES OF AMERICA**

**Through**

**THE MILLENNIUM CHALLENGE CORPORATION**

**for**

**Procurement of Non-Consulting Services**

**\*\*\***

**[TYPE OF SERVICES]**

**\*\*\***

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

**Letter of Invitation for Bids**

**[City, Country]**

**[Month, Day, Year]**

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

Dear Madam/Sir:

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

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

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

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

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

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

A Service Provider will be selected under the **[insert method]**, the evaluation procedure for which is described in this Bidding Document, in accordance with the “MCC Program Procurement Guidelines”, which are provided on the MCC website ([www.mcc.gov/ppg](http://www.mcc.gov/ppg)). The selection process, as described, will include a review and verification of qualifications and past performance, including a reference check, prior to the contract award.

This Bidding Document includes the following sections:

**PART 1 – BIDDING AND SELECTION PROCEDURES**

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

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

**Section II Bid Data Sheet (“BDS”)**

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

**Section III Qualification and Evaluation Criteria**

This section describes the criteria used to evaluate the Bids and select the Bidder to perform the Contract.

**Section IV Bid Forms**

This section contains the Bid Submission Form, Price Schedules, Bid Security and other forms to be completed by the Bidders and submitted as part of their Bids.

**PART 2 – PURCHASER’S REQUIREMENTS**

**Section V Schedule of Requirements**

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

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

**Section VI Contract Notices and Agreement**

This section contains the notices to be sent to the Service Provider and the agreement to be entered into between MCA Entity and the Service Provider.

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

**Section IX Contract Annexes**

This Section contains annexes and forms that will be completed after award of Contract to the successful Bidder.

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

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

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

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

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

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

Yours sincerely,

**[Procurement Agent]**

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

**[Address]**

**[Fax number]**

**[E-mail address]**

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**PART 1:**

**BIDDING AND SELECTION PROCEDURE**

|  |  |
| --- | --- |
| 1. Instructions to Bidders | |
| 1. General | |
| *In Part 1 (Bidding and Selection Procedures) of this Bidding Document, the following words and expressions shall have the meanings stated below. These definitions shall not apply to any words or expressions in the sections that make up Part 3 (Conditions of Contract and Contract Forms) of this Bidding Document, in which such words and expressions shall have the meanings stated in GCC Sub-Clauses 1.1 and 1.2 unless otherwise specified.* | |
|  | 1. “Addendum” or “Addenda” means a modification to this Bidding Document issued by the MCA Entity. 2. “Associate” means any entity that forms the Bidder or 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 Bidder or Service Provider, with or without a legal status distinct from that of its members. 4. “BDS” means the Bid Data Sheet in Section II of this Bidding Document used to reflect specific requirements and/or conditions. 5. “Bid” means a bid for the provision of the Non-Consulting Services submitted by a Bidder in response to this Bidding Document. 6. “Bid Security” means the security a Bidder may be required to furnish as part of its Bid in accordance with ITB 22. 7. “Bidder” means any eligible entity or person, including any associate of such eligible entity or person that submits a Bid. 8. “Bidding Document” means this document, including any subsequent amendments, prepared by the Purchaser for the selection of the Service Provider. 9. “Compact” means the Millennium Challenge Compact **identified in the BDS**. 10. “confirmation” means confirmation in writing. 11. “Contract” means the contract proposed to be entered into between the Purchaser and the Service Provider, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 3 of this Bidding Document. 12. “days” refers to calendar days. 13. “GCC” means the General Conditions of Contract. 14. “Government” means the Government **identified in the BDS**. 15. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability; 16. “Instructions to Bidders” or “ITB” means Section I of this Bidding Document, including any amendments, which provides Bidders with all information needed to prepare their Bids. 17. “in writing” means communicated in written form (e.g., by mail, e-mail or facsimile) delivered with proof of receipt. 18. “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government. 19. “MCC’s AFC Policy” has the meaning provided in ITB Clause 3. 20. “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Compact. 21. “MCC Program Procurement Guidelines” or “MCC PPG” means the MCC Program Procurement Guidelines and its amendments posted from time to time on the MCC website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). 22. “Pre-Bid Conference” means the pre-bid conference specified in BDS ITB 8.2, if any. 23. “Purchaser” or “MCA Entity” means the accountable entity **identified in the BDS**, and the party with which the Service Provider signs the Contract for the supply of Non-Consulting Services. 24. “SCC” means the Special Conditions of Contract. 25. “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. 26. “Services” or “Non-Consulting Services” means the work to be performed by the Service Provider under the Contract, as described in the Schedule of Requirements. 27. “Service Provider” means the entity that provides the Non-Consulting Services to the Purchaser under the Contract. 28. “Subcontractor” means any entity to whom a Bidder intends to subcontract any part of the Non-Consulting Services. 29. “Taxes” has the meaning given to the term in the Compact. 30. “Trafficking in Persons” or “TIP” has the meaning given to the term in the MCC Program Procurement Guidelines. |
| * + 1. **Scope of Bid** | * + - 1. The Purchaser has issued an Invitation for Bids for the procurement of Non-Consulting Services as specified in Section V. Schedule of Requirements. The name and identification number of the Contract, and number and description of the lot(s), are **specified in the** **BDS**.       2. Throughout this IFB, except where the context requires otherwise, words indicating the singular also include the plural, words indicating the plural also include the singular, and the feminine means the masculine and vice versa.       3. Bidders should familiarize themselves with local conditions and take them into account in preparing their Bids. To obtain first-hand information on the assignment and local conditions, Bidders are encouraged to attend a Pre-Bid Conference if one is specified in the BDS. Attending any Pre-Bid Conference is strongly advised, but not mandatory. Attending any Pre-Bid Conference and/or a site visit shall not be taken into account for the purpose of evaluation of Bids.       4. The Purchaser will timely provide, at no cost to the Service Provider, the inputs and facilities **specified in the BDS**, assist the firm in obtaining licenses and permits needed to carry out the Services, and make available relevant project data and reports. No other inputs will be provided. Therefore, a Bidder shall plan to cover all incurred expenses that may be foreseen to initiate and sustain the Services in a timely manner, including but not limited to office space, communication, insurance, office equipment, travel, etc. not otherwise **specified in the BDS**.       5. The Purchaser is not bound to accept any Bid, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Bidder. |
| * + 1. **Source of Funds** | * + - 1. The United States of America, acting through MCC, and [insert country], acting through the Government, have entered into the Compact. The Government, acting through the MCA Entity, intends to apply a portion of the proceeds of MCC Funding to eligible payments under the Contract. Any payments made under the Contract with MCC Funding will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding. The Compact and related documents can be found on the MCC website ([www.mcc.gov](http://www.mcc.gov)) or the website of the MCA Entity. |
| * + 1. **Corruption and Fraud** | MCC requires that all beneficiaries of MCC Funding, including the MCA Entity and any applicants, Bidders, Service Providers, contractors, Subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC Funding acknowledge notice of MCC’s AFC Policy and certify to the MCA Entity that they have acceptable commitments and procedures in place to address the potential for fraud and corruption.  For the purposes of these provisions, the terms set forth below are defined as follows:      ***“coercion”*** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to improperly influence the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including such actions taken in connection with a procurement process or the execution of a contract;  ***“collusion”*** means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the MCA Entity of the benefits of free and open competition;  ***“corruption***” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to improperly influence the actions of a public official, MCA Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract.;  ***“fraud”*** means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;  ***“obstruction of investigation into allegations of fraud or corruption”*** means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, 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 the Compact, Threshold Program agreement, or any related agreements.  ***“prohibited practice”*** means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of Additional Provisions that will be made a part of MCC-funded contracts.   * + - * 1. The MCA Entity will reject a Bid (and MCC will deny approval of a proposed Contract award) if it determines that the Bidder recommended for award has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice in competing for the Contract.         2. MCC and the MCA Entity have the right to sanction a Bidder, including declaring the Bidder ineligible, either indefinitely or for a stated period of time, to be awarded an MCC-funded contract if at any time either MCC or the MCA Entity determines that the Service Provider has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice in competing for, or in executing, such Contract.         3. MCC and the MCA Entity have the right to require that a provision be included in the Contract requiring the selected Service Provider to permit the MCA Entity, MCC, or any designee of MCC, to inspect the Service Provider’s or any Subcontractor’s accounts, records and other documents relating to the preparation and submission of the Bid or performance of the Contract and to have such accounts, records and other documents audited by auditors appointed by MCC or by the MCA Entity with the approval of MCC.         4. In addition, MCC has the right to cancel any portion of the MCC Funding allocated to the Contract if it determines at any time that any representative of a beneficiary of MCC Funding engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice during the selection process or the execution of any MCC-funded Contract, without the MCA Entity having taken timely and appropriate action satisfactory to MCC to remedy the situation. |
| * + 1. **Environmental and Social Requirements**   **Trafficking in Persons**    **MCC Environmental Guidelines and IFC Performance Standards** | * + - 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. TIP 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 working with partner countries to ensure appropriate steps are taken to prevent, mitigate, and monitor TIP risks in the countries it partners with and projects it funds.       2. The Description of Services (Annex B of the Contract) sets out certain prohibitions, Service Provider requirements, remedies and other provisions that will be made a binding part of any Contract that may be entered into.       3. Additional information on MCC’s requirements aimed at combating TIP can be found in the MCC Counter-Trafficking in Persons (“C-TIP”) Policy, which 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 Policy’s C-TIP Minimum Compliance Requirements. Contracts for projects categorized by MCC as high-risk for TIP are required to implement a TIP Risk Management Plan (which is to be developed by the MCA Entity and implemented by the corresponding Service Provider).       4. The Service Provider shall ensure that its activities, including any activities carried out by Subcontractors, under the Contract comply with M CC’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 MCC Environmental Guidelines. The Service Provider is also required to comply with the IFC Performance Standards for the purposes of the Contract. Additional information on the IFC Performance Standards can be found here: <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> |
| * + 1. **Bidders’ Qualification and Eligibility** | * + - 1. The qualification and eligibility criteria set out in this Bidding Document will apply to the Bidder, including all parties constituting the Bidder.       2. Bidders must satisfy the legal, financial and litigation criteria requirements stated in Section III of this RFP and shall provide such evidence of their continued qualification to perform the Services (including any changes in their litigation history) in a manner satisfactory to the MCA Entity, as the MCA Entity shall reasonably request at any time prior to the award of contract.       3. Bidders must satisfy the eligibility criteria set forth in this Bidding Document and as contained in the MCC PPG governing MCC-funded procurements under the Compact. |
| **Joint Venture or Association; Subcontractors** | * + - 1. In the case where a Bidder 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 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 Association.       2. Subject to the restrictions set forth in this Bidding Document, any Bidder may propose to sub-contract a part of the Contract in accordance with its terms and provided that the names and details of the sub-contract are clearly stated in the Bid submitted by the Bidder.       3. Qualification requirements for the Bidder in addition to those set out in these Instructions to Bidders are specified in Section III. Qualification and Evaluation Criteria.       4. Bidders must also satisfy the eligibility criteria contained in the MCC PPG governing MCC-funded procurements under the Compact. In the case where a Bidder intends to join with an associate or sub-contract part of the Contract, then such associate or Subcontractor shall also be subject to the eligibility criteria set forth in this Bidding Document and the MCC PPG.       5. Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request. |
| **Conflict of Interest**  **Government Employees** | * + - 1. A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated and the mitigation is approved by MCC. The Purchaser requires that Bidders and the Service Provider hold the Purchaser’s interests paramount at all times, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Without limitation on the generality of the foregoing, a Bidder or Service Provider, including all parties constituting the Bidder or Service Provider, and any subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, may be considered to have a conflict of interest and disqualified or terminated if they:          1. have at least one controlling partner in common with one or more other parties in the process contemplated by this Bidding Document, or          2. have the same legal representative as another Bidder for purposes of this Bid; or          3. have a relationship, directly or through common third parties, that puts them in a position to have access to information about or influence over the Bid of another Bidder, or influence the decisions of the Purchaser regarding the selection process for this procurement; or          4. participate in more than one Bid in this process; participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved; however, this provision does not limit the inclusion of the same Subcontractor in more than one Bid; or          5. are, or have been in the past, associated 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 Services under the Contract; or          6. are themselves, or have a business or family relationship with, (i) a member of the MCA Entity’s board of directors or staff, (ii) the project’s Implementing Entity’s staff, or (iii) the Procurement Agent, Fiscal Agent, or Auditor (as defined in the Compact or related agreements) hired by the MCA Entity in connection with the Compact, any of whom is directly or indirectly involved in any part of (A) the preparation of this Bidding Document, (B) the selection process for this procurement, or (C) supervision of the Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to MCC; or          7. any of their affiliates have been or, at present, are engaged by the MCA Entity in the capacity of the Implementing Entity, Procurement Agent, Fiscal Agent, or Auditor under the Compact.       2. A Bidder hired to provide consulting services for the preparation or implementation of a project, and any of its affiliates, shall be disqualified from subsequently providing goods, works or non-consulting services resulting from or directly related to such consulting services for such preparation or implementation.       3. Bidders and the Service Provider have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of the Purchaser, or that may reasonably be perceived as having this effect. Failure to disclose said situations may lead to the disqualification of the Bidder or the termination of the Contract.       4. (a) No member of the MCA Entity’s board of directors or current employees of the MCA 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 Bidder or Service Provider.          1. Except as provided in Sub-Clause 5.12(d), no current employees of the Government shall work as Service Providers or as Personnel under their own ministries, departments or agencies.          2. Recruiting former MCA Entity or Government employees to perform services for their former ministries, departments or agencies is acceptable provided no conflict of interest exists.          3. If a Bidder proposes any Government employee as Personnel in their Bid, 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 Proposal submission and will remain on leave without pay until the end of their assignment with the Bidder/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 implementation of this Contract. Such certification shall be provided to the MCA Entity by the Bidder as part of its Bid.          4. In the case where a Bidder seeks to engage the services of any person falling under ITC Sub-Clauses 5.12(a) – 5.12(d), who may have left the MCA Entity within a period of less than twelve (12) months of the date of this IFB, it must obtain a “no-objection” from the MCA Entity for the inclusion of such a person, prior to the Bidder’s submission of its Bid. |
| **Ineligibility and Debarment** | * + - 1. A Bidder or Service Provider, all parties constituting the Bidder or Service Provider, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates, will not be any person or entity under (a) a declaration of ineligibility for engaging in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice as contemplated by ITB Clause 3 above, or (b) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in Part 10 of MCC’s Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at [www.mcc.gov/ppg](http://www.mcc.gov/ppg). This would also remove from eligibility for participation in this procurement any entity that is organized in, or has its principal place of business or a significant portion of its operations in, any country that is subject to sanctions or restrictions by law or policy of the United States. |
|  | * + - 1. A Bidder or Service Provider, all parties constituting the Bidder or Service Provider, and any Subcontractors for any part of the Contract, including related services, and their respective personnel and affiliates not otherwise made ineligible for a reason described in this ITB Clause 5 will nonetheless be excluded if:          1. as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Bidder or Service Provider (including any Associates, Subcontractors and any respective affiliates; or          2. by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from the country of the Bidder or Service Provider (including any Associates, Subcontractors and any respective affiliates) or any payments to entities in such country; or          3. such Bidder or Service Provider, any parties constituting the Bidder or Service Provider, any Subcontractor, Associate, or respective personnel or affiliates are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on MCC’s website ([www.mcc.gov](http://www.mcc.gov)). |
| **Evidence of Continued Eligibility** | * + - 1. Bidders and Service Providers shall provide such evidence of their continued eligibility in a manner satisfactory to the Purchaser, as the Purchaser shall reasonably request. |
| **Commissions and Gratuities** | * + - 1. A Bidder or Service Provider will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Bid and during performance of the Contract if the Bidder is awarded the Contract, as requested in the Bid Submission Form (BSF1) of Section IV Bid Forms. |
| * + 1. **Eligible Non-Consulting Services** | * + - 1. The Non-Consulting Services to be supplied under the Contract may have their origin in any country subject to the same restrictions specified for Bidders and the Service Provider in ITB Clause 5 above. At the Purchaser’s request, Bidders will be required to provide evidence of the origin of Non-Consulting Services.       2. For purposes of ITB Clause 6.1, “origin” means the place from which the Services are supplied. |
| 1. Contents of Bidding Document | |
| * + 1. **Sections of Bidding Document** | * + - 1. This Bidding Document consists of Parts 1, 2, and 3, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITB Clause 9.   **Part 1 – Bidding and Selection Procedures**  Section I. Instructions to Bidders  Section II. Bid Data Sheet  Section III. Qualification and Evaluation Criteria  Section IV. Bid Forms  **Part 2 – Purchaser’s Requirements**  Section V. Schedule of Requirements  **Part 3 – Conditions of Contract and Contract Forms**  Section VI. Contract Notices and Agreement  Section VII. General Conditions of Contract  Section VIII. Special Conditions of Contract  Section IX. Contract Annexes   * + - 1. The Letter of Invitation for Bids issued by the Purchaser is not part of the Bidding Document.       2. The Purchaser is not responsible for the completeness of this Bidding Document and its Addenda if they were not obtained directly from the source stated by the MCA Entity in the Letter of Invitation.       3. The Bidder is expected to examine all instructions, forms, terms, and Schedule of Requirements in this Bidding Document. Failure to furnish all information or documentation required by this Bidding Document may result in the rejection of the Bid. |
| * + 1. **Clarification of Bidding Document** | * + - 1. A prospective Bidder requiring any clarification of this Bidding Document shall contact the MCA Entity in writing, by email or fax at the MCA Entity’s address **indicated in the BDS**. The MCA Entity will respond to any request for clarification, provided that such a request is received no later than the number of days **indicated in the BDS** prior to the deadline for submission of Bids. The MCA Entity shall send written copies of the responses, including a description of the inquiry but without identifying its source, to Bidders who have registered or obtained the Bidding Document directly from the MCA Entity by the date **specified in the BDS**. The MCA Entity will also post a copy of the responses and inquiry descriptions to the MCA Entity’s website **indicated in the BDS**. Should the clarification result in changes to the essential elements of this Bidding Document, the MCA Entity shall amend this Bidding Document following the procedure under ITB Clause 9.       2. The Bidder’s designated representative is invited to attend a Pre-Bid Conference, **if provided for in the BDS**. The purpose of the conference will be to clarify the issues and to answer questions on any matter that may be raised at that stage. Attending any Pre-Bid Conference is strongly advised, but not mandatory. Attending any Pre-Bid Conference and/or a site visit shall not be taken into account in the evaluation of Bids.       3. Minutes of the Pre-Bid Conference, including the text of the questions and answers raised at the Conference (without identifying the source, and the responses given) will be posted on the MCA Entity’s website as **indicated in BDS ITB 8.1** and shall be transmitted in writing to all Bidders who have registered or obtained the Bidding Document directly from the MCA Entity. Any modification to this Bidding Document that may become necessary as a result of the Pre-Bid Conference shall be made by the MCA Entity exclusively through the issue of an Addendum and not through the minutes of the Pre-Bid Conference. |
| * + 1. **Amendment of Bidding Document** | * + - 1. At any time prior to the deadline for submission of Bids, the MCA Entity may amend this Bidding Document by issuing Addenda.       2. All Addenda issued shall be part of this Bidding Document, posted on the MCA Entity’s website, and shall be communicated in writing to all Bidders that have registered or obtained the Bidding Document directly from the MCA Entity.       3. To give prospective Bidders reasonable time in which to take an Addendum into account in preparing their Bids, the MCA Entity may extend the deadline for the submission of Bids at its sole discretion. |
| 1. Preparation of Bids | |
| * + 1. **Cost of Bidding** | * + - 1. Except as otherwise **specified in the BDS**, the Bidder shall bear all costs associated with the preparation and submission of its Bid and Contract finalization, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| * + 1. **Language of Bid** | * + - 1. The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language **specified in the BDS.** Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern. |
| * + 1. **Documents Comprising the Bid** | * + - 1. The Bid submitted by the Bidder shall comprise the following:          1. All Bid forms in accordance with Section IV. Bid Forms, including the Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 13, 15 and 16;          2. Bid Security, in accordance with ITB Clause 22;          3. written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 23;          4. documentary evidence in accordance with ITB Clause 17 establishing the Bidder’s eligibility to Bid;          5. if **specified in the BDS**, documentary evidence in accordance with ITB Clause 18, that the Non-Consulting Services to be supplied by the Bidder are of eligible origin;          6. documentary evidence in accordance with ITB Clauses 19, that the Non-Consulting Services conform to the Bidding Document;          7. documentary evidence in accordance with ITB Clause 20 establishing the Bidder’s qualifications to perform the contract if its Bid is accepted;          8. Completed and certified Certification of Compliance with Sanctions Certification Form (Form BSF10); and          9. any other document as **specified in the** **BDS**. |
| * + 1. **Bid Submission Form and Price Schedules** | * + - 1. The Bid Submission Form and Price Schedules shall be prepared using the relevant forms furnished in Section IV. Bid Forms. These forms must be completed without any alterations to its text, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested. |
| * + 1. **Alternative Bids** | * + - 1. Unless otherwise **specified in the BDS**, alternative Bids shall not be considered. |
| * + 1. **Bid Prices and Discounts** | * + - 1. The prices and discounts quoted by a Bidder in the Bid Submission Form and in the Price Schedules shall conform to the requirements specified below. Discounts are permitted only when bidding for multiple lots and will be considered in the evaluation process as specified in Section III. Qualification and Evaluation Criteria.       2. The Bidder shall list and price all lots and items separately in the Price Schedules. Items against which no price is entered by the Bidder will not be paid for by the Purchaser, and shall be deemed covered by the prices of other items in the Price Schedules. Lots or items not listed in the Price Schedules shall be assumed not to be included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment, as appropriate, shall be applied in accordance with ITB Clause 31.6.       3. The price to be quoted in the Bid Submission Form, in accordance with ITB Clause 13.1, shall be the total price of the Bid, excluding any discounts offered.       4. The Bidder shall quote any unconditional discounts and indicate the method for their application in the Bid Submission Form, in accordance with ITB Clause 13.1.       5. The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in Incoterms edition **specified in the BDS** published by The International Chamber of Commerce.       6. The price to be quoted in the Bid Submission Form, in accordance with ITB Clause 13.1, shall be the all-inclusive price of Services, including transportation, insurance and all services required to deliver the Services to the locations specified in the Schedule of Requirements;       7. Prices quoted by the Bidder shall be fixed during a Bidder’s performance of the Contract and not subject to variation on any account, unless otherwise **specified in the** **BDS**. A Bid submitted with “adjustable prices” shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 31. However, if **in accordance with the** **BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a Bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero for the evaluation purpose.       8. If so indicated in the BDS ITB 1.1, Bids shall be invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise **indicated in the** **BDS**, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction (discount) for the award of more than one contract (lot) shall specify the applicable price reduction in accordance with ITB Clause 15.4 provided the Bids for all lots are submitted and opened at the same time.       9. Clause 17 of the General Conditions of Contract (Section VI) sets forth the tax provisions of the Contract. Bidders should review this clause carefully in preparing their Bid. |
| * + 1. **Currencies of Bid** | * + - 1. Bidders must submit their Bids in the currency or currencies **specified in the BDS**. Service Providers will be paid in the currency specified in the **BDS**. |
| * + 1. **Documents Establishing the Eligibility of the Bidder** | * + - 1. To establish their eligibility in accordance with ITB Clause 5, Bidders shall complete the Bid Submission Form (BSF1) included in Section IV. Bid Forms. |
| * + 1. **Documents Establishing the Eligibility of the Non-Consulting Services** | * + - 1. If **specified in the BDS**, Bidders shall be required to complete the country of origin declarations in the Price Schedules Forms (BSF2.1), included in Section IV. Bid Forms in order to establish the eligibility of the Non-Consulting Services in accordance with ITB Clause 5. |
| * + 1. **Documents Establishing the Conformity of the Non-Consulting Services** | * + - 1. To establish the conformity of the Non-Consulting Services to the Bidding Document, the Bidder shall furnish as part of its Bid the documentary evidence that the Services conform to the technical specifications, including all requirements and standards specified in Section V. Schedule of Requirements.       2. The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Services, demonstrating substantial responsiveness of the Services to the technical specification, including all requirements and standards, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.       3. Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. A Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to Purchaser’s satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements. |
| * + 1. **Documents Establishing the Qualifications of the Bidder** | * + - 1. The documentary evidence of the Bidder’s qualifications to perform the Contract if its Bid is accepted shall establish, to the Purchaser’s satisfaction, the criteria specified in Section III. Qualification and Evaluation Criteria. |
| * + 1. **Period of Validity of Bids** | * + - 1. Bids shall remain valid for the period **specified in the** **BDS** after the Bid submission deadline date prescribed by the Purchaser. A Bid valid for a shorter period shall be rejected by the Purchaser as non-responsive.       2. In exceptional circumstances, prior to the expiration of the Bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the Bidder’s responses shall be made in writing. If required, the Bid Security shall also be extended for a period of twenty-eight (28) days beyond the deadline of the extended bid validity period. A Bidder may refuse the request without forfeiting its Bid security. A Bidder granting the request shall not be required or permitted to modify its Bid. |
| * + 1. **Bid Security** | * + - 1. The Bid Security shall be in the amount and currencies **specified in the** **BDS** and shall:          1. at the Bidder’s option, be in the form of either an unconditional bank guarantee substantially in the format of Form of Bid Security (Bank Guarantee) (BSF6) included in Section IV. Bid Forms, or another type of security **specified in the BDS**;          2. be issued by a reputable institution selected by the Bidder and located in any eligible country (as determined in accordance with ITB Clause 5); if the institution issuing the bank guarantee is located outside Purchaser’s country, it shall have a correspondent financial institution located within Purchaser’s country to make it enforceable;          3. be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause 22.2 are invoked;          4. be submitted in its original form; copies will not be accepted;          5. remain valid for a period of twenty-eight (28) days beyond the original validity period of Bids, or beyond any period of extension subsequently requested under ITB Clause 21.2.       2. Any Bid not accompanied by a substantially responsive Bid Security (if required) in accordance with ITB Clause 22, shall be rejected by the Purchaser as nonresponsive. The Bid Security may be forfeited:          1. if a Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Clause 21.2;          2. if a Bidder does not accept the correction of its Bid Price pursuant to ITB Clause 32.2; or          3. if the successful Bidder fails within the specified time to:   furnish the required Performance Security in accordance with GCC Clause 16 as described in ITB Clause 44; or  sign the Contract in accordance with ITB Clause 43.   * + - 1. The Bid Security of a Joint Venture or other Association must be in the name of the Joint Venture or Association that submits the Bid. If the Joint Venture or 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/Association. |
| * + 1. **Format and Signing of Bid** | * + - 1. A Bidder shall prepare ONE (1) original set of the documents comprising the Bid pursuant to ITB Clause 12 and clearly mark it “Original.” The original shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as **specified in the** **BDS** and shall be attached to the Bid. The person or persons signing the Bid shall initial all pages of the Bid where entries and amendments have been made.       2. In addition, the Bidder shall prepare copies of the Bid (photocopies of the signed original are acceptable), in the number **specified in the** **BDS** and clearly mark them “Copy.” In the event of discrepancy between the original and the copies, the original shall prevail.       3. The Bid shall contain no alterations or additions, except those made to comply with the instructions issued by the Purchaser, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.       4. The Bidder shall furnish information as described in the Bid Submission Form (BSF1) Section IV. Bid Forms on commissions and gratuities, if any, paid or to be paid to agents relating to this Bidding Document or its Bid or to Contract execution if the Bidder is awarded the Contract. |
| 1. Submission and Opening of Bids | |
| * + 1. **Bid Submission** | * + - 1. Bidders may submit their Bids by mail or by hand. When so **specified in the** **BDS**, Bidders shall have the option of submitting their Bids electronically. Bidders are reminded that distance and customs formalities may require longer than expected delivery times.          1. For all Bids submitted in hard copy, Bidders shall enclose the original and each copy of the Bid in separate sealed envelopes, duly marking the envelopes as “Original” and “Copy.” These envelopes containing the original and the copies shall then be enclosed in one single envelope.          2. Bidders submitting bids electronically, **if so permitted in** **BDS,** shall follow the electronic bid submission procedures **specified in the** **BDS**.       2. The inner and outer envelopes containing Bids shall:          1. bear the name and address of the Bidder;          2. be addressed to the Purchaser at the address **specified in the** **BDS**;          3. bear the specific identification number of this Contract as indicated in ITB Clause 1.1 and any additional identification marks as **specified in the BDS**;          4. provide a warning “not to be opened before the time and date for Bid opening”; and          5. be marked “Bid Submission.”       3. If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the Bid. |
| * + 1. **Deadline for Submission of Bids** | * + - 1. Bids must be received by the Purchaser at the address **specified in the BDS** and no later than the date and time **specified in the BDS**.       2. The Purchaser may, at its discretion, extend the deadline for the submission of Bids by issuing an amendment in accordance with ITB Clause 9, in which case all rights and obligations of the Purchaser and the Bidders previously subject to the original deadline shall then be subject to the deadline as extended. |
| * + 1. **Late Bids** | * + - 1. The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB Clause 25. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected and returned unopened at the request and cost of the Bidder. |
| * + 1. **Withdrawal, Substitution, and Modification of Bid** | * + - 1. A Bidder may withdraw, substitute, or modify its Bid prior to the deadline for the submission of Bids by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization of the person signing in accordance with ITB Clause 23.1, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the Bid must accompany the respective written notice. All notices must be:          1. submitted in accordance with ITB Clauses 24 and 25 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” or “Modification,” and          2. received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 25. |
|  | * + - 1. Bids requested to be withdrawn in accordance with this ITB Clause shall be returned unopened to the Bidders at the request and cost of the Bidders. |
|  | * + - 1. No Bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof. |
| * + 1. **Bid Opening** | * + - 1. The Purchaser shall open the Bids in the presence of Bidders’ representatives as well as anyone who chooses to attend at the time and in the place **specified in the** **BDS**. Any specific opening procedures required if electronic Bidding is permitted in **accordance with the BDS**, shall be as **specified in the** **BDS**. |
|  | * + - 1. Firstly, submissions marked “Withdrawal” shall be opened and read out, while Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 27 shall not be opened. No Bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at Bid opening. Next, submissions marked “Substitution” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Bid opening. Submissions marked “Modification” shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only submissions that are opened and read out at Bid opening shall be considered further. |
|  | * + - 1. The submissions marked “Bid Submission” shall be opened at this time. These shall be opened one at a time, reading out: the Bidders’ names, the Bid prices, the total amount of each Bid and of any alternative Bid (**if requested or** **permitted in BDS**), any discounts, substitutions, or modifications, the presence or absence of Bid Security and such other details as the Purchaser may consider appropriate. No Bid shall be rejected at Bid opening except for the late Bids pursuant to ITB Clause 26. Substitutions and modifications submitted pursuant to ITB Clause 27 that are not opened and read out at Bid opening shall not be considered for further evaluation regardless of the circumstances. Late, withdrawn and substituted Bids shall be returned unopened at the request and cost of the Bidder. |
|  | * + - 1. The Purchaser shall prepare minutes of the Bid opening, including the information disclosed to those present in accordance with ITB Clause 28.3. A copy of the record shall be distributed to all Bidders who submitted Bids on time, and posted on the MCA Entity’s website. |
| 1. Evaluation and Comparison of Bids | |
| * + 1. **Confidentiality** | * + - 1. Information relating to the examination, clarification, evaluation, and comparison of Bids and recommendations for the award of the Contract shall not be disclosed to the Bidders or any other persons not officially concerned with such process until the intention to award to the successful Bidder has been announced pursuant to ITB Clause 41. The undue use by any Bidder of confidential information related to the process may result in the rejection of its Bid or may invalidate the entire procurement process.       2. Any attempt or effort by a Bidder to influence the Purchaser in the evaluation of Bids or Contract award decisions may subject the Bidder to the provisions of the Government’s, the Purchaser’s, and MCC’s anti-fraud and corruption policies and the application of other sanctions and remedies to the extent applicable.       3. Notwithstanding the above, from the time of Bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it may do so in writing at the address **specified in the BDS**. |
| * + 1. **Clarification of Bids** | * + - 1. To assist in the examination, evaluation, and comparison of Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a bidder that is not in response to a request by the Purchaser shall not be considered. The Purchaser’s request for clarification and the Bidder’s response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by Purchaser in the evaluation of the Bids in accordance with ITB Clause 32. |
| * + 1. **Bid Responsiveness** | * + - 1. During the evaluation of bids, the following definitions apply:   “Deviation” is a departure from the requirements specified in the Bidding Documents;  “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and  “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Documents   * + - 1. A substantially responsive Bid 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:   affect in any substantial way the scope, quality, or performance of the Services; or  limit in any substantial way, inconsistent with this Bidding Document, the Purchaser’s rights or the Bidder’s obligations under the proposed Contract; or   * + - * 1. if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.       1. If a Bid is not substantially responsive to the requirements of the Bidding Document, it shall be rejected by the Purchaser, and may not subsequently be made responsive by correction of the material deviation, reservation, or omission. |
| **Nonconformities** | * + - 1. Provided that a Bid is substantially responsive, the Purchaser may waive any nonconformities in the Bid.       2. Provided that a bid is substantially responsive, the Purchaser may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.       3. Provided that a bid is substantially responsive, the Purchaser shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component, **as indicated in the BDS**. |
| * + 1. **Correction of Arithmetic Errors** | * + - 1. Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:          1. if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;          2. if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and          3. if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.       2. If the Bidder that submitted the lowest-evaluated Bid does not accept the correction of errors, its Bid shall be rejected and the Bid Security may be forfeited in accordance with ITB Clause 22.2(b). |
| * + 1. **Examination of Terms and Conditions Technical Evaluation** | * + - 1. The Purchaser shall examine the Bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.       2. The Purchaser shall evaluate the technical aspects of the Bid, to confirm that all requirements specified in the Schedule of Requirements of the Bidding Document have been met without any material deviation or reservation.       3. If, after the examination of the terms and conditions and the technical evaluation, the Purchaser determines that the Bid is not substantially responsive in accordance with ITB Clause 31, it shall reject the Bid. |
| * + 1. **Conversion to Single Currency** | * + - 1. For evaluation and comparison purposes, the currency(ies) of the Bids shall be converted into a single currency **as specified in the BDS**. |
| * + 1. **Bid Evaluation** | * + - 1. The Purchaser shall use the criteria and methodologies listed in this Clause, as complemented by the provisions of the BDS and Section III. Qualification and Evaluation Criteria. No other evaluation criteria or methodologies shall be permitted.       2. The Purchaser’s evaluation of a Bid will exclude and not take into account:          1. any allowance for price adjustment during the period of execution of the contract, if provided in the Bid.          2. any other factors specified as being excluded in Section III. Qualification and Evaluation Criteria.       3. If so **indicated in the BDS**, Purchaser’s price evaluation of a Bid may require the consideration of other factors, in addition to the Bid price quoted in accordance with ITB 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 Bids, unless otherwise specified in Section III. Qualification and Evaluation Criteria.       4. If so **indicated in the** **BDS**, the Bidding Document shall allow Bidders to quote separate prices for one or more lots, and shall allow the Purchaser to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations is specified in Section III. Qualification and Evaluation Criteria.       5. In accordance with the MCC Program Procurement Guidelines, the Bidder’s past performance on MCC-funded contracts will be considered as a criterion in the Purchaser’s evaluation of the Bid. The Purchaser reserves the right to check the performance references provided by the Bidders or to use any other source at the Purchaser’s discretion. If the Bidder (including any of its Associates) is or has been party to an MCC-funded contract (either with MCC directly or with any MCA Entity, anywhere in the world), whether as lead Service Provider, affiliate, Associate, subsidiary, subcontractor, or in any other role, the Bidder must identify the contract in its list of references submitted with its Bid using the References of Past Contracts Form (BSF9) included in Section IV. Bid Forms. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. However, the failure to list any contracts because the Bidder (including any of its Associates) has not been a party to any such contract will not be grounds for a negative determination by the Purchaser. That is, prior performance in connection with an MCC-funded contract is not required. The Purchaser will check the references, including the Bidder’s past performance reports filed in MCC’s Contractor Past Performance Reporting System (“CPPRS”). A negative determination by the Purchaser on the Bidder’s record of performance in prior contracts may be a reason for rejection of the Bid, or lowered evaluation scores, at the discretion of the Purchaser. |
| * + 1. **Comparison of Bids and Price Reasonableness Analysis** | * + - 1. The Purchaser shall compare all substantially responsive Bids to determine the lowest-evaluated Bid, in accordance with ITB Clause 35.       2. The Purchaser shall perform a price reasonableness analysis of the lowest-evaluated Bid, according to the provisions of MCC Program Procurement Guidelines. If the price reasonableness analysis suggests that a Bid is significantly unbalanced or front loaded, the Purchaser may require the Bidder to produce a detailed price analysis for any or all items, that demonstrates the internal consistency of prices with the proposed methods and schedule.       3. After such evaluation of the information and detailed price analyses presented by the Bidder, the Purchaser may, as appropriate:   (a) accept the Bid; or  (b) require that the total amount of the Performance Security be increased at the expense of the Bidder to a level not exceeding the percentage **specified in the BDS**; or  (c) reject the Bid.   * + - 1. A negative determination of price reasonableness (either unreasonably high or unreasonably low) may be a reason for rejection of the Bid at the discretion of the Purchaser. The Bidder shall not be permitted to revise its Bid after this determination. |
| * + 1. **Domestic Preference** | * + - 1. Domestic preference shall not be a factor in the Bid evaluation of any Bid submitted. |
| * + 1. **Post-Qualification of the Bidder** | * + - 1. The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive Bid is qualified to perform the Contract satisfactorily.       2. The determination shall be based upon an examination of the documentary evidence of a Bidder’s qualifications submitted by a Bidder and the qualification criteria indicated in Section III. Qualification and Evaluation Criteria.       3. The Purchaser reserves the right to request additional information with which to conduct a risk assessment of legal, technical and financial capacity of the Bidder that is selected for Contract award. The selected Bidder 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 Bid.       4. An affirmative determination shall be a prerequisite for award of the Contract to a Bidder. Bidders shall provide such evidence of their continued qualification to perform the Services (including any changes in their litigation history) in a manner satisfactory to the Purchaser, as the Purchaser shall reasonably request at any time prior to the award of contract. A negative determination shall result in disqualification of the Bid, in which event the Purchaser shall proceed to the next lowest evaluated Bid to make a similar determination of that Bidder’s capabilities to perform satisfactorily. |
| 1. Award of Contract | |
| * + 1. **Award Criteria** | * + - 1. Subject to ITB Clause 1.2, the Purchaser shall award the Contract to the Bidder whose Bid has been determined to be the lowest evaluated Bid and is substantially responsive to this Bidding Document, provided that the Bidder is determined to be qualified to perform the Contract satisfactorily. |
| * + 1. **Purchaser’s Right to Vary Quantities at Time of Award** | * + - 1. At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Non-Consulting Services originally specified in Section V. Schedule of Requirements, provided this does not exceed the percentages **indicated in the** **BDS**, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document. |
| * + 1. **Notice of Intent to Award** | * + - 1. Prior to the expiration of the period of Bid validity, the Purchaser shall send the Notice of Intent to Award to the successful Bidder. The Notice of Intent to Award shall include a statement that the Purchaser shall issue a formal Notification of Award and draft Contract Agreement after expiration of the period for filing a Bid challenge and the resolution of any Bid challenges that are submitted. Delivery of the Notice of Intent to Award **shall not constitute the formation of a contract** between the Purchaser and the successful Bidder and no legal or equitable rights will be created through the delivery of the Notice of Intent to Award.       2. At the same time it issues the Notice of Intent to Award, the Purchaser shall also notify, in writing, all other Bidders of the results of the bidding. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after receiving notification of the bidding results, makes a written request for a debriefing as provided in the MCC Program Procurement Guidelines, or submits a formal Bid challenge. |
| * + 1. **Bid Challenges[[3]](#footnote-3)** | * + - 1. Bidders may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the Purchaser and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the Purchaser’s website **indicated in the BDS**. |
| * + 1. **Signing of Contract** | * + - 1. Upon expiration of the period for timely filing and the resolution of any Bid challenges that are submitted, the Purchaser shall send the Notification of Award to the successful Bidder.       2. The Notification of Award shall include the Contract Forms for the review and signature of the successful Bidder.       3. Within twenty-eight (28) days of receipt of the Contract, the successful Bidder shall sign, date, and return the Contract to the Purchaser along with the Performance Security in accordance with GCC Clause 18, the certification of Compliance with Terrorist Financing Legislation and other Restrictions, in accordance with Clause G of the Additional Provisions at Annex A to the Contract. |
| * + 1. **Performance Security** | * + - 1. Within twenty-eight (28) days of receipt of the Notification of Award from the Purchaser, the successful Bidder shall furnish a Performance Security in accordance with GCC Clause 18, using for that purpose the Performance Security Form included in Part 3. Conditions of Contract and Contract Forms.       2. Failure of the successful Bidder to submit the Performance Security or to sign the Contract in accordance with ITB Sub-Clauses 43.3 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily or call for new Bids or annul the bidding process. |
| * + 1. **Publication of Award and Return of Bid Securities** | * + - 1. Upon receipt of the signed Contract Agreement and a valid Performance Security, the Purchaser shall return the Bid Securities of unsuccessful Bidders and shall publish in UNDB Online, in dgMarket, and on the Purchaser’s website and other places as MCC may specify and in accordance with MCC’s Program Procurement Guidelines, the results identifying the Bid and the following information:  1. the name of the winning Bidder; 2. the price of the winning Bid and the price of the Contract award if different; and 3. the duration and the summary scope of the Contract awarded. |
| * + 1. **Compact Conditionalities** | * + - 1. Bidders are advised to examine and consider carefully the provisions that are set forth in Annex A to the Contract as these are a part of the Government’s and the Purchaser’s obligations under the Compact and related documents which, under the terms of the Compact and related documents, are required to be transferred onto any Bidder, Service Provider or Subcontractor who partakes in procurement or subsequent contracts in which MCC Funding is involved.       2. The Additional 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 Program Procurement 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 the MCC Program Procurement Guidelines. 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 Program Procurement Guidelines, the terms and requirements of the MCC Program Procurement Guidelines shall prevail, unless MCC has granted a waiver of the guidelines. |

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| 1. Bid Data Sheet | |
| 1. General | |
| ITB Definitions | (i) “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.  (n) “Government” means the government of **[country]**.  (v) “Purchaser” or “MCA Entity” means **[full legal name of the MCA Entity]**. |
| ITB 1.1 | The name and identification of the proposed Contract is:  **[insert name and identification number]**  The number and description of the lot(s) is:  **[insert number and description]** |
| ITB 1.2 | The Purchaser will provide the following inputs and facilities:  **[Insert List or “None”]**  **[if there are any specific requirements for local registration of foreign Service Provider working in the Country of MCA Entity, please provide details of such requirements]** |
| 1. Contents of Bidding Document | |
| ITB 8.1 | Clarifications may be requested by e-mail not later than [**insert number**] days before the deadline for submission of Bids, so that responses can be issued to all Bidders not later than [**insert number**] days prior to the deadline for submission of Bids.  The address for requesting clarifications is:  **[full legal name of the MCA Entity]**  Att.: The Procurement Agent  Address: **[insert mailing address]** Email: **[insert email address]**  MCA Entity’s Website Address: **[insert website address]** |
| ITB 8.2 | A Pre-Bid Conference will not be held, OR  A Pre-Bid Conference will be held at **[insert time]** (local time) on **[insert date and location]**. Attendance is strongly advised for all prospective Bidders or their representatives but is not mandatory.  ***[delete whichever is not appropriate]*** |
| ITB 10.1 | The Purchaser shall refund the costs associated with the preparation and submission of the bid, up to a maximum of [insert amount].  OR  The Purchaser shall not refund the costs associated with the preparation and submission of the bid |
| ITB 11.1 | The Bid shall be submitted in English **[and insert acceptable local language if applicable]**. |
| 1. Preparation of Bids | |
| ITB 12.1 (e) | **[include the following only if applicable, otherwise delete]**  A Bidder **shall** submit documentary evidence that the Services to be supplied are of eligible origin. |
| ITB 12.1(i) | A Bidder shall submit with its Bid the following additional documents which will comprise a part of the Bid:  **[insert list of additional documents]**  OR  **[Insert** “Not applicable”**]**  ***[delete whichever is not appropriate]*** |
| ITB 14.1 | Alternative bids **[shall/shall not]** be considered. |
| ITB 15.5 | The following Incoterms shall apply **{insert Incoterm}** |
| ITB 15.7 | The prices quoted by a Bidder shall be fixed for the duration of the Contract. **[MODIFY IF REQUIRED]** |
| ITB 15.8 | Price quoted for each lot shall not be different from the requirements specified in the ITB. **[MODIFY IF REQUIRED]**. |
| ITB 16.1 | The currency(ies) of the Bid shall be as follows: **[insert details here].**  The currency(ies) of payment shall be as follows: **[insert details here].** |
| ITB 18.1 | **[include the following only if applicable, otherwise delete]**  A Bidder shall be required to complete the country of origin declarations in the Price Schedules Forms. |
| ITB 21.1 | Bids shall remain valid until **[insert validity end date]**. |
| ITB 22.1 | The Bid Security shall be in the amount of US$ **[insert amount in USD]** or Purchaser’s local currency equivalent only.  The Bid Security shall be in the form of an unconditional bank guarantee or **[insert other form or type of applicable bid security]** |
| ITB 23.1 | The written confirmation of authorization to sign on behalf of and bind the Bidder shall consist of: **[insert details]**. |
| ITB 23.2 | The number of copies of the Bid submitted shall be **[insert number]**. |
| 1. Submission and Opening of Bids | |
| ITB 24.1 | Bids **[may/may not]** be submitted electronically. |
| ITB 24.1(b) | **[include the following only if Bids are allowed to be submitted electronically, otherwise delete]**  A Bid submitted electronically shall follow the procedures as outlined in Annex 1 to this Section II. Bid Data Sheet.  Bidders who submit electronically do not need to submit hard copies.  If a Bidder submits both electronic submission and the hard copy submission, for the avoidance of doubt, Bids submitted electronically shall take precedence over the hard copies and shall be considered the ORIGINAL copy.  Under no circumstances shall both the hard and electronic copies submitted by a Bidder be opened (during the formal opening process) and evaluated.  For the avoidance of doubt, the electronic copy of the hard copy submission (submitted in a CD, DVD or flash drive) shall not be part of or have any connection with an electronic submission which is delivered via a weblink. Bidders who opt to submit their Bids electronically can make that submission online as provided for in Annex 1 to this Section II (Bid Data Sheet). The submission shall neither be made in any device (CD or flash/hard drive) nor by email.  Any Bid submitted electronically must be received at the address specified in Annex 1 to this Section II. Bid Data Sheet before the deadline for submission of bids specified in ITB Sub-Clause 25.1. |
| ITB 24.2(b) | For Submission of Bid purposes only, The Purchaser’s address is:  **[full legal name of the Purchaser]** Att.: The Procurement Agent of **[name of Purchaser]** Address:E-mail: Facsimile: |
| ITB 24.2(c) | Identification marks on the envelopes shall include:  **[insert details]** |
| ITB 25.1 | The deadline for submission of Bids is as follows:  **[insert date and time]** (local time) |
| 1. Evaluation and Comparison of Bids | |
| ITB 28.1 | For Bid opening purposes only, the Purchaser’s address is:  **[full legal name of the Purchaser]**  Att.: The Procurement Agent of **[name of Purchaser]** Address: E-mail:  **[include the following only if Bids are allowed to be submitted electronically, otherwise delete]**  For Bids submitted electronically in accordance with ITB Clause 24.1(b), the Bid opening procedures shall be:  **[insert description of the procedures]** |
| ITB 28.3 | Alternative bids **[shall/shall not]** be accepted. |
| ITB 29.3 | All correspondence must be addressed to the Purchaser at **[insert email address and mailing address as applicable]**. |
| ITB 31.6 | Provided that the bid is substantially responsive, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so determined will be used for price comparison purposes only. |
| ITB 34.1 | The currency that shall be used for Bid evaluation and comparison is: **[insert details here]**.  The basis for conversion shall be: **[Specify the source for the exchange rate, such as the Central Bank rate, a published rate that is widely available, etc.]** |
| ITB 35.3 | **[If other factors other than the Bid Price will be used in evaluation, insert the following text and 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 Bid Price]**.         2. **[insert other adjustments, if applicable]** |
| ITB 35.4 | Bidders shall quote separate prices for the following lots:  **[insert details]**  OR  **[insert** “Not Applicable”**]** |
| ITB 36.3(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 | |
| ITB 40.1 | The Purchaser reserves the right to increase or decrease the quantities of each item by up to **[insert percentage or quantity as appropriate]**. |
| ITB 42.1 | The Purchaser’s Bid Challenge System is provided on the MCA Entity’s website **[insert web address]**. |

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

**Procedure for Electronic Submission of Bids**

***[if not applicable delete this section]***

1. Each Bidder will be provided a File Request Link (via email), an electronic link to upload its submission when it requests the IFB. The Bidder shall use this, and only this, link to submit its Bid.
2. The Bid shall be submitted via the File Request Link only. Bids submitted by email shall not be accepted. Also, the Bid shall be submitted by the Bid submission deadline. A Bidder who submits only part of their Bid via the File Request Link and any other required parts of their Bid via email or hard copy shall have its Bid rejected.
3. The File Request Link shall automatically expire on the Bid submission deadline, specified in ITB 25.1. No extension shall be provided after the expiry.
4. All submitted documents are required to be in pdf or Microsoft Word or Excel formats as appropriate. No compressed files or folders are accepted, thus 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) shall not be accepted.
5. Bidders should use the filename framework for their Bids as follows: ***[Bidder Name]*** - IFB# ***[insert IFB number]***
6. All submitted documents are REQUIRED TO BE password-protected so that file(s) cannot be opened without the password.
7. Instructions on how to password-protect pdfs in Adobe Acrobat can be accessed from: <https://helpx.adobe.com/acrobat/using/securing-pdfs-passwords.html>. (If you only have Adobe Reader, it is advised that a free program like PDFMate be downloaded and installed. Instructions on how to password-protect pdfs in PDFMate can be accessed from: <http://www.pdfmate.com/feature-encrypt.html>)
8. Instructions on how to password-protect a Microsoft Word (or Excel) document can be found at: https://support.office.com/en-us/article/add-or-remove-protection-in-your-document-workbook-or-presentation-05084cc3-300d-4c1a-8416-38d3e37d6826.
9. *[****Instruction to MCA-Entity****: The following text to be edited before the release of the bidding document. “The password for the Bid should be sent no earlier than* ***[insert date one day before the submission deadline date]*** *and no later than* ***[insert time 15 minutes earlier than the Bid submission deadline time]*** *local* ***[MCA-Entity]*** *time on* ***[insert submission deadline date]*** *to the following email address:* ***[insert PA’s email address]****.”]* A Bid shall not be formally opened and the entire Bid shall be rejected if the password reaches the afore-stated email after the stated date and time. It should be noted that the password is deemed submitted at the time and date when it is received at the email address, not when it is sent. Bidders are therefore encouraged to send the password well before the submission deadline. If a Bidder provides an incorrect password and fails to provide the correct password by the end of the formal Bid Opening, their Bid shall be rejected. Case-sensitive passwords should be sent as is, with the cases obvious.
10. Each uploaded document (either as part, or whole, of the Bid) shall not exceed 10GB each.
11. Bidders are informed that the capability of their internet bandwidth will determine the speed at which their Bids are uploaded via the File Request Link. Bidders are therefore advised to commence the process of uploading their Bids via the File Request Link in good time before the bid submission deadline. As noted above, this link will expire at the Bid closing time, and cannot be reopened under any circumstances.

|  |  |
| --- | --- |
| 1. Qualification and Evaluation Criteria | |
| This section contains the factors, methods and criteria that the Purchaser may use to evaluate a Bid and determine whether a Bidder is qualified.  ***[This section will be modified by the Purchaser to meet the needs for a particular procurement.]*** | |
| Evaluation Criteria | The evaluation of a Bid will take into account, in addition to the Bid price quoted in accordance with ITB Clause 15.6, one or more of the following factors as specified in the ITB Clause 35, and quantified below:   * delivery schedule offered in the Bid; * deviations in payment schedule from that specified in the SCC; * the Bidder’s past performance; and/or * other specific criteria indicated in the technical specifications, including environmental, health and safety requirements, set forth in the Schedule of Requirements. |
|  | For factors mentioned above, one or more of the following quantification methods will be applied, as specified in ITB Clause 35:  *(a) Delivery schedule.*  The Services covered under this Bidding Document shall be delivered within an acceptable range of weeks specified in Section V. Schedule of Requirements. No credit will be given to earlier deliveries, and Bids offering delivery beyond this range will be treated as non-responsive. Within this acceptable range, an adjustment per week, as specified in BDS ITB 35.3, will be added for evaluation to the Bid price of Bids offering deliveries later than the earliest delivery period specified in the Schedule of Requirements. |
|  | *(b) Deviation in Payment Schedule*  Bidders shall state their Bid price for the payment schedule outlined in the SCC. Bids will be evaluated on the basis of this base price. Bidders are, however, permitted to state an alternative payment schedule and indicate the reduction in Bid price they wish to offer for such alternative payment schedule. The Purchaser may consider the alternative payment schedule offered by the selected Bidder.  OR  The SCC stipulates the payment schedule offered by the Purchaser. If a Bid deviates from the schedule and if such deviation is considered acceptable to the Purchaser, the Bid will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the Bid as compared with those stipulated in this Bidding Document, at the rate per annum specified in BDS ITB 35.3.  *(c) Performance/productivity Criteria*  Bidders shall state the guaranteed performance or efficiency in response to the technical specifications 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 BDS ITB 35.3 will be added to the Bid 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 Bid, and adjustment will be added to the Bid price using the methodology specified in the technical specifications set forth in Section V. Schedule of Requirements. |
| Specific Additional Criteria | Other specific additional criteria to be considered in the evaluation and the evaluation method shall be conducted in accordance with ITB Clause 35 and/or the technical specifications, including environmental, health and safety requirements, set forth in Section V. Schedule of Requirements. |
| Multiple Lots/ Contracts | Bidders may offer discounts if awarded more than one lot. Discounts can be expressed either in monetary terms in the currency of the Bid, or as a percentage of the Bid Price. In either case, the Purchaser will apply the indicated discounts to the Bid Price as corrected in accordance with ITB Clause 32.  The Purchaser may award one or more Contract(s) to the Bidder(s) that offer(s) the lowest-evaluated lot combination of Bids and meets the post-qualification criteria below.  To determine the lowest-evaluated lot combinations, the Purchaser will:   * + - * 1. evaluate only Bids that include at least the required percentages of items per lot and quantity per item as indicated in accordance with ITB 15.8;         2. take into account:   the lowest-evaluated Bid for each lot;  the discounts and the methodology for their application as offered by a Bidder in its Bid;  and   * + - * 1. consider the Contract award sequence that provides the most optimum economic combination taking into account any limitations due to constraints in execution capacity determined in accordance with the post-qualification criteria, as described in ITB Clause 38 and Post Qualification Criteria, below. |
| References and Past Performance  Price Reasonableness Determination  Post Qualification Criteria | In accordance with ITB 35, the Bidder’s performance on earlier contracts will be considered as a criterion in the Purchaser’s evaluation of the Bid. The Purchaser reserves the right to check the performance references provided by the Bidder or to use any other source at the Purchaser’s discretion. If the Bidder (including any of its associates or joint venture/association members) is or has been a party to an MCC-funded contract (either with MCC directly or with any MCA Entity, anywhere in the world), whether as a lead contractor, affiliate, associate, subsidiary, subcontractor, or in any other role, the Bidder must identify the contract in its lists of references submitted with its Bid using Bidding Form BSF9: References of Past Contracts. Failure to include any such contracts may be used to form a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. However, the failure to list any contracts because the Bidder (including any of its associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the Purchaser on the Bidder’s record of performance in prior contracts. That is, prior performance in connection with a MCC-funded contract is not required. The Purchaser will check the references, including the Bidder’s past performance reports filed in MCC’s Contractor Past Performance Reporting System. The Purchaser reserves the right to contact the Form BSF9 References as well as other sources to check references and past performance.  Price Review also includes a determination of price reasonableness in accordance with ITB 36.  After determining the lowest-evaluated Bid in accordance with ITB Clause 35 and Sub-Clause 36.1, the Purchaser will carry out the post-qualification of the Bidder in accordance with ITB Clause 38, using only the factors, methods and criteria specified in ITB Clause 38 and those listed below. Factors not included in ITB Clause 38 and this Section (4. Post Qualification Criteria) shall not be used in the evaluation of a Bidder’s post-qualification.   * + - * 1. Similar Experience: experience as service provider in the provision of at least **[2]** service contracts of a nature and complexity equivalent to the Services over the last **[5]** years (to comply with this requirement, Services contracts cited should be at least **[80]** percent complete)         2. Turnover: annual volume of Services of at least **[list the requirement(s)]**         3. Financial Capability: The Bidder shall furnish documentary evidence that it meets the following financial requirement(s): **[list the requirement(s)]**         4. Critical Equipment: The Bidder shall furnish documentary evidence that it would ensure (own, hire, lease) the following equipment: **[list the requirement(s)]**         5. Personnel: * a Contract Manager with [5] years’ experience in Services of an equivalent nature and volume, including no less than [3] years as Manager; * **[list all requirements for key staff]**   + - * 1. Nonperforming Contracts and Litigation: The Bidder 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 Bids, based on all information on fully settled disputes or litigation. All pending litigation shall in total not exceed 10% of the Bidder’s net worth.         2. Other criteria: |

The figures for each of the members of a joint venture/association shall be added together to determine the Bidder’s compliance with the minimum qualifying criteria; however, for a joint venture/association to qualify the member in charge must meet at least 40 percent of those minimum criteria for an individual Bidder and other members at least 25% of the criteria. Failure to comply with this requirement will result in rejection of the joint venture’s/association’s Bid.

Subcontractors’ experience and resources ***will not be taken*** into account in determining the Bidder’s compliance with the qualifying criteria, unless otherwise stated in the Qualification Requirements above.

**Establishing the Qualifications of the Bidder**

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

| **ELIGIBILITY** | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Sub-Factor** | Requirement | Bidder | | | | Documentation Required |
| **Single Entity** | Joint Venture or Association | | |
| **All members combined** | Each Member | **At least one member** |
| Nationality | Nationality in accordance with ITB 5.14. | Must meet requirement | Existing or intended Joint Venture or other Association must meet requirement | Must meet requirement | N/A | Forms BSF3 and 4, with attachments |
| Conflict of Interest | No conflicts of interests as described in ITB 5.9. | Must meet requirement | Existing or intended Joint Venture or other Association must meet requirement | Must meet requirement | N/A | Form BSF1 |
| Ineligibility | Not having been declared ineligible based on any of the criteria set forth in ITB 5.13 and 5.14. | Must meet requirement | Existing or intended Joint Venture or other Association must meet requirement | Must meet requirement | N/A | Forms BSF3 and 4 |

| Historical Contract Non-Performance | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Sub-Factor** | Requirement | Bidder | | | | **Documentation Required** |
| **Single Entity** | Joint Venture or Association | | |
| **All members combined** | **Each member** | **At least one member** |
| **History of non-performing contracts** | Non-performance of a contract (including contracts terminated for cause) did not occur within the last five (5) years prior to the deadline for Bid submission, determined using all information on fully settled proceedings, litigation, arbitrations, actions, claims, investigations or disputes. A fully settled proceeding, litigation, arbitration, action, claim, investigation or dispute is one that has been resolved in accordance with the dispute resolution mechanism under the respective contract, and where all appeal instances available to the Bidder have been exhausted. | Must meet requirement by itself, including as member of past or existing Joint Venture or other Association (not mandatory if in the past was as a member of a Joint Venture or other Association with less than 20% role in the contract). | N/A | Must meet requirement by itself or as member of past or existing Joint Venture, or other Association (not mandatory if in the past was as a member of a Joint Venture or other Association with less than 20% role in the contract). | N/A | Form BSF8 |
| **Failure to Sign a Contract** | Failure to sign a contract after receiving a notice of award has not occurred in the past five years. Any deviation should be explained in the enclosed Contract Non-Performance form. | Must meet requirement | Must meet requirement | Must meet requirement | N/A | Form BSF8 |
| Pending Litigation | All pending proceedings, litigation, arbitrations, actions, claims, investigations or disputes, in total, shall not represent more than ten percent (10%) of the Bidder’s net worth. | Must meet requirement by itself, including as member of past or existing Joint Venture or other Association (not mandatory if in the past was as a member of a Joint Venture or other Association with less than 20% role in the contract). | N/A | Must meet requirement by itself or as member of past or existing Joint Venture, or other Association (not mandatory if in the past was as a member of a Joint Venture or other Association with less than 20% role in the contract). | N/A | Form BSF8 |

| Financial Situation[[4]](#footnote-4) | | | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| **Sub-Factor** | Requirement | Bidder | | | | **Documentation Required** |
|  | **Single Entity** | Joint Venture or Association | | |
| **All members combined** | **Each member** | **At least one member** |
| Historical Financial Performance[[5]](#footnote-5) | Submission of audited financial statements, including balance sheets, income statements and cash flow statements, or, if not required by the law of the Bidder’s country, other financial statements acceptable to the Purchaser, for the last three (3) years to demonstrate the current soundness of the Bidder’s financial position and its prospective long term profitability and to demonstrate:   1. Average coefficient of Current ratio (Current Assets / Current Liabilities) ≥ **[insert ratio]** 2. Average coefficient of Debt ratio (Total Debt / Total Assets) ≤ **[insert ratio]** | Must meet requirement | N/A | Must meet requirement | N/A | Form BSF7.1 with attachments |
| Annual Average Turnover | Minimum average annual turnover of [INSERT VALUE], calculated as total certified payments received for contracts in progress or completed, within the last three (3) years. Values to determine annual turnover are to be demonstrated in the audited financial statements (income statements) of the last three (3) years and are to be considered to be indicative. | Must meet requirement | Must meet requirement | Must meet  twenty-five percent (25%) of the requirement | Must meet  fifty-five percent (55%) of the requirement | Form BSF7.2 |
| Financial Resources | The Bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:(i) the following cash-flow requirement: [INSERT VALUE], and (ii) the overall cash flow requirements for this Contract and its current commitments. | Must meet requirement | Must meet requirement | Must meet  twenty-five percent (25%) of the requirement | Must meet  fifty-five percent (55%) of the requirement | Forms BSF7.3 & BSF7.4 |

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| 1. Bid Forms |
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| **[BSF1 Bid Submission Form 54](#_Toc516816020)**  [**BSF2.1 Price Schedules 57**](#_Toc516816021)  [**BSF2.2 Method Statement 58**](#_Toc516816022)  **BSF2.3 Work Plan 59**  [**BSF3 Bidder Information Form 61**](#_Toc516816023)  [**BSF4 Party to Joint Venture/Association Information Form 62**](#_Toc516816024)  [**BSF5 Form of Bid Security (Bank Guarantee) 63**](#_Toc516816026)  [**BSF6 Environmental, Social, Health and Safety Forms 65**](#_Toc516816027)  [**BSF7.1 Financial Situation 66**](#_Toc516816029)  [**BSF7.2 Average Annual Turnover 67**](#_Toc516816029)  [**BSF7.3 Financial Resources 68**](#_Toc516816029)  [**BSF7.4 Current Contract Commitments/Works in Progress 69**](#_Toc516816029)  [**BSF8 Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Bidder 70**](#_Toc516816028)  [**BSF9 References of Past Contracts 72**](#_Toc516816029)  [**BSF10 Compliance with Sanctions Certification Form 73**](#_Toc516816030) |

BSF1 Bid Submission Form

[The Bidder 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**

**Bid 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 Bidders*.*
2. We offer to supply in conformity with the Bidding Document and in accordance with Section V. Schedule of Requirements of the Bidding Documents referenced above.
3. The total price of our Bid, excluding any discounts offered in item (d) below is: [*insert the total Bid 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 Bid 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 Bid shall be valid from the date fixed for the Bid submission deadline in accordance with ITB Sub-Clause 25.1 through the period of time established in accordance with ITB Sub-Clause 21.1, i.e., until **(Bidders to enter date and time)** and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
2. If our Bid is accepted, we commit to obtain a Performance Security in accordance with GCC Clause 18 and as described in ITB Clause 44 for the due performance of the Contract.
3. We, including any Subcontractors or sub-Service Providers for any part of the Contract, have nationalities from eligible countries *[Insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a joint venture or other association, and the nationality of each Subcontractor and Service Provider].*
4. We have no conflict of interest in accordance with ITB Clause 5.
5. Our firm, its associates, including any Subcontractors or Service Providers for any part of the Contract, has not been declared ineligible by the Purchaser, or under the laws or official regulations of the Purchaser’s country, in accordance with ITB Clause 5.
6. 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.
7. We acknowledge notice of the MCC Policy on Prevention, Detection and Remediation of Fraud and Corruption in MCC Operations (“MCC AFC Policy”, https://www.mcc.gov/resources/doc/policy-fraud-and-corruption). We have taken steps to ensure that no person acting for us or on our behalf has engaged in any corrupt or fraudulent practices described in ITB Clause 3. As part of this, we certify that:
8. 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 bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and
2. No attempt has been made or will be made by us to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.
3. The following commissions, gratuities, or fees have been paid or are to be paid with respect to the Bid 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 |
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(If none has been paid or is to be paid, indicate “none.”)

1. We understand that this Bid, 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 Bid or any other Bid 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 are not engaged in, facilitating, or allowing any of the prohibited activities described in 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-Service Providers, or their respective employees. Finally, we acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract.
5. We understand and accept without condition that, in accordance with ITB Clause 42.1, any challenge or protest to the process or results of this procurement may be brought only through the Purchaser’s Bid Challenge System (BCS).
6. 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: |  |

**BSF2.1 Price Schedules**

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

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

BSF2.2 Method Statement

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

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

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

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

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

BSF2.3 Work Plan

(including deployment of experts)

## BSF2.3.1: Key Personnel

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

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

## CVs of Key Personnel

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

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

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

| **From** | **To** | **Company / Project / Position / Relevant technical and management experience** |
| --- | --- | --- |
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BSF3 Bidder Information Form

|  |  |  |
| --- | --- | --- |
| 1. Constitution or Bidder’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/association and complete Form BSF4: 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 Bidder named in 1 above; demonstrating the Bidder’s eligibility in accordance with ITB Clause 5; * Letter of intent to form joint venture/association or joint venture/association agreement, if applicable, in accordance with ITB Sub-Clause 5.3; * Proper authority of the signatory of the Bidder in accordance with ITB Sub-Clause 23.1;   “Tick” the boxes and attach documents to the Bid. | | |

The information filled in above by Bidders shall be used for purposes of post qualification as provided for in ITB Clause 38. This information shall not be incorporated into the Contract. The Bidder is to adapt and extend this form BSF3 as necessary. Pertinent sections of attached documents should be translated into English.

## 

BSF4 Party to Joint Venture/Association Information Form

|  |  |
| --- | --- |
| **1. Constitution or Joint Venture/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 ITB Clause 5; * Letter of intent to form joint venture/association or joint venture/association agreement, if applicable, in accordance with ITB Sub-Clause 5.4; * Proper authority of the signatory of the entity named in 1 above in the same manner as contemplated for Bidders in ITB Sub-Clause 24.1;   “Tick” the boxes and attach documents to the Bid. | |

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.

BSF5 Form of Bid Security (Bank Guarantee)

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

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

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

**Date: [insert date]**

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

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

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

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

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

1. has withdrawn its Bid during the period of Bid validity **[insert dates of Bid validity]**, specified by the Bidder in the Bid Submission Form, except as provided in the Instructions to Bidders, Clause (ITB) 21.2; or
2. If the Bidder, having been notified that it has submitted the lowest-evaluated Bid does not accept the correction of errors in its Bid by the Purchaser, pursuant to ITB Clause 32; or
3. If the Bidder, having been notified of the acceptance of its Bid by the Purchaser, fails within the specified time to:

furnish the Performance Security, in accordance with GCC Clause 18 and as described in ITB Clause 44, or

execute the Contract, in accordance with ITB Clause 43.

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

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

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

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

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

BSF6 Environmental, Social, Health and Safety Forms

We, the undersigned, declare that:

* The attached health and safety data sheets, licenses, permits or other documents as listed below and required by Section V. Schedule of Requirements are current and valid; and,
* The attached environmental and social permits, licenses or other documents as listed below and required by Section V. Schedule of Requirements are current and valid.

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

BSF7 Financial Capacity of the Bidder

## BSF7.1: Financial Situation

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

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

**Information from Balance Sheet**

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

**Information from Income Statement**

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

|  |
| --- |
| * Attached are copies of financial statements (balance sheet, income statement, and cash flow statement, including all related notes) for the last three (3) years, as indicated above, complying with the following conditions. * All such documents reflect the financial situation of the Bidder or member of a 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). |

**Financial Ratios**

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

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

## BSF7.2: Average Annual Turnover

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

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

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

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

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

## BSF7.3: Financial Resources

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

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

## BSF7.4: Current Contract Commitments / Works in Progress

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

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

BSF8 Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes of the Bidder

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

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

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

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

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

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

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

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

|  |  |  |
| --- | --- | --- |
| **Current and Past Proceedings, Litigation, Arbitration, Actions, Claims, Investigations and Disputes, the process or outcome of which the Purchaser could reasonably interpret may impact or have the potential to impact the financial or operational condition of the Bidder in a manner that may adversely affect the Bidder’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 a Bidder must complete this table) | | |
| The Bidder, or a related company or entity, is currently, or within the past five (5) years has been, involved in any proceeding, litigation, arbitration, action, claim, investigation or dispute the process or outcome of which the Purchaser could reasonably interpret may impact or have the potential to impact the financial condition of the Bidder in a manner that may adversely affect the Bidder’s ability to satisfy any of its obligations under the Contract: | | |
| 🞎 No  **OR** 🞎 Yes  **If Yes, Describe:** | | |
| **Year:** | **Matter in Dispute:** | **Value of Award (Actual or Potential) Against Bidder in US$ Equivalent:** |  |  |

BSF9 References of Past Contracts

Each Bidder or member of a Joint Venture/Association making up a Bidder 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 Millennium Challenge Account Entity, anywhere in the world) to which the Bidder or member of a JV/Association making up a Bidder is or has been a party whether as a Service Provider, affiliate, associate, subsidiary, Subcontractor, or in any other role.

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

BSF10 Compliance with Sanctions Certification Form

As part of their Bid, each Bidder shall complete and submit the Compliance with Sanctions Certification Form as per Section VIII. *Contract Forms*. Detailed instructions on how to complete this Form are also provided in the same Section.

**PART 2:**

**PURCHASER’S REQUIREMENTS**

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

1. List of Services and Completion Schedule

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

1. Technical Specifications

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

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

*Include (if applicable) specific sections on*

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

**PART 3:**

**CONDITIONS OF CONTRACT AND CONTRACT FORMS**

|  |
| --- |
| 1. Contract Notices and Agreement |

This Section contains the Notice of Intent to Award, the Notification of Award and the Agreement.

|  |
| --- |
| Notice of Intent to Award |

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

**[date]**

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

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

**WITH THIS NOTICE.**

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

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

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

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

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

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

|  |
| --- |
| Notification of Award |

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

**[date]**

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

**Re: XXXXXXXXXXXXXXXXXXXXX**

**Bid Ref: XXXXXXXXXXXXXXXXX**

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

You are hereby instructed to (a) proceed with supply of the said Non-Consulting Services in accordance with the Contract, (b) sign and return the attached Contract, (c) complete and return the Compliance with Sanctions Certification Form, and (d) forward the Performance Security pursuant to GCC Clause 18 within twenty-eight (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 MCA Entity]** (the “Purchaser”), on the one part, and **[full legal name of Service Provider]** (the “Service Provider”), on the other part.

***[Note: If the Service Provider consists of more than one entity, the following should be used]***

This CONTRACT AGREEMENT (this “Contract”) made as of the **[day]** of **[month]**, **[year]**, between **[full legal name of the MCA Entity]** (the “Purchaser”), on the one part, and **[full legal name of lead Service Provider]** (the “Consultant”) in **[joint venture / association]** with **[list names of each joint venture/association entity]**, on the other part, each of which will be jointly and severally liable to thePurchaser for all of the Service Provider’s obligations under this Contract and is deemed to be included in any reference to the term “Service Provider.”

**RECITALS**

WHEREAS,

1. The Millennium Challenge Corporation (“MCC”) and the Government of **[Country]** (the “Government”) have entered into a Millennium Challenge Compact for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in **[Country]** on **[insert date]** (the “Compact”) in the amount of approximately [**insert amount**] (“MCC Funding”). The Government, acting through the Purchaser, intends to apply a portion of the proceeds of MCC Funding to eligible payments under this Contract. Payments made under this Contract will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use, and conditions to disbursement, of MCC Funding. No party other than the Government and the Purchasershall derive any rights from the Compact or have any claim to the proceeds of MCC Funding; and
2. The Purchaser invited bids for the provision of certain non-consulting services identified in this Contract and has accepted a bid by the Service Provider for the supply of those services on the terms and conditions set forth in this Contract.

NOW THEREFORE, the parties hereto agree as follows:

1. In consideration of the payments to be made by the Purchaser to the Service Provider as set forth in this Contract, the Service Provider hereby covenants with the Purchaser to provide the Services and to remedy defects therein in conformity in all respects with the provisions of this Contract.
2. Subject to the terms of this Contract, the Purchaser hereby covenants to pay the Service Provider in consideration of the provision of the Services and the remedying of defects therein, the Contract Price (as defined below) or such other sum as may become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.

IN WITNESS whereof the parties hereto have caused this Contract to be executed in accordance with the laws of **[country]** on the day, month and year first indicated above.

|  |  |
| --- | --- |
| For **[full legal name of the Purchaser]**: | For **[full legal name of the Service Provider]**: |
| Signature | Signature |
| Name | Name |

***[Note: If the Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]***

For and on behalf of each of the Members of the Service Provider

**[Name of Member]**

**[Authorized Representative]**

**[Name of Member]**

**[Authorized Representative]**

|  |  |
| --- | --- |
| 1. General Conditions of Contract | |
| * + 1. **Definitions** | 1.1 Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Compact or related document. Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:   * + - * 1. “Applicable Law” has the meaning given the term **in the SCC**.         2. “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” means the bid for the provision of the Non-Consulting Services submitted by the Service Provider and accepted by the Purchaser and that forms an integral part of this Contract.         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 Purchaser.         9. “Contract” means this agreement entered into between the Purchaser and the Service Provider, to provide the Services and consists of the documents listed in GCC Sub-Clause 2.6, as the same may be amended, modified, or supplemented from time to time in accordance with the terms of this agreement.         10. “Contract Price” means the price to be paid for the provision of the 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. “Force Majeure” has the meaning given the term in GCC Sub-Clause 29.1.         16. “GCC” means these General Conditions of Contract.         17. “Government” has the meaning given the term in the recital clauses to the Contract Agreement.         18. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability.         19. “Key Personnel” means the Personnel listed in Annex C to this Contract.         20. “Location” means the place(s) where the Services should be delivered as indicated in Annex B to this Contract.         21. “MCA Country” has the meaning given the term **in the SCC**.         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 Program Procurement Guidelines” means the Millennium Challenge Corporation Program Procurement Guidelines posted on the MCC Website, as may be amended from time to time.         25. “Notification of Award” means the notice sent from the Purchaser to the Service Provider notifying the Service Provider that it was the successful bidder and that its Bid had been accepted and that forms an integral part of this Contract.         26. “Party” means the Purchaser 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. “Purchaser” or “MCA Entity” has the meaning given the term in the **in the SCC**.         29. “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.         30. “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.         31. “Service Provider” means the entity that provides the Non-Consulting Services to the Purchaser under the Contract.         32. “Subcontractor” means any person or entity to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Service Provider in accordance with the terms of this Contract.         33. “Tax” and “Taxes” have the meanings given the terms in the Compact or related agreement.         34. “Trafficking in Persons” has the meaning given in GCC Clause 32. |
| * + 1. **Interpretation and General Matters** | 2.1 Unless otherwise indicated, throughout this Contract:   * + - * 1. “confirmation” means confirmation in writing;         2. “in writing” means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt;         3. except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular;         4. the feminine means the masculine and vice versa; and         5. the headings are for reference only and shall not limit, alter or affect the meaning of this Contract. |
| **Entire Agreement** | 2.2 This Contract constitutes the entire agreement between the Purchaser and the Service Provider and supersedes all communications, negotiations and agreements (whether written or oral) of the Parties made prior to the date of this Contract. No agent or representative of either Party has the authority to make, and the Parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract. |
| **Amendment** | 2.3 The following shall apply with respect to any amendment or other modification of this Contract:   * + - * 1. No amendment or other modification of this Contract shall be valid unless it is in writing, is dated, expressly refers to this Contract, and is signed by a duly authorized representative of each Party to this Contract.         2. The prior written consent of MCC is required in the case of any amendment or other variation of this Contract that (i) increases the original contract value of the Contract or (ii) extends the original Contract duration by amounts meeting or exceeding the thresholds provided in Attachment A. Approval Matrix of the MCC Program Procurement Guidelines. |
| **Waivers, Forbearance, Etc.** | 2.4 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** | 2.5 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** | 2.6 The following documents are deemed to form an integral part of this Contract and shall be interpreted in the following order of priority:   * + - * 1. the Agreement consisting of the initial paragraphs, recitals and other clauses set forth immediately prior to the GCC and including the signatures of the Purchaser and the Service Provider;         2. the SCC and Annex A to this Contract;         3. the GCC;         4. the Notification of Award;         5. Annex B: Description of Services;         6. Annex C: Service Provider’s Key Personnel;         7. Annex D: Price Schedule; and         8. the Service Provider’s Bid;         9. any other document **listed in the SCC** as forming part of this Contract. |
| * + 1. **Fraud and Corruption Requirements** | * + - 1. MCC requires that all beneficiaries of MCC Funding, including the MCA Entity and any applicants, bidders, service providers, suppliers, contractors, subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts.   MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify that they have acceptable commitments and procedures in place to address the potential for fraud and corruption (in each case, to the MCA Entity).  Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over USD $500,000 will be required to certify 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 USD $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/wp-content/uploads/2014/01/CIPE_Anti-Corruption_Compliance_Guidebook.pdf>   1. For purposes of the Contract, the terms set forth below are defined as follows:    1. ***“coercion”*** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to improperly influence the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract;    2. ***“collusion”*** means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the MCA Entity of the benefits of free and open competition;    3. ***“corruption”*** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to improperly influence the actions of a public official, MCA Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;    4. ***“fraud”*** means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC Funding, including any act or omission designed to influence (or attempt to influence) a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation;    5. ***“obstruction of investigation into allegations of fraud or corruption”***means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, corruption, fraud, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under the Compact, Threshold Program agreement, or related agreements.    6. ***“prohibited practice”*** means any action that violates Section E (Compliance with Anti-Corruption, Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex A (Additional Provisions) to this Contract. 2. MCC may cancel any portion or all of the MCC Funding allocated to this Contract if it determines at any time that representatives of the Purchaser, the Service Provider or any other beneficiary of the MCC Funding were engaged in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice during the selection process or the performance of this Contract, or another MCC-funded contract, without the Purchaser, the Service Provider or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation. 3. MCC and the Purchaser may pursue sanction of the Service Provider, including declaring the Service Provider ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Purchaser determines that the Service Provider has, directly or through an agent, engaged in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice in competing for, or in performance of, this Contract or another MCC-funded contract. 4. If the Purchaser or MCC determines that the Service Provider, any subcontractor, any of the Service Provider’s personnelor any agent or affiliate of any of them has, directly or indirectly,engagedin coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practiceincompetingfor,or in the performance of, thisContract or another MCC-funded contract, then the Purchaser or MCC may, by notice, immediately terminate the Service Provider’s employment under the Contract and the provisions of GCC 30 shall apply. |
| * + 1. **Commissions and Fees** | 4.1 The Service Provider shall disclose any commissions or fees that may have been paid or are to be paid to agents, representatives, or commission agents with respect to the selection process or execution and performance of this Contract. The information disclosed must include at the name and address of the agent, representative, or commission agent, the amount and currency, and the purpose of the commission or fee. |
| * + 1. **Law and Language Governing the Contract** | 5.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the Applicable Law.  5.2 This Contract has been executed in the language(s) **specified in the SCC**. If the Contract is executed in both the English and anotherlanguage, the English language version shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. |
| * + 1. **Association** | 6.1 Where the Service Provider is a Joint Venture or other Association of more than one person or entity, all of the members of such Joint Venture or Association shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of this Contract and designate the member **identified in the SCC** to act on their behalf in exercising all the Service Provider’s rights and obligations toward the Purchaser under this Contract, including without limitation the receiving of instructions and payments from the Purchaser. The composition or the constitution of the Joint Venture or other Association shall not be altered without the prior consent of the Purchaser in writing. |
| * + 1. **Eligibility** | 7.1 The Service Provider and its Subcontractors shall at all times during the term of this Contract have the nationality of a country or territory eligible, in accordance with the Compact, the MCC Program Procurement Guidelines and Annex A to this Contract (“Eligible Countries”). The Service Provider or a Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.  7.2 All Non-Consulting Services to be supplied under this Contract and financed from the Compact shall have their origin in Eligible Countries.  7.3 For the purpose of this GCC Clause 7, “origin” means the place from which the Services are supplied. |
| * + 1. **Notices** | 8.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent to such Party at the address **specified in the SCC**, or sent by facsimile or electronic e-mail with confirmation, if sent during normal business hours of the recipient Party, unless the giving of notice is otherwise governed by Applicable Law.  8.2 A Party may change its address for receiving notice under this Contract by giving the other Party notice in writing of such change to the address **specified in the SCC**. |
| * + 1. **Settlement of Disputes** | 9.1 The Purchaser and the Service Provider shall use their best efforts to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with this Contract.  9.2 If the Parties fail to resolve any disagreement or dispute in accordance with GCC Sub-Clause 9.1 within thirty (30) days after the receipt by one Party of the other Party’s request for such resolution, either Party may submit the disagreement or dispute in accordance with the provisions **specified in the SCC**. |
| * + 1. **Scope of Services** | 10.1 The Services to be supplied shall be as specified in Annex B: Description of Services.  10.2 Unless otherwise stipulated in this Contract, the Services shall include all such work not specifically mentioned in this Contract but that can be reasonably inferred from this Contract as being required for attaining Completion of the Services as if such items were expressly mentioned in this Contract. |
| * + 1. **Standard of performance** | 11.1 The Service Provider shall perform the Services in accordance with Annex B: Description of Services, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods.   * 1. The Service Provider shall ensure that its 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 MCC Environmental Guidelines. The Service Provider is also required to comply with the IFC Performance Standards for the purposes of the Contract. Additional information on the IFC Performance Standards can be found here: <http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards> |
| **12. Conflict of interest** | 12.1 During the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.  12.2 Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:   * + - * 1. during the term of this Contract, any business or professional activities in the Purchaser’s country which would conflict with the activities assigned to them under this Contract;         2. after the termination of this Contract, such other activities as may be **specified in the SCC.** |
| **13. Delivery of Services** | 13.1 Before commencement of the Services, the Service Provider shall submit to the Purchaser for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.  13.2 The Service Provider shall start carrying out the Services within the number of days after the date of Contract signing **as** **specified in the SCC.**  13.3 The Delivery and Completion of the Services shall be in accordance with the Delivery and Completion Schedule specified in Annex B: Description of Services. |
| **14. Service Provider’s Personnel** | 14.1 The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider’s Key Personnel are described in Annex C. The Key Personnel and Subcontractors listed by title as well as by name in Annex C are hereby approved by the Purchaser.  14.2 Except as the Purchaser may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.  14.3 The Service Provider shall provide all personnel with documented information that is clear and understandable, regarding their rights under national labor and employment law and any applicable collective agreements, including their rights related to hours of work, wages, overtime, compensation, and benefits upon beginning the working relationship and when any material changes occur.  14.4 If the Purchaser finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Purchaser’s written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Purchaser.  14.5 The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.  14.6 The Service Provider shall provide a grievance mechanism for Personnel, including Sub-consultant staff, if a separate Sub-consultant grievance mechanism does not exist, to raise workplace concerns. The Service Provider shall inform its Personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve review by an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution to Personnel for initiating a compliant under such mechanism. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under Applicable Law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements.”  14.7 The Service Provider shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Personnel. At a minimum, the Service Provider shall provide all Personnel with documented information that is clear and understandable regarding their rights under all the Applicable Laws regarding labor and any applicable collective agreements, including their rights related to their employment, health, safety, welfare, immigration and emigration upon beginning the working relationship and when any material changes occur.  14.8 The Service Provider shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds.  14.9 The Service Provider shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.  14.10 Where accommodation or welfare facilities are provided to Personnel, the Service Provider shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities (including as regards minimum space, supply of water, adequate sewage and garbage disposal systems, appropriate protection against heat, cold, damp, noise, fire and disease carrying animals, adequate sanitary and washing facilities, 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 Personnel). The accommodation and welfare facilities shall be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Accommodation arrangements shall not restrict freedom of movement or of association, save that separate facilities should be provided for men and women. 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>  14.11 The proposed facilities must comply with requirements of Performance Standard-2 of the IFC Performance Standards. For further guidance on standards for workers’ accommodation see: “Workers’ accommodation: processes and standards, A guidance note by IFC and the EBRD” in particular its Part II:, Subsection I. Standards for workers’ accommodation, available at: <https://www.ifc.org/wps/wcm/connect/60593977-91c6-4140-84d3-737d0e203475/workers_accomodation.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-60593977-91c6-4140-84d3-737d0e203475-jqetNIh>  14.12 The Service Provider including all Sub-Contractors and any Personnel, shall prohibit, and refrain from, sexual harassment behaviors directed at Compact beneficiaries, partners, stakeholders, MCA Entity employees, MCA Entity consultants, MCC personnel, or MCC consultants. 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. The Service Provider shall put in place an incident referral and reporting plan with respect to the provision of the Services to support a safe and respectful work environment, in form and substance satisfactory to the MCA Entity and MCC. The Service Provider shall be responsible for ensuring that all Sub-Contractors and Personnel understand and operate in accordance the requirements of this Clause in order to assure a safe, respectful, and harassment free work environment. The MCA Entity may investigate (either directly or through a third party) allegations of sexual harassment as it determines appropriate. The Service Provider shall fully cooperate with any investigation conducted by the MCA Entity regarding breach of this provision. The Service Provider will ensure that any incident of sexual harassment investigated by the MCA Entity has been resolved to the MCA Entity and MCC’s satisfaction. |
| **15. Contract Price** | 15.1 The contract price shall be as **specified in the SCC** subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to this Contract.  15.2 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**. |
| **16. Terms of Payment** | 16.1 This Contract Price, including any advance payments, if applicable, shall be paid as **specified in the SCC**.  16.2 The Service Provider’s request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Services performed, and upon fulfillment of all other relevant obligations stipulated in this Contract.  16.3 Payments shall be made promptly by, or on behalf of, the Purchaser, no later than thirty (30) days after receipt by the Purchaser of an invoice or request for payment from the Service Provider in form and substance satisfactory to the Purchaser.  16.4 The currency in which payments shall be made to the Service Provider under this Contract shall be that in which the Bid price is expressed.  16.5 In the event that the Purchaser fails to pay the Service Provider any payment by its respective due date or within the period **set forth in the SCC**, the Purchaser shall pay to the Service Provider interest on the amount of such delayed payment at the rate **specified in the SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award. |
| **17. Taxes and Duties** | 17.1 [**This GCC Clause 17 may need to be modified to address unique tax arrangements in some countries. In situations in which a potential issue exists, the relevant MCC OGC attorney is to be consulted before finalizing a form of contract based on this Bidding Document**] Except as may be exempted pursuant to the Compact or another agreement related to the Compact, available in English at [insert web link], the Service Provider, its Subcontractors and their respective personnel may be subject to certain Taxes on amounts payable by the Purchaser under this Contract in accordance with Applicable Law (now or hereinafter in effect). The Service Provider, each Subcontractor and their respective personnel shall pay all Taxes levied under Applicable Law. In no event shall the Purchaser be responsible for the payment or reimbursement of any Taxes. In the event that any Taxes are imposed on the Service Provider, any Subcontractor or their respective personnel, the Contract Price shall not be adjusted to account for such Taxes.  17.2 The Service Provider, any Subcontractor and their respective personnel, and their eligible dependents, shall follow the usual customs procedures of the MCA Country in importing property into the MCA Country.  17.3 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 MCA Country upon which customs duties or other Taxes have been exempted, the Service Provider, the Subcontractor or such personnel, as the case may be, (i) shall bear such customs duties and other Taxes in conformity with Applicable Law, or (ii) shall reimburse such customs duties and Taxes tothe Purchaser if such customs duties and Taxes were paid bythe Purchaser at the time the property in question was brought into the MCA Country.  17.4 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 Purchaser or the Government with respect to the determination of the Tax status described in this GCC Clause 17.  17.5 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 Purchaser (or such agent or representative designated by the Purchaser) of any Taxes paid, and the Service Provider shall cooperate with, and take such actions as may be requested by the Purchaser, MCC, or either of their agents or representatives, in seeking the prompt and proper reimbursement of such Taxes.  17.6 The Purchasershall use reasonable efforts to ensure that the Government provides the Service Provider, the Subcontractors, and their respective personnel the exemptions from taxation applicable to such persons or entities, in accordance with the terms of the Compact or related agreements. If the Purchaser fails to comply with its obligations under this paragraph, the Service Provider shall have the right to terminate this Contract in accordance with GCC Sub-Clause 31.1(d). |
| **18. Performance Security** | 18.1 If so required in the SCC, the Service Provider shall, within twenty-eight (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.**  18.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Service Provider’s failure to complete its obligations in accordance with the terms of this Contract.  18.3 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 Purchaser’s country or in an Eligible Country and in form and substance satisfactory to the Purchaser, substantially in the appropriate form included in Section VIII. Contract Forms, or another type of security **specified in the SCC**.  18.4 The performance security shall be valid for twenty-eight (28) days beyond the date **specified in SCC**. |
| **19. Deliverables** | 19.1 The Service Provider shall submit to the Purchaser the reports, deliverables, outputs and documents as specified in Annex B: Description of Services.  19.2 All deliverables, outputs, plans, drawings, specifications, designs, reports, and other documents and software submitted by the Service Provider under this Contract shall become and remain the property of the Purchaser, and the Service Provider shall, not later than upon termination or expiration of this Contract, deliver all such documents and software to the Purchaser, together with a detailed inventory thereof. The Service Provider may retain a copy of such documents and software. Restrictions about the future use of these documents, if any, shall be **specified in the SCC.** |
| **20. Confidential Information** | 1. The Purchaser and the Service Provider shall keep confidential and shall not, without the prior written consent of the other Party, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other Party in connection with this Contract, whether such information has been furnished prior to, during or following completion or termination of this Contract. Notwithstanding the above, the Service Provider may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under this Contract, in which event the Service Provider shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Service Provider under this GCC Clause 20.   20.2 The Purchaser shall not use documents, data, and other information received from the Service Provider for any purposes unrelated to this Contract. Similarly, the Service Provider shall not use documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of this Contract.  20.3 The obligation of a Party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:   * + - * 1. the Purchaser or the Service Provider needs to share with MCC or other entities participating in the financing of this Contract or otherwise in accordance with the requirements of the Compact or related documents;         2. now or hereafter enters the public domain through no fault of that Party;         3. can be proven to have been possessed by that Party at the time of disclosure and which information was not previously obtained, directly or indirectly, from the other Party;         4. otherwise lawfully becomes available to that Party from a third party that has no obligation of confidentiality; or         5. is required to be shared to comply with applicable law.   20.4 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of this Contract. |
| **21. Subcontracting** | 1. The Service Provider shall obtain prior approval in writing of the Purchaser before entering into a subcontract for the performance of any of its obligations under this Contract. The Service Provider shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the Bid. Subcontracting shall in no event relieve the Service Provider from any of its obligations, duties, responsibilities, or liabilities under this Contract.   21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7. |
| **22. Specifications and Standards** | 1. The Services supplied under this Contract shall conform to the technical specifications and standards, including environmental, health and safety 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.   22.2 The Service Provider shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.  22.3 Wherever references are made in this Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Annex B: Description of Services. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 28. |
| **23. Patent Indemnity** | 23.1 The Service Provider shall, subject to the Purchaser’s compliance with GCC Sub-Clause 23.2, indemnify and hold harmless the Purchaser and its employees, officers and directors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or existing arising out of or in connection with the Service Provider’s performance of the Services.  23.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 23.1, the Purchaser shall promptly give the Service Provider a notice thereof, and the Service Provider may at its own expense and in the Purchaser’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.  23.3 If the Service Provider fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.  23.4 The Purchaser shall, at the Service Provider’s request, afford all reasonably available assistance to the Service Provider in conducting such proceedings or claim, and shall be reimbursed by the Service Provider for all reasonable expenses incurred in so doing.  23.5 The Purchaser shall indemnify and hold harmless the Service Provider and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney’s fees and expenses, which the Service Provider may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of this Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser. |
| **24. Insurance** | 1. The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors’, as the case may be) own cost but on terms and conditions approved by the Purchaser, insurance against the risks, and for the coverage, as shall be **specified in the SCC**; and (b) at the Purchaser’s request, shall provide evidence to the Purchaser showing that such insurance has been taken out and maintained and that the current premiums have been paid. |
| **25. Quality Control** | 1. The Purchaser shall check the quality of the Services and shall inspect the Service Provider’s performance according to the relevant section(s) of Annex B: Description of Services. The Purchaser shall promptly give notice to the Service Provider of any Defects that are identified before the Completion Date, requesting the correction of the notified Defect within a reasonable time.   25.2 If the Service Provider has not corrected a Defect within the time specified in the Purchaser’s notice, the Purchaser will assess the cost of having the Defect corrected. This cost shall be deducted from the Contract Price, together with the penalty for lack of performance calculated as described in Sub-Clause 26.2.  25.3 The Defects Liability Period shall be **as specified in the SCC.** |
| **26. Penalties and Liquidated Damages** | 26.1 Except as provided under GCC Clause 29, if the Service Provider fails to perform the Services within the period(s) specified in Annex B: Description of Services, the Purchaser may without prejudice to any and all of its other remedies under this Contract, or applicable law, deduct from this Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of this Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage **specified in the SCC**. Once the maximum is reached, the Purchaser may terminate this Contract pursuant to GCC Clause 30.  26.2 If the Service Provider has not corrected a Defect within the time specified in the Purchaser’s notice, the Purchaser may without prejudice to any and all of its other remedies under this Contract, or applicable law, deduct from this Contract Price, as penalty for lack of performance, a sum equivalent to the percentage **specified in the SCC.** |
| **27. Limitation of Liability** | 27.1 Except in cases of criminal negligence or willful misconduct,   * + - * 1. the Service Provider shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Service Provider to pay liquidated damages to the Purchaser; and         2. the aggregate liability of the Service Provider to the Purchaser, whether under this Contract, in tort or otherwise, shall not exceed the total Contract Price. |
| **28. Change in Laws and Regulations** | 28.1 Unless otherwise specified in this Contract, if after the date of the Bidding Document, any law, regulation, ordinance, order or by-law having the force of law is enacted, promulgated, abrogated, or changed in the particular area of the Purchaser’s country (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the delivery date and/or this Contract Price, then such delivery date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Service Provider has thereby been affected in the performance of any of its obligations under this Contract. |
| **29. Force Majeure** | 29.1 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.  29.2 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.  29.3 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.  29.4 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.  29.5 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.  29.6 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.  29.7 In the case of disagreement between the Parties as to the existence or extent of an event of Force Majeure, the matter shall be settled in accordance with GCC Clause 9. |
| **30. Termination by Purchaser** | 30.1 Termination for Default:  Without prejudice to any other remedies that may be available to it for breach of this Contract, the Purchaser, upon written notice to the Service Provider, may terminate this Contract, in whole or in part, in case of the occurrence of any of the events specified in sub-paragraphs (a) through (e) of this GCC Sub-Clause 30.1.   * + - * 1. If the Service Provider, in the judgment of the Purchaser or MCC, fails to perform its obligations relating to the use of funds set out in Annex A. Termination under this provision shall (i) become effective immediately upon delivery of the notice of termination and (ii) require that the Service Provider repay any and all funds so misused within a maximum of thirty (30) days after termination.         2. If the Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Purchaser may have subsequently approved in writing.         3. If, as the result of an event of Force Majeure, the Service Provider is unable to perform a material portion of its obligations for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination or on such later date as may be specified by the Purchaser.         4. If the Service Provider fails to comply with any final decision reached as a result of arbitration proceedings pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination or on such later date as may be specified by the Purchaser.         5. If the Service Provider (or any Subcontractor or any of their respective personnel), in the judgment of the Purchaser, has, directly or through an agent, engaged in coercive, collusive, corrupt, fraudulent, obstructive, or prohibited practices in competing for or in the performance of this Contract. Termination under this provision shall become effective immediately upon delivery of the notice of termination.   30.2 Termination for Insolvency  The Purchaser may at any time terminate this Contract by giving notice to the Service Provider if the Service Provider becomes insolvent or bankrupt, and/or fails to exist or is dissolved. Termination under this provision shall become effective immediately upon delivery of the notice of termination or on such other date as may be specified by the Purchaserin such notice of termination. In such event, termination will be without compensation to the Service Provider, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the Purchaser.  30.3 Termination for Convenience  The Purchaser, by notice sent to the Service Provider, may terminate this Contract, in whole or in part, at any time in its sole discretion for its convenience. The notice of termination shall specify that termination is for the Purchaser’s convenience, the extent to which performance of the Service Provider under this Contract is terminated, and the date upon which such termination becomes effective.  30.4 Suspension or Termination Related to the Compact or Applicable Law   * + - * 1. The Purchaser, by notice sent to the Service Provider, may suspend or terminate this Contract, in whole or in part, if the Compact expires, is suspended or terminates in whole or in part in accordance with the terms of the Compact. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 30.4(a), the Service Provider has an obligation to mitigate all expenses, damages and losses to the Purchaserduring the period of the suspension.         2. The Purchaser, by notice sent to the Service Provider, may suspend or terminate this Contract, in whole or in part, if suspension or termination is permitted under Applicable Law. Suspension or termination under this provision shall become effective immediately upon delivery of the notice of suspension or termination, as the case may be, in accordance with the terms of the notice. If this Contract is suspended pursuant to this GCC Sub-Clause 30.4(b) the Service Provider has an obligation to mitigate all expenses, damages and losses tothe Purchaser during the period of the suspension. |
| **31. Termination by the Service Provider** | 31.1 The Service Provider may terminate this Contract, by not less than thirty (30) days’ written notice to the Purchaser, in case of the occurrence of any of the events specified in paragraphs (a) through (e) of this GCC Sub-Clause 31.1.   * + - * 1. If the Purchaser fails to pay any money due to the Service Provider pursuant to this Contract that is not otherwise subject to dispute pursuant to GCC Clause 9 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the payment that is the subject of such notice of termination is made by the Purchaserto the Service Provider within such thirty (30) days.         2. If, as the result of an event of Force Majeure, the Service Provider is unable to perform a material portion of this Contract for a period of not less than sixty (60) days. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination.         3. If the Purchaser fails to comply with any final decision reached as a result of arbitration pursuant to GCC Clause 9. Termination under this provision shall become effective upon the expiration of thirty (30) days after deliver of the notice of termination.         4. If the Service Provider does not receive a reimbursement of any Taxes that are exempt under the Compact within one hundred and twenty (120) days after the Service Provider gives notice to the Purchaser that such reimbursement is due and owing to the Service Provider. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination unless the reimbursement that is the subject of such notice of termination is made to the Service Provider within such thirty (30) days.         5. If this Contract is suspended in accordance with GCC Sub-Clauses 30.4(a) or 30.4(b) for a period of time exceeding three (3) consecutive months; provided that the Service Provider has complied with its obligation to mitigate in accordance with GCC Sub-Clauses 30.4(a) or 30.4(b) during the period of the suspension. Termination under this provision shall become effective upon the expiration of thirty (30) days after delivery of the notice of termination. |
| **32. Combating Trafficking in Persons** | 32.1 MCC, along with other United States Government entities, has adopted a zero-tolerance policy with regard to trafficking in persons (“TIP”), as described through MCCs Counter-Trafficking in Persons Policy (“MCC C-TIP Policy”).[[6]](#footnote-6) In pursuance of this policy:   1. **Defined Terms.** For purposes of the application and interpretation of this Sub-Clause 32.1: 2. 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 C-TIP Policy and such definitions are incorporated by reference into this Sub-Clause 32.1; and   (ii) “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.   1. **Prohibition.** The Service Provider, any Subcontractor, or any agent or Affiliate of any of them, and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC Funding and must also comply with those prohibitions described in U.S. laws and execute orders regarding TIP, including using misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee’s identity documents. 2. **Service Provider Requirements.**   The Service Provider, each Subcontractor, or any agent or Affiliate of any of them, shall:   * + - * 1. notify its employees of the MCC C-TIP Policy and of the actions that will be taken against Personnel for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and         2. take appropriate action, up to and including termination, against Personnel or Subcontractors that violate the prohibitions set out in the MCC C-TIP Policy.  1. Each Service Provider shall: 2. certify that it is not engaged in, facilitating, or allowing any activities constituting Trafficking in Persons, or related activities also prohibited under the MCC C-TIP Policy, for the duration of the Contract; 3. provide assurances that activities constituting Trafficking in Persons, or related activities also prohibited under the MCC C-TIP Policy, will not be tolerated on the part of its Personnel or Subcontractors (as the case may be), or their respective employees; and 4. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract. 5. A bidder, supplier, contractor, Subcontractor, or Service Provider, or any agent or Affiliate of any of them, shall inform the MCA Entity within 24 hours of: 6. any information it receives from any source (including law enforcement) that alleges its Personnel, a Subcontractor, or the employee of a Subcontractor, has engaged in conduct that violates this policy; and 7. any actions taken against any Personnel, each Subcontractor, or the employee of a Subcontractor, pursuant to these requirements. 8. **Remedies.** Once the incident has been confirmed and depending on the severity of each case, the MCA Entity will apply remedies, which could include any, all, or any combination of the following:   the Purchaser requiring the Service Provider to remove the involved Service Provider’s personnel, Subcontractor, any of its involved personnel, or any involved agent or affiliate;  the Purchaser requiring the termination of a subcontract or sub-award;  suspension of Contract payments until the breach is remedied to the satisfaction of the Purchaser and MCC;  loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Purchaser or MCC determine the breach remains unremedied;  the Purchaser 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;  termination of the Contract by the Purchaser for default or cause in accordance with the termination clause of the Contract; and  the Purchaser directing the Service Provider to provide reasonable financial support or restitution to the victim(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 MCA Entity. |
| **33. Prohibition of Harmful Child Labor** | 33.1 The Service Provider shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with, the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral, or social development. Where Applicable Law does not specify a minimum age, or specifies a minimum age below fifteen (15) for employment, the Service Provider shall ensure that children aged below fifteen (15) are not employed to perform work under this Contract. Where Applicable Law specifies a minimum age of fifteen (15) or above, such minimum age requirements 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. The Service Provider will identify the presence of all persons under the age of eighteen (18). |
| **34. Gender and Social Inclusion** | 34.1 The Service Provider shall ensure that its activities under the Contract comply with the MCC Gender Policy[[7]](#footnote-7) and the MCA Entity’s Social and Gender Integration Plan, as relevant to the activities performed under this Contract. The MCC Gender Policy requires that activities funded by MCC specifically address social and gender inequalities to ensure opportunities for the participation and benefit of women and vulnerable groups, as well as to ensure that its activities do not cause significant negative social and gender impacts. MCC also requires equitable opportunities for women and other disadvantaged groups to participate in and benefit from MCC funded activities, including in project-related employment. |
| **35. Prohibition of Sexual Harassment** | 35.1 The Service Provider, including all Sub-Contractors and any Personnel, shall prohibit, and refrain from, sexual harassment behaviors directed at Compact beneficiaries, partners, stakeholders, MCA Entity employees, MCA Entity consultants, MCC personnel, or MCC consultants. 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. The Service Provider shall put in place an incident referral and reporting plan with respect to the provision of the Services to support a safe and respectful work environment, in form and substance satisfactory to the Purchaser and MCC. The Service Provider shall be responsible for ensuring that all Sub-Contractors and Personnel understand and operate in accordance the requirements of this Clause in order to assure a safe, respectful, and harassment free work environment. The MCA Entity may investigate (either directly or through a third party) allegations of sexual harassment as it determines appropriate. The Service Provider shall fully cooperate with any investigation conducted by the MCA Entity regarding breach of this provision. The Service Provider will ensure that any incident of sexual harassment investigated by the MCA Entity has been resolved to the MCA Entity and MCC’s satisfaction. |
| **36. Non-Discrimination and Equal Opportunity** | 36.1 The MCA Entity adheres to the principle of equal opportunity and fair treatment in its employment practices. The MCA Entity 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 MCA Entity expects that the Service Provider shall base its employment decisions on the principle of equal opportunity and fair treatment, and 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. |
| **37. Reimbursable Amounts** | 37.1 If this Contract permits re-imbursement of any costs, the re-imbursement amounts shall be limited by and made only in accordance with applicable MCC Cost Principles, which are posted at [www.mcc.gov](http://www.mcc.gov). |
| **38. Accounting, Inspection and Auditing** | 38.1 The Service Provider shall keep accurate and systematic accounts and records in respect of the provision of the Non-Consulting Services under this Contract, in accordance with the provisions of Annex A and internationally accepted accounting principles. |
| **39. Use of Funds; Compliance with Environmental Guidelines** | 39.1 The Service Provider shall ensure that its activities do not violate provisions relating to use of funds and environmental guidelines, as set out in Annex A. |
| **40. MCC Conditionalities** | 40.1 For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex A reflect certain requirements of the Government and the Purchaser under the terms of the Compact and related documents that are required to be transferred onto any Service Provider, Subcontractor or other associate who partakes in procurement or subsequent contracts in which MCC Funding is involved and that, as with the other clauses of this Contract, the provisions of Annex A are binding obligations under this Contract. |
| **41. Flow through Provisions** | 41.1 In any sub-contract or sub-award entered into by the Service Provider, as permitted by the terms of this Contract, the Service Provider shall ensure the inclusion of all the provisions contained in Annex A in any agreement related to such sub-contract or sub-award. |
| **42. Assignment** | 42.1 Neither party shall assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, without the consent of the other party; provided that, the Purchaser may assign the whole or any part of the Contract, or any benefit or interest in or under the Contract, to another person or entity of the Government (or another entity designated by the Government) without the consent of the Service Provider. The Purchaser shall use commercially reasonable efforts to notify the Service Provider as soon as reasonably practicable of any such assignment. Any attempted assignment that does not comply with the terms of this GCC Sub-Clause 39.1 shall be null and void.  42.2 In the event of any assignment of the Contract by the Purchaser in accordance with GCC Sub-Clause 39.1:   * + - * 1. the Service Provider shall obtain a replacement Performance Security according to the terms of GCC Sub-Clause 18 in an amount equal to that of the then currently issued Performance Security naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement Performance Security to the Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original Performance Security to the Service Provider;         2. in the event any advance payment guarantee is outstanding at the time of assignment, the Service Provider shall obtain a replacement advance payment guarantee in an amount equal to that of the then currently issued advance payment guarantee naming the Purchaser’s assignee as beneficiary, and shall deliver this replacement advance payment guarantee to the Purchaser on or before the date the assignment becomes effective at which time the Purchaser shall concurrently return the original advance payment guarantee to the Service Provider. |
| **43. Contractor Past Performance System** | 43.1 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 |

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| 1. Special Conditions of Contract | |
| The following Special Conditions of Contract (“SCC”) shall supplement and/or amend the General Conditions of Contract (“GCC”). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. | |
| GCC 1.1 | (a) “Applicable Law” means the laws and any other instruments having the force of law in **[Country]**, as they may be issued and in force from time to time.  (c) “Bidding Document” means the bidding documents for the procurement of the Non-Consulting Services; Bid Ref: **[insert reference number]**; issued **[insert issue date]**.  (p) “MCA Country” means the country of **[Country]**.  (w) “Purchaser” means “MCA Country”, as well as the “MCA Country” successor entity as appointed by the Government |
| GCC 2.6 (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 7.1 should be inserted here. If the Service Provider consists only of one entity, this SCC 5.1 should be deleted from the SCC.]*** |
| GCC 8.1 | For **notices** that are served on the Purchaser the address shall be:  **[full legal name of the Purchaser]**  Att.: The Procurement Agent of **[name of Purchaser]** Address: **[insert relevant address]** E-mail: **[insert relevant email address]**  For **notices** that are served on the Service Provider the address shall be:  **[insert relevant address]** |
| GCC 8.2 | For **changes of address** that are served on the Purchaser the address shall be:  **[full legal name of the Purchaser]**  Att.: The Procurement Agent of **[name of Purchaser]** Address: E-mail:  For **changes of address** that are served on the Service Provider the address shall be:  **[insert relevant address]** |
| GCC 9.2 | Disputes arising under this Contract that are not resolved by the Parties in accordance with GCC Sub-Clause 9.1, shall be settled by arbitration in accordance with the following provisions:  **[insert arbitration provisions, including location of arbitration proceedings]**  ***[Note: The following provision concerning MCC’s right to be included as an observer in any arbitration proceeding is to be included in all contracts]***  ***MCC Right to Observe***  MCC has the right to be an observer to any arbitration proceeding associated with this Contract, at its sole discretion, but does not have the obligation to participate in any arbitration proceeding. Whether or not MCC is an observer to any arbitration associated with this Contract, the Parties shall provide MCC with written English transcripts of any arbitration proceedings or hearings and a copy of the reasoned written award within ten (10) days after (a) each such proceeding or hearing or (b) the date on which any such award is issued. MCC may enforce its rights under this Contract in an arbitration conducted in accordance with this provision or by bringing an action in any court that has jurisdiction. The acceptance by MCC of the right to be an observer to the arbitration shall not constitute consent to the jurisdiction of the courts or any other body of any jurisdiction or to the jurisdiction of any arbitral panel. |
| GCC 12.2 (b) | **[insert activities to be restricted, if applicable]** |
| GCC 13.2 | **[insert number of days]** |
| GCC 15.1 | The Contract Price is **[insert amount]** United States Dollars.  OR  The Contract Price is:  **[insert amount]** United States Dollars  and  **[insert amount] [local currency]**  OR  The Contract Price is **[insert amount] [local currency]**  ***[Note: delete whichever among the above that are not appropriate]***  The accounts are:  For US Dollars: **[insert account number]**  For Local Currency: **[insert account number]** |
| GCC 15.2 | The prices charged for the Goods delivered and Related Services performed shall not be adjustable.  **OR**  The prices charged for the Goods delivered and the related Services performed shall be adjustable and the following method shall be used to calculate the price adjustment:  **[insert method to be used to calculate price adjustment]**  ***[Note: delete whichever is not appropriate]*** |
| GCC 16.1 | ***[Sample provision:***  The method and conditions of payment to be made to the Service Provider under this Contract shall be as follows:   * Advance for Mobilization, Materials and Supplies: \_\_\_\_\_ percent of the Contract Price shall be paid against the submission of a bank guarantee for the same amount. * Progress payments in accordance with the milestones established as follows, subject to certification by the Purchaser, that the Services have been rendered satisfactorily, pursuant to the standards and performance indicators: * \_\_\_\_\_\_\_(indicate milestone and/or percentage) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ * \_\_\_\_\_\_\_(indicate milestone and/or percentage) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ * \_\_\_\_\_\_\_(indicate milestone and/or percentage) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| GCC 16.5 | The payment-delay period after which the Purchaser shall pay interest to the Service Provider shall be **[insert number]** days.  The interest rate to be applied in the case of late payments is the Federal Funds Rate as stated on the website  <http://www.federalreserve.gov/releases/h15/current/default.htm> |
| GCC 18.1 | The amount of performance security, as a percentage of the Contract Price, shall be in the amount of **[Insert percentage – five (5) to ten (10) percent of the Contract Price would be reasonable; it should not exceed ten (10) percent in any case, except as provided for by BDS 36.3]**and shall be denominated in **[a freely convertible currency acceptable to the Purchaser]** OR **[the currencies of payment of this Contract, in accordance with their portions of the Contract Price]**.  ***[Note: delete whichever is not appropriate]***  **[If a Defect Liability Period is required under SCC 25.2, insert:**  After Completion Date, the performance security shall be reduced to **[insert number]** percent of the Contract Price.] |
| GCC 18.3 | The Performance Security shall be in the form of **[insert “unconditional bank guarantee” unless another type has been agreed by MCC]** |
| GCC 18.4 | **[If a Defects Liability Period is required under SCC 25.2, insert: “expiration of the Defects Liability Period”;**  **otherwise, insert: “Completion Date”]** |
| GCC 19.2 | **[insert restrictions on the future use of documents, if any; otherwise, insert: “not applicable”]** |
| GCC 24.1 | The risks and coverage by insurance shall be:   * Third Party motor vehicle – as per statutory requirements in the MCA country; * Third Party liability – [insert amount, if applicable] * Employer’s liability and workers’ compensation - [insert amount, if applicable] * Professional liability - [insert amount, if applicable] * Loss or damage to equipment and property - [insert amount, if applicable]   ***[Note: delete whichever is not appropriate]*** |
| GCC 25.3 | The Defects Liability Period shall be: **[insert number of days]**  OR  Not Applicable  ***[Note: delete whichever is not appropriate]*** |
| GCC 26.1 | The liquidated damage shall be **[insert number]** percent per week of the Contract Price.  The maximum amount of liquidated damages shall be **[insert number]** percent of the Contract Price. |
| GCC 26.2 | The penalty for lack of performance shall be **[insert number]** percent of the pro rata amount of the Defect. |

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| 1. Contract Annexes |
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| Annex A: Annex of Additional Provisions |
| The Annex of Additional Provisions of contract can be found on the MCC website: <https://www.mcc.gov/resources/doc/annex-of-general-provisions>  NB: These provisions must be downloaded and attached to the Contract |

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| Annex B: Description of Services |

[*Note to MCA 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 MCA Entity, etc. This Description of Services is to be based on the TOR issued with the RFP and **incorporates changes agreed upon during negotiations**. It must be noted that this Description of Services takes precedence over the Service Provider’s Bid, 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 bid dated **[insert date of awarded Proposal]** submitted by **[insert name of Consultant awarded the Contract]** in connection with the procurement for this Contract (the “Bid”), as well as **changes agreed upon during negotiations**. In the event of any inconsistency between this Description of Services and the Proposal, the priority of interpretation shall be given to this Description of Services.

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| 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]*

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| Annex D: Price Schedule |

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| 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 Bidder upon submission of the Bid 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[[8]](#footnote-8), for the duration of the Contract.

The form is to be submitted to the MCA Entity Procurement Agent at the time of Bid submission, and to the MCA Entity Fiscal Agent thereafter [*email addresses for MCA 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, pursuant to the MCC Program Procurement Guidelines, 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 a Bidder 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 Bidder or canceling the Contract, and such Bidder 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

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| * All eligibility verifications have been completed in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions”,** including (without limiting the scope of paragraph G):   + The Bidder 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[[9]](#footnote-9)), 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 Bidder 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 Bidder 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 ITB or Contract, the MCC Program Procurement Guidelines, and other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

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

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

**INSTRUCTIONS FOR COMPLETING FORM:**

The Bidder/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 Bidder/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 Bidder/Service Provider staff, consultants, sub-contractors, 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://www.sam.gov/portal/SAM/#1>
2. World Bank Debarred List -  <https://www.worldbank.org/en/projects-operations/procurement/debarred-firms>
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 Bidder/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 Bidder/Service Provider should prepare a table listing each staff member, consultant, sub-contractor, vendor, supplier, and grantee working on the contract, such as the form provided below.

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

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

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

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

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

In addition, in accordance with MCC Program Procurement Guidelines P1.A.1.9(d), the Bidder/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 Bidder/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 MCA Entity, MCC, or their designees in accordance with the access provisions of the Contract.

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

1. The Contract Party, 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 MCA 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.
4. The Contract Party shall ensure that its activities under this Agreement comply with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. Section 1956, 18 U.S.C. Section 1957, 18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under the Contract comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time by MCC, the MCA Entity, the Fiscal Agent, or the Bank, as may be applicable. The Contract Party shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at www.mcc.gov. The Contract Party shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the MCA Entity or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the MCA Entity with a copy to MCC.
5. 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 MCA Entity, any activity contrary to the national security interests of the United States or any other activity that materially and adversely affects the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of the Compact or any Supplemental Agreement or that materially and adversely affects the Program Assets or any Permitted Account.

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| Annex F: Self-Certification Form for Service Providers |

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.

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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 its primary suppliers, i.e., any person or legal entity who provides goods or materials essential for the Contract, do not use forced and child labor in the production of such goods and materials, and provide their direct workers with a safe and hygienic workplace.

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

* + I understand the requirements in the contract with the MCA-[Name of Country].
  + [Name of 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] 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:

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*I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed “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:

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

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| Annex G: Code of Business Ethics and Conduct Certification Form |

*In satisfaction of Clause 3.1 of the General Conditions of Contract, this form is to be completed by the 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 MCA Entity Procurement Agent* ***[email address for MCA 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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

As stipulated in GCC 3.1 of the Contract, the Service Provider must certify to the MCA 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 3.1 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 MCA 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 MCA Entity, the MCC Program Procurement Guidelines, and other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

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

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

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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| Annex H: Security Forms |

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| 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 Purchaser]**  Date: **[insert date of issue]**  PERFORMANCE GUARANTEE No.: **[insert Performance Guarantee number]**  We have been informed that **[insert complete name of Service Provider]** (hereinafter called the “Service Provider”) has entered into Contract No. **[insert number]** dated **[insert day and month]**, **[insert year]** with **[name of MCA Entity]** (hereinafter called “the Beneficiary”), for the supply of **[description of Non-Consulting Services provided]** (hereinafter called the “Contract”).  Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.  At the request of the Service Provider, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum(s) not exceeding in total an amount of **[insert amount(s) in words and figures]** upon receipt by us of the Beneficiary’s first demand in writing declaring the Service Provider to be in default under the Contract, without cavil or argument, or need to prove or to show grounds or reasons for the Beneficiary’s demand of the sum specified therein.  This Guarantee shall expire no later than the **[insert number]** day of **[insert month] [insert year] *[note- expiration date to be calculated based on the provisions of GCC Sub-Clause 18.4]***, and any demand for payment under it must be received by us at this office on or before that date.  **[*Issuing Bank to delete whichever is not applicable*]** We confirm that [we are a financial institution legally authorized to provide this guarantee in the Beneficiary’s country] **[OR]** [we are a financial institution located outside the Beneficiary’s country but have a correspondent financial institution located in the Beneficiary’s country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact information is as follows: **[provide name, address, phone number, and email address]**].   |  |  | | --- | --- | | For the Bank | For the Service Provider | | Signature | Signature | | In the capacity of: | In the capacity of: | | Date: | Date: | |

|  |
| --- |
| 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 Purchaser]**

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

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

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

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

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

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

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

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

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

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

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

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

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