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A. General

In Part 1 (Selection Procedures) of this RFO, 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 2 (Contract Documents) of this RFO, in which such words and expressions shall have the meanings stated in GCC Sub-clauses 1.1 and 2.1 unless otherwise specified.

Throughout this RFO if the context so requires, words indicating the singular also include the plural and vice versa, and the feminine means the masculine and vice versa.

- (a) “Accountable Entity” means the entity designated by the Government to implement the Compact or Threshold Program, **identified in the DS.**
- (b) “Addendum” means a modification to this RFO issued by the Accountable Entity.
- (c) “Associate” means any entity that is a member of the Association that forms the Consultant. A Sub-Consultant is not an Associate.
- (d) “Association” or “Joint Venture” or “JV” means an association of entities that forms the Consultant, with or without a legal status distinct from that of its members.
- (e) “Compact” means the Millennium Challenge Compact **identified in the DS.**
- (f) “Compact Development Funding Agreement” or “CDF Agreement” means the Compact Development Funding Agreement **identified in the DS.**
- (g) “confirmation” means confirmation in writing.
- (h) “Consultant” means any legal entity that provides the Services to the Accountable Entity under the Contract.
- (i) “Contract” means the contract proposed to be entered into between the Accountable Entity and the Consultant, including all attachments, annexes, and all documents incorporated by reference therein, a form of which is included in Part 2 of this RFO.
- (j) “Data Sheet” or “DS” means Section II of this RFO, used to reflect specific requirements and/or assignment conditions
- (k) “days” refers to calendar days, unless otherwise specified as “Business Day”. A Business Day is any day that is an official working day in the Accountable Entity country and excludes the official public holidays.

- (l) “Financial Offer” has the meaning given the term in ITO Sub-clause 12.10.
- (m) “Fiscal Agent” means any entity that provides services to the Accountable Entity under the terms of the Fiscal Agent Agreement.
- (n) “GCC” means the General Conditions of Contract.
- (o) “Government” means the Government **identified in the DS**.
- (p) “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability.
- (q) “Implementing Entity” means a Government affiliate **identified in the DS** engaged by the Accountable Entity for the purposes of Compact implementation.
- (r) “Instructions to Offerors” or “ITO” means Section I of this RFO, including any amendments, which provides Offerors with information needed to prepare their Offers.
- (s) “in writing” means communicated in written form (e.g., by paper, mail, facsimile, e-mail or other electronic means).
- (t) “Key Professional Personnel” means the Key Professional Personnel identified pursuant to ITO Sub-clause 12.5(j).
- (u) “Millennium Challenge Corporation” or “MCC” means a United States Government corporation, acting on behalf of the United States Government.
- (v) “MCC Funding” means the funding MCC has made available to the Government pursuant to the terms of the Compact.
- (w) “MCC’s AFC Policy” has the meaning provided in ITO Clause 3.
- (x) “MCC Counter-Trafficking in Persons Policy” means the policy identified in ITO Clause 4.
- (y) “MCC Gender Policy” means the MCC Gender Policy and its amendments updated from time to time on the MCC website at <https://www.mcc.gov/>
- (z) “MCC Procurement Policy and Guidelines” or “MCC PPG” means the *MCC Accountable Entity Procurement Policy and Guidelines* and its amendments posted from time to time on the MCC website at www.mcc.gov/ppg.
- (aa) “Offer” means an offer for the provision of the Services submitted by an Offeror in response to this RFO. The words “Offer” and “Bid” may be used interchangeably.
- (bb) “Offeror” means any eligible entity or person, including any

associate of such eligible entity or person that submits an Offer. The word "Consultant" may also be used to indicate the Offeror.

- (cc) "Personnel" means Key Professional Personnel and additional staff to be provided by the Consultant, or by any Sub-Consultants, or Associates that are assigned to perform the Services or any part thereof.
- (dd) "Pre-Offer Conference" means the pre-offer conference **specified in DS ITO Clause 1.3**, if any.
- (ee) "RFO" means this Request for Offers, including any amendments that may be made, prepared by the Accountable Entity for the selection of the Consultant.
- (ff) "SCC" means the Special Conditions of Contract.
- (gg) "Services" means the tasks to be performed by the Consultant pursuant to the Contract.
- (hh) Sexual harassment is defined in the *Guidance Note to MCAs on Sexual Harassment* available at www.mcc.gov.
- (ii) "Sub-Consultant" means any person or legal entity with whom the Consultant subcontracts any part of the Services.
- (jj) "Taxes" has the meaning given the term in the Compact, or CDF Agreement, or Threshold Program Grant Agreement.
- (kk) "TEP" means the Technical Evaluation Panel, selected for the purpose of evaluating the Offers received, that submits a report with recommendation for award of the Contract for which this RFO is being issued.
- (ll) "Technical Offer" has the meaning given the term in ITO Sub-clause 12.5.
- (mm) "Terms of Reference" or "TOR" means the document included in this RFO as Section V, which explains the objectives; scope of work; activities; tasks to be performed, respective responsibilities of the Accountable Entity and the Consultant; and expected results and deliverables of the assignment.
- (nn) "Threshold Program Grant Agreement" means the Threshold Program Grant Agreement **identified in the DS**.
- (oo) "Trafficking in Persons" or "TIP" has the meaning given to the term in the MCC PPG.
- (pp) "Ultimate Beneficial Owner" means an individual who (i) directly or indirectly controls more than 10% of the shares of the company; or (ii) directly or indirectly controls more than 10% of the voting rights of the company; or (iii) has the right to appoint a majority of the board of directors.

1. **Scope of RFO**
 - 1.1. The Accountable Entity will select an Offeror in accordance with the selection method **specified in the DS**.
 - 1.2. Offerors are invited to submit a Technical Offer and a Financial Offer for the Services required for this assignment as **named in the DS**. The Offer will be the basis for Contract negotiations and ultimately for a signed Contract with the selected Offeror.
 - 1.3. Offerors should familiarize themselves with local conditions and take them into account in preparing their Offers. To obtain first-hand information on the assignment and local conditions, Offerors are encouraged to attend a Pre-Offer Conference if one is **specified in the DS**. Attending any Pre-Offer Conference is strongly advised, but not mandatory. Attending any Pre-Offer Conference and/or a site visit shall not be taken into account for the purpose of evaluation of Offers.
 - 1.4. The Accountable Entity will timely provide, at no cost to the Consultant, the inputs and facilities **specified in the DS**, 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, an Offeror 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 DS**.
 - 1.5. The Accountable Entity is not bound to accept any Offer, and reserves the right to cancel the procurement at any time prior to Contract award, without thereby incurring any liability to any Offeror.
2. **Source of Funds**
 - 2.1. The United States of America, acting through MCC and the Government have entered into the Compact. The Government, acting through the Accountable Entity, intends to apply a portion of the MCC Funding to eligible payments under the Contract. Any payments made under the Contract with MCC Funding will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use and distribution of MCC Funding. No party other than the Government and the Accountable Entity shall derive any rights from the Compact or have any claim to any proceeds of MCC Funding. The Compact and its related documents can be found on the MCC website (www.mcc.gov) or on the website of the Accountable Entity.
3. **Fraud and**
 - 3.1. MCC requires that all beneficiaries of MCC Funding, including the Accountable Entity and any Offerors, suppliers, contractors,

Corruption

subcontractors, Consultants and Sub-Consultants, and non-consulting service providers under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. *MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations* ("MCC's AFC Policy") is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. This Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC's AFC Policy and certify to the Accountable Entity that they have acceptable commitments and procedures in place to address the potential for fraud and corruption.

- (a) For the purposes of these provisions, the terms set forth below are defined as follows
- (i) "**coercion**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly 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;
 - (ii) "**collusion**" means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the Accountable Entity of the benefits of free and open competition;
 - (iii) "**corruption**" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Accountable Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC Funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract;
 - (iv) "**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;

- (v) ***“obstruction of investigation into allegations of fraud or corruption”*** means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, collusion, corruption, fraud, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under the Compact, Threshold Program agreement, or related agreements.
- (vi) ***“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.
- (b) The Accountable Entity will reject an Offer (and MCC will deny approval of a proposed Contract award) if it determines that the Offeror recommended for award has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for the Contract.
- (c) MCC and the Accountable Entity have the right to sanction an Offeror, a Consultant or Sub-Consultant, including declaring such party ineligible, either indefinitely or for a stated period of time, to be awarded an MCC-funded contract if at any time either the Accountable Entity or MCC determines that such party has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in executing, such a contract.
- (d) Per MCC PPG, MCC and the Accountable Entity have the right to require any Offeror, Consultant or Sub-Consultant to permit the Accountable Entity, MCC, or any designee of MCC, to inspect their accounts, records and other documents relating to the submission of an Offer or performance of an MCC-funded

contract and to have them audited by auditors appointed by MCC or by the Accountable Entity with the approval of MCC.

- (e) In addition, MCC has the right to cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of a beneficiary of MCC Funding engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the execution of an MCC-funded contract, without the Accountable Entity having taken timely and appropriate action satisfactory to MCC to remedy the situation.

4. Environmental and Social Requirements

Trafficking in Persons

- 4.1. MCC has a zero tolerance policy with regard to Trafficking in Persons (“TIP”). 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.
- 4.2. The Additional Provisions (Annex B of the Contract) of this RFO may set out certain prohibitions, Consultant requirements, remedies and other provisions that will be made a binding part of any Contract that may be entered into. As such, those provisions, if included, should be given careful consideration.
- 4.3. Additional information on MCC’s requirements aimed at combating TIP can be found in *MCC Counter-Trafficking in Persons Policy* (“C-TIP Policy”) that can be found on MCC’s website (<https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>). All contracts funded by MCC are required to comply with MCC’s C-TIP Policy’s Minimum Compliance Requirements. Contracts for projects categorized by MCC as high-risk for TIP are required to implement a TIP Risk Management Plan (which is to be developed by the Accountable Entity and implemented by the Consultant).

MCC Environmental

- 4.4. The Offerors and the Consultant shall ensure that their activities, including any activities carried out by Sub-Consultants, under the

**Guidelines and IFC
Performance
Standards**

Contract comply with MCC's Environmental Guidelines (as such term is defined in the Compact or related agreement, which are available at <http://www.mcc.gov>), and are not "likely to cause a significant environmental, health, or safety hazard" as defined in such Environmental Guidelines. The Offerors and the Consultant are also required to comply with IFC Performance Standards on Environmental and Social Sustainability for the purposes of this contract. Additional information on the IFC Performance Standards can be found here:

http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/policies-standards/performance-standards.

**5. Eligible
Consultants**

- 5.1. The eligibility criteria set forth in this section will apply to the Offerors, including all parties constituting the Offerors, for any part of the Contract, including related services.
- 5.2. An Offeror may be a private entity, certain government-owned entities (in accordance with MCC PPG as described in ITO Sub-Clause 5.6), or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement of association in the form of a joint venture or other association.
- 5.3. An Offeror, all parties constituting the Offeror, and any Sub-Consultants for any part of the Contract, including related services, may have the nationality of any country, subject to the nationality restrictions specified in this ITO Clause 5. An entity will be deemed to have the nationality of a country if such entity is constituted, incorporated, or registered in, and operates in conformity with, the provisions of the laws of that country.
- 5.4. Offerors must also satisfy the eligibility criteria contained in the MCC PPG governing MCC-funded procurements under the Compact. In the case where an Offeror intends to join with an Associate or sub-contract part of the Contract, then such Associate or Sub-Consultant shall also be subject to the eligibility criteria set forth in this RFO and the MCC PPG.
- 5.5. No full-time key professional personnel of a consultant currently contracted by any Accountable Entity shall be proposed to work as, or on behalf of, any Offeror. In the case where an Offeror seeks to engage such full-time key professional personnel, it should seek the written approval from the Accountable Entity for the inclusion of such a person, prior to the Offeror's submission of its Offer.

**Government-
Owned Enterprises**

- 5.6. Government-Owned Enterprises ("GOEs") are not eligible to compete for MCC-funded contracts for goods, works or consulting

services. Accordingly, GOEs (i) may not be party to any MCC-funded contract for goods (which includes contracts for the supply and installation of information systems), works or consulting services procured through an open solicitation process, limited bidding or direct contracting; and (ii) may not be prequalified or shortlisted for any MCC-funded contract for goods, works or consulting services anticipated to be procured through these means. This prohibition does not apply to Government-owned Force Account units, local public utility operators, educational institutions and research centers, or any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with the MCC PPG. All Offerors must certify their status as part of their Offer submission.

Joint Ventures or Associations

- 5.7. In the case where an Offeror is, or proposes to be, a joint venture or other Association (a) all members of the joint venture or Association must satisfy the legal, financial, litigation, eligibility and other requirements set out in this RFO; (b) all members of the joint venture or Association will be jointly and severally liable for the execution of the Contract; and (c) the joint venture or Association will nominate a representative who will have the authority to conduct all business for and on behalf of any and all the members of the joint venture or the Association if awarded the Contract, during Contract performance.

Conflict of Interest

- 5.8. An Offeror shall not have a conflict of interest. All Offerors found to have a conflict of interest shall be disqualified, unless the conflict of interest has been mitigated and the mitigation is approved by the Accountable Entity after receiving a "no-objection" from MCC. Consultants shall provide professional, objective, and impartial advice and at all times hold the interests of the Accountable Entity paramount, strictly avoid conflicts of interest, including conflicts with other assignments or their own corporate interests, and act without any consideration for future work. Offerors shall not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of being unable to carry out the assignment in the best interest of the Accountable Entity. Without limitation on the generality of the foregoing, an Offeror, including all parties constituting the Offeror and any Sub-Consultants and suppliers 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:

- (a) have at least one controlling partner in common with one or more other parties in the procurement process contemplated by this

RFO; or

- (b) have the same legal representative as another Offeror for purposes of this Offer; or
- (c) have a relationship, directly or through common third parties, that puts them in a position to have access to information about or influence over the Offer of another Offeror, or influence the decisions of the Accountable Entity regarding the selection process for this procurement; or
- (d) participate in more than one Offer in this process; participation by an Offeror or any party constituting the Offeror in more than one Offer will result in the disqualification of all Offers in which the party is involved; however, this provision does not limit the inclusion of the same Sub-Consultant in more than one Offer; or
- (e) are themselves, or have a business or family relationship with, (i) a member of the Accountable Entity's board of directors or staff, (ii) the project's implementing entity's staff, or (iii) the Procurement Agent or Fiscal Agent (as defined in the Compact or related agreements) hired by the Accountable Entity in connection with the Compact, any of whom is directly or indirectly involved in any part of (A) the preparation of this RFO or any section therein, (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 approved by the Accountable Entity after receiving a "no-objection" from MCC; or
- (f) any of their affiliates have been or, at present, are engaged by the Accountable Entity in the capacity of the Implementing Entity, Procurement Agent, Fiscal Agent, or Auditor under the Compact.

- 5.9. A Consultant that has been engaged by the Accountable Entity to provide goods, works or services other than consulting services for a project, and any of its affiliates, shall be disqualified from providing consulting services related to those goods, works or services. Conversely, a Consultant 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 services other than consulting services resulting from or directly related to such consulting services for such preparation or implementation. For example, a Consultant hired to prepare terms of reference for an assignment should not be hired for the assignment in question. For the purpose of this paragraph, services other than consulting services are defined as those leading to a measurable physical output, for example surveys, exploratory drilling, aerial photography, and satellite imagery.

**Government
Employees**

- 5.10. Offerors have an obligation to disclose any situation of actual or potential conflict of interest. Failure to disclose said situations may lead to the disqualification of the Offeror or the termination of the Contract.
- 5.11. The Consultant shall not receive any remuneration in connection with the Services except as provided in the Contract. The Consultant and each of its personnel, Sub-Consultants, and affiliates shall not engage in consulting or other activities that conflict with the interest of the Accountable Entity under the Contract. The Contract shall include provisions limiting future engagement of the Consultant in other services resulting from or directly related to the Services in accordance with the requirements of the MCC PPG.
- 5.12. The following restrictions shall apply (in each case subject to the limited exception set forth in ITO Sub-Clause 5.12 (f) below):
- (a) No member of the Accountable Entity's board of directors or current employees of the Accountable Entity (whether part time, or full time, paid or unpaid, in leave status, etc.) shall be proposed or work as, or on behalf of, any Offeror.
 - (b) Except as provided in ITO Sub-clause 5.12 (d), no current employees of the Government shall work as Consultants or as Personnel under their own ministries, departments or agencies.
 - (c) Recruiting former Accountable Entity or Government employees to perform services for their former ministries, departments or agencies is acceptable provided no conflict of interest exists.
 - (d) If an Offeror proposes any Government employee as Personnel in their Technical Offer, such Personnel must have written certification from the Government confirming that: (i) they will be on leave without pay from the time of their official Offer submission and will remain on leave without pay until the end of their assignment with the Consultant 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 Accountable Entity by the Offeror as part of its Technical Offer.
 - (e) No employee of any MCC-funded accountable entity in any other country that is responsible for managing or administering any contract, grant, or other agreement between the Offeror and such other MCC-funded accountable entity shall be proposed or work

as, or on behalf of, the Offeror.

- (f) In the case where an Offeror seeks to engage the services of any person falling under ITO Sub-clauses 5.12 (a) – 5.12 (e), who may have left the Accountable Entity (or such other MCC-funded accountable entity, as the case may be) within a period of less than twelve (12) months of the date of this RFO, it must obtain a “no-objection” from the Accountable Entity for the inclusion of such a person, prior to the submission of its Offer. The Accountable Entity must also obtain a “no-objection” from MCC before replying to the Offeror on any related correspondence.

Ineligibility and Debarment

- 5.13. An Offeror or a Consultant, all parties constituting the Offeror or the Consultant, and any Sub-Consultants and suppliers 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 prohibited practices as contemplated by ITO Sub-clause 3.1 above, or (b) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in the MCC PPG that can be found on MCC’s website at www.mcc.gov/ppg. 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.
- 5.14. An Offeror, a Consultant, all parties constituting the Offeror or the Consultant, and any Sub-Consultants and suppliers for any part of the Contract, including related services, and their respective Personnel and affiliates not otherwise made ineligible for a reason described in this ITO Clause 5 will nonetheless be excluded if:
 - (a) as a matter of law or official regulation, the Government prohibits commercial relations with the country of the Offeror or Consultant (including any Associates, Sub-Consultants, and suppliers and any respective affiliates); or
 - (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Government prohibits any import of goods from the country of the Offeror or Consultant (including any Associates, Sub-Consultants, and suppliers and any respective affiliates) or any payments to entities in such country; or
 - (c) such Offeror or Consultant, any parties constituting the Offeror or Consultant, any Sub-Consultant or supplier or their 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.

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| | 5.15. | For all procurements with an estimated value of USD 750,000 and above, the Accountable Entity may use the information on the Offerors' Ultimate Beneficial Owners (UBO) or corporate ownership structure to review if any UBOs are sanctioned or present a conflict of interest. Offerors are required to complete and submit the relevant Beneficial Ownership Disclosure Form using for this purpose the form included in Section IV. Offerors who fail to complete the form may have their Offers rejected. Offerors who fail to submit supporting documents at the request of the Accountable Entity will have their Offers rejected. |
| Evidence of Continued Eligibility | 5.16. | Offerors shall provide such evidence of their continued eligibility in a manner satisfactory to the Accountable Entity, as the Accountable Entity shall reasonably request. |
| Unfair Advantage | 5.17. | If an Offeror has gained an unfair competitive advantage because of its access to information in the context of another assignment, that Offeror may not be disqualified from participation in a subsequent procurement <u>if</u> the unfair competitive advantage can be adequately mitigated. |
| Commissions and Gratuities | 5.18. | An Offeror will furnish information on commissions and gratuities, if any, paid or to be paid relating to this procurement or its Offer and during performance of the Contract if the Offeror is awarded the Contract, as requested in this RFO. |
| 6. Origin of Goods and Consulting Services | 6.1. | Goods supplied and consulting services provided under the Contract may originate from any country, subject to the same restrictions specified for Offerors (including their Associates, if any), their Personnel and Sub-Consultants set forth in ITO Clause 5. |

B. Contents of RFO

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| 7. Sections of RFO | 7.1. | This RFO consists of Parts 1 and 2, which include all the sections indicated below and should be read in conjunction with any Addenda issued in accordance with ITO Clause 9. |
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Part 1 Selection Procedures

- Section I. Instructions to Offerors (ITO)
- Section II. Data Sheet (DS)
- Section III. Qualification and Evaluation Criteria
- Section IV. A. Technical Offer Forms

- Section IV. B. Financial Offer Forms
- Section V. Terms of Reference

Part 2 Contract Documents

- Section VI. General Conditions of Contract (GCC)
- Section VII. Special Conditions of Contract (SCC)
- Section VIII. Contract Forms and Annexes

- 7.2. The Letter of Invitation requesting Offers issued by the Accountable Entity is not part of the RFO.
- 7.3. Unless obtained directly from the Accountable Entity, the Accountable Entity is not responsible for the completeness of this RFO, responses to requests for clarification, the Minutes of the Pre-Offer Conference (if any), or Addenda to the RFO. In case of any contradiction, documents obtained directly from the Accountable Entity shall prevail.
- 7.4. The Offeror is expected to examine all instructions, forms, terms, and Terms of Reference in this RFO. Failure to furnish all information or documentation required by this RFO may result in the rejection of the Offer.

8. Clarification of RFO

- 8.1. A prospective Offeror requiring any clarification of this RFO shall contact the Accountable Entity in writing, at the Accountable Entity's address **indicated in the DS**. The Accountable Entity will respond in writing to any request for clarification, provided that such a request is received no later than the date **indicated in the DS** prior to the deadline for submission of Offers. The Accountable Entity shall send written copies of the responses, including a description of the inquiry but without identifying its source, to all shortlisted Offerors or Offerors who have registered or obtained the RFO directly from the Accountable Entity, as the case may be, by the date **specified in the DS**. The Accountable Entity will also post a copy of the responses and inquiry descriptions to the Accountable Entity's website, if one exists. Should the clarification result in changes to the essential elements of this RFO, the Accountable Entity shall amend this RFO following the procedure under ITO Clause 9 and Sub-clause 18.2.
- 8.2. The Offeror's designated representative is invited to attend a Pre-Offer Conference, if **provided for in DS ITO Clause 1.3**. The purpose of the conference will be to clarify issues and to answer questions on any matter that may be raised at that stage. The cost of attending the Pre-Offer Conference and/or site visit shall be at the Offeror's own expense.

- 8.3. Minutes of the Pre-Offer Conference, including the text of the questions and answers pertaining to the Conference, without identifying the source, will be posted on the Accountable Entity's website if one exists, and shall be transmitted in writing to all Offerors who have registered or obtained the RFO directly from the Accountable Entity, as the case may be. Any modification to this RFO that may become necessary as a result of the Pre-Offer Conference shall be made by the Accountable Entity exclusively through the issue of an Addendum and not through the minutes of the Pre-Offer Conference.

9. Amendment of the RFO

- 9.1. At any time prior to the deadline for submission of Offers, the Accountable Entity may amend this RFO by issuing Addenda.
- 9.2. All Addenda issued shall be part of this RFO, and shall be communicated in writing to all Offerors who have registered or obtained the RFO directly from the Accountable Entity, and posted on the Accountable Entity's website, if one exists.
- 9.3. To give prospective Offerors reasonable time in which to take an Addendum into account in preparing their Offers, the Accountable Entity may extend the deadline for the submission of Offers at its sole discretion.

C. Preparation of Offers

10. Cost of Offer

- 10.1. The Offeror shall bear all costs associated with the preparation and submission of its Offer, and the Accountable Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process.

11. Language of Offer

- 11.1. The Offer, as well as all correspondence and documents relating to the Offer exchanged by the Offeror and the Accountable Entity, shall be written in the language **specified in the DS**. Supporting documents and printed literature that are part of the Offer may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language **specified in the DS**, in which case, for purposes of interpretation of the Offer, such translation shall govern.

12. Preparation of Offer

- 12.1. In preparing their Offer, Offerors are expected to examine in detail the documents comprising the RFO. Failure to provide the information requested may result in rejection of an Offer.
- 12.2. In addition to the requirements above, Offers submitted by a joint venture or other association shall include a copy of the joint venture/Association agreement entered into by all members. Alternatively, a letter of intent to execute a joint venture/Association

agreement shall be signed by all members and submitted with the Offer, together with a copy of the proposed agreement.

- 12.3. If there is a change in the legal structure of the Offeror after the Offer submission, the Offeror is required to immediately inform the Accountable Entity. However, any change of legal structure shall not be used to satisfy a qualification requirement that was not satisfied as of the deadline of Offer submission.
- 12.4. While preparing the Technical Offer, Offerors must give particular attention to the following:
- (a) In the case where there has been no shortlisting of Offerors, if an Offeror considers that it may enhance its expertise for the assignment, it may associate with another eligible entity. In the case where an Offeror is, or proposes to be, a joint venture or other association (i) all members of the joint venture or Association must satisfy the legal, financial, litigation and other requirements set out in this RFO; (ii) all members of the joint venture or Association will be jointly and severally liable for the execution of the Contract; and (iii) the joint venture or Association will indicate the authorized representative who will have the authority to conduct all business for and on behalf of any and all the members of the joint venture or the Association during the selection process and, in the event the joint venture or Association is awarded the Contract, during Contract performance.
 - (b) In the case where there has been shortlisting of Offerors, if a shortlisted Offeror considers that it may enhance its expertise for the assignment by associating with other eligible entities in a joint venture or Sub-Consultancy, it may associate with either (a) non-shortlisted Offeror(s), or (b) shortlisted Offeror(s) if so **indicated in the DS**. A shortlisted Offeror must first obtain the approval of the Accountable Entity if it wishes to enter into a joint venture with non-shortlisted or shortlisted Offeror(s). In case of association with non-shortlisted Offeror(s), the shortlisted Offeror shall act as the authorized representative of the association. In case of a joint venture, all partners shall be jointly and severally liable and shall indicate who will act as the leader of the joint venture.
 - (c) If an estimated budget is provided **in the DS**, note that this is an estimate only and Offerors are expected to submit their Offers based on their own estimates.
 - (d) For Fixed-Budget Selection, the available budget is **provided in the DS** and the Financial Offer shall not exceed this budget, while the estimated number of Professional staff-months shall not be

disclosed.

- (e) Alternative Key Professional Personnel shall not be proposed, and only one curriculum vitae (“CV”) may be submitted for each position indicated in the TOR. Failure to comply with this requirement may result in the rejection of the Offer as non-responsive.

**Technical and
Financial Offer
Format and
Content**

12.5. Offerors are required to submit a Technical Offer, which shall provide the information indicated in the following paragraphs (a) through (o) using the standard forms provided in Section IV A (the “Technical Offer”). A page is considered to be one printed side of A4 or US letter-size paper.

- (a) Confirmation of Offeror's legal status and compliance with MCC and Accountable Entity policies and requirements related, *inter alia*, to eligibility, fraud and corruption, conflict of interest, trafficking in persons etc. (Form TECH-1).
- (b) Confirmation of GOE status using for this purpose the GOE form attached to Form TECH-1.
- (c) For procurements with an estimated value of USD 750,000 and above, Offerors shall also complete and submit the Beneficial Ownership Disclosure Form (BODF) using for this purpose the form attached to Form TECH-1.
- (d) Offerors are **not** required to submit financial capacity information (Form TECH-2A of Section IV A) in their Offers, unless otherwise **required in the DS**.
- (e) Information on current or past proceedings, litigation, arbitration, action claims, investigations or disputes (Form TECH-2B).
- (f) A brief description of the Offeror's organization and an outline of recent experience of the Offeror and of each Associate, if any, on assignments of a similar nature (Form TECH-3 and TECH-4). For each assignment, the outline should indicate the names of Associates or Key Professional Personnel who participated, duration of the assignment, contract amount, and Offeror's involvement. Information should be provided only for those assignments for which the Offeror was legally contracted as a corporation or as one of the major firms within a joint venture. Assignments completed by individual professional staff working privately or through other consultants cannot be claimed as the experience of the Offeror, or that of an Associate, but can be claimed by the professional staff themselves in their CVs. Offerors should be prepared to substantiate the claimed experience if so requested by the Accountable Entity.
- (g) If applicable, references about any and all MCC-funded contracts

(either with MCC directly or with any Accountable Entity, anywhere in the world) to which the Offeror or member of a Joint Venture/Association is or has been a party whether as a lead Consultant, affiliate, associate, subsidiary, Sub-Consultant, or in any other role (Form TECH-5).

- (h) Comments and suggestions on the Terms of Reference including workable suggestions that could improve the quality/effectiveness of the assignment; and on requirements for counterpart staff and facilities including: administrative support, office space, local transportation, equipment, data, etc. to be provided by the Accountable Entity (Form TECH-7).
 - (i) A description of the approach, methodology and work plan for performing the assignment covering the following subjects: technical approach and methodology, work plan, and organization and staffing schedule. Guidance on the content of this section of the Technical Offer is provided (Form TECH-6). The work plan should be consistent with the Work and Deliverables Schedule (Form TECH-10) which will show in the form of a bar chart the timing proposed for each activity.
 - (j) The list of the proposed Key Professional Personnel by area of expertise, the position that would be assigned to each person, and their tasks (Form TECH-8).
 - (k) Estimates of the staff input (person-months of foreign and local professionals) needed to carry out the assignment (Form TECH-9). The person-months input should be indicated separately for home office and field activities, and for foreign and local professional staff respectively.
 - (l) CVs of the Key Professional Personnel signed by the staff themselves (Form TECH-11).
 - (m) A detailed description of the proposed methodology and staffing for training, if training is identified in the Terms of Reference as a specific component of the assignment (Form TECH-).
 - (n) Completed and certified Certification of Compliance with Sanctions Form (Form TECH-12).
 - (o) Any other information as may be **required in the DS**.
- 12.6. The Technical Offer shall not include any financial information. **A Technical Offer containing financial information will constitute grounds for declaring the Offer non-responsive.**
- 12.7. Only one copy each of the Technical Offer and Financial Offer shall be submitted. In all instances, this copy shall be construed to be the original. The signatures may be written or electronically signed

using any applicable software.

12.8. The Offer shall contain no alterations or additions, except those made to comply with the instructions issued by the Accountable Entity, or as necessary to correct errors made by the Offeror, in which case such corrections shall be initialed by the person or persons signing the Offer.

12.9. If **required in the DS**, the authorized representative of the Offeror signing the Technical and the Financial Offers shall provide within the Technical Offer an authorization in the form of a written power of attorney demonstrating that the person signing has been duly authorized to sign on behalf of the Offeror, and its Associates.

Financial Offers

12.10. The Financial Offer shall be prepared using the forms provided in Section IV B (the “Financial Offer”). It shall list all prices associated with the assignment, including remuneration for Personnel (foreign and local, in the field and at the Offeror's home office) and travel expenses, if **indicated in the DS**. All activities and items described in the Technical Offer shall be assumed to be included in the price offered in the Financial Offer.

13. Taxes

13.1. GCC Clause 18 sets forth the Tax provisions of the Contract. Offerors should review this clause carefully in preparing their Offer.

14. Only One Offer

14.1. An Offeror (including the individual members of any Joint Venture) shall submit only one Offer, either in its own name or as part of a Joint Venture. If an Offeror (including any Joint Venture member) submits an Offer and participates in other Offer(s), either as an Offeror or a Sub-Consultant, all such Offers shall be disqualified and rejected. This does not, however, preclude a Sub-Consultant or individual experts from participating in more than one Offer as a Sub-Consultant or individual experts, when circumstances justify and if so **specified in the DS**.

15. Currencies of Offer

15.1. Offerors must submit their Financial Offers in the currency or currencies **specified in the DS**.

16. Period of Offer Validity

16.1. Offers shall remain valid for the period **specified in the DS** after the Offer submission deadline date prescribed by the Accountable Entity. An Offer valid for a shorter period may be rejected by the Accountable Entity as non-responsive.

16.2. During the period of Offer validity, Offerors shall maintain the availability of Key Professional Personnel identified in the Offer. The Accountable Entity will make its best effort to award the Contract within this period. Should the need arise, however, the Accountable Entity may request Offerors to extend the validity period of their Offers. Offerors who agree to such extension shall

confirm that they maintain the availability of the Key Professional Personnel nominated in the Offer, or in their confirmation of extension of validity of the Offer, Offerors could submit new Key Professional Personnel in replacement, which would be considered in the final evaluation for Contract award. Offerors who do not agree have the right to refuse to extend the validity of their Offers.

D. Submission and Opening of Offers

17. Offer Submission

- 17.1. Offerors shall submit their Offers via electronic means following the process described in this ITO 17. Submissions either by hard copy or by email are not acceptable and shall result in rejection of the Offer.
- (a) The Offer submission forms (including the Technical and Financial Offer forms as applicable) should respectively be in the form and format shown in Section IV. Offers Forms.
 - (b) If required in ITO Sub-clause 12.9, the authorized representative of the Offeror signing the Offer shall provide within the Offer an authorization in the form of a written power of attorney demonstrating that the person signing has been duly authorized to sign on behalf of the Offeror, and its Associates, as applicable.
 - (c) Offerors shall be provided with a File Request Link (FRL) **specified in the DS** upon requesting the RFO which shall be used to submit their Offers and all other related documents. An Offeror who submits only the Technical Offer or only the Financial Offer shall have its entire submission rejected.
 - (d) The Accountable Entity shall not be responsible for misplaced or mis-sent Offers submitted not using the FRL. This circumstance may be cause for Offer rejection.
 - (e) The FRL shall expire on the Offer submission deadline specified in ITO Sub-clause 18.1. The Technical and Financial Offers shall be submitted solely via the FRL, which can be used more than once to submit additional documents.
 - (f) Unless otherwise **specified in the DS**, all submitted documents (whether as standalone files or files in folders) shall be in Microsoft Office or PDF format. The Technical Offer and the Financial Offer shall be submitted in separate files, each of which shall not exceed 10GB. Compressed files or folders are discouraged, thus the Accountable Entity assumes no responsibility for the partial or complete damage or failure to open or access documents submitted in any archived and/or compressed format (compressed by WinZip - including any application of the zip family-, WinRAR, 7z, 7zX, or any other

similar formats).

- (g) Technical Offers are not required to be password-protected, but may be protected at the Offeror's discretion. Offerors who choose to password-protect their Technical Offers can do so to protect against inadvertent untimely opening of its Offer, but at their own responsibility for providing the correct password as **specified in the DS**. If an Offeror fails to provide the correct password that opens the files so its relevant contents can be announced by the deadline **provided in the DS**, their Offer shall be rejected. Offerors should send this password to the email address **indicated in the DS**; the password cannot be sent via the File Request Link.
- (h) Financial Offers are not required to be password-protected, but may be protected at the Offeror's discretion. Offerors who choose to password-protect their Financial Offers can do so to protect against inadvertent untimely opening of its Offer, but at their own responsibility for providing the correct password as **specified in the DS**. If an Offeror fails to provide the correct password that opens the files so its relevant contents can be announced by the deadline **provided in the DS**, their Offer shall be rejected. Offerors should send this password at the email address **indicated in the DS**; the password cannot be sent via the File Request Link.
- (i) Offerors should use the following filename format for Offers:
 - i. Technical Offer filename: [Offeror's Name] – Procurement Title - Ref# [insert RFO number]
 - ii. Financial Offer filename: [Offeror's Name] – Procurement Title - Ref# [insert RFO number]
- (j) Offerors are informed that the capability of their internet bandwidth will determine the speed in which their Offers are uploaded via the FRL. Offerors are therefore advised to commence the process of uploading their Offers via the FRL in good time before the Offer submission deadline. As noted above, this link shall expire at the submission deadline, and cannot be reopened except under the provision of ITO Clause 9 and ITO Sub-clause 18.2.

18. Deadline for Submission of Offers

- 18.1. Offers must be received by the Accountable Entity no later than the date and time **specified in the DS**, or any extension of this date in accordance with ITO Sub-clause 18.2.
- 18.2. The Accountable Entity may, at its discretion, extend the deadline for the submission of Offers by amending this RFO in accordance

with ITO Clause 9, in which case all rights and obligations of the Accountable Entity and the Offerors previously subject to the original deadline shall thereafter be subject to the new deadline as extended.

- 18.3. Any Offer received by the Accountable Entity after the deadline for submission shall be declared late and rejected. The Offeror shall be notified of such rejection.

19. Late Offers

- 19.1. The Accountable Entity shall not consider any Offer that arrives after the deadline for submission of Offers in accordance with ITO Clause 18. Any Offers received by the Accountable Entity after the deadline for submission of Offers shall be declared late, rejected and shall not be opened.

20. Withdrawal, Substitution, and Modification of Offers

- 20.1. An Offeror may withdraw, substitute, or modify its Offer prior to the deadline for the submission of Offers through the File Request Link indicated in ITO Sub-clause 17.1 c), duly signed by an authorized representative, and shall include a copy of the authorization of the person signing in accordance with ITO Sub-clause 12.9. The corresponding substitution or modification of the Offer must accompany the respective written notice. All notices must be:
- (a) submitted in accordance with ITO Clauses 12, 17, and 18 (except that withdrawal notices do not require copies), and in addition, the respective submissions shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION,” and
 - (b) received by the Accountable Entity prior to the deadline prescribed for submission of Offers, in accordance with ITO Clause 18.
- 20.2. Offers requested to be withdrawn in accordance with this ITO Clause shall not be opened.
- 20.3. No Offer may be withdrawn, substituted, or modified in the interval between the deadline for submission of Offers and the expiration of the period of Offer validity specified by the Offeror in the Technical Offer Submission Form or any extension thereof.

21. Offer Opening

- 21.1. The Accountable Entity shall open the submissions in a public meeting that will include Offerors' representatives as well as anyone who chooses to attend at the time and in the place **specified in the DS**. Any specific opening procedures shall be as **specified in the DS**.
- 21.2. Firstly, submissions marked “WITHDRAWAL” shall be opened and read out, while Offers for which an acceptable notice of withdrawal has been submitted pursuant to ITO Clause 20 shall not be opened. No Offer withdrawal shall be permitted unless the corresponding

withdrawal notice contains a valid authorization to request the withdrawal and is read out at Offer opening. Next, submissions marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Offer being substituted, and the substituted Offer shall not be opened. No Offer substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at Offer opening. Submissions marked “MODIFICATION” shall then be opened and read out with the corresponding Offer. No Offer modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Offer opening. Only submissions that are opened and read out at Offer opening shall be considered further.

- 21.3. All other submissions shall be opened one at a time, reading out the Offerors' names and such other details as the Accountable Entity may consider appropriate. No Offer shall be rejected at Offer opening except for the late Offers pursuant to ITO Clause 19. Substitutions and modifications submitted pursuant to ITO Clause 20 that are not opened and read out at Offer opening shall not be considered for further evaluation regardless of the circumstances.
- 21.4. The Accountable Entity shall prepare minutes of the Offer opening, which shall include, at a minimum: the name of the Consultant, the existence of a signed Technical Offer Submission Form, whether there is a withdrawal, substitution, or modification. A copy of the record shall be distributed to all Consultants who submitted Offers on time, and posted on the Accountable Entity's website, if one exists.

E. Evaluation of Offers

- 22. Confidentiality**
 - 22.1. Information relating to the evaluation of Offers and recommendations of Contract award shall not be disclosed to Offerors or any other persons not officially concerned with the process, until the notification of the evaluation results has been issued pursuant to ITO Clause 28. The undue use by any Offeror of confidential information related to the process may result in the rejection of its Offer or may invalidate the entire procurement process.
 - 22.2. Any attempt or effort by an Offeror to influence the Accountable Entity in the examination, evaluation, and ranking of Offers or Contract award decisions may result in the rejection of its Offer and may subject the Offeror to the provisions of the Government's, the Accountable Entity's, and MCC's AFC Policy and the application of other sanctions and remedies to the extent applicable

- 22.3. From the time Offers are opened to the time the Contract is awarded, Offeror shall not contact the Accountable Entity on any matter related to its Technical Offer or Financial Offer except in writing to the Procurement Agent.
- 23. Clarification of Offers**
- 23.1. To assist in the examination and evaluation of Offers, the Accountable Entity may, at its discretion, ask any Offeror for clarification of its Offer. Any clarification submitted by an Offeror that is not in response to a request by the Accountable Entity shall not be considered. The Accountable Entity's request for clarification and the Offeror's response shall be in writing. No change in the prices or substance of the Offer shall be sought, offered, or permitted except to confirm the correction of arithmetic errors discovered by the Accountable Entity in the evaluation of the Offers.
- 23.2. If an Offeror does not provide clarifications of its Offer by the date and time set in the Accountable Entity's request for clarification, its Offer may be rejected.
- 24. Evaluation of Technical Offers**
- 24.1. The TEP shall evaluate the Technical Offers on the basis of their responsiveness to the Terms of Reference, applying the evaluation criteria, sub-criteria, and point system **specified in Section III**. Each responsive Offer will be given a technical score (St). An Offer may be rejected at this stage if it does not respond to the RFO or if it fails to achieve the minimum technical score indicated in Section III.
- 24.2. In exceptional circumstances, if none of the scores awarded by the TEP reach or exceed the minimum technical score (St), the Accountable Entity reserves the right to invite the Consultant receiving the highest technical score (St) to negotiate both its Technical and Financial Offers. If the negotiations fail to result in an acceptable contract within a reasonable time, the Accountable Entity reserves the right to terminate the negotiations, at its sole discretion, and to invite—again, at its sole discretion—the Consultant receiving the next highest technical score (St) to negotiate both its Technical and Financial Offers.
- 25. Evaluation of Financial Capacity**
- 25.1. The Consultant's financial capability to mobilize and sustain the Services is imperative. In its Offer, the Consultant is not required to provide information on its financial and economic status unless otherwise stated in DS ITO Sub-clause 12.5(d).
- Financial Offers (only for Quality-Based Selection)**
- 25.2. Following the ranking of Technical Offers, and after receiving a "no objection" from MCC (if applicable), when selection is based on quality only (Quality-Based Selection), the first ranked Offeror will be invited to negotiate its Technical and Financial Offers and the Contract in accordance with the instructions given under ITO Clause

29.

**Notification of
Technical
Evaluation Results**

25.3. Following completion of the evaluation of Technical Offers, and after receiving a “no objection” from MCC (if applicable), the Accountable Entity shall inform those Offerors whose Technical Offers achieved the minimum qualifying mark, advising them of the following:

- (i) that their Technical Offer met the minimum qualifying mark;
- (ii) the name of each Offerors whose Technical Offer met or exceeded the minimum qualifying mark and the total technical score assigned to each; and
- (iii) the date, time, and location for the opening of the Financial Offers.

The Accountable Entity shall also advise those Offerors whose Technical Offers did not meet the minimum qualifying mark, advising them of the following:

- (i) that their Technical Offer did not meet the minimum qualifying mark;
- (ii) the total technical score assigned to their own Technical Offer; and
- (iii) the name of each Offeror whose Technical Offer met or exceeded the minimum qualifying mark and the total technical score assigned to each.

The Accountable Entity shall also advise those Offerors whose Technical Offers were not evaluated or rejected, advising them of the following:

- (i) the grounds on which their Technical Offer was not evaluated or was rejected; and
- (ii) the name of each Offeror whose Technical Offer met or exceeded the minimum qualifying mark and the total technical score assigned to each.

In establishing the date and time for the opening of the Financial Offers, the Accountable Entity shall duly allow for the appropriate period for debriefing or for filing a bid challenge according to the rules established in the Bid Challenge System.

The Accountable Entity shall promptly respond in writing to any Offeror who, after receiving notification of the technical evaluation results, makes a written request for a debriefing as provided in the MCC PPG or files a bid challenge according to the rules established in the Bid Challenge System developed by the Accountable Entity and approved by MCC.

**Opening and
Evaluation of
Financial Offers**

- 25.4. The Accountable Entity shall open the Financial Offers in a public meeting at the address, date and time specified in the notification described in ITO Sub-clause 25.3.
- 25.5. Only the Financial Offers of those Offerors who met the minimum qualifying mark following the Technical Evaluation stage will be opened. The Technical Score (St) and only the Total Offer Price, as stated in the Financial Offer Submission Form (Form FIN-1) shall be read out aloud and recorded. A copy of the minutes shall subsequently be sent to those Offerors whose Financial Offers were opened and to MCC, and be posted on the Accountable Entity's website, if one exists.
- 25.6. The Accountable Entity will correct any computational errors, and in cases of a discrepancy between a partial amount and the total amount, or between words and figures, the former will prevail. In addition to the above corrections, activities and items described in the Technical Offer but not priced, shall be assumed to be included in the prices of other activities or items. In cases where an activity or line item is quantified differently in the Financial Offer from the Technical Offer, no corrections will be applied to the Financial Offer in this respect. If Offerors are not required to submit the Financial Offer in a single currency, prices shall be converted to a single currency for evaluation purposes using the selling rates of exchange, source and date **indicated in the DS**.
- 25.7. For Quality and Cost Based Selection (QCBS), the lowest evaluated Financial Offer (Fm) will be given the maximum financial score (Sf) of 100 points. The financial scores (Sf) of the other Financial Offers will be computed as indicated in Section III: Qualification and Evaluation Criteria. Offers will be ranked according to their combined technical (St) and financial (Sf) scores using the weights (T = the weight given to the Technical Offer; F = the weight given to the Financial Offer; T + F = 1) indicated in Section III. $S = St \times T\% + Sf \times F\%$. The Consultant achieving the highest combined technical and financial score will be issued a Notice of Intent to Award ("NOITA") as per ITO Sub-clause 28.1 and will be invited for Contract negotiations as per ITO Sub-clause 29.1.
- 25.8. In the case of Fixed-Budget Selection, the Accountable Entity will select the Offeror that submitted the highest ranked Technical Offer within the budget. Offers that exceed the indicated budget will be rejected. In the case of the Least-Cost Selection, the Accountable Entity will select the lowest priced Offer among those that passed the minimum technical score. In both cases, the evaluated Offer price according to ITO Sub-clause 25.9 shall be considered, and the selected firm will be issued a Notice of Intent to Award ("NOITA")

- as per ITO Sub-clause 28.1 and will be invited for Contract negotiations.
- Price Reasonableness** 25.9. Prior to execution of a contract, the Accountable Entity shall conduct a verification of the market-reasonableness of the prices offered. A negative determination (either unreasonably high or unreasonably low) could be a reason for rejection of the Offer at the discretion of the Accountable Entity. The Offeror shall not be permitted to revise its submission after a determination that its offered price is unreasonable. In addition, the Accountable Entity may also verify any information provided on the TECH Forms submitted in the Offer. If a negative determination of price reasonableness leads to the rejection of the Offer, the Accountable Entity may, at its discretion, move to invite the next-ranked Consultant for Contract negotiations.
- No Margin of Preference** 25.10. In accordance with the MCC PPG, a margin of preference for domestic Offerors or any other nationality shall **not** be used.
- 26. Past Performance and Reference Check** 26.1. In accordance with the MCC PPG, the Offeror's performance on earlier contracts will be considered a factor in the Accountable Entity's qualification of the Offeror's evaluation. The Accountable Entity reserves the right to check the performance references provided by the Offeror or to use any other source at the Accountable Entity's discretion. If the Offeror (including any of its Associates or joint venture/association members) is or has been party to an MCC-funded contract (either with MCC directly or with any Accountable Entity, anywhere in the world), whether as lead Consultant, affiliate, Associate, subsidiary, Sub-Consultant, or in any other role, the Offeror must identify the contract in its list of references submitted with its Offer using Technical Form TECH-5. Failure to include any such contracts may be used to form a negative determination by the Accountable Entity on the Offeror's record of performance in prior contracts. However, the failure to list any contracts because the Offeror (including any of its Associates or joint venture/association members) has not been a party to any such contract will not be grounds for a negative determination by the Accountable Entity on the Offeror's record of performance in prior contracts. That is, prior performance in connection with an MCC-funded contract is not required. The Accountable Entity will check the references, including the Offeror's past performance reports filed in MCC's Contractor Past Performance Reporting System ("CPPRS"). A negative determination by the Accountable Entity on the Offeror's record of performance in prior contracts may be a reason for disqualification of the Offeror, or lowered evaluation scores, at the discretion of the Accountable Entity.
- 27. Accountable** 27.1. The Accountable Entity reserves the right to accept or reject any

Entity's Right to Accept Any Offer, and to Reject Any or all Offers

Offer or to cancel the selection process or to reject all Offers at any time prior to Contract award, without thereby incurring any liability to Offerors. If all Offers are rejected, the Accountable Entity shall review the causes justifying the rejection and consider making revisions to the conditions of Contract, specifications, scope of the Contract, or a combination of these, before inviting new Offers. The Accountable Entity reserves the right to cancel the procurement if this is no longer in the interest of the Accountable Entity.

F. Award of Contract**28. Notice of Evaluation Results**

- 28.1. After the completion of the evaluation report and having obtained all the necessary approvals per the PPG, the Accountable Entity shall send the Notice of Intent to Award ("NOITA") to the successful Offeror. The NOITA shall include a statement that the Accountable Entity shall issue a formal Notification of Award and draft Contract Agreement after expiration of the period for filing a Bid challenge and the resolution of any Bid challenges that are submitted and following the successful conclusion of negotiations. Delivery of the NOITA shall not constitute the formation of a contract between the Accountable Entity and the successful Offeror and no legal or equitable rights will be created through the delivery of the NOITA.
- 28.2. At the same time it issues the NOITA, the Accountable Entity shall also notify, in writing, all other Offerors of the results of the evaluation. The Accountable Entity shall promptly respond in writing to any unsuccessful Offeror who, after receiving notification of the selection results, makes a written request for a debriefing as provided in the MCC PPG, or submits a formal Bid challenge.

29. Negotiations

- 29.1. The successful Offeror will, as a pre-requisite for attendance at the negotiations, confirm the availability of all the Key Professional Personnel listed in the Technical Offer. Failure to confirm such Personnel may result in the Accountable Entity proceeding to negotiate with the next-ranked Offeror. Representatives conducting negotiations on behalf of the Offeror must have written authority to conclude the Contract on behalf of the Offeror.

Technical Negotiations

- 29.2. Negotiations will commence with a discussion of the Technical Offer, including (a) proposed technical approach and methodology, (b) workplan, (c) organization and staffing, and (d) any suggestions made by the Offeror to improve the Terms of Reference.
- 29.3. The Accountable Entity and the Offeror will then finalize the Terms of Reference, staffing schedule, work schedule, logistics, and reporting. These documents will then be incorporated in the Contract under "Description of Services." Special attention will be paid to clearly defining the inputs and facilities required from the

- Accountable Entity to ensure satisfactory implementation of the assignment. The Accountable Entity shall prepare minutes of negotiations which will be signed by the Accountable Entity and the Offeror.
- Financial Negotiations** 29.4. It is the responsibility of the Offeror, before starting financial negotiations, to determine the relevant local Tax amount to be paid by the Offeror under the Contract. In no event shall the Accountable Entity be responsible for the payment or reimbursement of any Taxes. Unless there are exceptional reasons, the financial negotiations will involve neither the remuneration rates for staff nor other proposed unit rates.
- Availability of Professional Staff/Experts** 29.5. Having selected the Consultant on the basis of, among other things, an evaluation of proposed Key Professional Personnel, the Accountable Entity expects to negotiate a Contract on the basis of those Personnel named in the Technical Offer.
- 29.6. During Contract negotiations, the Accountable Entity will not consider substitution of any Key Professional Personnel unless both parties agree that undue delay in the selection process makes such substitution unavoidable or for reasons such as death or medical incapacity of one of the Personnel. If this is not the case and if it is established that any Key Professional Personnel were offered without confirming their availability, the Offeror may be disqualified. Any proposed substitute shall have equivalent or better qualifications and experience than the original candidate.
- Conclusion of the Negotiations** 29.7. Negotiations will conclude with a review of the draft Contract and Annexes, following which the Accountable Entity and the Consultant will initial the agreed Contract. If negotiations fail, the Accountable Entity will invite the Consultant whose Offer received the second highest score to negotiate a Contract. If negotiations are successful, the Accountable Entity will issue a Notice of Award of Contract
- 30. Bid Challenges** 30.1. Offerors may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the Accountable Entity and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the Accountable Entity's website **indicated in the DS**.
- 31. Signing of Contract** 31.1. Upon expiration of the period for timely filing and the resolution of any Bid challenges that are submitted, and upon conclusion of the negotiations according to ITO 29.7 (including securing all required approvals), the Accountable Entity shall send the Notification of Award to the successful Offeror.

- 31.2. The Notification of Award shall include the Contract Forms for the review and signature of the successful Offeror. The Notification of Award shall specify the sum that the Accountable Entity will pay the Offeror for the performance of the Services. Until a formal Contract is prepared and executed, the Notification of Award shall constitute a binding Contract between the Accountable Entity and the Offeror.
- 31.3. Within seven (7) days of issuance from the Accountable Entity of the Contract Agreement, the successful Offeror shall sign, date, and return it to the Accountable Entity, along with the completed Compliance with Sanctions Certification Form and PS-2 Self-Certification Form included in Section VIII. Contract Forms and Annexes.
- 32. Notice of Award of Contract**
- 32.1. After Contract signing, the Accountable Entity shall publish on its website (if one exists) and in any other places as may be **specified in the BDS**, the results identifying the procurement, the name of the winning Offeror and the price, duration, and summary scope of the Contract.
- 33. Inconsistencies with MCC PPG**
- 33.1. The Procurement that is the subject of this RFO is being conducted in accordance with and is subject in all respects to the MCC PPG. In the event of any conflict between any section or provision of this RFO (including any Addenda that may be issued to this RFO) and the MCC PPG, the terms and requirements of the MCC PPG shall prevail, unless MCC has granted a waiver of the guidelines.
- 34. Applicable Compact Conditions**
- 34.1. Offerors are advised to examine and consider carefully the provisions that are set forth in Annex B (Additional Provisions) attached to and made part of the Special Conditions of the Contract, as these are a part of the Government's and the Accountable Entity's obligations under the Compact and related agreements which, under the terms of the Compact and related documents are required to be transferred onto any Offeror, Consultant or Sub-Consultant who partakes in procurement or subsequent contracts in which MCC Funding is involved.